

EU Corporate Social Responsibility Green Paper Submission by Traidcraft Exchange December 2001

Executive Summary

Traidcraft welcomes this consultation exercise and the EU's interest in developing a European framework for Corporate Social Responsibility (CSR). The CSR agenda is changing rapidly as it develops, so we would encourage the EU to develop any future instrument in a flexible manner, in order that new findings may be incorporated as changing circumstances evolve and new evidence is presented.

Overall Comments

Traidcraft has three overall points to make to the EU about Corporate Social Responsibility.

1. Corporate Social Responsibility is not a voluntary only initiative

Please see section A: CSR as a concept

2. The international dimensions of CSR need to be strengthened

Please see sections B, C, D

3. Fair Trade provides a model for socially responsible supply chain management

Please see point 8.

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 - 14. Standard setting to involve the effective participation of all stakeholders

Before responding to the questions the EU poses in the consultation, Traidcraft wishes to challenge the notion that Corporate Social Responsibility (CSR) is a voluntary only approach.

A. CSR as a concept: The voluntary only approach challenged

Traidcraft does not view corporate social responsibility as only a voluntary activity, but sees a need for a mixture of voluntary and regulatory approaches. Globally, companies exercise significant power and influence yet their socially responsible behaviour does not reflect the accountability they have as a result of their size. 51 of the largest 100 global economies are corporations. Corporate power is significantly greater than those of most national governments and plays a dominant role in sectors that are of significance for national economies, especially of developing countries, which may be dependent on a few key sectors. For example no more than six companies control 70% of the trade in agricultural commodities. These few companies dominate world trade in agricultural commodities, a key sector for developing country producers.

Even so, business practice falls short of internationally agreed standards. There is potentially a contradiction in the EU's position that CSR is of a voluntary nature when some current business practice currently falls short of international standards that have already been agreed, such as the UN Universal Declaration of Human Rights and the International Labour Organisation's core labour standards. As the Economist states, *'It is no advance for democracy when public policy is 'privatised', and corporate boards take it upon themselves to weigh competing social, economic and environmental goals. That is the job for governments, which remain competent to do it if they choose.'*¹ Clearly there is a role for the EU to play in ensuring that EU registered companies comply with internationally negotiated and agreed social standards, in all their operations. Voluntary initiatives fall within the competence of companies (as an add-on activity) only after they are complying with the internationally agreed standards. Voluntary and regulatory approaches need to be viewed as complementary and considered jointly as part of the framework the EU develops.

Recommendation

The EU should refer to Corporate Social Responsibility in a manner that stresses the link between companies and the social, environmental and economic impact of their activities. Thus the key component of true CSR is corporate accountability for their impact. Once CSR is viewed in this light the regulatory aspect of corporate performance becomes more important and the voluntary dimensions are kept in perspective.

¹ The Economist 17th Nov 2001 p102.

B. A role for the EU in promoting corporate social responsibility

There is undoubtedly a role for the EU to play in improving corporate social responsibility. In particular, Traidcraft is concerned that the Green Paper does not sufficiently address the importance of regulating the impact of multinational companies' activities in *developing* countries.

1) **Support for implementation of international standards in developing countries**

As stated above current corporate practice regularly falls short of international legal standards which already exist, and which are generally adopted and enforced bilaterally by member governments. However, the EU could play an important role by supporting member governments in improving the effectiveness with which they implement such standards. This should also be extended to work with developing countries, as part of the EU's international development activities, both at a governmental level, and in support of local civil society, which plays an essential role in monitoring abuses of international standards. The EU's CSR agenda would thus be shared among a number of other Directorates-General, including DG External Relations and DG Development.

Recommendation

The EU should provide budgetary support to country governments to adopt, implement and prosecute using existing internationally agreed law in respect of CSR. The EU should further provide budgetary support to civil society in to pressure their governments into enforcing the adopted legislation.

2) **EU legislation is needed to regulate corporate behaviour of multinationals in developing countries**

In parallel to the recommendation above, EU legislation is needed to regulate corporate behaviour outside of the EU's borders. Where overseas governance institutions are capable of effectively regulating poor corporate performance these institutions should be given primacy in terms of jurisdiction (as is the norm under existing law). However given the extent of poor corporate behaviour overseas there is a role for EU legislation to regulate the infringement of internationally agreed laws committed by EU registered multinationals when operating overseas.

Legislation acknowledging parent company liability is needed to stop the current abuses of corporate power and the race to the bottom in terms of labour (and environmental) standards resulting from globalisation. In developing countries where legal provisions may be weak, multinational companies have a responsibility to uphold and promote the same standards as in OECD countries. The issues from which to build a legislative base are defined, and include the Universal Declaration of Human Rights and the International Labour Organisation's core labour standards. Whilst these have been developed in the main for implementation by nation states, it is possible to adapt their relevance to business. Starting points for developing regulation should include the text of the OECD's Guidelines for Multinational Companies and the draft United Nations Human Rights Principles for Business. The existence of the OECD anti-bribery convention in UK law demonstrates it is possible to extend the jurisdiction of UK law to corporate conduct outside the UK.

Recommendation

The EU should investigate and implement the appropriate legislation needed to improve overseas corporate performance of companies listed with the EU.

3) **Regulatory carrots and sticks needed to develop an appropriate business case**

Traidcraft believes that the EU should only evaluate the business case to the extent that there is a commitment to understand where there is a role for the EU to initiate action. The EU has the opportunity to shape the market in which business operates by putting in place tax incentives, or legislative penalties to encourage improved business performance in the areas in which there is no business case for companies to be accountable for their actions. Specifically this might lead to the creation of tax incentives for socially responsible business practices, in the areas where a business

case does not exist. However it is important that companies are not offered fiscal incentives for upholding the law.

Recommendation

The EU should investigate the business case to understand what role it can play in helping to shape it, so that socially responsible corporate performance is practised by the majority of companies

4) Effective policy integration across all EU departments to support socially responsible corporate performance.

The EU should explore mechanisms to integrate CSR concerns across all EU policy, with the result that all EU departments take decisions and actions that only support socially responsible business practice. For this to become reality, some of the differences in policy between departments would need to be resolved. At present, certain departmental policies undermine the notion of corporate accountability for social or environment impacts. Priority policy areas would include export credit agencies and their criteria for lending, the criteria used by development finance institutions for contractors, DG Trade's Competition policies and the EU's WTO team's negotiation policy approaches.

5) EU procurement to support companies with good track record of socially responsible performance.

A particular area where the EU has significant scope to promote CSR is through its own procurement. The EU procures goods and services directly, or funds work overseas, or provides export guarantees, etc. In each of these areas its leverage is significant. In order to ensure coherence with its promotion of socially responsible business behaviour, the EU needs to develop a framework for assessing bids against the CSR performance of the companies bidding.

Recommendation

The EU should pursue:

- a) policy coherence such that its CSR objectives are not undermined,
- b) mechanisms to integrate CSR concerns and approaches across EU policy, including its procurement guidelines.

C. Companies and their Corporate Social Responsibility

C1 Disclosure

6) **Support disclosure, and aim to have an EU mandatory CSR disclosure framework in place within 10 years.**

Corporate self disclosure generates internal corporate drivers to improve year on year. This trend is to be supported. However at the moment it is only a select few companies that chose to report, and some of them fail to include commentary on their most significant social or environmental impacts. A disclosure framework should be developed so that more companies start to evaluate their significant social and environment impacts. The disclosure framework should be constructed of a few core elements applicable to all businesses with bolt on industry specific elements and benchmarks to ensure appropriate coverage of issues for each industry sector. A mandatory reporting framework could be developed in 2 phases.

i) In the short term approx 10 indicators could be mandated for all companies to report against. These indicators should not be of the yes/no variety (which fosters a compliance mentality), but qualitative or numerical in such a way that comparisons can be made and that they will always stimulate year on year improvement. This would be a small, succinct and effective step for the EU to take. A short voluntary trial period would enable the fine-tuning of the indicators before their mandatory introduction. A suggested grouping for the indicators might include 3 environmental, 3 social and 3 economic. Specifically they could be drawn from the indicators already developed by the Global Reporting Initiative.

ii) In the medium term (~10yrs) legislation of wider corporate reporting could be introduced. As above, the legislation needs to be worded in such a way that companies are not able to undertake a tick box approach to complying with the legislation. The limited success of reporting has resulted from the self interest of companies to improve year on year. The framework should require companies to report on key areas where they are internationally agreed minimum standards (United Nations Universal Declaration of Human Rights & International Labour Organisation's core labour standards) and provide a benchmark for comparisons year on year and within sectors. The starting point for developing regulation for this area should build on the experience of Global Reporting Guidelines (www.globalreporting.org), the piloting of the SIGMA project with 14 companies (www.projectsigma.com), the forthcoming UK Company Law Act which is likely to include a requirement to disclose 'material' risks in the Operating and Financial Review section of a company's Annual Report and Accounts.

Recommendation

The EU should investigate the opportunities for developing a mandatory disclosure framework in the medium term, that builds on corporate drivers for self improvement whilst ensuring relevant aspects of corporate performance are disclosed.

C2 CSR practice in the supply chain

7) Ethical trading initiatives provide key learning for EU CSR supply chain activities.

The EU should evaluate the learning arising from the various Ethical Trade Initiatives (including Clean Clothes Campaigns) being undertaken across the EU to understand what measures the EU can take to improve corporate performance. These initiatives are working with companies to encourage corporate compliance with the internationally agreed labour or human rights standards. The learning and barriers to improvement within these initiatives could be instrumental in informing the EU's regulatory approach.

Recommendation

The EU should evaluate these ethical trading initiatives' ability to encourage corporate compliance with internationally agreed standards, and to develop legislation accordingly.

8) Fair trade practices provide good practice models for CSR supply chain business activity.

The Fair trade sector provides equitable market access for marginalised developing country producers. Fair Trade was set up explicitly in recognition of the unequal trading relationships companies had with their suppliers in developing countries and the wider detrimental impacts those relationships had in developing countries. The starting point for fair trade is different from the ethical trade approaches. Fair Trade explicitly takes a pro development stance by undertaking trade with marginalised producers in developing countries in a way that reduces their risks. For example by providing credit, accepting the currency risk of supplier transactions, and completing complex export paperwork on behalf of suppliers. Fair trade works with different producer groups in different ways depending on their trading circumstances and organisational maturity. Fair Trade aims to strike the balance between nurturing 'juvenile' trading partners and developing the practical expertise of maturer producers to access mainstream export markets. In this way Fair Trade addresses the power anomalies which are not addressed by OECD driven ethical trading initiatives. Fair Trade organisations are also trading companies and as such demonstrate a working model of corporate responsibility in practice in the supply chain.

Recommendation

The EU should look to Fair Trade practices when evaluating and promoting the socially responsible supply chain activities, since the Fair Trade sector has developed in response to meeting developing country suppliers' concerns.

9) Determine responsibilities for improved corporate performance in supply chains

A major part of a company's social and environmental impact is as a result of their procurement. As the CSR agenda becomes more rigorous there will be an increased focus on supply chain impacts. The promotion of supply chain responsibility needs to be undertaken with care. Experience from ethical trading initiative has found that most EU based companies place responsibility for social or environmental compliance on suppliers rather than recognising the constraints they as buyers place on companies (e.g. short lead times, non negotiable price points, etc.) In addition, some large retail companies are unwilling to accept the increase in product cost resulting, and subsequently de-list suppliers after initially demanding higher social standards. Traidcraft would welcome the EU facilitating a discussion on the sphere of influence of each of the parties in a supply chain to ascertain where responsibility lies. This discussion might build upon the UK Competition Commission report on the supply of groceries to multiple stores published 10th Oct 2000, which highlighted generic supply chain practices which undermined the viability of small suppliers. Arising from this discussion it is likely that there is a role for an EU good practice memorandum of understanding to be developed to govern purchaser and supplier transactions.

Recommendation

The EU needs to be careful in how it promotes the adoption of CSR supply chain practices, to ensure that organisations are responsible for costs that are appropriate to their size and influence.

C3 Practice of CSR by SMEs

10) CSR is part of existing SME practice

Corporate social responsibility is practised by many SMEs, such as Traidcraft. Large companies have the ability to communicate and show case their activities more widely, as stated in a recent article in the Financial Times survey of most respected companies². The communications muscle of the larger companies does not necessarily relate to better performance than that of smaller companies.

CSR is fundamental to the business activities of SMEs, since they rely on effective business partnerships and, crucially, they are dependent and often well linked into their local community. Traidcraft welcomes the EU's focus on encouraging large businesses to be more accountable since initiating activity by large business has a significant leverage effect. However we would encourage the EU to take a more balance view of SME performance.

11) Potential disproportionate burden of CSR demands needs to be mitigated.

If CSR demands are inconsiderately applied they are likely to impose unacceptable costs on SMEs both within and beyond the EU, which could potentially lead to further market concentration among large players. The additional costs might include verification, development of policies and management systems (potentially only to demonstrate existing levels of performance or comply with tick box approaches to CSR), and the completion of numerous questionnaires.

Care is needed to ensure adoption of the CSR agenda does not reduce SMEs ability to participate in the market, particularly for developing country SMEs. These SMEs form the bedrock of developing country economies. Their ability to access export markets provides valuable foreign currency. The experience of fair trade is that small companies that do operate responsibility, often find it difficult to resource the overheads needed to 'demonstrate' their socially responsible actions. As the EU works to encourage corporate social responsibility through out supply chains it is important to ensure that SMEs are not marginalised due to disproportionate CSR cost burdens.

Recommendation

The EU should:

- a) fund efforts to raise awareness amongst SMEs in developing countries of internationally agreed standards on human rights and labour standards as well as CSR issues, tools and solutions.
- b) ensure that CSR tools do not discriminate against small businesses, especially in developing countries
- c) lead discussion on ways to ensure that CSR does not become a driver of homogenisation and market concentration. This may lead to development of differential criteria and tools for the different size of market players.

² SURVEY - WORLD'S MOST RESPECTED COMPANIES: Due recognition given for effort
Financial Times; Dec 17, 2001 By ALISON MAITLAND

Effective public relations and marketing emerge in the survey as significant influences on environmental reputation. One commentator nominates Ikea "because their advertising speaks about caring about the environment and I don't recall seeing any information in the international press contradicting this image." Another chooses BP "because they're trying to convince everybody that they're environmentally friendly, although I'm still not entirely certain that's the case. Basically I've seen their advertising campaign."

<http://globalarchive.ft.com/globalarchive/article.html?id=011217000273>

D Main Actors and Stakeholders

12) **Meaningful stakeholder dialogue?**

Stakeholder dialogue is critical to ensure a company's CSR agenda reflects the concerns of its stakeholders. Stakeholders can inform and co-operate to develop mutually beneficial solutions with a company if the dialogue process is valued by the company and undertaken well. The EU has a role to play in facilitating and providing a model for genuine stakeholder dialogue in how it develops policy formulation (e.g. as demonstrated by this consultation exercise.) There is concern however that stakeholder dialogue is sometimes undertaken when views are not actually welcomed, i.e. it is undertaken too late, not all the pertinent facts are presented, inappropriately (when it needs to be confidential) etc. Clearly this wastes people's time and disenfranchises them from the process, and in some cases it jeopardises their livelihoods. Stakeholder dialogue initiatives therefore need to be clear about the purpose of the stakeholder interaction and what scope of influence is available.

Traidcraft pioneered social accounting 10 years ago to ascertain from its stakeholder how they considered Traidcraft was performing against its international development social objectives. This methodology was developed because Traidcraft was unable to express through traditional financial reporting mechanisms its social performance. Subsequently Traidcraft's methodology continues to evolve to solicit the appropriate information to inform Traidcraft's strategy and practice. A key element of stakeholder dialogue involves feedback to the stakeholders as to what actions have been adopted and why, in response to the stakeholders' earlier input.

Recommendation

The EU should promote and support activities that enable genuine stakeholder engagement to inform and direct corporate actions. This approach should also be taken when the EU funds projects which need to evolve over time. Frequently project proposals are inflexibly adhered to when a change of direction (often suggested by stakeholders) part way through a project would be more appropriate in delivering the objectives.

13) **Encourage developing country civil society organisations to define what are the key areas where corporate accountability for corporate performance is needed.**

EU based companies have significant impacts on developing countries either through their supply chains or through Foreign Direct Investment. It is important that developing country civil society voices are solicited to inform European companies' CSR activities, where they have significant impacts.

NGOs have a crucial role to play in informing, evaluating, commenting and challenging companies on their socially responsible performance (as verifiers, commentators, standard setters, etc). Civil society has provided the critical impetus to date on CSR, through public scrutiny of corporate performance, as well as the provision of developing country expertise in the case of ethical trade. However it is noticeable that CSR debate has been dominated by companies who wish to limit the extent to which CSR is defined. In recognition of the key work undertaken by civil society the EU should consider mechanisms to support civil society's engagement in CSR, since this will protect civil society's impartiality. (The drive towards corporate partnerships is weakening some civil society actors to have a strong independent voice.) There is a need not only to foster and support developing country NGOs to commentate on corporate performance but also to facilitate networks which link EU based NGOs with developing country NGOs. This is needed so that developing country perspectives are effectively heard in EU corporate board rooms or within the EU commission as appropriate. Due to the low level of activity in this area at present it is likely that the EU would need to provide financial incentives to developing country organisations to comment on what the key priorities for CSR should be in their locality.

Recommendation

The EU has a role to play in fostering NGO voices in developing countries with expertise in corporate accountability, and in supporting EU NGO to developing country NGO networks for the facilitation and capacity building.

14) Standard setting to involve the effective participation of all stakeholders

Where CSR initiatives are developed it is important that all appropriate stakeholders have the opportunity to contribute to their development. Only with the effective participation of all stakeholders will the resultant outcomes be appropriate and meet their objectives. Some groups due to geographic location and context may be less able to actively contribute as a stakeholder and in which case mechanisms need to be put in place to facilitate their effective participation. This particularly applies to stakeholder groups in developing countries, where from experience, well meaning initiatives have been developed in the north that have not focused on the key areas of concern to the developing country stakeholders. For example the OECD countries' concern over child labour has led to children in one country being forced out of formal employment opportunities into more dangerous occupations, to appease northern consumer concerns. Developing country NGOs are therefore needed to help shape the initiatives and tools the EU intends to promote as part of its CSR portfolio. For example this might include:

- contributing to the codes of conduct debates, reporting initiatives, benchmarking,
- commenting on the reported performance of companies in developing countries; and
- undertaking verification, supply chain monitoring activities in their local contexts etc. Currently the capacity to undertake these roles is weak and there is a role for the EU to facilitate capacity building in this area.

Recommendation

The EU should make it a requirement of all EU CSR initiatives that impact on developing countries that a southern stakeholder group is actively supported in commenting on the formulation of relevant initiatives. This will involve budgetary support to enable their effective participation.