

# Research Report

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Environment Commission

Measures to ensure corporate environmental  
responsibility



## MUNISH '14



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| <b>Forum</b>            | Environment Commission                                    |
| <b>Issue:</b>           | Measures to ensure corporate environmental responsibility |
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## Introduction

The environmental policies of companies have become a very complex matter in the last decades, amongst other things due to the increasing globalization, growing awareness and developing business processes. Within companies, more and more people are involved in the realization of an environmental friendly policy. That is first and foremost a good thing. After all, the motivated efforts of all employees, directors and shareholders are necessary to realize a sustainable environmental policy in enterprises. A growing number of companies are realizing that a healthy business can only be realized in a healthy environment. Moreover, considering the pressure from their customers, the immediate work area and the overall society in which they operate, many companies have already made significant efforts to achieve more sustainable business operations.

Several (mainly Western) governments have made clear that they are very serious about achieving environmental sustainability in the corporate sector, for instance by introducing incentives, such as supporting research or test projects and by imposing a number of obligations on businesses. Especially on this last level, the government has recently been particularly active in. They have enacted numerous laws and regulations to guarantee corporate responsibility in protecting the environment. Mandatory internal inspection systems, publication of annual reports, and appointing environment coordinators are some examples of that. However, many environmental reports make clear that more action should be taken by both the government and the companies to reduce the impact of corporate businesses on the environment. National authorities should therein ensure the responsibility of the companies.



## Definition of Key Terms

### Corporate social responsibility (CSR)

Corporate environmental responsibility falls under a bigger term, named corporate social responsibility (CSR). It stands for the deliberate focus of business activities in long-term value on the three dimensions of people, planet and profit. Combined with the willingness to engage in a dialogue with society, CSR is part of the core business of companies.

CSR is therefore concerned with making the maximum amount of profit, based on considerations on how to operate in the field of environmental and social issues. This is the aspect of responsibility: enterprises should be responsible for ensuring that the impact of their businesses processes in regards to sustainability is reduced to a minimum. Furthermore, CSR also stands for the accountability enterprises have to their stakeholders and the whole society. Responsibility and accountability are the two sides of CSR. The term CSR is all by all much broader and does not only regard environmental responsibility.

### Triple bottom line (TBL)

As mentioned above, CSR is regarded as the willingness of an organization to take responsibility for the consequences of its activities and decisions to the people, the environment and society. So CSR is about finding a balance between the social (people), environmental (planet) and economic (profit) dimensions of entrepreneurship, the so-called Triple bottom line / three Ps. Corporations are responsible for minimizing the negative effects of their organization on its stakeholders and society.

#### **People**

How does the organization provide for the needs of people? This applies to employees and consumers, suppliers and society as a whole. Common topics on the People dimension are health and safety in the workplace, durable employment, labor rights, human rights, education, training policies, the social commitment of the company, discrimination, diversity in the workplace etc.

#### **Planet**

In this case, regarding corporate environmental responsibility, this term is the most relevant of the TBL. How does the organization deal with the



environmental effects they cause? Common topics on the Planet dimension are the impacts of products, processes and services for air, water, soil and biodiversity, but also topics such as CO2 compensation, waste and recycling, sustainable mobility, and products and services.

### **Profit**

The aim is to contribute to CSR in ways appropriate to the organization reaching a profit. Lowering the cost of energy consumption and waste are examples of this. Profit is a multi-concept: it is not only what remains below the line, but also contains commitment, innovation, quality, employment, productivity, reputation and addressing the growing group of customers and organizations that call for sustainable products.

### **Private sector**

In economics, the private sector is generally referred to the part of an economy where the state has little or no interventions in the operating companies. It is opposed to the public sector, which is mainly run by the state.

### **Sustainability report**

A sustainability report (triple bottom line reporting) is a record of a company's performance in terms of sustainability and corporate social responsibility: both the performance in terms of social ethics, environmental and economic development are taken into account and recorded.

## **General Overview**

### **Environmental Pollution**

Environmental damage and environmental contamination in particular are a key issue in understanding the discussed topics. Environmental pollution is caused by the emission of polluting factors (chemical and physical). Chemical factors are e.g. certain hazardous substances, such as methane and sulfur dioxide. Physical factors are energy, noise, vibration and radiation. The emission can take various forms depending on the process. The polluting factors are distributed in the environment (air, water and soil) and cause environmental pollution. If there is a synergy of various polluting factors, than a global form of pollution could arise. The residues that fall outside of the production process can directly be dispersed (e.g. residues in professional contamination). The emissions can also occur



indirectly, e.g. substances are firstly collected and stored temporarily, and later disposed as waste.

Pollution can act as an unwanted side effect when using certain substances. If they are deemed abnormal and unforeseeable, it is a case of accidental emissions. In some cases the emissions happen consciously, as a technique for waste treatment, or as an inevitable result of certain activities. The emissions can violate national environmental laws. But they can also be natural, harmless or admitted, as polluting technical resources can sometimes not be avoided.

The damage of corporate activities can take several forms. There is first and foremost the immediate personal damage: damage to humans and animals, costs of medical care, disability, moral damages and damage to movable and immovable property. Then there is the damage to public property. States make certain expenditure on preventing and controlling environmental pollution. Finally, there is ecological damage, e.g. ozone depletion, reduction of air quality, damage to wildlife or a disruption of an ecosystem's natural balance. However, these are often difficult to trace back to the source of pollution, making it almost impossible to put the blame solely on one business or corporation.

### **Irresponsible environmental business in developing countries**

The most poignant examples of socially irresponsible corporate business occur in developing countries. In these countries, there is sometimes insufficient legislation to protect humans and the environment against environmental pollution produced within the region, hence causing a lot of damage to the environment and to society. However, governments or courts often miss the will or the ability to trial the polluting companies through a legal way. The result is that companies, many of whom are Western internationals, often get away with things that would have been illegal in most other states, and are totally unacceptable in the first place.

#### *Environmental pollution in the Niger Delta caused by the oil industry*

In Central America and Africa in particular, there are entire regions, and the people who inhabit them, which are ravaged for decades by a ruthless exploitation of oil by Multinational Enterprises (MNEs).

The situation of Ogoniland, a region in the Niger Delta, home to the Ogoni people, an indigenous group of 500.000 people, is exemplary. The exploitation of oil by the Anglo-Dutch oil company Shell started there half a century ago. In the early 1990s, the inhabitants of this vast territory rebelled against this activity that destroyed their



primary income, fishing, and endangered their primary necessity for life: drinking water. The rebellions were beaten down with great force by the Nigerian government at the time, but fortunately led to the shutdown of the oil production. However, the environmental damage continued: oil spills, leaks and sabotage of oil pipelines passing through the area have continued since then.

In this regard, the United Nations Environmental Programme (UNEP) released a report in 2008 on the Environmental Assessment of Ogoniland. Based on a long and solid investigation, the report reveals some dramatic consequences of the oil exploitation such as but not limited too: widespread pollution, quality of life and health of a million people being threatened, devastated fish stocks etc. Furthermore, the report of the UNEP points out that the environmental restoration of the area would be the biggest clean up ever undertaken in the world. Finally, the UNEP clearly states the responsibility of Shell in this specific issue.

However, on January 30, 2013 a Dutch tribunal acquitted a subsidiary enterprise of Royal Dutch Shell of responsibility in 4 of 5 cases, where local people extracted oil by sabotaging the old pipelines. In the eyes of the Dutch court, Shell had undertaken sufficient measures against sabotage in those four cases and could therefore not be held accountable for the resulting damage.

## Guidelines on CSR

On an international level, there are many guidelines to organize and ensure CSR. In the environmental field, the primarily internationally used guidelines are the Organization for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises and the UN Global Compact.

### *OECD Guidelines for Multinational Enterprises*

The OECD is committed to sustainable development in the field of environment. The OECD guidelines are formulated as recommendations to companies registered in member countries. They cannot legally be enforced, but the governments of OECD countries do regard these guidelines as a reference for international CSR and can implement these guidelines into their own domestic law. According to these guidelines, companies should:

- Take into account the need to protect the environment, public health and safety;



- Establish and maintain an appropriate environmental management system related to: data collection and analysis; measurable goals; monitoring & evaluation. This helps to improve the understanding of the company's environmental impact;
- Provide adequate training for personnel on environmental, health and safety issues, train personnel how to deal with hazardous substances; prevent environmental accidents; establish environmental impact assessments and provide public information;
- Informing the local people about environmental, health and safety issues;
- Conduct Life Cycle Assessments (LCA) and Environmental Impact Assessments (EIA). Products, services and processes need to be monitored during their entire life cycle on the area of environment, health and safety. Life cycle analysis (LCA) helps companies in many cases to make proper considerations;
- Take effective measures to prevent or limit damage: a business activity can be harmful, even while it is scientifically not yet proven so. Companies should in those cases take responsibility and yet already make provisions. Prevention is better than cure. By taking steps timely, a company can prevent damage to the environment;
- Prepare a contingency plan in cases of emergency: a contingency plan describes what the company should do in case of accidents and emergencies. To prevent, reduce and control serious damage to the environment and the local population, a company must be able to act directly and be able to cooperate with the appropriate government body.
- Continuously improve their environmental performance, for example by:
  - Applying the best performing businesses processes throughout their enterprise,
  - Delivering the least possible harm to the environment, products and services to reduce greenhouse gas emissions and be the upmost efficient when it comes to energy and raw material consumption, by means such as recycling,



- Making their customers environmentally conscious by providing accurate information about their products (eg, greenhouse gas emissions, use of resources, etc.),
- Developing long-term strategies for certain environmental aspects, for example on emissions reduction, resource efficiency, biodiversity conservation and reduction of toxins.

## UN Global Code Compact

The Global Compact is a UN initiative launched in 2000 to encourage businesses worldwide to adopt socially responsible behavior by committing to integrate and promote several principles relating to the following four aspects: human rights, labor rights, environment, and the fight against corruption. Nowadays, the initiative counts more than 12,000 participants, including over 8,000 businesses in 145 countries around the world.

The signing of the Global Compact is a voluntary action of the company. Member companies pledge to improve their CSR and must submit an annual report called Communication on Progress (COP) explaining the progress they have made on the four aspects mentioned above. The Global Compact is not a standard or certification. As enterprises are committing on a voluntary basis, it is not legally binding. It helps companies that want to follow the path of sustainable development in order to progress and formalize their approach. It is an international platform for progress and transparency. Three principles of the Global Compact are related to environment:

Principle 7. Business should support a precautionary approach to environmental challenges;

Principle 8. Undertake initiatives to promote greater environmental responsibility, and;

Principle 9. Encourage the development and diffusion of environmentally friendly technologies.

## Major Parties Involved and Their Views

### Organization for Economic Co-operation and Development (OECD)

The Organization for Economic Cooperation and Development is an international organization in the field of economic studies, in which the 34 member countries - developed





countries for the most part - have a common system of democratic government and an open market economy. It essentially acts as a consultative assembly.

In 1976, the OECD established the Guidelines for Multinational Enterprises, concerning the responsibility of the corporate sector on different aspects of their businesses, in particular on corporate environmental responsibility. Companies are expected to follow the OECD guidelines for CSR in national and international business operations. The OECD Guidelines for Multinational Enterprises are at this moment guidelines endorsed by 34 member countries of the OECD and 8 non-member countries. Furthermore, the OECD is at this moment a very important platform for multilateral mediation, not only between governments but also for every other party involved such as companies and NGOs. However, the OECD Guidelines for Multinational Enterprises are not legally binding by itself; they are proposed by the governments of the member states and can be implemented into domestic legislation of those countries. As such, it becomes legally binding in that particular state.

### **United Nations Environment Program (UNEP)**

The United Nations Program for the Environment is an agency of the United Nations, established in 1972, and aimed at firstly coordinating UN activities in the field of the environment and secondly assisting countries in the implementation of environmental policies to their own legislation. Since the concept of sustainable development was shaped, the UNEP has sought to integrate environmental issues into wider sustainable development policies.

As the environment is an important part of CSR, the UNEP is very active in this field. They lead many studies on specific issues where internationally accepted guidelines may be exceeded. However, reports of the UNEP are not binding and their judgments cannot be imposed to a company or a state; the sovereignty of a state is always superior to any recommendation of this organization. Finally, the UNEP also organizes conferences in order to find sustainable solutions with the aim of improving the future of our global environment.

### **European Union (EU)**

The European Union is a haven for many MNEs; many multinational companies are registered within this politico-economic union. The European Union and its Member States essentially apply the OECD Guidelines in addition to its own, more specified laws. The measures of the EU to ensure corporate environmental responsibility are almost completely guaranteed within the EU. However, these guidelines only apply in those countries that have agreed to the OECD Guidelines for Multinational Enterprises and have integrated those



guidelines into their own legislation. The activities of different MNEs outside the OECD countries and therefore outside the EU, especially MNEs in the oil sector such as British Petroleum (BP) and Royal Dutch Shell, often fall outside the CSR-related European legislation so the environmental responsibility as regarded by the EU and its States is not always respected by its corporate sector. The result is several cases of heavy environmental pollution.

However, different parties within the EU try to improve this situation. For example, the European Coalition for Corporate Justice (ECCJ) calls for the establishment of more rules within the European Union on their corporate law in order to ensure responsibilities of European MNEs even if they – or any subsidiary – operate outside the EU. At this moment, approximately 250 organizations from sixteen European countries are members of the ECCJ. Environmental, human rights and developmental organizations are part of the members of ECCJ.

## Timeline of Events

| Date          | Description of event   |
|---------------|--|
| 1972          | United Nations Conference on the Human Environment (UNCHE) was organized in Stockholm, Sweden, leading to the Declaration of the United Nations Conference on the Human Environment. This declaration defined principles for the preservation and enhancement of the natural environment, and also highlighted the need to support people in this process.                                     |
| 1976          | The OECD releases the first edition of their Guidelines for Multinational Enterprises, consisting of recommendations addressed by governments concerning CSR and, more specifically, on the environmental corporate responsibility of MNEs operating in or from the 34 OECD-countries as well as 8 non-OECD countries: Argentina, Brazil, Egypt, Latvia, Lithuania, Morocco, Peru and Romania. |
| 1992          | The Rio Declaration established the UN Conference on Environment and Development in Rio de Janeiro, elaborating on how states should act with environmental issues.  |
| July 26, 2000 | UN Global Compact officially launched by S.G. Mr. Kofi Annan at the UN Headquarters in New York, United States of America.   |
| 2011          | OECD CSR Guidelines are updated. International CSR, chain of   |



2013

supply responsibility and climate change are elaborated upon. Dutch court acquits a subsidiary enterprise of Royal Dutch Shell for four of the five charges of environmental pollution in the Niger Delta.

## UN involvement, Relevant Resolutions, Treaties and Events

- Declaration of the United Nations Conference on the Human Environment, 5-16 June 1972 (A/CONF.48/14/Rev.1)
- Rio Declaration on Environment and Development, 3-14 June 1992

## Evaluation of Previous Attempts to Resolve the Issue

At this moment, the members of the OECD and the governments of economically developed states are leading the field of corporate environmental responsibility. By implementing the OECD Guidelines for Multinational Enterprises since 1976 into their own national environmental laws and by adding specific obligations in certain conditions for companies operating in their country, the environment in these countries is protected to a certain extent from pollution.

In addition, companies are also given the possibility to stand out and attract investors and customers through the UN Global Compact program. Once participating, companies are required to follow some strict environmental requirements, such as setting an environmentally friendly policy and making progress on it. This also gives the participating companies an improved image, which makes the company more appealing for investment funds. Customers also seem to be more willing to buy the products of the company in question.

Yet there is still much to improve on. The economic climate has significantly changed since the creation of the OECD Guidelines for Multinational Enterprises in 1976; therefore, these Guidelines have also been updated, most recently in 2011. The global market currently faces a movement of labor and thus a movement in the business operations of enterprises; companies are entering new markets and are trying to find new natural resources in new regions, for instance Africa. As a result, more and more MNEs operate in countries that are not members of the OECD and are not familiar with environmental laws. Therefore, environmental responsibility of companies is in these places not yet respected. Foreign



companies take too little responsibility for the natural property of the country in which it operates.

## Possible Solutions

The UN, and more specifically the UNEP, are highly active in the field of corporate environmental responsibility at this time. However, this remains not yet sufficient through the change of the field of operations of many companies. Where UNEP identifies the causes of environmental damage, it does not set any international environmental guidelines like the OECF Guidelines for Multinational Enterprises. Developed countries that are members of the OECD use the OECD Guidelines for Multinational Enterprises to ensure environmental responsibility of active companies. However, these kinds of guidelines are lacking in new economies, mainly in Africa and South America. MNEs are more and more invested there and can very easily operate without taking any responsibility for the possible damage they cause in the first place.

The UN Global Compact has indeed been established, but it is up to companies to decide voluntarily to participate. As such, many companies decide not to join the Global Compact, which is unfortunate. The UN and governments should therefore take measures to ensure the corporate responsibility of states that are not members of the OECD, resulting in a strong foundation of environmental legislation to build on in the upcoming decades. In these emerging economies, there exists firstly little or no environmental legislation and secondly, the legislation is not always enforced. The commission should work towards international guidelines and help the aforementioned regions in strengthening their legal system, most likely under the supervision of the already existing UN organ in this area: the UNEP. It is wise to look at how Western countries have organized their environmental laws, guidelines and law enforcement.

A voluntary program such as the Global Compact is therefore not the only solution; states have to undertake inspections on the activities of companies active in their state. However, the legal systems of many emerging countries are currently very unstable due to conflicts, a lack of resources and corruption. The UN should help these countries in establishing an effective judicial system that ensures corporate environmental responsibility.

Western countries should therein also have a role, as MNEs often operate from these countries and cause damage to environment in some cases, without taking any responsibility for their actions.



It is also important to bear in mind that the possible solutions have to be supported by as many countries as possible, otherwise companies will be able to circumvent any environmental laws by simply moving their business to another country. This would also hold back exactly those emerging and good willing countries that are willing to take action, but won't participate because of the possible loss of companies from their economies that will suffer under extreme legislations. It is also important to understand that many governments are afraid of losing the companies operating in their country by establishing environmental laws. These kinds of countries should be actively assisted and convinced, as economic growth in the short term can cause huge damage to the environment in the long term.

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## Appendix or Appendices

- I. <http://www.oecd.org/corporate/mne/34873731.pdf>
- II. [http://www.unep.ch/etb/publications/CSR%20publication/UNEP\\_Corporate%20Social%20Responsibility.pdf](http://www.unep.ch/etb/publications/CSR%20publication/UNEP_Corporate%20Social%20Responsibility.pdf)
- III. [http://postconflict.unep.ch/publications/OEA/UNEP\\_OEA\\_ES.pdf](http://postconflict.unep.ch/publications/OEA/UNEP_OEA_ES.pdf)

