

SUSTAINABLE DEVELOPMENT PROGRAMME

**FOLLOWING UP THE WORLD SUMMIT  
ON SUSTAINABLE DEVELOPMENT  
COMMITMENTS ON CORPORATE  
SOCIAL RESPONSIBILITY**

**Options for action by governments**

Fanny Calder  
Malaika Culverwell

FINAL REPORT  
February 2005



CHATHAM HOUSE



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**FINAL REPORT**

Sustainable Development Programme

**Chatham House**

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## Preface

This report is the main output from a Chatham House project on the World Summit for Sustainable Development (WSSD) commitments on Corporate Social Responsibility (CSR) funded by the UK government with additional support from Natural Resources Canada. The project's objectives are to identify a wide range of policy options that governments could adopt in following up the WSSD CSR commitments at the international level, and to assess the viability and potential effectiveness of each. The analysis in this report derives from broad-based consultation with key stakeholders which has included consultation meetings in London and at the UN in New York during the 11th and 12th meetings of the Commission on Sustainable Development (CSD 11 and 12), an international workshop held at Chatham House in April 2004 and over a hundred individual interviews with stakeholders from businesses, civil society groups and governments from around the world.

The Johannesburg Declaration agreed by heads of state at the World Summit states that 'in pursuit of its legitimate activities the private sector, including both large and small companies, has a duty to contribute to the evolution of equitable and sustainable communities and societies'. The WSSD Plan of Implementation (POI) has a range of commitments on CSR including a commitment to 'actively promote corporate responsibility and accountability ... including through the full development and effective implementation of intergovernmental agreements and measures, international initiatives and public-private partnerships, appropriate national regulations, and continuous improvement in corporate practices in all countries'. This report looks at how these commitments could be delivered by governments acting at the international level and in developing countries.

The report was prepared by Fanny Calder (Associate Fellow, Chatham House) and Malaika Culverwell. Dr Culverwell undertook the work whilst working as a research fellow with Chatham House. She now works with DFID's Business Alliances Team. The authors are very grateful for the generous financial support from the funders, and for all the advice and feedback that they were given by a multitude of experts from governments, the private sector and civil society throughout the lifetime of this two-year project. However, the views in the report are the authors' own and do not necessarily represent the views of the UK government, Natural Resources Canada or any other organization consulted during its preparation.

The authors hope that this report will help catalyse and support government action towards the implementation of the Johannesburg commitments on CSR. The Sustainable Development Programme at Chatham House intends to continue to play a significant role in supporting this work. If you would like to know more about this work, please contact the Sustainable Development Programme at [sustainabledevelopment@chathamhouse.org.uk](mailto:sustainabledevelopment@chathamhouse.org.uk)

## Glossary and abbreviations

ATCA	Alien Tort Claims Act (US)
CIME	Committee on International Investment and Multinational Enterprises
CSD	UN Commission on Sustainable Development
CSR	Corporate social responsibility
DFID	Department for International Development (UK)
ECOSOC	UN Economic and Social Council
EITI	Extractive Industries Transparency Initiative
FIAS	Foreign Investment Advisory Service
FoEi	Friends of the Earth International
GRI	Global Reporting Initiative
GSB(I)	Growing Sustainable Business (Initiative) (UNDP)
HGA	Host government agreement
Iblf	International Business Leaders' Forum
IFC	International finance corporation
IGO	Intergovernmental organization
ILO	International Labour Organization
ISO	International Organization for Standardization
JPOI	Johannesburg Plan of Implementation (main outcome from WSSD)
MEA	Multilateral environmental agreement
MDGs	Millennium Development Goals
MNEs	Multinational enterprises
NCPs	National Contact Points
NEPAD	New Partnership for Africa's Development
NGO	Non-governmental organization
Norms on Human Rights	Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with regard to Human Rights
OECD	Organization for Economic Cooperation and Development
OECD Guidelines	OECD Guidelines for Multinational Enterprises
OHCHR	Office of the High Commissioner for Human Rights
SMEs	Small and medium-sized enterprises
SPAC	Sustainable Production and Consumption
SRI	Socially responsible investment
TNCs	Transnational corporations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNGC	United Nations Global Compact
UNRISD	United Nations Research Institute for Social Development
WCD	World Commission on Dams
WSSD	World Summit on Sustainable Development

## Executive Summary

### Political context

Two key issues that influenced the politics of WSSD and contributed to the negotiation of the commitments on CSR were:

- Concerns about adverse impacts of globalization and private-sector activities to the detriment of sustainable development, particularly in the poorest countries, and
- Growing recognition that the private sector has a key role to play in enabling the international community to deliver its ambitious targets on sustainable development such as the Millennium Development Goals (MDGs) and the commitments in the POI itself.

The commitments on CSR made at WSSD reflect these dual developments and appear to suggest that the world's governments want to increase their efforts to encourage improvements in both areas. While there is no definition of CSR in the POI, and the CSR agenda is a very broad one, the report suggests that the overarching goal of governments in implementing the WSSD commitments on CSR should be to *minimize the negative and maximize the positive impacts of business on sustainable development*.

### Strengths and weaknesses in current approaches to CSR

There is currently an almost bewildering array of international CSR initiatives (see Annex 2). However, the stakeholders from governments, businesses and civil society groups consulted in the preparation of this report identified a range of significant weaknesses in current approaches to promoting CSR which governments should seek to address in implementing the WSSD commitments:

- An over-proliferation of CSR initiatives at the international level and lack of clarity about how these initiatives relate to each other;
- An excessive focus on getting businesses to make commitments to CSR and not enough focus on enabling them to implement them;
- An absence of credible monitoring and verification processes;
- A lack of effective mechanisms of redress for communities affected by companies that flout national or international norms on sustainable development or human rights;
- A lack of engagement with developing country governments and their sustainable development priorities (e.g. economic development and poverty reduction);
- A failure to bridge the governance gap created by weak public sector governance of the private sector in many developing countries;
- Limited impact on sustainable development goals;
- A lack of government involvement and/or investment in international CSR initiatives, which is contributing significantly to their underperformance.

However, it is clear that the agenda also has some important strengths, including:

- The high levels of commitment shown by some key leadership companies;

- The capacity for innovation and openness to change shown by the international CSR initiatives covered by the report;
- The openness of leadership companies and CSR initiatives to working in partnership with a wide range of stakeholders, including the UN, governments, other businesses and civil society organizations, including at the local level in developing countries;
- The growing recognition by leadership companies and organizations of the need for the CSR agenda to address public sector governance issues and to scale up the impact of CSR activities so that they can improve the delivery of sustainable development at a systemic level.

### **Arguments for increased government engagement in promoting CSR at national and international levels**

National governments are the only actors with jurisdiction over the private sector and are therefore best placed to:

- Produce authoritative interpretations of how international norms should be adhered to by the private sector;
- Ensure that companies adhere to international norms even where they are operating in areas with weak legal systems and public governance;
- Enable companies to adhere to international norms even when there is not a business case for them to do so, and create a level playing field that ensures that companies that do uphold norms are not competitively disadvantaged;
- Encourage both private sector adherence to international norms, either through their legal, regulatory or fiscal systems, and private sector engagement in the delivery of international goals for sustainable development;
- Bring clarity and increased coherence to the international CSR agenda and help simplify CSR decision making for businesses by working with a limited number of ‘gold standard’ initiatives.

Significant potential benefits for governments in engaging with CSR initiatives include:

- Increased peace and stability and enhanced environmental protection;
- Increased public trust of both public and private institutions, particularly in those countries where the public is suspicious of big business and/or government–private sector relations;
- Improved international competitiveness for the private sector in developing countries, e.g. by helping businesses to meet environmental or CSR standards set by multinationals for their supply chains;
- Improved access to public and private finance and investment for the private sector in developing countries;
- Access to the private sector’s skills, financial resources and strategic capability, all of which have the potential to play a critical role in delivering international goals for sustainable development such as the MDGs.

### **Potential specific objectives for governments in implementing the WSSD CSR commitments**

Working to ensure that all businesses worldwide uphold internationally agreed norms on sustainable development, corruption and human rights by:

- Strengthening existing CSR initiatives that interpret international norms for the private sector, supporting their implementation and increasing coordination and coherence between these initiatives;

- Enabling individuals and communities that are adversely affected by businesses that flout international norms to obtain redress;
- Supporting the development of effective public governance of the private sector in developed and developing countries.

Seeking to fully engage the private sector in the delivery of internationally agreed goals for sustainable development and poverty eradication, including the WSSD commitments and the MDGs, by:

- Strengthening existing partnerships and initiatives that are working to engage the private sector in the delivery of international goals, and increasing coherence between them;
- Improving coordination between the work being done by private sector initiatives for the delivery of international goals and intergovernmental, donor and host government efforts, particularly at the national level in developing countries;
- Supporting the strengthening of developing country governments' capacity to engage the private sector in the delivery of national objectives for poverty reduction and sustainable development.

### **Options for action by governments to implement the WSSD CSR commitments**

The report explores a number of options for action in implementing the WSSD commitments on CSR, the majority of which focus on strengthening and exploiting potential synergies between some of the major existing international CSR initiatives, e.g.

- the OECD Guidelines on Multinational Enterprises
- the Global Reporting Initiative
- the UN Global Compact
- the World Bank CSR Practice

and a range of multi-stakeholder initiatives addressing specific CSR issues, e.g.

- the Extractive Industries Transparency Initiative
- the Kimberley Process on Conflict Diamonds.

The report also looks at

- the proposed 'UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights'
- the option of promoting corporate accountability through transboundary legal action
- the proposal for a new binding mechanism on corporate accountability put forward by NGOs during the WSSD process
- the groundbreaking work by the UNDP Growing Sustainable Business Initiative on engaging multinational companies in commercially viable, pro-poor business activities.

The report assesses the strengths, weaknesses and options for government action on each initiative. Each of the existing major CSR initiatives has a distinct and potentially highly complementary role to play in promoting CSR at the international level. However, all the existing initiatives covered by the report are still at a very early stage. Governments are the best-placed actors to strengthen the initiatives, and the report sets out in some detail what they could contribute to each.

### **A government-led international follow-up process for the WSSD CSR commitments?**

- The current weaknesses in the international CSR agenda suggest that there is a need for a strategic approach to strengthening and rationalizing key initiatives in order to improve their performance in

ensuring that businesses adhere to international norms on issues such as human rights, corruption and environmental protection and on engaging business in the delivery of international goals for sustainable development such as the MDGs. At present no forum exists where such an approach can be developed.

- At present there is no international forum where governments can discuss their role in promoting CSR at the national and international level other than the low-level OECD process around the Guidelines for Multinational Enterprises.
- Without a dedicated process to focus international attention on this issue the WSSD commitments are unlikely to lead to any significant strengthening of the CSR agenda at the international level.

*Questions to address:*

- Should the process should be intergovernmental or multi-stakeholder, global or a 'coalition of the willing'?
- What model should the process be based on – a commission, a global policy network or a formal or informal policy negotiation process?
- What are the options for linking the follow-up process to the Commission on Sustainable Development and what relationship should the process should have to existing international CSR initiatives?
- Practical questions: who could initiate a process, how should its objectives be developed, how should it be structured in terms of high-level segments, working groups, research projects etc. and how could participation be decided?

**Cross-cutting issues that could be used to structure a follow-up process for the WSSD CSR commitments**

The report ends by arguing that in order to make a meaningful contribution to the complex international CSR agenda a follow-up process would need to identify some clear themes on which to focus. It suggests a number of crosscutting themes that could be used to structure the process and identifies some of the relevant initiatives and activities that could be considered under each theme. The suggested themes include:

- Setting or interpreting international norms for the private sector;
- Awareness raising, capacity-building and tools for encouraging and enabling adherence to norms;
- Incentivizing and monitoring compliance;
- Enabling communities to get redress when businesses flout norms;
- Supporting improvements of public governance of the private sector in developing countries;
- Engaging businesses in the delivery of the MDGs and ensuring this work is coordinated with international and national strategies
- Enabling developing country governments to engage businesses in the delivery of national level objectives for poverty reduction and sustainable development
- Engaging businesses in the delivery of WSSD outcomes.

This cross-cutting approach would enable a strategic engagement between governments, different international CSR initiatives and other stakeholders to:

- explore issues that are common to different initiatives;
- identify best practices for addressing these issues;
- look for potential synergies between different initiatives and develop proposals for exploiting these synergies and increasing coherence and efficiency of the CSR agenda overall.

## **Section One: Introduction**

### **1.1 Introduction**

This report is the final output from a Chatham House project on the World Summit for Sustainable Development (WSSD) commitments on corporate social responsibility (CSR). The project's objectives are to identify a wide range of options for following up the WSSD CSR commitments at the international level, and to assess the viability and potential effectiveness of each. Given that many of the debates at WSSD centred on the impact of multinationals in developing countries, and that the policy debates on CSR in the UK and other developed countries are relatively mature, the project has a strong focus on options for governmental and intergovernmental action to support the implementation of CSR in developing countries. However, it also looks at options for more broad international action.

The report is based on desk research, interviews with a wide range of stakeholders from developed and developing countries, the outcomes of two brief stakeholder consultations in 2003 (in London and at CSD 11 in New York) and a two-day workshop held at Chatham House, London in April 2004. Because of the complexity of the subject matter, the project was undertaken in two phases. Phase One was funded by the UK Department of Trade and Industry and Foreign and Commonwealth Office; Phase Two was funded by both the UK government and Natural Resources Canada.

In January 2004 (at the end of Phase One) an Interim Report was published, which sought to carry out some basic analysis of the issues and challenges around implementing the WSSD commitments on CSR. This report formed the basis of the research and consultations carried out in Phase Two, and has also been used as a starting point for the current report. This final project report seeks to deepen and refine the Phase One analysis. It also has a stronger focus on potential ways forward for intergovernmental action to implement the WSSD CSR commitments.

## 1.2 Project objectives

The Chatham House project on following-up the WSSD Commitments on Corporate Social Responsibility had the following objective:

To develop an analysis of the following issues, based on consultation with stakeholders from developed and developing countries, and from regional and international institutions:

- The strengths/weaknesses of current approaches to promoting CSR internationally;
- The nature of the commitments on CSR contained in the WSSD Plan of Implementation;
- The objectives for promoting CSR that the UK and other governments might want to adopt in implementing the WSSD commitments, with a particular but not exclusive focus on developing countries;
- The effectiveness of existing governmental/intergovernmental processes aimed at promoting CSR (e.g. the Global Compact, OECD Guidelines, etc.);
- The potential effectiveness and political viability of a range of options for governmental/intergovernmental action to promote CSR internationally, and in particular in developing countries, including the options of strengthening existing initiatives;
- Potential strategies for taking forward these options for action through the CSD or other international processes.

The Sustainable Development Programme and the project's funders hope that the outcomes of the project will be useful to a wide range of governments, including developing country governments. Given that in some cases Corporate Social Responsibility issues may best be addressed by action at the national level, the project has included consideration of international actions (either bilateral or multilateral) that support action on a national or local level.

While exploring what we mean by CSR or Corporate Responsibility and Accountability (the language from the WSSD Plan of Implementation) is an important part of its work, the project's main emphasis is not on developing definitions, but on identifying options for action.

## Section Two: Background

### 2.1 Commitments on corporate social responsibility in the Johannesburg Plan of Implementation

Commitments to engaging the private sector in the delivery of a wide range of specific sustainable development objectives (e.g. on providing water to the poor, increasing the deployment of renewable energy, etc.) can be found throughout the WSSD Johannesburg Plan of Implementation (JPOI). All of these commitments provide an important context for any discussion of how WSSD commitments on CSR should be implemented. However, there are a smaller number of paragraphs in the POI that provide a more overarching mandate for government action to promote CSR. These include the following:

18. Enhance corporate environmental and social responsibility and accountability. This would include actions at all levels to:
  - (a) Encourage industry to improve social and environmental performance through voluntary initiatives, including environmental management systems, codes of conduct, certification and public reporting on environmental and social issues, taking into account such initiatives as the International Organization for Standardization (ISO) standards and Global Reporting Initiative guidelines on sustainability reporting, bearing in mind principle 11 of the Rio Declaration on Environment and Development;
  - (b) Encourage dialogue between enterprises and the communities in which they operate and other stakeholders;
  - (c) Encourage financial institutions to incorporate sustainable development into their decision-making processes;
  - (d) Develop workplace-based partnerships and programmes including training and education programmes.
49. Actively promote corporate responsibility and accountability, based on Rio Principles, including through the full development and effective implementation of intergovernmental agreements and measures, international initiatives and public–private partnerships, appropriate national regulations, and continuous improvement in corporate practices in all countries.
- 140(f). Promote corporate responsibility and accountability and the exchange of best practices in the context of sustainable development, including, as appropriate, through multi-stakeholder dialogue, such as through the Commission on Sustainable Development, and other initiatives ...

The Johannesburg Declaration on Sustainable Development also includes the following paragraphs:

27. We agree that in pursuit of its legitimate activities the private sector, including both large and small companies, has a duty to contribute to the evolution of equitable and sustainable communities and societies.
29. We agree that there is a need for private sector corporations to enforce corporate accountability, which should take place within a transparent and stable regulatory environment.

## **2.2 Notable features of the WSSD commitments on CSR**

### **Focus on corporate accountability and responsibility**

The terms used to refer to CSR in the JPOI vary, but generally include commitments to promoting both corporate responsibility and accountability. Paragraph 18 makes a commitment to enhancing ‘corporate environmental and social responsibility and accountability’ while paragraph 45 talks about ‘actively promot[ing] corporate responsibility and accountability’. This reflects the dual focus in the debates about CSR during the WSSD process which emphasized both the need to promote private sector compliance with national and international norms, laws and regulations and to ensure that businesses are held accountable if they do not, and the need to engage the private sector in delivering sustainable development by encouraging businesses to move ‘beyond compliance’ with such laws and regulations. Section 2.4 below provides more detail on the debates about CSR that took place during the WSSD process.

### **Focus on both voluntary and government action**

The POI language explicitly makes commitments to both intergovernmental and governmental action to promote corporate social responsibility, including regulation, and voluntary action by the business sector.

### **Commitment to take action at both international and national levels**

See paragraph 49.

### **Commitment to the ‘full development and effective implementation of international agreements and measures’**

This can be read as a commitment to develop existing measures, and to ensure that their implementation is carried out effectively (a commitment which, as this report argues, could in itself require some progressive new action by governments). Some stakeholders have argued that this language can also be interpreted as a mandate for the introduction of new international agreements on CSR, although it should be noted that the US government issued an interpretative statement on the last day of WSSD, claiming that the collective understanding of the governments negotiating the paragraph was that it refers only to existing agreements. This view is shared by other governments.

### **Emphasis on engagement with a range of stakeholders**

The commitments in paragraph 18b clearly indicate that any actions taken to implement these mandates should help to encourage dialogue between businesses and stakeholders. The communities in which enterprises operate get a particular mention.

### **Focus on the development of partnerships**

There is a focus on partnerships with the private sector and other actors both within the two paragraphs of the JPOI quoted above and throughout the POI.

### **Commitment to promote corporate social responsibility through the Commission on Sustainable Development (CSD) and ‘other initiatives’**

This language in para 140(f) suggests that the commitments in the JPOI could be taken forward both within the CSD and by other processes.

### **Statement that the private sector has a duty to contribute to the evolution of equitable and sustainable societies**

See para 27 of the Johannesburg Declaration

### **Reference to both large and small companies**

Ibid.

## 2.3 Corporate social responsibility in the context of WSSD commitments

The JPOI commitments on CSR refer variously to *corporate environmental and social responsibility*, *corporate responsibility* and *corporate accountability* but do not provide a definition of any of these terms. This lack of definition partly resulted from the realpolitik of the WSSD negotiations, in which governments with significantly different positions on CSR needed to find language that was general enough to make a global agreement possible.

The relatively vague nature of the JPOI commitments can also be seen to reflect the diversity of the wider CSR agenda itself. This agenda addresses a very broad range of substantive issues including the interactions between the private sector and human rights; workplace standards; environmental pollution; the development of clean technologies; local and national economic development; corruption and conflict (Section 3.1 looks at these issues in more detail). The global CSR agenda also encompasses a diversity of views on the roles that businesses should play in addressing their impact on sustainable development, and on the roles that governments should play in requiring or enabling them to do so.

However, in order to move from negotiated language to action it is important to have a working understanding of what the JPOI commitments on corporate accountability and responsibility, or CSR, mean. This report uses the following starting assumptions to provide a working definition:

- The broader context of the JPOI commitments overall, and the Johannesburg Declaration on Sustainable Development, suggest that the overarching goal of governments in implementing the WSSD commitments on CSR should be to *minimize the negative and maximize the positive impacts of business on sustainable development*.
- Within this broad definition, different countries and regions will have different priorities with regard to the interactions between the private sector and sustainable development and may have different approaches to promoting CSR. Any action taken at the international level to implement the WSSD CSR commitments should therefore seek to recognize this diversity of priorities and support a range of different approaches.
- The reference to corporate *accountability* in the JPOI suggests that in implementing the WSSD CSR commitments governments should seek to ensure that businesses comply with national and international norms and laws and be held liable and/or face sanctions if they do not.
- The reference to corporate *responsibility* in the JPOI suggests that governments should also seek to enable businesses to maximize their positive contributions to sustainable development ‘beyond compliance’ deploying the range of available policy instruments including regulation, fiscal measures and information provision.
- Given the diversity of the private sector, the range of substantive issues that could be addressed by governments in implementing the WSSD commitments on CSR are very broad, and encompass most, if not all, of the issues referred to in the JPOI.
- All levels of the private sector, from the smallest local enterprises to the largest multinational corporations, are highly relevant to sustainable development. In implementing the WSSD CSR commitments, governments may therefore want to try to develop strategies that are relevant to both large and small companies.

## 2.4 Some background to the negotiations of the WSSD commitments on CSR

In order to explore how the WSSD commitments on CSR should be implemented, it may be useful to first examine the complex political context in which these commitments were negotiated. The international CSR agenda is very broad and has been shaped by the concerns of a diverse range of actors, including governments, trade unions, NGOs and businesses themselves. The agenda has strong linkages to many of the sustainable development issues that are addressed by the JPOI, and to wider political issues and agendas such as the debates on the impacts of globalization, trade negotiations and concerns about standards of corporate governance that have been raised by the recent corporate scandals in the US and Europe. This section sets out some of the key trends that have shaped the development of the international CSR agenda, that led to the negotiation of the commitments at Johannesburg, and that are likely to influence the way in which those commitments can be implemented.<sup>1</sup>

### Globalization

The rapidly increasing involvement of transnational corporations (TNCs) in developing country economies has been one of the main areas of concern in recent debates on the impacts of globalization. Between 1990 and 2000, the sales of the largest one hundred multinationals increased from \$3.2 trillion to almost \$4.8 trillion.<sup>2</sup> Foreign employment by TNCs grew from 24 million people in 1990 to 54 million in 2001<sup>3</sup> and during the same period the private sector assumed the operation and construction of almost 2,500 infrastructure projects in developing countries with investments totalling \$750 billion.<sup>4</sup> Weak public sector governance in some developing countries has meant that TNCs are often operating in areas with far weaker environmental and social standards than those in their 'home' countries, where human rights are being abused and/or where corruption is endemic. These conditions have been seen to create the risk that the activities of TNCs in these countries will lead to negative environmental and/or social impacts and to human rights abuses.

As a result of these concerns the 1990s saw a significant increase of scrutiny of the activities of multinational businesses. In particular, mining, oil and energy companies were increasingly challenged by non-governmental organizations (NGOs) over their behaviour with regard to environmental and social sustainability and human rights. At the same time, developments in global communications, which have enabled corporations to control production activities on an ever-widening scale, also facilitated the international transmission of information about working conditions in their overseas suppliers, increasing public awareness and facilitating campaigning activities.

The growth of 'global value chains' through which Northern buyers do business with webs of suppliers in the South has also created the opportunity for TNCs to have a positive influence on sustainable development. Many large multinational businesses work with their suppliers to increase labour and environmental standards. TNCs operating in developing countries source products and services locally and frequently invest in developing capacity in local businesses, providing significant benefits to local economies as well as making business sense.

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<sup>1</sup> For a more detailed analysis of the history of CSR see Jem Bendell, *Barricades and Boardrooms: A Contemporary History of the Corporate Accountability Movement* Geneva, United Nations Research Institute for Social Development, 2004, [www.unrisd.org](http://www.unrisd.org).

<sup>2</sup> United Nations Conference on Trade and Development (UNCTAD), *World Investment Report 2002: Transnational Corporations and Export Competitiveness* (New York: United Nations, 2002). p. 90.

<sup>3</sup> *Ibid.*, p. xv.

<sup>4</sup> World Bank, 'Private Sector Infrastructure: A Review of Projects with Private Sector Participation, 1990-2001', *Public Policy for the Private Sector* (Washington, DC: World Bank, 2002), p. 1.

### **Governance gaps in developing countries**

The lack of effective governance of the private sector by the public sector in some countries is one of the most fundamental issues for the international CSR agenda. In many developing countries the legal and regulatory frameworks that control the social, economic and environmental impacts of the private sector in developed countries are poorly designed, poorly enforced and in some cases (i.e. where states are failing and in zones of conflict) wholly absent. Where well-designed legislation and properly resourced enforcement processes do exist, endemic corruption may render them ineffective (see next subsection).

Multinational businesses are therefore frequently doing business in areas of the world where their operations and those of their suppliers are to a greater or lesser extent unregulated by host governments. This of course also applies to the domestic private sector of the countries in question. In these circumstances, the proposition that CSR is about going ‘beyond compliance’ with legislation and regulation is clearly problematic. Weak governance of the private sector has a particularly negative impact on poor and marginalized communities. In many countries communities that are adversely affected by the activities of the private sector find it difficult to hold businesses accountable for their actions or obtain redress for any harm caused.

### **Corruption**

Corruption is increasingly being recognized as a major factor undermining development and exacerbating environmental degradation and domestic conflict in developing countries. Public sector corruption and maladministration have been found to reinforce the unequal distribution of resources and opportunities and thus serve to undermine basic human rights. Corruption also distorts international trade and undermines corporate accountability.

As the NGO Transparency International argues, ‘the private sector is a key player in any effort to reduce corruption levels in a country. Not only can some private sector interests be “villains” in the form of bribe givers, but they are frequently “victims” of extortion (where they are forced to pay to get what they are entitled to receive) or are forced to compete in an unfair and corrupt marketplace, where the pickings go to those with cronies and connections’<sup>5</sup>. It is also clear that corporate accountability cannot be properly enforced by governments in countries where corruption is widespread.

A number of initiatives are seeking to tackle public–private and business-to-business corruption. These include the *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, Transparency International *Business Principles for Countering Bribery*,<sup>6</sup> and the recently launched tenth principle of the UN Global Compact (see Section 5.2.2 below).

### **Host government agreements**

The way in which multinational companies respond to weak governance conditions in developing countries through negotiating investment agreements is also an important issue within the corporate responsibility agenda. Host government agreements (HGAs)<sup>7</sup> are negotiated between multinational companies and developing country governments in order to establish stable conditions for foreign direct investment (FDI). However, these agreements have come under considerable criticism because of the way in which they curtail the legislative, executive and judicial powers of elected governments and undermine their ability to protect the rights of their citizens. Specific criticisms of HGAs have highlighted the lack of transparency around their negotiation and execution; their negative impact on the concept of ‘equality before the law’ owing to the way in which they restrict the legal protection enjoyed by citizens living within the area of a particular

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<sup>5</sup> [http://www.transparency.org/building\\_coalitions/private\\_sector/priv\\_sect\\_intro.html](http://www.transparency.org/building_coalitions/private_sector/priv_sect_intro.html).

<sup>6</sup> Ibid.

<sup>7</sup> The campaign around the Baku–Ceyhan pipeline has strongly highlighted these issues. A range of documents relating to the pipeline HGA is available at <http://www.bakuceyhan.org.uk>.

project; the way in which some agreements have prevented host governments from imposing environmental requirements on projects;<sup>8</sup> and the way in which the deals done under these agreements can reduce the tax burden on the investors and therefore the taxation revenue for the developing country concerned. Establishing a more equitable balance between the rights and responsibilities of investors, host countries and their citizens is likely to be of crucial importance to any international effort to minimize the negative, and maximize the positive, impact of the private sector on sustainable development.

### **Zones of conflict**

The link between conflict and the retardation of economic development is recognized by donors and corporations alike. Conflict drains resources and creates security risks that distort, increase the cost of or simply eliminate investment.

Business is enmeshed with society through a web of employee, supplier, customer and investor relationships. This 'embeddedness' of business in society means that its presence can fuel or ameliorate a conflict situation. Situations such as that faced by Shell in Ogoniland suggest the ease with which a company can become implicated in the violence erupting around its premises. Extractive industries are particularly exposed as the substantial revenues generated for host countries represent a means of increasing the arsenal and sustaining a conflict beyond the point at which it might otherwise have burnt out. Canadian oil company Talisman Energy was accused of fuelling Sudan's twenty-year-old civil war merely through operating in that country. In March 2003 it bowed to pressure and to the 'Sudan Discount' on its share price and sold its stake to a subsidiary of India's state oil company.

Such risks are not limited to extractive industries. In Iraq, the full spectrum of industries engaged in the post-war reconstruction effort are subject to scrutiny. The proximity of business to an interim regime whose legitimacy was in doubt meant that business arguably needed to take great pains to demonstrate its own legitimacy or else fuel further instability. A Chatham House report published in 2003<sup>9</sup> urged business to manage that risk through intensive and structured stakeholder engagement processes. Drawing upon a view of business as a non-state actor in a systems – or 'multitrack' – approach to conflict transformation, the report also highlighted the opportunity available to business to help create a virtuous circle of legitimacy-building that would feed back into national governance, thus helping to build the peace.

### **The growing importance of intangible assets – reputation, risk and brand management**

One of the reasons why NGO action against major multinational companies has been so effective is the increasing importance of intangible assets such as brand and reputation to the valuation of major corporations. Reputation is built around intangibles such as trust, reliability, quality, consistency, credibility, relationships and transparency.<sup>10</sup> This is particularly true for consumer products, for example from companies operating in the field of textiles and sportswear.<sup>11</sup> Protecting brand reputation has become a major incentive for multinationals to take CSR seriously. Investors have also begun to recognize that strong CSR policies can have a positive impact on profitability.<sup>12</sup> Even those companies without public facing brands can find themselves susceptible to pressure, for example from the 'big brand' companies that they supply, from

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<sup>8</sup> Further exploration of the impact of HGAs on environmental governance can be found in Surya P. Subedi, *Erosion of State Sovereignty under the Law of Foreign Investment: The Challenge of Balancing Investment Protection with Environmental Protection*, discussion paper published by Mishcon de Reya, Solicitors, June 2004.

<sup>9</sup> Andrew Newton and Malaika Culverwell, *Legitimacy Risks and Peace-Building Opportunities: Scoping the Issues for Businesses in Post-War Iraq* (London: Royal Institute of International Affairs, 2003).

<sup>10</sup> Michael Hopkins, 'The Business Case for CSR: Where Are We?', *International Journal of Business Performance Management*, Vol. 5, No. 2/3, p. 4.

<sup>11</sup> Russel Sparkes, 'From Corporate Governance to Corporate Responsibility: The Changing Boardroom agenda' *Ivey Business Journal*, March/April 2003, p. 3.

<sup>12</sup> See the recent report *Investing in Responsible Business* published by CSR Europe, Deloitte and Euronext at <http://www.csreurope.org/>.

governments which give them export credit or from private sector financiers who want to make sure that the businesses they invest in will maintain their 'licence to operate' (see next paragraph).

### **The 'licence to operate' issue**

Closely linked to the need to protect reputation is the increasing attention paid in recent years by multinationals to intangible issues when considering how they can protect their 'licence to operate' at a local level in developing countries. For example, the multinational mining companies that supported the Mining Minerals and Sustainable Development initiative<sup>13</sup> acknowledged that the need to protect their 'licence to operate' was a major incentive for exploring how their activities could have a more positive impact on sustainable development. These companies recognized the need to tackle issues of importance to national and local governments and communities in the areas of their operation, such as the economic impacts of mine closure or HIV infection in their workforce, in order to maintain positive working relationships with local and national stakeholders.

### **The business case for CSR**

Given the private sector's overarching need to promote efficiency and make profit, the evolving debate on CSR has had a strong focus on developing a 'business case' for taking action to promote CSR. Other than the reputational and 'licence to operate' benefits outlined above, the commercial benefits that have been highlighted by this debate range from the efficiencies that can be delivered from energy saving measures to the supply-chain efficiencies that can be delivered by supporting the development of small and medium-sized enterprises (SMEs) in developing countries.<sup>14</sup> On a broader level, it has also been argued that the private sector stands to benefit from the expansion of commercial opportunity that will be created as developing country markets mature. However, while there is general consensus that there are potential commercial benefits to be gained from CSR, some stakeholders have begun to highlight a range of barriers, including lack of market based demand, imperfect information, competitive risks and the short-term nature of many commercial decisions, which currently limit businesses' ability to implement CSR measures.<sup>15</sup>

### **The role of the private sector in delivering sustainable development objectives**

Since the Rio Earth Summit in 1992 (at which there was relatively little private sector participation) there has been a growing recognition that the actions of the private sector will be of central importance to the achievement of the international community's ambitious objectives for sustainable development. Governments, intergovernmental organizations and civil society groups have started to focus their efforts on encouraging and enabling the private sector to apply its skills, capacity for innovation and resources to the challenge of meeting the ambitious environmental, social and economic objectives as set out in the Millennium Development Goals and the Johannesburg Plan of Action. At the same time businesses have taken voluntary action on a wide variety of sustainable development issues (e.g. through investment in renewable energy technologies, engagement with supply chains on working standards, etc.) partly in response to increased pressure from NGOs and partly in recognition of the commercial potential of pro-sustainable development business activity.

Advocates of engaging business in the delivery of sustainable development deploy a range of arguments including that:

- In practice the private sector has the major role in delivering environmental and social as well as economic objectives on the ground, including delivery of public goods;

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<sup>13</sup> [www.iied.org/mmsd/](http://www.iied.org/mmsd/).

<sup>14</sup> For a range of useful case studies on the business case for CSR see <http://www.conversations-with-disbelievers.net>.

<sup>15</sup> BT and Forum for the Future, *Just Values: Beyond the Business Case for Sustainable Development*, <http://www.forumforthefuture.org.uk/publications/default.asp?pubid=37>.

- The competitive nature of the private sector has the potential to ensure that sustainable development benefits are delivered efficiently and with minimum cost;
- The private sector can deliver the high levels of creativity, innovation and professionalism that will be needed to tackle the challenges of sustainable development.

A range of challenges is faced by the governments, businesses and civil society organizations that are working to maximize the contribution of the private sector to the delivery of sustainable development objectives. These include the need to develop new business models, e.g. that will enable businesses to deliver products and services such as water and energy to poor communities in developing countries; the need to develop new partnerships between private and public sector organizations for the delivery of public goods and to ensure that such partnerships are commercially attractive to the private sector; and the difficulties of establishing where it is, and is not, appropriate for governments and the UN to work with the private sector on these issues.<sup>16</sup> The international community is increasingly recognizing that effective policy frameworks and targeted strategies for using public funds to encourage and facilitate private sector investment in public goods need to be developed to help address these issues, and interesting policy approaches have started to emerge in this area.

### **Existing CSR initiatives**

A wide range of CSR initiatives has emerged in recent years in response to the political developments outlined above. Annex 2 of this report gives an overview of some of major international CSR initiatives, but there are many more that have been developed at national and regional levels, and within specific sectors. These include:

- Voluntary codes and standards for corporate behaviour;
- Voluntary reporting guidelines;
- Auditing/verification of reports, production processes, supply chain standards or products;
- Policy frameworks, including reporting requirements, tax incentives and enabling legislation;
- Multi-stakeholder partnerships;
- Work with supply chains;
- Dissemination of best practice.

The strengths and weaknesses of some specific examples of these types of action to promote CSR at the international level are discussed in Section Four of this report.

In some cases these initiatives have been developed in response to specific policy signals, such as reporting requirements or tax incentives (see Section 3.4 below for an outline of the roles that Governments can play in promoting CSR), and some initiatives have been led by individual governments and intergovernmental organizations (e.g. the OECD Guidelines on Multinational Enterprises). However, a large number of initiatives have emerged relatively independently of both national and international political processes, partly due to the market-based nature of many of the drivers for CSR, some of which have been outlined in this section (e.g. the need to protect brand and reputation etc.)

Many of the existing CSR initiatives have been developed by new CSR-orientated industry and multi-stakeholder groups, such as the World Business Council for Sustainable Development.<sup>17</sup> CSR is also

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<sup>16</sup> For a more detailed analysis of these issues see Jane Nelson and Dave Prescott, *Dave Business and the Millennium Development Goals: A Framework for Action*, International Business Leaders' Forum, [www.iblfi.org/csr/csrwebassist.nsf/content/f1d2b3aad4.html](http://www.iblfi.org/csr/csrwebassist.nsf/content/f1d2b3aad4.html).

<sup>17</sup> [www.wbcsd.ch](http://www.wbcsd.ch)

becoming an industry in its own right, as new CSR consultancies emerge and the mainstream consultancy industry diversifies into the area.

### **The CSR agenda in developing countries**

To date, the CSR debate has largely been led by Northern governments, campaigning groups and multinational businesses. As a result, most CSR initiatives are currently largely designed to address the priority issues of Northern campaigning organizations, consumers and governments (e.g. the impact of private sector activity on human rights, environmental protection, labour standards, etc.). Some stakeholders argue that in order to ensure that the CSR 'movement' can play a full role in the sustainable development of Southern countries, the focus of the CSR debate should shift towards exploring the way in which CSR initiatives can more overtly address Southern priorities.

Some Southern stakeholders are also starting to express their concerns about the effects that CSR initiatives can have on developing countries' access to international markets. They argue that the CSR standards that are being introduced by Northern businesses are restricting market access to developing country businesses, and risk excluding smaller businesses, which are unable to meet stringent codes and standards, from the supply chains of multinationals.

However, others argue that CSR policies have the potential to play a central role in enabling developing country governments to engage businesses in the delivery of their national poverty reduction and economic development strategies. Given that domestic and foreign direct private sector investment in developing countries will always dwarf Overseas Development Assistance (ODA), it is clearly in developing country governments' interest to develop strategies for ensuring that such investment contributes to their plans for sustainable development and poverty reduction. Governments can, for example, require businesses involved in developing their natural resources (e.g. mines, forests, etc.) to operate in ways which contribute to overall government strategies for sustainable development. The South African and Brazilian governments are both notable for having embraced corporate social responsibility as a way of delivering their own objectives, and both countries could potentially play a key role in the follow-up process for the WSSD commitments on CSR (see Section Six below for more on how such a process could be taken forward). Donors and intergovernmental organizations have also begun to play a role in helping developing countries to use CSR for their own ends (notable initiatives include the World Bank CSR practice and UNDP's Growing Sustainable Business initiative), and options for strengthening these efforts are discussed in Section Four below.

### **The CSR agenda and SMEs**

Another problem that has been highlighted by stakeholders with regard to the focus of many existing CSR initiatives is that they have generally been designed with the participation of, and for implementation by, very large companies. As a result, concerns have been raised that some initiatives may risk excluding smaller companies, which may not have the capacity to engage in voluntary initiatives, particularly if those initiatives are designed to be implemented by large companies with staff devoted full time to CSR issues.

### **The debate over voluntary vs. regulatory approaches to promoting CSR**

Many of the CSR initiatives taken forward to date are based on a voluntary approach. This approach has been strongly advocated by many businesses and governments, which generally argue that CSR is primarily about action that goes beyond compliance; that the business case for CSR provides a strong enough market-based incentive for businesses to take action, and that on this basis voluntary measures are all that is needed to facilitate the implementation of CSR. The same stakeholders also argue that regulatory measures may not be flexible enough to encourage the kind of innovation that may be needed to enable companies to tackle sustainable development issues. Others have argued that voluntary initiatives fail to give strong enough signals to the private sector to ensure compliance with, e.g., human rights standards worldwide and are not

effective enough to counterbalance the governance gap that exists in some developing countries. These stakeholders argue that incentives, legal frameworks or regulation are needed to ensure that international standards are complied with worldwide, including in countries with weak legal and regulatory systems. Recently many stakeholder groups engaged in the CSR agenda have started to outline a middle ground in this debate, which acknowledges the benefits of voluntary approaches to promoting CSR but also argues that, given the limitations of the business case for CSR (in current market conditions), governments and civil society groups need to develop a range of interventions (including policy, fiscal and regulatory interventions) that will enhance the impact of voluntary measures in order to create an enabling framework in which businesses can take forward CSR initiatives without suffering competitive disadvantage.<sup>18</sup>

### **Intergovernmental initiatives for the promotion of CSR**

In the 1970s there was much discussion in international fora on the possible abuse of economic power by TNCs. This led to the appointment of an Eminent Persons Group by the United Nations in the early 1970s. The Group recognized the limitations of national regulations of host countries, particularly the developing ones, in regulating the activities of TNCs.

Following the recommendations of the Eminent Persons Group, the United Nations Commission on Transnational Corporations was appointed. Among other steps taken, the Commission launched negotiations on a United Nations Code of Conduct on TNCs in 1977. The Code was intended, among other objectives, to establish the standards for the conduct of TNCs from all countries, to protect the interests of host countries, to strengthen their negotiating capacity and to ensure conformity of TNC operations with (host country) national development objectives. Substantial progress was made in evolving a Draft Code of Conduct on TNCs over the protracted negotiations. However, the Draft Code as evolved could not be adopted because of differences among the developed and developing countries on the legal status of the Code, among other issues, and it was abandoned in 1992.

The limitations of national regulations in dealing with the operations of transnational corporations have also been recognized in other international fora. For instance, the UN General Assembly Resolution 32/88 of December 1977 decided to convene a United Nations Conference on an International Code of Conduct on Transfer of Technology to be negotiated under the auspices of the United Nations Conference on Trade and Development (UNCTAD). The UNCTAD Code was aimed at providing general and equitable standards for international technology transactions. It met the same fate as the TNC Code.

There have been more successful attempts to establish international codes relating to the behaviour and operations of TNCs. UNCTAD adopted the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices in 1980. The International Labour Organization (ILO) adopted the Tripartite Declaration of Principles on Multinational Enterprises and Social Policy on 16 November 1977. The Organization for Economic Cooperation and Development also adopted the OECD Guidelines on International Investment and Multinational Enterprises in 1976 (subsequently revised in 1991 and 2000).

Other notable initiatives by multilateral organizations on corporate social responsibility include work by the World Bank which has created the Global Alliance for Workers and Communities, working with companies such as Nike and Gap in improving workplace conditions throughout their supply chains. The World Bank also established the Business Partners for Development project which seeks to promote multi-stakeholder partnerships that encourage companies to support social and environmental improvements in developing countries. Various United Nations agencies, such as the World Health Organization (WHO), United Nations Children's Fund (UNICEF) and UNCTAD, entered into 'partnerships' with transnational corporations. The United Nations Development Programme (UNDP) seemed to blow hot and cold on how best to promote

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<sup>18</sup> See Forum for the Future, *Government's Business*, for UK-focused arguments about the need for government intervention to address the limitations of the business case for CSR, [www.forumforthefuture.org.uk/publications/default.asp?pubid=25](http://www.forumforthefuture.org.uk/publications/default.asp?pubid=25).

corporate social responsibility, announcing one year the need for an international code of conduct, but later refocusing its energies on softer forms of engagement via the short-lived Global Sustainable Development Facility, and later, the Global Compact. The growing interest of the United Nations in both CSR and voluntary approaches found its clearest expression in the establishment of the Global Compact, which became operational in July 2000. These initiatives are all included in the table in Annex 2 to this report, and several of them are discussed in detail in Section Four.

## 2.5 Emerging trends in the CSR agenda

One of the most positive aspects of the sometimes bewilderingly complex CSR agenda is the way in which it continually innovates and evolves. Some of the most recent issues to surface are highly relevant to the question of how best the WSSD CSR commitments should be implemented. Three (interlinking) trends are most notable.

### **1. The movement away from approaches to CSR based on philanthropy and compliance, towards an approach that seeks to develop new business models capable of delivering sustainable development as a part of core business**

This trend has arisen from the desire of some major companies to maximize their positive impact on sustainable development, and a recognition that conventional approaches to CSR are inevitably limited in their impact. Given that the commercial turnover of any company will inevitably dwarf its philanthropic spending, and that compliance with regulatory or voluntary norms, codes and laws generally leads to a 'negative' approach to CSR (i.e. complying with rules rather than innovating to find new solutions), some leadership companies have started to explore how best they can bring sustainable development approaches into their core businesses.

The recently published final report of the UN Commission on the Private Sector and Development<sup>19</sup> argues that there are two main ways in which businesses can contribute directly to poverty alleviation – through working to support entrepreneurship by the poor through their supply chains, and by selling products and services that help meet their basic needs directly to the poor (e.g. by offering micro-credit, water services and/or purifying sachets, mosquito nets, micronutrient drinks, affordable electricity generation units, etc). In general these approaches are called '*bottom of the pyramid*' business models. The Commission report recommends a strong increase in these activities.

Several businesses are already experimenting with innovative business models for supporting SME entrepreneurship and selling to the bottom of the pyramid, including Dupont, Procter and Gamble, Shell and Unilever. The UNDP Growing Sustainable Business initiative (see Section 5.2.9) is also active in this area. However, it should be noted that even the businesses that are committed to working in these areas consider 'bottom of the pyramid' business models to be highly risky commercially, as they seldom provide commercial rates of return in the near to medium term, and they believe that they are only likely to be able to deliver them at scale with support from public sources of funding. Given that many businesses do not have distribution networks that reach into the poorest communities, partnership with civil society groups is also emerging as a key aspect of 'bottom of the pyramid' business models (see next point).

The environment is another area where there is a marked trend towards the development of business models for the delivery of sustainable development. This trend is more mature and there are thousands of businesses already dedicated to delivering products and services that are more environmentally friendly (ranging from carpets to green electricity to eco-holidays). However, it is notable that most of these remain confined to niche markets, except where public sector regulation or incentivization has intervened to support them (e.g. through obligations placed by governments on electricity companies to buy an increasing proportion of their electricity from renewable sources). This insight may have some relevance to (the generally less mature) efforts to stimulate pro-poor activity by the private sector.

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<sup>19</sup> *Unleashing Entrepreneurship: Making Business Work for the Poor*, report of the UN Commission on the Private Sector and Civil Society, March 2004, <http://www.undp.org/cpsd/>.

## **2. The emphasis on the importance of developing partnerships with governments, international governmental organizations and civil society groups as a way of implementing a more holistic, systems-based approach to improving corporate social responsibility**

Corporates and other stakeholders involved in the CSR agenda have increasingly come to recognize that the problems that CSR policies and initiatives are seeking to address are societal, for example weaknesses in governance in developing countries, corruption, climate change, the causes of global poverty, etc. If businesses act by themselves to address these issues their impact is likely to be short-term and limited in its scope. And although enormous resources are available to the private sector, businesses lack many of the powers and skills that are needed to tackle these issues. Working in partnership with governments, international organizations, civil society groups and other businesses enables a more holistic approach in which core competencies and stakeholder roles can be identified and agreed, and through which more sustainable, systemic change can be generated. While partnership is now a strong trend throughout the sustainable development agenda (as highlighted by the launch of over 250 partnerships during the WSSD process – see Section 2.6 below), businesses were at the forefront of this trend (for example through the work done by the Business Partners for Development initiative<sup>20</sup>) and many businesses continue to see partnerships as being essential to their CSR practice.

That said, working in partnership is tricky, time consuming (and therefore expensive), and challenging for all sectors. Businesses find working with governments and civil society groups difficult because of differences in organizational culture and objectives and speed of decision making. And working with other businesses (particularly from the same sector) is problematic due to competitive pressures. In turn, civil society groups are wary of the power and influence of businesses, and of the profit motive in general. And some governments (particularly those donor governments which are committed to untying aid) are uncomfortable about forming close alliances with individual businesses. Some stakeholders also view the recent emphasis on partnerships with suspicion as they see them as an alternative to (or fig-leaf to cover a lack of) government action.<sup>21</sup> But despite these challenges it seems likely that the partnership approach offers the best way of harnessing business expertise and resources for the delivery of global objectives for sustainable development.<sup>22</sup>

## **3. The way in which private sector channels of influence, skills and resources are starting to be used to leverage and enable improvements in host and donor countries' public sector governance and capacity to implement sustainable development**

Businesses committed to maximizing the impact of their CSR are beginning to recognize that they need not only to partner with governments, but also to help improve the governance standards and effectiveness of the public bodies that they work with. *Gearing Up*, the recent report by SustainAbility and the Global Compact,<sup>23</sup> argues that businesses will only have a systemic, sustainable impact on the issues that are addressed by the CSR agenda if they start to engage more closely with the governance systems that set the rules for the marketplace and have responsibility for the equitable and widespread distribution of public goods.

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<sup>20</sup> The Business Partners for Development initiative was set up to study, support and promote strategic examples of partnerships involving business, civil society and government working together for the development of communities around the world. 'BPD phase 1' comprised four 'clusters' – the Water and Sanitation Cluster <http://www.bpd-waterandsanitation.org>, the Natural Resources Cluster <http://www.bpd-naturalresources.org>, the Global Partnership for Youth Development and the Global Road Safety Partnership <http://www.grsproadsafety.org>.

<sup>21</sup> Work done by Chatham House on partnerships argues that on the contrary partnerships have a crucial role to play in stimulating and enabling effective governmental action to tackle sustainable development challenges. See [www.chathamhouse.org/pdf/research/sdp/Rome.pdf](http://www.chathamhouse.org/pdf/research/sdp/Rome.pdf).

<sup>22</sup> Chatham House is currently developing a major project looking at the strategic challenges of developing effective partnerships for sustainable development. Contact Fanny Calder [fanny.calder@chathamhouse.org](mailto:fanny.calder@chathamhouse.org) for details.

<sup>23</sup> SustainAbility and the Global Compact, *Gearing Up*, June 2004, <http://www.sustainability.com/publications/gearing-up.asp>.

It is clear that many businesses already have close relationships with host governments in the countries that they invest in. They also potentially have much to offer governance both in terms of the direct experience of sustainable development issues that has been developed from their own CSR work, and from the ‘business DNA’ of their mainstream businesses, e.g. their skills in risk assessment and avoidance, project management, economic efficiency and results-driven culture.

Some initiatives have already started to harness this potential, most notably the UK government-led Extractive Industries Transparency Initiative (EITI),<sup>24</sup> which is bringing together major extractive businesses and host and donor governments in a bid to improve public and private transparency about revenues paid to governments for natural resources concessions.

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<sup>24</sup> The EITI homepage is at [http://www.dfid.gov.uk/News/News/files/eiti\\_index.htm](http://www.dfid.gov.uk/News/News/files/eiti_index.htm).

## 2.6 The CSR debate at WSSD

Many of the issues outlined in the previous section were reflected in the formal and informal debates on CSR during the WSSD process. These debates revealed the very broad range of views on CSR held by different governments and stakeholder groups worldwide. In general the Summit saw an unprecedented level of engagement by the private sector in a formal UN process, accompanied by hot debate over the role of the private sector in achieving global sustainable development.

Debates on CSR in the WSSD process crystallized around the following questions.

### **Roles and responsibilities of the private sector vs. the public sector and other actors**

- To what extent should the private sector be asked to take on responsibility for issues that have traditionally been public sector concerns, e.g. poverty eradication?
- How far can the private sector be asked to go in delivering sustainable development objectives (or, put otherwise, public goods), given its overriding need to make profit?
- What roles does the public sector need to play to enable the private sector to deliver sustainable development objectives/public goods?
- Does the public sector have the resources, skills and/or political will that it needs to take action to enable the private sector to deliver sustainable development?
- Does private sector involvement in UN processes and initiatives risk giving the private sector too much influence over the UN?
- Does the private sector's resources and influence risk creating an imbalance of power in multi-stakeholder processes for promoting sustainable development?

### **Voluntary vs. regulatory approaches to promoting CSR**

- How effective are voluntary approaches to promoting CSR?
- Will voluntary approaches to CSR be sufficient to ensure that businesses are accountable for their actions, particularly in developing countries with weak legal and/or regulatory frameworks?
- Will voluntary approaches to CSR be sufficient to achieve the necessary level of business engagement in the delivery of key international objectives for sustainable development, such as the Millennium Development Goals?
- Can regulatory approaches to CSR provide enough flexibility to encourage the sort of private sector innovation that may be needed to achieve international objectives for sustainable development?
- How can voluntary and regulatory approaches to CSR be combined and coordinated in order to avoid inefficiency and maximize the potential contributions of both?

### **CSR and developing countries**

- Is there a risk that actions taken by Northern countries to promote CSR could create barriers to trade for developing countries?
- Can CSR provide competitive advantages for developing countries, e.g. by giving them access to niche 'ethical' markets and investments?
- How can CSR strategies be used by developing countries to help them engage the private sector in efforts to help reduce poverty and increase economic development?

- What role can and should the private sector in general, and multinational corporations in particular, play in the international community's strategies for delivering the Millennium Development Goals?
- Does involving multinational corporations in helping to deliver public goods in developing countries risk giving those corporations undue influence over developing country governments?

In addition to these general debates, two specific CSR-related initiatives were promoted during the WSSD process, as follows:

### **Campaign for a binding framework on corporate accountability**

Friends of the Earth International (FoEi), an environment NGO made up of seventy groups from developing and developed countries worldwide, campaigned throughout the WSSD process for 'an effective, legally binding international framework to deliver corporate accountability (including liability)'.<sup>25</sup> The campaign argued that existing voluntary approaches to CSR have 'inherent limits', and that a legal framework for corporate accountability is necessary if governments are to ensure that globalization supports sustainable development. The FoEi campaign was politically sophisticated, and built strong links with both developed and developing country governments. It is likely that it had some impact on the negotiation of the relatively strong language on CSR in the JPOI and Johannesburg Declaration. The FoEi proposal is discussed in more detail in Section Four of this report.

### **'Type 2' partnerships**

The launching of new partnerships for sustainable development was one of the most notable features of the WSSD process. Over 250 international partnerships were launched in the run up to, at and after the Summit in response to the proposal from the CSD Bureau for a new type of informal or 'Type 2' outcome from the WSSD process. This proposal was made as a result of the recognition that implementing sustainable development requires a broad, participatory approach, and that many of those involved in the implementation of successful projects were acting outside the intergovernmental system. It also reflected a desire to move from a donor-defined framework to one in which those benefiting from a project, and other stakeholders, could cooperate on a more equal level.

Many of the partnerships launched at WSSD included private sector members, though the multi-stakeholder approach emphasized by the CSD bureau in the 'Guiding Principles for WSSD Partnerships'<sup>26</sup> published at PrepCom 4 meant that Type 2 partnerships were not in general public-private partnerships of the legal, commercial kind that are increasingly being used by governments, e.g. for the delivery of major infrastructure projects. The inclusion of partnerships as an outcome of WSSD gave the private sector (and other non-governmental actors) the opportunity to become actively engaged in the process, and may in part have accounted for the high level of business participation in the Summit process.

Type 2 partnerships were a controversial outcome, as many stakeholders (particularly NGOs, some developing country governments and some business groups which felt that governments were 'passing the buck' of their responsibility for delivering sustainable development) were concerned that governments would see them as an alternative to making formal ('Type 1') commitments. Concerns were also raised over the risk of businesses having inappropriate power within partnerships. However, the WSSD outcomes and Guiding Principles strongly emphasized that the partnerships should be seen as a mechanism for delivering the formal WSSD commitments. Whether or not they will be an effective mechanism remains to be seen.

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<sup>25</sup> *Towards Binding Corporate Accountability – FoEi Position Paper for the WSSD*, [www.foei.org/corporates/towards.html](http://www.foei.org/corporates/towards.html).

<sup>26</sup> [http://www.un.org/esa/sustdev/partnerships/guiding\\_principles7june2002.pdf](http://www.un.org/esa/sustdev/partnerships/guiding_principles7june2002.pdf).

### **CSD 11**

The Commission on Sustainable Development's eleventh meeting (CSD 11) was convened in April 2003 to discuss the follow-up process for WSSD and agree a programme of work for the CSD itself. While the CSD conclusions outline a follow-up process for Type 2 partnerships in some detail, there is no explicit mention of CSR in the 'Multi-Year Programme of Work'<sup>27</sup> agreed by CSD 11. However, the very general nature of the list of cross-cutting issues that is to be covered throughout the eleven-year programme could in theory enable the discussion of CSR issues at any point in the programme. CSD 11 also saw the negotiation of a new system of work for the CSD, based on two-year cycles. This system is intended to make the CSD a more effective and flexible process based more on dialogue than negotiation. This may create significant new opportunities for addressing issues such as CSR. The question of how the CSD could oversee a follow-up process for the WSSD CSR commitments is discussed in more detail in Section Six of this report.

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<sup>27</sup> [http://www.un.org/esa/sustdev/csd/csd11/CSD\\_multyyear\\_prog\\_work.htm](http://www.un.org/esa/sustdev/csd/csd11/CSD_multyyear_prog_work.htm).

## **Section Three: Factors to be taken into consideration in implementing the WSSD commitments on Corporate Social Responsibility**

### **3.1 Problems with current approaches to promoting corporate responsibility and accountability at the international level**

In implementing the WSSD commitments, governments and intergovernmental organizations may want to try and address some of the weaknesses that stakeholders have highlighted in existing international initiatives for the promotion of CSR. Many of these initiatives are listed in Annex 2 to this report, and a small number of them are discussed in more detail in Section Four below. Some of the common concerns that stakeholders have expressed about these existing initiatives include the following.

#### **Lack of monitoring and verification of implementation**

Many existing CSR initiatives, such as the Global Reporting Initiative, the Global Compact and the OECD Guidelines, do not have any independent system of monitoring and/or verifying progress made by the companies involved. Stakeholders have argued that this makes it hard to verify the claims that companies make about their progress in implementing CSR commitments, and that the lack of independent monitoring may enable companies to flout commitments and guidelines. NGOs have played a key role in filling this monitoring gap through investigating and highlighting instances where corporations are having a negative effect on sustainable development. However, given their limited capacity, NGOs can only carry out this work in a relatively ad hoc fashion, and as a result the sustainable development impacts of many businesses are not subject to external scrutiny.

#### **Limited reach of voluntary initiatives**

Many of the major international CSR initiatives listed in Annex 2 are voluntary. While they have attracted an impressive list of high-profile international businesses, stakeholders have pointed out that the vast majority of transnational businesses remain outside these initiatives. For example, while there were approximately 64,000 transnational corporations worldwide in 2002,<sup>28</sup> in October 2004 the UN Global Compact has only approximately 1,744 members and only just over 553 companies use the Global Reporting Initiative Guidelines to report on their sustainable development impacts.

#### **Over-reliance on brand protection as a driver for CSR**

As outlined in Section Two above, one of the major drivers for CSR initiatives in the large companies that have been at the heart of the CSR debate is the desire to promote a positive corporate image and/or to avoid the risk of having their brand values undermined by attack on their social or environmental performance. However, stakeholders have argued that brand protection is not an incentive for the many multinational and national companies that do not have strong public-facing brands, which creates the risk that they will not choose to engage in voluntary initiatives.

#### **The focus on setting norms rather than achieving implementation**

Much of the political effort that has gone into developing existing corporate social responsibility initiatives has been spent on agreeing the norms (e.g. rules, guidelines, principles, etc.) that companies should adhere to in order to achieve corporate social responsibility. Stakeholders argue that far less effort has been put into agreeing and implementing the processes that will lead to the implementation of these norms, and as a result progress 'on the ground' has been slow. The whole process of setting norms can also be problematic, as sustainable development issues vary so widely from sector to sector and from place to place. In some cases

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<sup>28</sup> UNRISD, *Corporate Social Responsibility and Business Regulation*, Research and Policy Brief, 2004, [www.unrisd.org](http://www.unrisd.org).

dynamic processes for identifying these issues and agreeing how to take action on them may be more useful than static norm-setting approaches.

### **Over-proliferation of norm-setting initiatives**

The recent history of CSR has seen a proliferation of reporting and other guidelines and principles that have been developed by governments, NGOs, business groups, intergovernmental bodies and others. While this level of activity in promoting CSR is encouraging, having so many different norms creates several problems. Businesses that are strongly committed to sustainable development believe that they are wasting time in having to demonstrate their compliance with so many (only slightly) different norms. Businesses that are not currently engaged in CSR activities may be put off or confused by this diversity. And at the operational level, some businesses in developing countries find themselves burdened with the requirement to show how the same factory is complying with several different sets of standards in order to qualify to supply to different multinational companies.

### **Lack of effective mechanisms of redress for communities affected by companies that flout national or international norms on sustainable development or human rights**

Many stakeholders argue that due to the governance weaknesses in many developing countries, communities that are adversely affected by the activities of the private sector lack the ability to gain redress. Where businesses can be proved to have been involved in human rights violations or environmental degradation that impact negatively on communities and are not being penalized for their actions in their host countries, stakeholders argue that the international community, or the home governments of transnational companies, should be able to call these businesses to account and seek redress for the communities concerned. At present the National Contact Points of the OECD Guidelines for Multinational Enterprises are potentially empowered to play this role, though stakeholders argue that they are not doing so effectively (see Section 5.2.1 below). Other potential options for enabling communities to obtain redress include legal approaches to transboundary accountability (see Section 5.2.7) and the proposals made by the Sub-Committee of the UN Commission on Human Rights for a compliance mechanism for their proposed Norms on Human Rights (see Section 5.2.4).

### **Lack of clarity about the roles and responsibilities of businesses vs. governments**

CSR debates have tended to have a strong focus on encouraging businesses to improve their performance on sustainable development issues. However, it is often genuinely difficult for businesses to act responsibly in the absence of the enabling environments that only governments can provide. And the positive impacts of CSR activities will only be fully realized in partnership with effective public sector interventions. In those areas with weak or failed governments, businesses are also sometimes asked to take on government roles, e.g. in the provision of education and healthcare, roles that they may not be able to sustain in the long term, and which tend to be inherently inequitable, as business activities of this sort understandably tend only to benefit employees and/or local communities rather than reaching out to other communities in need. These problems have been exacerbated by the tendency of CSR initiatives to focus on either government or business action, without considering the potential interactions between the two sectors. The emerging trend towards a more holistic, partnership based approach to CSR, engaging public, private and civil society actors, promises to help address these issues (see Section 2.5 above).

### **Lack of engagement with developing country governments and their sustainable development priorities (e.g. economic development and poverty reduction)**

Although concerns about business impacts in developing countries have been one of the major drivers behind the development of existing international-level corporate responsibility initiatives, stakeholders have pointed out that the involvement of developing country governments and stakeholders in the development and implementation of many CSR initiatives at both international and national levels has been relatively limited. It seems that this lack of engagement is a result of tensions between the Northern CSR agenda, which tends to focus on issues such as child labour, health and safety, and environmental impacts, and developing countries' priorities such as economic development and poverty reduction.

Where businesses are actively addressing issues of importance to developing country governments, there is often a lack of coordination with host country policies on the issues being addressed (for example education, healthcare, etc.). At a more general level businesses active in addressing sustainable development issues in host countries are very seldom engaged in the development and implementation of government strategy for sustainable development (e.g. poverty reduction and/or national sustainable development strategies). This lack of coordination almost certainly means that in many countries governments are missing out on opportunities to harness the skills and resources of these companies towards the delivery of their public sector objectives. The opportunities for developing country governments presented by the CSR agenda are outlined in more detail in Section 4.1 below.

### **The relative weakness of civil society groups in developing countries**

Many existing international corporate responsibility initiatives depend either implicitly or explicitly on civil society groups (such as NGOs) for their full implementation. For example, as is argued above, NGOs play a key role in policing the implementation of guidelines and principles. Civil society groups also have a key role to play in developing effective and credible sustainable development partnerships. However, civil society organizations in many developing countries are relatively weak, and may not have the capacity to fully play either of these roles.

### **The need to scale up and mainstream successful CSR initiatives**

There are many examples of very successful private sector initiatives and partnerships that have been developed as a result of businesses' commitment to CSR. However, despite the growing recognition that CSR activities need to be mainstreamed in order to have a significant impact (see Section 2.5 above) the majority of these initiatives are operating on a relatively small scale, and are able to go forward largely as a result of business philanthropy. If the major challenges of sustainable development are to be met, such initiatives need to be significantly scaled-up and made a part of mainstream private sector operations.

### **Limited impact on sustainable development goals**

If the ambitious commitments of the Millennium Development Goals and the JPOI are to be delivered, it is clear that the international community needs to enable businesses to make a significantly increased contribution to sustainable development. However, the combined effect of all of the problems outlined in this section is to reduce the overall positive impact that existing CSR initiatives have on achieving international sustainable development targets. The International Business Leaders' Forum has published a useful briefing which looks in detail at the role of business in delivering the Millennium Development Goals.<sup>29</sup>

### **Failure to bridge the governance gap**

As argued in Section 2.4 above, problems with governance in developing countries (e.g. weak legal and regulatory systems, corruption, lack of capacity for policy making and implementation) are among the fundamental drivers of the CSR agenda. If effective policy frameworks to regulate and channel business

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<sup>29</sup> Nelson and Prescott, *Business and the Millennium Development Goals*.

activities towards sustainable development existed in developing countries, the whole agenda would look very different. Yet until recently, there has been very little attempt by CSR initiatives to explore how they could directly address this fundamental issue. However, there are some positive developments in this area (see Section 2.5 above) and the UN Global Compact has recently commissioned a report which explores how the private sector could play a legitimate role in strengthening public sector governance.<sup>30</sup>

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<sup>30</sup> SustainAbility and the Global Compact, *Gearing Up*.

## **3.2 The strengths of the CSR agenda in 2004**

Despite the many problems with existing CSR initiatives at the present time, there are some key strengths within the agenda that suggest that there is a genuine possibility for it to evolve over time into a powerful process of change. These include:

- The high levels of commitment shown by some key leadership companies, many of which have strong board level commitment to CSR, are continually developing new CSR approaches and initiatives within their companies and are taking an active role in participating and investing in voluntary CSR initiatives such as partnerships, networks and organizations;
- The openness to change shown by most of the international CSR initiatives covered in this report, all of which have demonstrated their willingness to evolve in response to feedback from their stakeholders;
- The openness of leadership companies and CSR initiatives to working in partnership with all stakeholders, including the UN, governments, other businesses and civil society organizations, including at the local level in developing countries;
- The innovative, creative approaches to improving CSR activity that are continually being developed and refined by formal and informal international networks of CSR activists from businesses, IGOs, governments and civil society;
- The growing recognition by leadership companies and organizations of the need for the CSR agenda to address public sector governance issues and to scale up the impact of CSR activities so that they can improve the delivery of sustainable development at a systemic level.

## **Section Four: Governments and CSR at the international level and in developing countries**

### **4.1 The absence of governments from the international CSR agenda**

At present it can be argued that governments are noticeable by their absence from the CSR agenda at the international level. Only one of the major international CSR initiatives covered in Section Five below (the OECD Guidelines for Multinational Enterprises) is a strictly intergovernmental initiative, and even the UN-led initiatives have relatively weak linkages with national governments.

It seems likely that this lack of engagement stems from the way in which the CSR agenda has evolved over the last twenty years. While at the national level some governments have started to play a role in promoting CSR, the major international CSR initiatives have generally developed as a business response to pressure from NGOs – governments have largely been out of the loop. As a result, even though most international CSR initiatives address issues that are highly relevant to global public policy, there has been little substantive linkage between the work of the CSR movement and international public policy processes – possibly to the detriment of both.

This situation is starting to change as NGOs, expert groups and some governments and international organizations highlight the limitations of the CSR agenda (see Section 3.1 above) and point out that many of these limitations can only be addressed by increased action by both developed and developing country governments. At a practical level, groundbreaking initiatives such as the Kimberley Process on Conflict Diamonds and the Extractive Industries Transparency Initiative have shown how much impact international initiatives that combine a change in both public and private policy can make (see Section 5.2.6 below).

Governments are also increasingly recognizing the benefits of harnessing private sector resources for the delivery of international sustainable development goals. Donor governments are beginning to invest significantly in international partnerships with businesses (for example USAID's *Global Development Alliance* has invested about \$500 million in partnerships with the private sector).<sup>31</sup> The World Bank CSR Practice has developed a sophisticated consultancy approach that enables developing country governments to assess how CSR policy can help them to tackle their core challenges of poverty eradication, economic development and increased international competitiveness (see Section 5.2.5 below). The work done at and around the major conference on development cooperation and corporate social responsibility held in March 2004<sup>32</sup> showed that many other multilateral and bilateral donors are starting to experiment with CSR as a means of enhancing the effectiveness of their aid. However, this work is at a relatively early phase in its development, and there has been relatively little international dialogue about the roles that governments and intergovernmental organizations (IGOs) could and should play in strengthening the CSR agenda.

The WSSD commitments seem to reflect a recognition by governments that they can potentially play a greater role in ensuring that businesses increase their positive, and reduce their negative, impacts on sustainable development. This section looks at the arguments for increased government engagement in the CSR agenda, the challenges this presents, and some of the roles that governments can play in encouraging, enabling and ensuring corporate social responsibility at the international level and in developing countries.

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<sup>31</sup> [http://www.usaid.gov/our\\_work/global\\_partnerships/gda/](http://www.usaid.gov/our_work/global_partnerships/gda/).

<sup>32</sup> Reports from the conference on *Development Cooperation and Corporate Social Responsibility* held by the Swedish government, the International Business Leaders' Forum, the International Institute for Environment and Development and the World Bank are available at <http://www.sweden.gov.se/sb/d/3911/a/24025>.

## 4.2 Arguments for increased government engagement in the CSR agenda at the international level and in developing countries

The majority of the stakeholders consulted for this project argued that there is a need for increased donor and developing country engagement in the CSR agenda at the international level and in developing countries. The reasons they gave are set out below. The arguments have been divided into two categories: the first being arguments for engagement in the CSR agenda in order to ensure that businesses uphold internationally agreed *norms* (e.g. for environmental protection, workers' rights, human rights, corruption, etc.) and the second being arguments for increased engagement with the private sector in order to support the delivery of sustainable development and poverty reduction *goals* (e.g. the WSSD commitments, the Millennium Development Goals and the Multilateral Environment Agreements).

### Arguments for increased government engagement in CSR initiatives aimed at ensuring that businesses adhere to international norms

There is a need for increased government engagement in CSR initiatives aimed at ensuring that businesses adhere to international norms because they are the only actors with jurisdiction over the private sector (which is not directly responsible for adhering to international norms) and are best placed to:

- Produce authoritative interpretations of how international norms should be adhered to by the private sector;
- Ensure that companies adhere to international norms even where they are operating in areas with weak legal systems and public governance;
- Enable companies to adhere to international norms even when there is not a business case for them to do so, and create a level playing field that ensures that companies that do uphold norms are not competitively disadvantaged;
- Incentivize adherence to international norms, through their legal, regulatory or fiscal systems;
- Ensure that communities adversely affected by business activities are able to gain some form of redress;
- Bring clarity and increased coherence to the international CSR agenda and help simplify CSR decision making for businesses by working with a limited number of 'gold standard' initiatives.

The potential *benefits* for governments of engaging with CSR initiatives in order to ensure that businesses adhere to international norms are:

- Increased peace and stability;
- Enhanced environmental protection;
- Increased public trust in both public and private institutions, particularly in those countries where the public is suspicious of big business and/or government–private sector relations;
- Improved international competitiveness for the private sector in developing countries, e.g. by helping businesses to meet environmental or CSR standards set by multinationals for their supply chains;<sup>33</sup>
- Improved access to public and private finance and investment for the private sector in developing countries from institutions and markets with ethical criteria, e.g. the International Finance Corporation;

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<sup>33</sup> Surveys done for the World Bank CSR Practice's report *Race to the Top: Attracting and Enabling Global Sustainable Business* showed that over 80% of leading multinational businesses interviewed reported that they look at the CSR performance of potential partners and locations before they close the deal on a new venture: <http://www.worldbank.org/html/fpd/privatesector/csr/>.

the many banks that are signatories to the Equator Principles for project financing;<sup>34</sup> socially responsible investment (SRI) funds and stock markets with corporate governance and disclosure criteria such as the Novo Mercado in Brazil<sup>35</sup> and the Johannesburg Stock Exchange.

### **Arguments for increased government engagement in CSR initiatives aimed at engaging the private sector in the delivery of national and international goals for sustainable development and poverty reduction**

There is a need for increased government engagement in such initiatives because governments are best placed to

- Provide the incentives and/or policy frameworks that will be needed to scale up successful CSR initiatives and help businesses mainstream sustainable development-orientated and/or pro-poor business models;
- Ensure that CSR initiatives are coordinated with public policy in their area of operation (e.g. healthcare, electricity provision, etc.) and avoid overlap or gaps between public and private sector activities;
- Enable replication of best practice across different companies, regions or nations.

The potential *benefits* of increased government engagement in CSR initiatives aimed at engaging the private sector in the delivery of national and international goals for sustainable development and poverty reduction include access to:

- Private sector resources including finance, philanthropic funds, research facilities, technologies and distribution networks;
- Business skills including risk management, project management, communications expertise, creativity;
- The private sector's ability to innovate and create change;
- The private sector's ability to take projects, processes and products to scale;
- Support for the development of domestic enterprises through the supply chain development activities of TNCs;
- Business networks of contacts with private, public and civil society actors.

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<sup>34</sup> <http://www.equator-principles.com/>.

<sup>35</sup> <http://www.brazilcompany.com/html/bovespa.html>.

## **4.3 The challenges of government engagement in CSR**

However, in addition to highlighting the need for increased government engagement in CSR at the international level, stakeholders have also pointed out that the CSR agenda presents a range of challenges to governments, including the following.

### **1. Challenges related to CSR activities designed to ensure that businesses adhere to international norm, e.g. on human rights, corruption and environmental protection:**

- The diplomatic problems in terms of infringements of other states' national sovereignty and/or conflicts with other foreign policy priorities that may arise if formal or informal mechanisms are used to achieve transboundary corporate accountability for impacts on human rights or sustainable development in other countries. For examples of such mechanisms see the national contact point (NCP) system of the OECD Guidelines (see Section 5.2.1 below) or the legal approaches discussed in Section 5.2.5;
- The difficulties of balancing sustainable development and/or human rights objectives with economic development objectives (because measures to ensure CSR may not always deliver win-win outcomes, at least in the short term);
- The need to design policies which are both flexible enough to encourage businesses to be innovative about the ways in which they implement CSR and robust enough to ensure that businesses are made accountable for their actions;
- The difficulty of identifying where in the complex CSR agenda governments should intervene and where they should remain in the 'back seat' and allow businesses or other actors to take the lead.

### **2. Challenges related to CSR activities designed to engage businesses in the delivery of sustainable development goals:**

- The challenges of working with the private sector – which speaks a different language and has different objectives and motivations to the public sector;
- The risks of going into partnership with the private sector – partnerships which may fail or may undermine the credibility of governments in other ways (e.g. by exposing them to accusations of corruption);
- The difficulties of assessing the impact of CSR initiatives on sustainable development goals and of ensuring that businesses (and other actors) that participate in partnerships aimed at delivering these goals are made accountable in some way for the success or failure of the initiatives;
- The difficulty of finding strategies for supporting businesses that are doing work towards the delivery of sustainable development goals in a credible and transparent manner and in ways that are acceptable to those donors that have a strong policy bias against 'tied aid';
- The challenge of ensuring that donor support for business engagement in the delivery of sustainable development goals is properly coordinated, avoids replication and is host country-led.

## 4.4 The roles that governments and IGOs can play in promoting corporate social responsibility

This section examines the range of different roles that governments and intergovernmental organizations can play in promoting CSR at both national and international levels, in order to provide a starting point for exploring the specific actions that governments could take to implement the WSSD commitments. In doing so it draws extensively on the analysis done by Fox, Ward and Howard for the World Bank Corporate Social Responsibility Practice in their two studies on *Public Sector Roles in Strengthening Corporate Social Responsibility*.<sup>36</sup> Readers in search of a more in-depth analysis of this issue are strongly advised to refer to these reports.

As the following brief overview shows, successful government strategies for promoting CSR come in many different forms, ranging from strong regulation to far softer voluntary approaches, which governments may either initiate or simply encourage. It is also worth noting that strategies for promoting CSR may require government to play a range of different roles at the same time, for example combining both the ‘stick’ of regulation and the ‘carrot’ of financial or other incentives for good behaviour. They require governments to consider what it will take to obtain the desired result both in terms of the type of action taken (e.g. it may not be possible to regulate business contributions to community-level development) and in terms of the strength of the action taken (e.g. if the actions that governments want to stimulate are likely to deliver benefits to businesses in terms of increased efficiency or more intangible assets, ‘soft’ incentives such as government endorsement may be sufficient, while more expensive and time-consuming action will require ‘harder’ regulation or strong financial incentives). These observations – that a range of coordinated actions may be needed to achieve CSR and that government action needs to be tailored to the result desired and the current and potential future capacities of different stakeholders – are also relevant for the implementation of WSSD commitments.

### Taking action at the national level

Taking action at the national level is usually the most effective way for governments to promote CSR as governments’ influence on the private sector at this level is at its strongest, in terms of its legislative powers, its powers of taxation and more intangible forms of influence. The roles that government can play in promoting CSR at this level include:

- Legislating and/or regulating minimum standards (e.g. for environmental protection, health and safety at work, etc.) ideally based on internationally agreed norms and objectives;
- Policing minimum standards, and penalizing businesses that fail to meet them;
- Combining regulation with market mechanisms that enable businesses to meet their obligations at minimum cost (e.g. emissions trading systems, renewable energy portfolio obligations, etc.);
- Creating incentives for businesses to go ‘beyond compliance’ with minimum standards. Incentives can range from strong commercial incentives (e.g. tax breaks, government procurement policies, conditionalities linked to access to export credit) to softer incentives, such as those provided by award schemes or government endorsement;
- The development of reporting and/or certification schemes (governments can be involved in such schemes as initiators, co-designers, funders or endorsers);
- The development or participation in national-level multi-stakeholder partnerships aimed at increasing the private sector’s contribution to delivering sustainable development objectives (again governments can be

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<sup>36</sup> T. Fox, H. Ward and B. Howard, *Public Sector Roles in Strengthening Corporate Social Responsibility: A Baseline Study*, World Bank Corporate Social Responsibility Practice, October 2002; and Halina Ward for the World Bank Corporate Social Responsibility Practice, *Public Sector Roles in Strengthening Corporate Social Responsibility: Taking Stock*, January 2004; both available from <http://www.worldbank.org/html/fpd/privatesector/csr/>.

involved in such partnerships in a range of ways, including as initiators, funders, facilitators or just as participants)

- Promoting access to information/transparency, e.g. through appropriate legislation;
- Recognizing/encouraging/disseminating examples of best practice on CSR.

It should be noted that governments (particularly, but not exclusively, developing country governments) may lack the capacity to implement some or all of these approaches. Donors can play a key role in supporting the development of government capacity to enable and enforce CSR at the national level (see next page), either bilaterally or through some of the multilateral initiatives discussed in Section Five below, for example the work of the UNDP Growing Sustainable Business Initiative, the World Bank CSR Practice or the Global Compact Local Networks. Given the importance of action at the national level for supporting and enforcing CSR, such work should be a priority for governments in implementing the CSR commitments made at WSSD.

### **Taking action at the international level**

While national-level action is probably the most impactful way that governments can promote CSR, there is also a definite need for action to be taken internationally in order to address the following issues:

- The need to produce authoritative, internationally agreed interpretations of how international norms should apply to the private sector;
- The need to bring clarity and increased coherence to the international CSR agenda and help simplify CSR decision making for businesses by supporting the development and implementation of a limited number of 'gold standard' initiatives;
- The need to ensure that businesses that are operating in areas where national-level governance is weak are made accountable for any failures to adhere to international norms and that communities in such areas can obtain redress;
- The need to create and maintain political momentum towards the implementation of effective CSR at the national level worldwide and to support international initiatives aimed at developing national-level capacity to implement CSR;
- The need to help all countries avoid the risk of competitive disadvantage that could be created by taking unilateral action to promote CSR.

The roles that governments and IGOs can play in promoting CSR at the international level include:

- Setting and/or endorsing norms and standards for corporate behaviour and reporting (e.g. the OECD Guidelines on Multinational Enterprises and the Global Reporting Initiative);
- Helping to enable the enforcement of such standards across national boundaries where host country regulatory systems are too weak to do so themselves (either bilaterally, e.g. through alien tort law, or multilaterally, e.g. through the National Contact Point system of the OECD Guidelines on MNEs);
- Enabling the sharing of information and best practice on CSR between businesses and governments globally (e.g. the work done by the UN Global Compact);
- Developing international partnerships aimed at increasing the private sector's contribution to delivering sustainable development objectives;
- Capacity-building (e.g. by bilateral or multilateral development organizations) for the development of effective national-level public sector frameworks for promoting CSR.

### **The role of donors in promoting CSR**

The report from the international conference on development cooperation and corporate social responsibility held in Sweden in March 2004<sup>37</sup> identifies five ways in which donors can act to strengthen CSR, as follows:

- *Building responsible practices into development agencies' own activities*, including by integrating CSR issues into lending and procurement processes, developing corporate responsibility and cross-sector partnership resources and forging closer links between government and responsible industry representatives;
- *Building developing country government capacity and public governance frameworks*, for example by strengthening the implementation of existing laws and guidelines, strengthening compliance and monitoring capacity, and supporting grievance mechanisms, strengthening revenue management mechanisms and increasing transparency and strengthening financial markets and corporate governance;
- *Building the capacity of local private sector, labour and civil society organizations, including intermediaries*, for example by supporting labour unions, business associations, specialist local intermediary organizations, civil society organizations and multi-stakeholder dialogues and by recognizing and sharing good practice in corporate responsibility;
- *Relating the corporate responsibility debate to SMEs and domestic enterprises* by supporting the development of responsible SMEs and encouraging business links between multinational companies and the domestic private sector in developing countries;
- *Investing in human capacities and leadership* by developing brokerage capacity (e.g. for developing partnerships between the public, private and non-profit sectors), investing in corporate responsibility and cross-sector partnership training and using donors' convening power to encourage leadership.

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<sup>37</sup> See note 32 above.

## **Section Five: Options for implementing the WSSD commitments on corporate social responsibility**

### **5.1 Potential objectives for action by governments to implement the WSSD commitments on CSR at the international level**

Before examining specific options for action by governments and IGOs in implementing the WSSD corporate responsibility commitments, it is important to consider what overall objectives such action should be trying to achieve. The following recommendations on objectives are based on the analysis in Sections Two, Three and Four above, including the analysis of the WSSD commitments to date and the weaknesses of existing international approaches to promoting CSR.

#### **Possible objectives for government action to implement the WSSD outcomes on CSR**

Governments, in partnership with intergovernmental organizations, the private sector and civil society, will:

1. Work to ensure that all businesses worldwide uphold internationally agreed norms on sustainable development, corruption and human rights through:
  - Strengthening existing CSR initiatives that interpret international norms for the private sector and support their implementation and increasing coordination and coherence between these initiatives;
  - Enabling individuals and communities that are adversely affected by businesses that flout international norms to obtain redress;
  - Supporting the development of effective public governance of the private sector in developed and developing countries.
  
2. Seek to fully engage the private sector in the delivery of internationally agreed goals for sustainable development and poverty eradication, including the WSSD commitments and the Millennium Development Goals, by:
  - Strengthening existing partnerships and initiatives that are working to engage the private sector in the delivery of international goals, and increasing coherence between them;
  - Working to help coordinate the work done by private sector initiatives for the delivery of international goals with intergovernmental, donor and host government efforts, particularly at the national level in developing countries;
  - Supporting the strengthening of developing country governments' capacity to engage the private sector in the delivery of national objectives for poverty reduction and sustainable development.

## 5.2 Options for action to implement the WSSD CSR commitments at the international level

The rest of Section Five looks at a range of options that could be taken forward by governments in implementing the WSSD commitments on CSR at the international level. Given that there are already a plethora of international CSR initiatives<sup>38</sup> the main focus here is on options for strengthening existing CSR initiatives although some more innovative ideas are also included.

### Options for action at the international level to implement the WSSD commitments on CSR

- The OECD Guidelines for Multinational Enterprises
- The UN Global Compact
- The Global Reporting Initiative
- The Sub-Committee of the UN High Commission on Human Rights' proposed Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights
- Legal approaches to promoting transboundary corporate accountability
- Proposals for a legally binding framework convention on corporate accountability
- The World Bank CSR Practice
- Multi-stakeholder initiatives for addressing sector-specific CSR issues (the World Commission on Dams, the Extractives Industry Transparency Initiative and the Kimberley Process on Conflict Diamonds)
- The UNDP Growing Sustainable Business Initiative

The options presented here have been selected on the basis of the stakeholder consultations that have been carried out by this project, and are clearly not exhaustive. However, they represent, in the author's opinion, some of the most promising options for delivering the objectives outlined in Section 5.1 above through action at the international level. There are clearly also many ways in which these objectives could be pursued by action at the national level, and in addition to the brief overview of these in Section 4.3 above we return to these in Section Six, which considers how a follow-up process for the WSSD commitments could be structured.

It should be noted at the outset that no one policy option is likely to address all of the objectives for action to implement the WSSD commitments proposed above. As with successful CSR initiatives at the national level, effective action is likely to require a range of different – but ideally coordinated – approaches to promoting CSR. Therefore throughout this section we have sought to identify options for increasing coherence and exploiting potential synergies between the different initiatives that are discussed.

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<sup>38</sup> See Annex 2 of this report for a list of some of the major international CSR initiatives.

### 5.2.1 The OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises<sup>39</sup> are recommendations addressed by governments to multinational enterprises (MNEs) operating in or from adhering countries (the OECD's thirty member countries plus Argentina, Brazil, Chile, Estonia, Latvia and Lithuania). The Guidelines provide relatively detailed guidance on good business conduct, and are consistent with international and domestic law. They cover a number of areas including human rights, accountability, disclosure, employment, industrial relations, environmental protection, bribery, consumer interests, competition, taxation and science and technology. The Guidelines were first adopted in 1976 and have been reviewed every six years. The latest review was in 2000 and resulted in a significant updating of the Guidelines. The 2000 version of the Guidelines states that they are applicable to multinational enterprises and all their entities, regardless of where they do business, including in countries that do not adhere to the Guidelines. However, they also state that obligations placed by the Guidelines can only supplement, never contradict, national laws. The assumption behind the Guidelines is not that enterprises need to be 'controlled' but that internationally agreed guidelines can help prevent misunderstandings and build an atmosphere of mutual confidence and predictability between business, labour and governments.

The updating of the Guidelines in 2000 mandated the creation of National Contact Points (NCPs) by adhering governments. NCPs are responsible for encouraging observance of the Guidelines in their national context and for ensuring that the Guidelines are well known and understood by the national business community of the adhering country and by other interested parties. The Guidelines' Procedural Guidance outlines how NCPs should work to promote the implementation of the Guidelines and states that they should operate in accordance with 'core criteria of visibility, accessibility, transparency and accountability'. In addition to ensuring that NCPs are accountable to their national constituencies, these core criteria are also supposed to assist the OECD Investment Committee in its work in overseeing the activities of the NCPs, thereby ensuring that NCPs are also accountable to their peers and the committee. Governments are free to decide how they will organize their NCP, as long as they adhere to these core criteria. In practice, arrangements for NCPs vary widely from government to government. Some NCPs are handled by a single official, while others are cross-departmental bodies. NCPs gather information on national experiences with the Guidelines, handle enquiries, discuss matters relating to the Guidelines and assist in solving problems that may arise in this connection.

When issues arise concerning the implementation of the Guidelines in relation to 'specific instances' of business conduct, the NCP is expected to help resolve them. Specific instances, or cases, can be raised by other NCPs, the business community, employee organizations, NGOs, the public and governments from non-adhering countries. When a party raises a 'special instance' the NCP makes an initial assessment of whether the issue raised merits further examination and it then responds to the party. Generally, issues are dealt with by the NCP in whose country the issue has arisen. If there is no NCP in that country, cases can instead be brought before the NCP in the country where the company is headquartered. By 2003, sixty-four 'specific instances' of business conduct had been raised with NCPs worldwide.<sup>40</sup> Most of the specific instances to date have concerned employment and industrial relations, though some have addressed environmental issues. Two-thirds have related to activities by MNEs in non-adhering countries.

The Investment Committee is responsible for responding to requests from adhering countries on specific or general aspects of the Guidelines; organizing exchanges of views on matters relating to the Guidelines with social partners and non-members; issuing 'clarifications' about the interpretation and applicability of the Guidelines in specific national contexts as necessary; reviewing the Guidelines and/or the procedural Decisions so as to ensure their relevance and effectiveness and reporting to the OECD Council on the

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<sup>39</sup> The OECD Guidelines for Multinational Enterprises can be accessed from [/www.oecd.org/document/28/0,2340,en\\_2649\\_34889\\_2397532\\_1\\_1\\_1\\_37461,00.html](http://www.oecd.org/document/28/0,2340,en_2649_34889_2397532_1_1_1_37461,00.html).

<sup>40</sup> The summary report of the 2003 Annual Meeting of NCPs is available at [www.oecd.org/document/53/0,2340,en\\_2649\\_34889\\_2512693\\_1\\_1\\_1\\_37461,00.html](http://www.oecd.org/document/53/0,2340,en_2649_34889_2512693_1_1_1_37461,00.html).

Guidelines. The non-binding nature of the Guidelines precludes the Committee on International Investment and Multinational Enterprises (CIME) from acting as a judicial or quasi-judicial body.

NCPs meet four times a year to exchange experiences and discuss strategies for increasing the effectiveness of the Guideline implementation process and publish an annual report. The 2003 report highlighted a range of concerns that have been expressed by stakeholders about NCP procedures including their timeliness, efficiency and transparency, and acknowledged that ‘NCP Procedures would benefit from continued improvement and refinement’.<sup>41</sup>

### Strengths

- The Guidelines provide reasonably comprehensive and detailed guidance on corporate behaviour based on internationally agreed norms. They cover a wide range of issues, are viewed as ‘gold standard’ by some companies and have been recognized by several intergovernmental processes including the 2003 G8 Summit.<sup>42</sup>
- The Guidelines have been developed by governments, who have made formal commitments to their implementation. At present they are the only international CSR initiative that has this level of government involvement.
- The NCP ‘special instances’ process is at present the only international mechanism for dealing with complaints about the impact of corporate behaviour as it relates to sustainable development, human rights and corruption. Some ‘special instances’ have been resolved satisfactorily using this approach. The risk that instances of ‘bad’ corporate behaviour will be highlighted by the NCP ‘special instances’ processes may also act as an incentive for MNEs to comply with the Guidelines.
- The Guidelines’ procedural guidance gives considerable flexibility to governments. This flexibility allows experimentation with innovative ways of incentivizing compliance and dealing with ‘special instances’.
- While they have been developed and agreed by the OECD, adherence to the Guidelines is open to any country, and some developing countries have already chosen to adhere to them. Adhering governments can participate in the annual meetings of the NCPs.
- Some stakeholders argue that the Guidelines could acquire the legal character of customary law in the course of time. In international law, the status of customary law is not inferior to other sources of law.

### Weaknesses

- Some stakeholders argue that the Guidelines fail to address some key issues (e.g. they do not contain any provisions that address payment of a ‘living wage’), that they lack detail on some issues (e.g. human rights) and that some guidelines are too broadly expressed, which makes it hard to identify non-compliance (e.g. guidelines on negotiating tax rates). Stakeholders argue that the document needs to evolve, either through case ‘law’ (i.e. through the interpretations made by the OECD Investment Committee) or through amendments to the text.
- Many NCPs appear to be underperforming. Feedback from NGOs in adhering countries gathered by the NGO OECD Watch<sup>43</sup> indicates that very few NCPs are adhering to the core criteria of visibility, accessibility, transparency and accountability. The NGOs argue that the lack of outreach to and engagement with businesses and NGOs, and the lack of transparency about NCP processes, are preventing the effective implementation of the Guidelines and undermining the accountability of NCPs.

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<sup>41</sup> Ibid.

<sup>42</sup> See the 2003 G8 Declaration on *Fostering Growth and Promoting a Responsible Market Economy* [www.g8.fr/evian/english/navigation/2003\\_g8\\_summit/summit\\_documents/fostering\\_growth\\_and\\_promoting\\_a\\_responsible\\_market\\_economy\\_-\\_a\\_g8\\_declaration.html](http://www.g8.fr/evian/english/navigation/2003_g8_summit/summit_documents/fostering_growth_and_promoting_a_responsible_market_economy_-_a_g8_declaration.html).

<sup>43</sup> OECD Watch *Review of National Contact Points, June 2002–June 2003*, [www.oecdwatch.org](http://www.oecdwatch.org).

NGOs from non-adhering developing countries have also raised concerns about the lack of outreach to civil society and governments in their countries.

- The processes that NCPs use for dealing with ‘special instances’ vary widely from country to country. While some countries have introduced relatively transparent and inclusive procedures (for example, the Dutch NCP involves stakeholders from civil society in its investigations), it is hard to obtain information about individual special instances from most NCPs, decision-making processes are not generally explained to stakeholders and the time that some NCPs take to address special instances has been the subject of severe criticism by stakeholders.<sup>44</sup> The criteria that NCPs use in deciding to investigate cases also appear to vary widely between different countries.
- Where ‘special instances’ are being investigated, it can be difficult for NCPs to obtain relevant information, particularly where the ‘special instance’ has taken place in another country. NCPs may also lack the skills needed to run effective and balanced processes for reaching agreement on how to deal with problems highlighted by ‘special instances’. This suggests the need to engage other actors in the consideration of ‘special instances’, for example independent experts, UN bodies, academics and diplomats from relevant embassies, and the need to invest in facilitation training for NCP officials.
- However, there is a risk that if NCP processes are improved, companies will respond by taking a legalistic approach to defending themselves against allegations made to NCPs. This would risk making the special instances process expensive and combative, and act as a barrier to cases being taken forward.
- The underperformance of NCPs seems to be partly a result of a lack of high-level political commitment to their implementation, and, linked to this, a lack of resources (for example, some NCPs are only manned by a single official). It may also be linked to the fact that many are based in commerce or finance ministries. One stakeholder interviewed for this project said that ‘too many of the NCPs seem to see their role as defending to the back teeth the companies based in their countries’.
- While the OECD Investment Committee is tasked with overseeing the activities of the NCPs and ensuring that they are accountable to their peers, at present this peer-review mechanism does not seem to be putting any significant heat on underperforming NCPs. A more independent, less political forum or process may be needed to make governments accountable for the performance of their NCPs.
- The lack of response by many NCPs to the final report of the Expert Panel of the UN Security Council on the behaviour of businesses during the conflicts in the Democratic Republic of Congo – which accused eleven businesses of violating the OECD Guidelines – has further undermined stakeholder confidence in the OECD Guidelines as an effective mechanism for ensuring that businesses are made accountable for their actions in developing countries.<sup>45</sup>
- The Guidelines are an OECD instrument, and are therefore not a truly global mechanism. This means that businesses based in non-adhering countries cannot be challenged by reference to the Guidelines. However, the fact that any country may choose to adhere to them and participate in the Guidelines processes does suggest that they could be expanded into a more global instrument.
- The Guidelines do not directly apply to SMEs, and their applicability to companies in the supply chains of MNEs is contested by some governments.

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<sup>44</sup> See the Summary Report of the 2003 annual meeting of NCPs referenced at note 40 above.

<sup>45</sup> See the report from the NGO Rights and Accountability in Development (RAID) (June 2004) *Unanswered Questions, Companies, Conflict and the Democratic Republic of Congo*, available from [www.oecdwatch.org](http://www.oecdwatch.org).

### **Why should governments seek to strengthen the OECD Guidelines on MNEs as a part of international efforts to implement the WSSD CSR commitments?**

The OECD Guidelines have the potential to play a key role in ensuring that businesses adhere to internationally agreed norms (see proposed objective 1 in Section 5.1 above). They provide an authoritative and relatively detailed (if incomplete) interpretation of the way in which international norms on issues including sustainable development, human rights and corruption should apply to multinational enterprises. Government action to raise their status and strengthen their implementation has the potential to increase coherence and clarity in the international CSR agenda.

The Guidelines are also the only international CSR initiative with a compliance mechanism, the National Contact Points procedures for dealing with ‘special instances’. While many governments lack the capacity or political will to take action at the national level to ensure that businesses operating in their countries adhere to international norms, this sort of mechanism has a crucial role to play in ensuring that businesses that misbehave are held to account for their actions, and that affected communities can obtain redress. The flexible, non-legal, devolved nature of the NCP complaints mechanism gives considerable scope for innovation, and is likely to be less problematic in diplomatic and legal terms than other more legalistic approaches to trans boundary accountability (see Section 5.2.7 below).

However, at present the process around the Guidelines is still at a relatively early stage in its development and is not fulfilling its potential or remit. If this is to change, governments need to invest significant political capital into the implementation of the Guidelines. The commitments made at WSSD could provide a useful starting point for such action.

### **Options for government action to strengthen the OECD Guidelines as a part of international efforts to implement the WSSD commitments on corporate social responsibility**

Stakeholders made the following suggestions about options for governments to take action to strengthen the OECD Guidelines on Multinational Enterprises. Many of these actions could be taken unilaterally or by small groups of countries although agreement or increased dialogue between all adhering countries would be highly desirable.

*Increasing high-level political commitment to the Guidelines*, for example, ministerial-level commitments could be made to strengthen their implementation either at international meetings or in national policy statements.

*Improving the Guidelines themselves*, for example, the UN Norms on Human Rights could be drawn on to supplement the sections on human rights (see Section 5.2. below); addressing trade issues; addressing the impact of MNEs on poverty; encouraging MNEs to engage constructively with national sustainable development strategies and clarifying areas that may currently lack sufficient detail (e.g. the Guidelines on negotiating tax rates). Improvements to the Guidelines could be negotiated during the review due in 2006 and could also be developed between review periods by referring particular issues to the OECD Investment Committee for clarification. Clarifying the applicability of the Guidelines to companies in MNEs’ supply chains would also be a welcome development.

*Strengthening the NCP system at the national level* Options here would include ensuring that NCPs have sufficient resources to play an active role in promoting the Guidelines nationally and internationally and to deal effectively with ‘special instances’; improving procedures for dealing with ‘special instances’ to ensure that these genuinely comply with the core criteria of visibility, accessibility, transparency and accountability; broadening NCPs to involve representatives of ministries with responsibility for environmental, development and human rights issues; reporting NCP activities to national legislatures; including civil society actors and

affected communities/stakeholders in the process of addressing ‘special instances’; and developing professional dispute resolution skills for tackling ‘special instances’. Given that these activities are already mandated by the Procedural Guidance, there would be no need for additional negotiations to implement these options on a unilateral basis. However, they would clearly have more impact if they were taken forward by all adhering countries, and there might therefore be some benefit in initiating discussions on how to strengthen the NCP system at the annual meetings of the NCPs, at the six-yearly review or as a part of a more general process of following up the WSSD CSR commitments (see Section Six below).

*Strengthening the NCP system at the international level* This could be done, for example, by appointing an independent international ombudsman responsible for following up complaints from stakeholders who are not satisfied by the way in which NCPs have dealt with special instances. This could play a key role in incentivizing NCPs to improve their performance and would address the current weaknesses in the ‘peer review’ system of accountability within the OECD Investment Committee. The World Bank and International Finance Corporation (IFC) ombudsman process could be used as a model here.

*Broadening the remit of the NCPs* Options here include mandating the NCPs to encourage businesses to participate in the UN Global Compact (see Section 5.2.2 below) as a means of developing their abilities to comply with the Guidelines; initiating processes that would allow businesses to consult with NCPs prior to taking forward potentially sensitive projects; and initiating processes that would allow businesses to report progress on sensitive projects to NCPs during the lifetime of a project. A tri-sectoral approach to the latter two options (with private sector, civil society and government involvement) could have significant benefits. Broadening the remit of the NCPs could probably be undertaken unilaterally by governments, though again it could be beneficial to discuss and/or agree this type of approach at the annual meetings of the NCPs, at the six-yearly review or within any new process that may be set up to discuss the implementation of the WSSD commitments.

*Improving the monitoring of compliance* Options here could include adhering governments requiring or encouraging all multinational companies based in their countries to provide independently verified reports on their compliance with the Guidelines and inviting business to indicate how the Guidelines could be made clearer and more useful. The Global Reporting Initiative Guidelines (see Section 5.2.3 below) could be used as a basis for these reports (although the GRI does not require independent verification at present). This approach could be negotiated within the OECD at the next six-yearly review in 2006, or implemented by OECD countries unilaterally.

*Incentivizing compliance* Some governments already create incentives for companies to comply with the guidelines, e.g. by making access to export credit support dependent on a commitment to compliance. At present eleven adhering governments provide information on the Guidelines to companies seeking support from export credit and/or investment promotion activities and the OECD Export Credit Group as a whole has made commitments to draw clients’ attention to the Guidelines. The Netherlands’ requirement that all companies receiving export credit support state that they will endeavour to comply with the Guidelines ‘to the best of their ability’<sup>46</sup> could provide a model for action by other governments in this area. Export credit agencies could also ask MNEs to consult NCPs on sensitive projects prior to or after agreeing support.

*Promoting the Guidelines through diplomatic posts and in-country development offices* Foreign posts have the potential to play an important role in strengthening the implementation of the Guidelines both in terms of raising awareness of the Guidelines in non-adhering countries (e.g. by holding seminars for civil society groups, government representatives and the country representatives of multinational businesses) and by carrying out research as an input to the NCPs’ deliberations on special instances.

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<sup>46</sup> Ibid.

*Capacity-building for civil society groups* Given the lack of any formal monitoring system, civil society groups have a key role to play in the effectiveness of the OECD Guidelines by raising complaints or ‘special instances’ with relevant NCPs. Several international NGOs have already developed capacity-building programmes for national-level civil society groups. Governments interested in ensuring private sector compliance with the Guidelines should consider providing funding and other support to these initiatives.

*Engaging developing countries* Options here include involving a wide range of non-adhering countries in the next review of the Guidelines to ensure that they fully reflect developing country priorities; actively inviting developing countries to consider adhering to the Guidelines (and consulting with them about how the Guidelines or procedures could be modified to facilitate this); involving host country stakeholders in procedures for dealing with ‘special instances’; putting more resources into raising developing country awareness of the OECD Guidelines (possibly through joint activities by NCPs and/or through donor/diplomatic networks).

*‘Globalizing’ the OECD Guidelines* A more radical approach to ensuring that the Guidelines reflect the priorities of developing countries would be to renegotiate the Guidelines with all governments internationally. This option would seem attractive in terms of ensuring wider ownership and relevance of the Guidelines. However, this process of renegotiation would be likely to be difficult and time-consuming and could risk ‘watering down’ the Guidelines. A more incremental approach to ensuring wider ownership and relevance outlined above may therefore be more politically pragmatic. If renegotiation were to be taken forward as an option, a decision would need to be made about which international forum would host this process.

## 5.2.2 The UN Global Compact

The UN Global Compact<sup>47</sup> was launched by Kofi Annan, the Secretary General of the UN, in July 2000. It is a voluntary initiative which seeks to advance good corporate citizenship by asking companies to work with UN agencies, governments, labour and civil society to advance ten universal principles in the areas of human rights, labour, corruption and the environment. From the nearly fifty corporate leaders present at the official Global Compact launch, the initiative has now grown into an international network that involves more than 1,700 companies worldwide, international trade unions, non-governmental organizations, academic institutions and other representatives of civil society. Private sector participants in the Compact include large corporations as well as small and medium-sized enterprises, and represent a wide range of industrial sectors and geographic regions.

The Global Compact includes five core UN agencies: the Office of the High Commissioner for Human Rights (OHCHR); the United Nations Environment Programme (UNEP); the ILO; UNDP; and the United Nations Industrial Development Organization (UNIDO). Other UN entities are also associated with the initiative, including UNCTAD.

The Global Compact has two main objectives: to make its ten principles part of business strategy and operations around the world and to facilitate the development of partnerships between the private sector and other stakeholders in support of UN goals. A range of activities are used to help deliver these goals, including policy dialogues, learning forums, outreach activities and discrete projects. Issues covered to date by the Compact's activities have included HIV/AIDS in the workplace; supply chain management; partnerships; the role of the private sector in zones of conflict; and transparency. Outcomes so far have included policy recommendations, guides and partnerships, most notably on developing sustainable business in least developed countries.

The Global Compact has also initiated country-level networks in over fifty countries, most of which are in the developing world. Many of the developing country-based Global Compact networks have been set up in partnership with UNDP country offices. The networks create platforms for MNEs, and domestic companies (including SMEs) to work with governments and other partners towards promoting CSR. The networks support companies in the implementation of the Compact's nine principles; hold dialogues on CSR and the Millennium Development Goals; develop and share case studies; support the development of partnership projects; and do outreach to new companies.

Participation in the Global Compact is voluntary and the initiative is not designed to monitor or measure the performance of participating companies. Participating companies are asked to publish a 'Communication on Progress' in implementing the nine principles in their annual reports and/or other prominent reports. Participating companies are not required (or asked) to have their progress verified independently. In response to stakeholders' concerns about the risk that participating companies could undermine the integrity of the Compact by significantly failing to implement the ten principles, the Global Compact Advisory Council recommended in July 2003 that a task force be established to address issues such as the abuse of the Global Compact Logo, the problem of non-performing companies, and 'egregious violations' by companies (defined as being 'consistently and overtly in conflict with Global Compact principles'<sup>48</sup>). This process led to the development of Global Compact Integrity Measures, which provide for the removal of companies from the list of Global Compact Participants if guidelines about the use of the UN or Global Compact Logos are not adhered to, if participants fail to publish a 'communication on progress' in implementing the GC

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<sup>47</sup> [www.unglobalcompact.org](http://www.unglobalcompact.org).

<sup>48</sup> Ibid.

measures for more than two years or if participants are found not to be seriously committed to improving performance in a particular area.

The Global Compact currently works in partnership with the Global Reporting Initiative, by encouraging its participating companies to use the GRI Guidelines in reporting on progress, and by helping to publicize the GRI through its national and international networks and meetings.

A Global Compact Leaders Summit,<sup>49</sup> attended by over 400 corporate executives, government ministers and civil society leaders including Kofi Annan and President Lula of Brazil, was held in June 2004. The Summit's aim was to assess progress made in the four years since the Global Compact's launch, and to engage leaders in the development of the Compact's future strategic direction. Key outcomes from the Summit included the launch of a tenth principle 'against corruption in all its forms, including corruption and bribery'; the announcement of new commitments from twenty financial companies and ten stock exchanges; new corporate commitments to the UNDP Growing Sustainable Business Initiative (see Section 5.2.9 below); and the announcement by the Secretary General of a new twelve-month process to improve the governance of the initiative with a view to improving its 'brand management and quality assurance'. Speaking at the Summit, the Secretary General emphasized the importance of combining voluntary initiatives with a strong focus on public governance (a key issue highlighted by this project) and the need to look both at promoting both business adherence to norms and investment in delivering international goals saying that 'principles and projects are two sides of the same coin'. The Secretary General also emphasized the need for businesses to increase coherence between lobbying and CSR activities, saying that '[b]usiness must restrain itself from taking away, by its lobbying activities, what it offers through corporate responsibility and philanthropy'. President Lula also emphasized the need for increased business engagement in addressing the needs of the poor and stressed that businesses needed to help lobby for the removal of agricultural subsidies.

A key input to the Summit was a report produced by the management consultancy McKinsey & Company entitled *Assessing the Global Compact's Impact*.<sup>50</sup> The report was based on interviews with 59 government, company and civil society stakeholders and concluded that the initiative has had significant impact through empowering champions within companies, helping the UN in general to work better with businesses, building stronger links between local UN representatives and local businesses and creating a platform for different stakeholder groups to work together. However, the report argues that the Compact needs to move from its initial 'entrepreneurial phase' to 'a phase of sustained growth focused on impact', and suggests that this should be achieved by creating more targeted business-orientated engagement mechanisms with more practical content; reforming governance; developing more uniformly active and capable local networks and formalizing the role of UN partner agencies. McKinsey argue that these improvements will enable the UN Global Compact to transform the source of its impact 'from the power of its symbolism to the unique value of its activities'.

### **Strengths**

- The high-level UN leadership that the Compact enjoys is attractive to companies and should ensure that the work done by the initiative is strongly linked to delivering wider UN goals, e.g. the Millennium Development Goals. The fact that companies are asked to make their commitments to the Compact at the highest level (as CEOs are required to sign the commitment letter that goes to Kofi Annan) has also helped engage business leaders, something of key importance if corporate social responsibility is to be mainstreamed in an organization.

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<sup>49</sup> Full reports and details of the Leaders Summit are available at [www.unglobalcompact.org](http://www.unglobalcompact.org).

<sup>50</sup> Ibid.

- The universal principles promoted by the Global Compact are broad and flexible enough to be relevant to all businesses, including smaller businesses and those based in developing countries. This breadth and flexibility also enables coordination with other CSR initiatives (e.g. the OECD Guidelines for MNEs and the Global Reporting Initiative).
- The multi-stakeholder nature of the Compact helps to ensure that a wide range of perspectives and concerns are addressed by its work (although governments are not generally involved at the international level). This multi-stakeholder process has also helped develop strong working relationships between the private sector and NGO participants.
- The Compact's meetings and networks at both the international and national levels have successfully engaged a wide range of small and large businesses at national and international levels. Over 1,700 companies had joined Global Compact networks by October 2004, over 30 per cent of which are SMEs. Some estimate that an additional 1,000 companies are involved in local Global Compact networks. The work of the networks has also played a major role in introducing the topic of CSR to many parts of the developing world.
- The flexibility of the Global Compact process has enabled it to address the priorities of developing countries, and it has been successful in engaging companies, governments and other stakeholders in the developing world (the former make up over half of its participants).
- As well as setting norms through its ten universal principles, the Compact has a strong focus on the implementation of CSR. Its activities and publications provide flexible, innovative capacity-building support to companies committed to addressing CSR issues. The importance of such capacity-building work cannot be underestimated as upholding global norms in real-world situations is often extremely challenging for businesses. As well as enabling the implementation of the Compact's own principles, this work also has the potential to support businesses in implementing other CSR norms and guidelines (e.g. the OECD and GRI Guidelines).
- The Global Compact's focus on the development of multi-stakeholder partnerships has started to enable the initiative to play a direct role in helping the private sector to maximize its contribution to the achievement of international goals on sustainable development and poverty eradication (e.g. the Millennium Development Goals). The strong relationship that the Compact has developed with UNDP country offices helps ensure that the work the initiative does at the national level is coordinated with and complementary to National Sustainable Development Strategies.
- The Global Compact's local networks are a significant asset and have the potential to significantly contribute to the CSR agenda, particularly in the many developing countries which have relatively little CSR activity at present. The networks could play a number of roles including helping multinationals to implement the Global Compact principles at the national level; helping developing country governments to engage the private sector in the delivery of public policy goals; and raising government and private sector awareness of, and engagement in other key international CSR initiatives such as the GRI, the World Bank CSR Practice and the UNDP Growing Sustainable Business initiative.
- The fact that the Global Compact is a part of the Secretary General's Office means that it is not directly responsible to national governments. This allows the initiative a high degree of flexibility, encourages innovation and enables the creation of new relationships with non-governmental stakeholders. The initiative has shown that it is open to using this flexibility to improve its performance over time.

## Weaknesses

- While the Global Compact is currently the largest voluntary CSR initiative in the world, it only has 1,400 companies formally committed to its goals, as against the 64,000 transnational corporations that were reported to be in existence in 2002.<sup>51</sup>
- Some stakeholders have argued that the fact that the Compact's ten universal principles are extremely general leaves them open to different interpretations by member companies.
- While Global Compact participants are increasingly being encouraged to use the GRI framework to produce their 'communications on progress', there is currently no clear protocol for assessing the extent to which private sector participants of the Global Compact are implementing its ten principles.
- Some stakeholders are not convinced that business participants of the Global Compact are sufficiently committed to implementing its principles. They argue that in many cases the commitments made by the head office of a company are not being communicated to or implemented in its operational businesses. It is not currently clear how effective the new Integrity Measures will be at addressing these problems.
- While the Compact's focus on exploring the issues facing businesses that want to operationalize CSR is considered useful, some stakeholders believe that to date the initiative does not have sufficient focus on developing practical tools and guidelines for use at the operational level (a criticism also made by the McKinsey report).
- While the fifty or more Global Compact local networks have the potential to be a key tool for engaging businesses, supporting the implementation of the Global Compact Principles and developing partnerships at present the networks lack structure, focus and standardized tools. As the McKinsey report argues, this means that they are currently underperforming significantly.
- Some stakeholders consider that the lack of government involvement at the international level is a potential barrier to the Global Compact's effectiveness. Government involvement would create the opportunity for the Compact to develop recommendations on the way in which governments can act to promote CSR and enable businesses to make increased contributions to delivering sustainable development and poverty reduction objectives. Given that policy frameworks are so important in this area, this may be a significant weakness in the initiative's work.
- Another potential weakness is the strong identification of the Global Compact with the current Secretary General of the UN. It is not clear whether the Global Compact, which is based in the Secretary General's Office, will continue to prosper under future Secretary Generals.
- A recent report on the development dimensions of the Global Compact by the RING Alliance<sup>52</sup> argues that the work done by the Compact is not sufficiently rooted in the wider context of the UN's development objectives, including the Millennium Development Goals. It says that the ten principles fail to refer to key development concerns such as equity, poverty reduction and building human capacities in support of sustainable development.

## Why should governments seek to strengthen the UN Global Compact as a part of international efforts to implement the WSSD CSR commitments?

The UN Global Compact is currently the largest voluntary CSR initiative in the world. It has strong links to key UN Norms, considerable convening power and a track record in catalysing high-level commitment to CSR from a wide range of businesses, including many of the planet's largest multinational enterprises. So far it has proved to be highly effective at getting businesses from around the world to make basic

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<sup>51</sup> *Corporate Social Responsibility and Business Regulation*, UNRISD Research and Policy Brief, March 2004, [www.unrisd.org](http://www.unrisd.org).

<sup>52</sup> *The Development Dimensions of the UN Global Compact*, prepared by the RING Alliance for the Secretariat of the UN Global Compact, September 2003, [www.ring-alliance.org](http://www.ring-alliance.org).

commitments to upholding international norms, and has started to play an important role in helping the private sector to think about how such commitments can be implemented.

As it goes forward, the Global Compact has the potential to play a key role in increasing business interest in and commitment to CSR in all UN member states. It also has an equally important role to play as a capacity-building initiative targeted at providing practical tools and guidelines that will enable businesses of all shapes and sizes to implement their commitments and obligations to uphold global norms. Both of these areas of activity are highly complementary to the other key normative initiatives that are discussed in this report, for example the OECD Guidelines on Multinational Enterprises and the UN Norms on Human Rights. The existing links between the Global Compact and the Global Reporting Initiative also have the potential to encourage an increasing number of businesses to report using the GRI's 'gold standard' guidelines. The Compact has the potential to increase the effectiveness of each of these other norm-setting initiatives, and vice versa.

The Global Compact also has the potential to play an important role in engaging businesses in the delivery of sustainable development *goals* through its partnership activities in general and in particular through the work of the Growing Sustainable Business Initiative.

However, at present the Global Compact is still at an early stage in its development and will only fulfil its potential if it has sustained financial and political support, particularly from national governments on which it is dependent for its funding.

### **Options for governmental and intergovernmental action to strengthen the UN Global Compact as a part of international efforts to implement the WSSD CSR commitments**

While governments do not have direct control over the Global Compact, they do have the ability to engage with the Compact's decision-making processes and through these to propose changes in its work. However, it should be noted that the Compact has been developed as a joint activity by the UN and private sector and civil society participants, and any changes in its operations would need to be agreed by all parties. That said, many of the points below have already been highlighted by Global Compact reports and processes.

Governments could:

- Support the Global Compact's outreach activities, by convening and funding national-level networks and other outreach activities, and by encouraging participation in the Global Compact through ministerial statements and other channels of communication, for example government-sponsored conferences and seminars.
- Encourage the Global Compact to develop robust governance and integrity systems that are effective enough to provide a strong incentive for business leaders to invest serious effort in ensuring that the Compact principles are implemented across their businesses, and provide financial support for the development of these systems.
- Encourage the Global Compact to strengthen its emphasis on the Global Reporting Initiative (see Section 5.2.3 below) as a tool for reporting on businesses' adherence to the Global Compact principles.
- Encourage the Global Compact to increase its focus on developing tools and processes for enabling businesses to implement their commitment to its principles and provide funding for such work.
- Encourage the Global Compact to provide more structured support to national networks at the same time as ensuring that networks are given the freedom to identify key priorities for their region. A particular emphasis should be put on encouraging the Compact to work to ensure that the local offices of multinational businesses that are Global Compact participants participate in local networks. Governments could also encourage the Compact secretariat to prioritize the engagement of governments in local networks, with a view to exploring the roles that local networks could play in enabling governments to engage the private sector in the delivery of public policy goals, strengthening public

sector governance and maximizing the networks' potential to contribute to the development of strategic sustainable development-orientated partnerships between the public and private sector.

- Encourage the Compact to strengthen its focus on engaging the private sector in the UN's efforts to eradicate poverty.
- Develop closer links between the OECD Guidelines' National Contact Points and the Global Compact Secretariat and local networks, for example by using NCPs to raise awareness of the Global Compact and to convene or contribute to local networks, and by sharing information about 'special instances' between NCPs and the Global Compact Secretariat to help the latter implement its Integrity Measures effectively.

### 5.2.3 The Global Reporting Initiative

‘The GRI seeks to elevate sustainability reporting to the same level of rigour, comparability, credibility and verifiability expected of financial reporting, while serving the information needs of a broad array of stakeholders from civil society, government, labour, and the private business community itself.’<sup>53</sup>

The GRI is a multi-stakeholder process and independent institution whose mission is to develop and disseminate globally applicable Sustainability Reporting Guidelines. Specifically recognized in the WSSD Plan of Implementation, it is the only global reporting framework that offers sustainability reporting indicators (i.e. covering economic, social and environmental performance) based on a multi-stakeholder process. The GRI was initiated in 1997 by the Coalition for Environmentally Responsible Economies (CERES), and became independent in 2002. It is an ‘official collaborating centre’ of the United Nations UNEP and also works in cooperation with UN Secretary General Kofi Annan’s Global Compact. The GRI Guidelines were developed in consultation with representatives from business, accountancy, investment, environmental, human rights, research and labour organizations from around the world.

The guidelines aim to enable all organizations to measure and report a balanced and reasonable representation of their sustainability performance. They are also intended to facilitate comparability between the sustainability performance of different organizations. They are based on the GRI principles that include transparency; inclusiveness; auditability; completeness; relevance; sustainability; accuracy; neutrality; comparability; clarity, and timeliness. In addition to the reporting Guidelines themselves, the GRI also produces technical protocols on indicator measurement (which provide standardized procedures for measuring specific indicators, e.g. energy use or child labour); and sector supplements, which provide specific guidelines for reporting by companies in specific sectors (e.g. mining, banking, etc.). The GRI also intends to develop a sectoral supplement for the public sector and has recently developed a proposal for a ‘Smart Entrepreneur Toolkit’ is currently developing a reporting handbook for SMEs which will be launched in November 2004. The GRI is currently initiating a review process that is expected to result in an updated version of the reporting guidelines by 2005/6. This process will involve regional roundtables in every continent to help ensure that the Guidelines reflect the sustainable development priorities and concerns of developing and developed countries.

Companies that choose to can claim publicly that they are reporting ‘in accordance’ with the GRI Guidelines, but in order to do so they must report on all of the indicators listed in the Guidelines. To encourage reporting by all organizations, the GRI also encourages ‘incremental’ reporting (i.e. reporting on a smaller number of indicators) for first time reporters. The GRI claims that its indicators can be used variously as a management tool (to improve performance), as a financial tool (to lower the cost of capital) and as a communications tool (to report performance). The Guidelines encourage businesses using them to obtain independent external verification of their reports, they also acknowledge that a common framework for such verification does not yet exist. Some companies that have used the GRI to report have used the AccountAbility AA1000 S assurance standard,<sup>54</sup> which has been developed to enable assurance of GRI reports. At this stage, businesses reporting ‘in accordance’ with the GRI are not required to have their reports independently assessed, although many do. As at 12 August 2004, 507 companies and other organizations worldwide publicly state that they are using the Guidelines to help develop their sustainability reports, over twice the number using the Guidelines at the time of the WSSD. However, only thirty-nine of these are reporting ‘in accordance’ with the Guidelines, and relatively few come from developing countries (including Brazil, Chile, India, South Africa and Thailand).<sup>55</sup>

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<sup>53</sup> GRI, *The 2002 Sustainability Reporting Guidelines*, [www.globalreporting.org/](http://www.globalreporting.org/).

<sup>54</sup> [www.accountability.org.uk/aa1000/](http://www.accountability.org.uk/aa1000/).

<sup>55</sup> [www.globalreporting.org/guidelines/companies.asp](http://www.globalreporting.org/guidelines/companies.asp).

Apart from the rapid uptake in the number of companies using the Guidelines, perhaps the most interesting development since the WSSD has been the first public references to the GRI by the investment community, which has begun to call on companies use the GRI Guidelines in reporting. This development is thought to stem from the ‘questionnaire fatigue’ being experienced by reporting companies (i.e. too many requests for information from too many fund managers and rating agencies), and increasing acceptance of the value of non-financial performance data.

The GRI is governed by a Board of Directors, which currently includes seven members from developed countries, four from developing countries and three representatives of international organizations. The work of the GRI is given strategic guidance by the GRI Stakeholder Council,<sup>56</sup> an active multi-stakeholder forum that debates and deliberates key strategic and policy issues facing the GRI. The Council meets annually and has sixty members, comprising a balance of stakeholder and geographic constituencies. The Council has a number of members from developing countries, including Brazil, Côte d’Ivoire, Fiji, India, Kenya, Pakistan, the Philippines and Thailand.

While the GRI was initiated by businesses in Europe, the US and Japan, it has had some success in developing countries, notably in South Africa, where the initiative has led an intensive process of developing reporting guidance on HIV/AIDS issues.<sup>57</sup>

The GRI Guidelines are designed to be complementary to the OECD Guidelines, and the GRI has recently published a draft users guide that provides advice to companies on how to measure and communicate their use of the OECD Guidelines.<sup>58</sup> The GRI is also working closely with the UN Global Compact (see Section 5.2.2 above). The Global Compact encourages its members to use the GRI Guidelines for ‘communications on progress’, and the GRI hopes that its reporting guidelines will increasingly be used by the Compact’s 1,200 plus participating companies (which include many businesses in developing countries) as a way of demonstrating their compliance with the Compact’s nine universal principles. The GRI also seeks to coordinate with a range of other international CSR initiatives, including ISO 14000 and 14063.

Some national governments, including the Netherlands, France and Australia, have begun to use the GRI Guidelines as a basis for national-level action to promote sustainability reporting. The South African ‘King 2’ corporate governance code also requires all listed companies over a certain size and all regulated financial firms to ‘report at least annually on the nature and extent of its social transformation, ethical, safety, health and environmental management policies and practices’ and urges firms to consider reporting on the basis of the GRI principles.

### **Strengths**

- The GRI Guidelines standardize reporting procedures and seek to make them as rigorous as conventional accounting procedures. This makes them highly credible and accurate, and enables comparisons of sustainability performance between businesses.
- Many blue-chip multinationals already use the GRI Guidelines, including Anglo American, BP, BHP Billiton, Canon, Dupont, Ford, General Motors, McDonald’s, Nike, PepsiCo and Shell.
- The Guidelines are harmonized with international conventions and codes of conduct, including the OECD Guidelines and the Global Compact. This enables them to be used to report on an organization's compliance with these norms and helps to create coherence between different CSR initiatives.

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<sup>56</sup> [www.globalreporting.org/guidelines/companies.asp](http://www.globalreporting.org/guidelines/companies.asp).

<sup>57</sup> Details of the GRI HIV/AIDS project can be found at [www.globalreporting.org/guidelines/HIV/hiv aids.asp](http://www.globalreporting.org/guidelines/HIV/hiv aids.asp).

<sup>58</sup> *Synergies between the OECD Guidelines for Multinational Enterprises and the GRI 2002 Sustainability Reporting Guidelines* [www.globalreporting.org/about/inioecd2.asp](http://www.globalreporting.org/about/inioecd2.asp).

- The fact that some governments are starting to refer to the GRI when developing national-level reporting initiatives suggests that they could be a useful tool for governments that choose to promote sustainability reporting.
- While most of GRI reporting companies come from the developed world, the GRI Guidelines have been developed through consultation with a wide range of stakeholders from developed and developing countries and reflect both developed and developing country concerns and priorities.
- The GRI is engaged in a continuous process of improving and updating the Guidelines, which helps maximize their effectiveness and usefulness, and enables them to reflect new priorities and issues as they emerge. The organization is also innovating technologically and is currently working with software designers towards increasing the sophistication and efficiency of reporting processes and helping report users (such as financial institutions and civil society groups) to obtain information more efficiently.
- The flexibility of the GRI Guidelines and implementation process means that they have the potential to be used by a wide range of sectors and types of businesses. This flexibility also means that the application of the Guidelines can be tailored to address specific national or regional priorities, such as the HIV/AIDS issue in Africa.
- The incremental approach to sustainability reporting encouraged by the GRI means that the Guidelines are a useful tool for businesses at an early stage in addressing CSR issues, as well as for businesses whose engagement in the issue is relatively mature.
- Ongoing work on the handbook for SMEs will make GRI reporting more accessible to smaller companies.
- The way in which the GRI encourages independent external verification of sustainability reports acknowledges the importance of transparent and robust reporting.

### **Weaknesses**

- Despite their flexibility, some private sector stakeholders consulted in the preparation of this report felt that the GRI reporting guidelines are too complex to be of use to many companies (one stakeholder speaking under the Chatham House Rule called them ‘elaborate, time consuming and expensive’). This may be a particular problem for SMEs and developing country businesses.
- The current uptake of the GRI Guidelines is relatively low worldwide, and is particularly low in developing countries. However overall uptake is increasing steadily and has recently gone up rapidly in North America, where it increased from fifty-two businesses at the end of 2003 to 264 in August 2004.
- Some stakeholders argue that the fact that the Guidelines only encourage independent external verification, without requiring it even for companies reporting ‘in accordance’ with the Guidelines, is a significant weakness. It was also pointed out that the GRI does not yet provide definitive advice on how such verification could be carried out. However, the GRI has advised us that this issue is under ‘active consideration’, and has not prevented companies from obtaining third-party assurance, for example from the AA1000 S tool, which has been developed specifically to assess GRI-based reporting.
- Some stakeholders consulted by this project argued that the indicators used by the GRI (and other reporting initiatives) do not fully capture the very wide range of actions that businesses may need to take to maximize their contributions to sustainable development. For example, they do not reflect the need for businesses to develop sustainable products and services as a part of their core business, or the possible impacts (positive and negative) that businesses can have at a macroeconomic level. However, it seems likely that these concerns will be addressed by the organizations, ongoing process of development.

- The GRI organization currently has relatively low levels of funding. This limits its ability to promote the Guidelines to businesses and other organizations internationally, which means that their uptake is slower than it might otherwise be, particularly in developing countries.

### **Why should governments seek to strengthen the Global Reporting Initiative as a part of international efforts to implement the WSSD CSR commitments?**

Sustainability reporting is an essential tool for enabling businesses to manage their sustainable development impacts, helping investors to assess the risks associated with these impacts, and allowing governments and other groups to monitor a business's progress towards sustainability. The GRI is the only global 'triple-bottom-line' reporting framework based on sustainable development norms and objectives that have been agreed by governments at the international level, and is also the only reporting framework with strong linkages to other key international norm-based CSR initiatives such as the UN Global Compact and the OECD Guidelines for Multinational Enterprises.

From a government perspective these linkages to global agreements and initiatives are important. They mean that the GRI has the potential to play a key role in ensuring that businesses adhere to international norms on sustainable development (see proposed objective 1 in Section 5.1 above). In fact, without the sort of detailed, indicator-based reporting that the GRI supports businesses will not be able to properly understand or manage their adherence to the Global Compact Principles and OECD Guidelines.

The comparability, credibility and verifiability of GRI Guidelines also has potential commercial benefits for businesses in terms of enabling them to access finance and reducing share price volatility – a further argument for governments to support them, particularly in countries that wish to increase levels of foreign investment. And lastly, using the GRI as a basis for national-level reporting initiatives or requirements also has the potential to increase coherence and efficiency within the international CSR agenda.

However, at present GRI is still in its infancy. It will only fulfil its potential if many more companies start using its Guidelines, and if more of those that do use the Guidelines start to report fully 'in accordance' with them. Governments are best placed to encourage and incentivize greater private sector uptake of the GRI Guidelines, and to lead by example by reporting in accordance with the GRI themselves.

### **Options for governmental and intergovernmental action to strengthen the GRI as a part of international efforts to implement the WSSD commitments on corporate social responsibility**

While as an independent organization the GRI is not directly governed by any governmental bodies, there are several ways in which governments could take action to strengthen it. Governments could consider making a high-level commitment to the GRI as the 'gold standard' for sustainability reporting, for example through ministerial and policy statements and through the following concrete measures:

- *Raising private sector awareness of the GRI Guidelines and encouraging their uptake*, for example by using the OECD Guidelines National Contact Points to promote the use of the GRI to demonstrate compliance with the Guidelines.
- *Incentivizing businesses to prove their compliance with the OECD Guidelines by reporting 'in accordance with' the GRI Guidelines*. If, as is proposed above, governments choose to create incentives for complying with the OECD Guidelines, reporting 'in accordance' with the GRI Guidelines could be used as a requirement for companies wishing to be eligible for these incentives.
- *Using the GRI Guidelines as a basis for national-level reporting requirements and/or initiatives*. This approach, which has already been used by several governments, can help ensure that national-level

schemes are credible and coherent with international norms and standards, at the same time as enabling national governments to ensure that reporting reflects specific national or regional priorities. For example, other governments could follow the King 2 example of requiring all listed companies over a certain size to report annually on their sustainable development impacts and encouraging them to use the GRI Guidelines to do so.

- *Providing financial support to the GRI to enable it to continue to develop and broaden the Guidelines and related tools*, for example, the Dutch government have provided the financial support for the GRI's ongoing work on developing a reporting handbook for SMEs.
- *Providing financial support and/or work in partnership with the GRI to enable it to do more outreach work* for example to businesses in developing countries and/or SMEs.
- *Providing the financial and political support needed for the GRI to develop a common framework for independent external verification of sustainability reports.*
- *Encouraging other UN bodies (in addition to UNEP and the Global Compact) to formally recognize the GRI Guidelines*, in order to help further establish them as the global standard for sustainability reporting.
- *Using the GRI to report on government sustainability performance.*

#### **5.2.4 The 'Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights'**

On 13 August 2003, the Sub-Commission on the Promotion and Protection of Human Rights approved the 'Norms on The Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights'.<sup>59</sup> The Sub-Commission in a resolution unanimously approved the Norms submitted by the Working Group on that topic, and decided to transmit those Norms to the Commission on Human Rights for consideration and adoption by the Commission in March 2004.

The Sub-Commission, the main subsidiary body of the Commission on Human Rights, was established in 1947 under the authority of the Economic and Social Council (ECOSOC). The panel's twenty-six experts are charged with making recommendations on ways to prevent discrimination of any kind relating to human rights and fundamental freedoms and on the protection of racial, national, religious and linguistic minorities.

The proposed Norms are based on the principle that although states have the primary responsibility for the protection of human rights, multinational corporations and other business enterprises, as organs of society, are also responsible for promoting and securing human rights as set forth in the Universal Declaration of Human Rights. The Norms acknowledge various multilateral sets of principles, guidelines, standards and recommendations, such as the UN Global Compact, the OECD Guidelines for MNCs and the ILO Tripartite Declaration of Principles Governing MNCs, as well as the ILO Labour Conventions and Recommendations.

If adopted, the Norms would comprise a series of company obligations with respect to human rights drawn from existing international human rights, labour and environmental standards. They are based on the proposition that, within their spheres of activity and influence, businesses and enterprises have the obligation to promote, secure the fulfilment of, respect and protect human rights recognized in international as well as national law. They cover such matters as the right to equal opportunity and non-discriminatory treatment, security of persons, rights of workers, consumer protection and protection of the environment.

Although the Norms would constitute a set of obligations to be observed by corporations, even if agreed at the international level they would not have the force of law since they first would need to be incorporated into national legal frameworks. Many of the elements of the proposed Norms are already effectively covered in the international human rights treaties signed by the states, but it is up to governments to make sure that businesses abide by them.

The Sub-Commission's proposals also call for companies to be subject to periodic monitoring and verification of their activities by the UN. The Commission proposes a verification/monitoring mechanism at the national level (through country rapporteurs) as well as at the international level (through a UN working group), both of which would take into account input from stakeholders, including NGOs. A commentary by the Working Group that devised the Norms calls for action to be taken against companies that fail to comply with them and proposes that the Commission on Human Rights consider establishing a group to receive information and take definitive action when businesses fail to comply. If the Norms were endorsed by the UN, some stakeholders have argued that these could provide the conceptual basis of a binding instrument on corporate responsibility.

In April 2004 the UN Commission on Human Rights in Geneva in considering the Norms confirmed the importance and priority that the Commission accords to companies' responsibilities in relation to human rights and requested the Office of the High Commissioner for Human Rights to focus on elaborating those responsibilities. The decision, adopted by consensus, specifically asks the OHCHR to compile a report setting out the scope and legal status of all existing initiatives and standards on business responsibilities with

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<sup>59</sup> [www.unhcr.ch/Huridocda/Huridoca.nsf/0/64155e7e8141b38cc1256d63002c55e8?Opendocument](http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/64155e7e8141b38cc1256d63002c55e8?Opendocument).

regard to human rights, including the Norms. The OHCHR was also asked to consult all relevant stakeholders in compiling the report. This decision reflects both governments' concerns about the detailed design of the Norms and their recognition that companies' responsibilities towards human rights constitute an important issue that needs to be addressed. In the meantime, the International Business Leaders' Forum (IBLF) have argued that the Norms provide a 'useful basis for dialogue, development of good practices, and benchmarking', that they are complementary to other initiatives such as the Global Compact and the GRI and have made a commitment to 'road-testing' them with businesses.<sup>60</sup> However, at this point in time it should be noted that the Norms have not been adopted by the Commission on Human Rights and therefore have no formal status within the UN system or in international law.

### **Strengths**

- There is a large body of international human rights law, and it is not always obvious how its many provisions relate to the private sector. At the same time, it is increasingly being recognized that human rights are a key element of the CSR agenda and that businesses are facing real-world challenges when operating in areas of the world where human rights abuses are taking place. The Norms have the potential to provide useful, authoritative guidance about how human rights law relates to companies – a sort of 'one-stop shop' for businesses requiring an authoritative reference for human rights in drawing up their own policy. The fact that some organizations have already committed to 'road-testing' them suggests that they are meeting a perceived need.
- The Norms cover classic human rights concerns but deal also with labour rights, and emerging human rights issues in relation to companies such as environmental harm, consumer issues, and the impact of corruption. Each principle in the text is firmly grounded in recognized international standards.
- The Norms apply to all forms of business and not only transnational corporations, and therefore are equally applicable to transnational companies, large national companies and SMEs.
- The Norms recognize that states have the main responsibility for enforcing human rights norms and clearly state that companies only have responsibilities 'within their respective spheres of activity and influence'.
- The process leading to the development of the Norms has taken into account the views of a range of stakeholders.
- The Norms cover ground that is currently not addressed in sufficient detail by some other international CSR initiatives (for example the UN Global Compact and the OECD Guidelines for Multinational Enterprises) and could be used to complement and/or reinforce these initiatives.

### **Weaknesses**

- The Norms have been extensively criticized on legal grounds. At a recent meeting at Chatham House lawyers argued that 'the Norms [seek] to mix treaty law, "soft law", guidelines, non-law, would-be law and assorted categories of rules (e.g. human rights, international humanitarian law, employment law) into an unsatisfactory 'normative stew'. The treaties on which they relied [have] not all entered into force and some of them had a variable level of normative content. Though it was apparently intended that they should be binding, it would be difficult to make them so given the imprecision surrounding the source of their authority, and the lack of clarity as to exactly what was being prescribed and proscribed'.<sup>61</sup>
- The Norms are a set of obligations to be observed by corporations, but do not have the force of law unless they are incorporated into national legal frameworks. Even if the Norms are agreed by the

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<sup>60</sup> IBLF statement on the UN Norms <http://209.238.219.111/IBLF-statement-April-2004.htm>.

<sup>61</sup> Report available from Chatham House's International Law Programme at [www.chathamhouse.org.uk](http://www.chathamhouse.org.uk).

Commission on Human Rights, they would need to be incorporated into national law before they would have effect, unless the Sub-Commission's proposal for a UN-level compliance mechanism was implemented. However, it has been strongly argued that the UN does not have the right to impose human rights law directly on non-state actors. It is also unclear what 'definitive action', if any, the UN could take to penalise businesses found to be failing to comply with the Norms. Taking action of this sort at an international level could also create problems with regard to the legal sovereignty of states.

- It has also been argued that imposing responsibility for upholding human rights directly onto businesses has the potential to divert blame and responsibility for human rights abuses away from national governments.

### **Why are the Norms important for international efforts to implement the WSSD CSR commitments?**

The development of the draft Norms reflects the concerns of many actors (including businesses) about the responsibilities of the private sector towards human rights. The work that has been done to date in developing the Norms is considered by many to have provided a useful survey of how existing international commitments to Human Rights could apply to businesses. While there are various ways in which this work could be taken forward (see below for a discussion of these), it is clear that this is an important issue that needs the attention of governments. Indeed, governments are the only actors with the authority to interpret how human rights should apply to the private sector whether at the national or international level.

By looking at the human rights obligations of the private sector in more detail than any other CSR initiative, the Norms also have the potential to complement other normative CSR initiatives such as the OECD Guidelines on Multinationals and the UN Global Compact.

Finally, the debates around the Norms have highlighted some crucial issues with regard to the potential tensions and/or synergies between government obligations to uphold internationally agreed norms on issues such as human rights, environmental protection and corruption and international initiatives designed to ensure that businesses uphold such norms (see Section 2.5 above). This debate is crucially important to the question of how CSR should be governed at the international level, and governments may want to explore it further in their consideration of how the WSSD commitments on CSR should be implemented.

### **Options for governmental and intergovernmental action on the Norms on Responsibilities of Transnational Corporations as a part of international efforts to implement the WSSD commitments on corporate accountability and responsibility**

Once the OHCHR have published their report on existing initiatives and standards on business responsibilities with regard to human rights, governments will need to decide how the work on the Norms on Human Rights should be taken forward. Options here include:

- Developing the Norms as a soft-law type instrument similar to the OECD Guidelines on Multinational Enterprises. This would avoid the legal problems that have been identified with the Norms in their current forms. As with the Guidelines, governments could agree to be responsible for promoting the Norms to businesses based in their countries, and a similar 'soft' complaints mechanism could be developed. Indeed, those governments that currently adhere to the OECD Guidelines could promote the Norms in parallel with them, using the same institutional frameworks. This approach could in principle deal with concerns about the potential for the private sector to exploit 'gaps' in human rights governance in countries where governments are not fully implementing their own obligations in this area.
- Developing the Norms on Human Rights into 'hard' international law, for example by negotiating a new convention on business responsibilities for human rights. Such a convention would typically be dependent on member states for its implementation, but would have the advantage of clarifying the

currently mixed legal status of the norms and conventions on which the Norms are based. It could also be possible to develop a UN-level compliance mechanism as a part of such a convention, although it is likely that the legitimacy of such an approach would be contested by those who argue that the UN cannot impose obligations directly on non-state actors. Alternatively this approach might facilitate the development of national-level laws that seek to impose transboundary liability on businesses for human rights abuses in other countries – a move which could address the governance gap problem highlighted above.

- Developing the Norms into ‘soft-law’ Guidelines and then promoting their implementation through other international CSR initiatives, such as the UN Global Compact, the OECD Guidelines on Multinational Enterprises and/or the Global Reporting Initiative. For example, once the Norms had been agreed by governments through the UN Commission on Human Rights, the upcoming revision processes of the OECD and GRI Guidelines could incorporate the Norms in some way, while the Global Compact could work to support its participating companies in developing internal processes for implementing practices consistent with the Norms.

### **5.2.5 Legal approaches to ensuring the accountability of multinational companies operating in countries with ineffective legal systems**

As Halina Ward argues in her paper ‘Legal Issues in Corporate Citizenship’,<sup>62</sup> there are many ways in which the CSR agenda intersects with legal issues. Legal instruments have been used to require businesses to report on their social and environmental performance, voluntary initiatives have been combined with legislative initiatives (e.g. in the Kimberley Process on Conflict Diamonds) and the problems caused by the relative ineffectiveness of legal systems in some developing countries are at the very heart of the CSR agenda. There has been a particular focus by some stakeholders on a specific area of legal action known as foreign direct liability. This is action that seeks to hold parent companies legally accountable in their home jurisdiction for negative environmental or health and safety impacts, or complicity in human rights abuses, of their subsidiaries in developing countries where they operate.<sup>63</sup> The following section of this report explores this particular area of law. In doing so, it draws extensively on Ward’s extremely useful paper.

To date a range of foreign direct liability actions have been brought against companies over issues including asbestos poisoning of a workforce (brought in the UK by plaintiffs in South Africa); involvement in human rights abuses by oil companies (e.g. those brought in the United States by plaintiffs from Myanmar and Nigeria); and poor labour conditions (e.g. those brought in the United States by plaintiffs from Nicaragua). Ward identifies two types of law that have been used in these cases:

- a. Actions that are based on corporate involvement in violations of international law, for example under the Alien Tort Claims Act (ATCA) in the United States. This act gives United States District Courts the power to hear civil claims by foreign citizens for injuries that are caused by actions ‘in violation *of the law of nations* or a treaty of the United States’.
- b. Actions based on general principles of civil liability, for example under the law of negligence. Cases have been brought in the UK, United States, Canada and Australia where these principles allow courts to hear cases relating to actions taken by a company in another country, as long as it can be proved that there is not another more suitable legal forum.

#### **Strengths**

- Foreign direct liability actions can in principle help to ensure that multinational businesses comply with minimum legal standards on environmental protection, human rights and labour protection. They also help address the ‘governance gap’ between developed and developing countries by providing an avenue for redress in circumstances where justice could not be done in host country courts, or when there are formidable obstacles to access to justice. They also enable individuals and communities from countries with weak legal systems to seek redress from multinational companies.
- The risk of this sort of legal action should act as a major incentive for multinational businesses to comply with national and international environmental, labour and human rights standards.
- Foreign direct liability actions can be used as a part of a wider strategy for influencing host country or MNE behaviour.<sup>64</sup>
- This sort of action can in principle be taken forward without any changes to national or international law.

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<sup>62</sup> Halina Ward, ‘Legal Issues in Corporate Citizenship’, 2003, paper prepared for the Swedish Partnership for Global Responsibility [www.iied.org/cred/execsumm/legalissues.html](http://www.iied.org/cred/execsumm/legalissues.html)

<sup>63</sup> Ibid.

<sup>64</sup> Ibid. p. 9.

## Weaknesses

- Many legal obstacles lie in the way of successful cases. For example, establishing that the parent company of an MNC (rather than one of its operating entities) is liable in foreign direct liability cases can be very difficult. If only the operating entity is liable, parent companies can distance themselves from legal or financial liability for a case by restructuring or closing operating entities.
- The strong foreign policy implications of individual foreign direct liability cases can generate political, and consequently legal, barriers to success. Host governments may not be supportive of litigation, particularly when the legal action involves allegations related to corporate proximity to human rights abuses by public officials or security forces. The governments of countries where actions are being brought may also be unwilling to support litigation for diplomatic reasons. For example, in the United States, the State Department has more than once intervened in ATCA cases to indicate that allowing a case to go forward could have a negative impact on US foreign policy.
- The broader issue of the need to respect the territorial sovereignty of host countries has both diplomatic and legal implications for foreign direct liability cases. Legally speaking, the principle of *forum non conveniens*, which allows courts to refuse to hear a case when there is some other available legal forum ‘in which the case may be tried more suitably for the interests of all the parties and for the ends of justice’, presents a significant barrier to action. However, some cases have successfully been taken forward on the basis that host country legal systems could not try cases ‘suitably’.
- In human rights cases it can be hard to prove a direct connection between the human rights violations at issue and an MNC’s own acts or omissions.
- So far few foreign direct liability cases have been tried in civil law jurisdictions. This is likely, in part, to be attributable to distinctions in the legal cultures of common law and civil law systems. Common law systems attach great importance to the role of judicial precedent, whereas in civil law systems its influence on the progressive development of law is limited. A greater public trust of ‘home-grown businesses’ in some civil law countries may also contribute to reducing the role of litigation in the overall mix of strategies for improving environmental and social performance.
- In Europe, the principle that the loser of a case pays both their own and the winner’s costs acts as a significant disincentive to bringing unfunded cases. In the United States the general principle is that each party pays their own costs.
- Foreign direct liability cases are expensive and, due to the complexities outlined above, hard to pursue. None of the cases against corporations under the ATCA has yet gone to trial. Such cases may therefore prove to be an inefficient way of promoting corporate accountability.
- Legal action of this sort may act as a disincentive for companies to be transparent about their performance on social and environmental issues.
- The risk of litigation of this sort could also act as a barrier to investment by companies in countries with weak policy or legal frameworks and/or poor records on human rights.

## **Why are foreign direct liability approaches important for international efforts to implement the WSSD CSR commitments?**

Weak legal systems in some developing countries are the most fundamental problem for the international CSR agenda. While investing resources into strengthening governance in these countries is a core issue for strengthening CSR internationally and is already a central focus of international development assistance, it is highly likely that the legal governance of the private sector will remain inadequate in some countries for the foreseeable future. At the same time, it is clear that legal systems do not currently reflect the way that MNEs coordinate their actions across national boundaries. At present therefore parent companies can shield

themselves from responsibility for the actions of their subsidiaries, and affected communities can find themselves unable to obtain redress.

While foreign direct liability actions are clearly very challenging to take forward, they are important for their potential to address these problems and ensure that parent companies are made legally liable for ‘worst practice’ failures of CSR. They also offer the opportunity to explore how, in a globalized world, legal systems can evolve in response to the development of multinational entities. There are therefore strong arguments for governments and other actors to explore how foreign direct liability approaches can be used as a part of wider strategies for promoting CSR at the international level.

### **Options for governmental action to strengthen the legal accountability of multinational enterprises operating in countries with weak legal and regulatory systems**

Governments could:

- Support research into potential legal innovations to strengthen foreign direct liability, drawing on the experience of existing laws such as ATCA and other areas of law relevant to this issue, e.g. liability provisions in international environmental law.
- Initiate discussions of potential legal innovations at the international level to facilitate the development of common understanding of the issues and explore the potential for coordinated action to further develop law in this area.
- Implement a policy of constructive support towards cases being taken forward under existing laws. The current trend towards overriding these cases for diplomatic reasons is worrying. There is a risk that governments will send the message that it is acceptable for businesses to misbehave in the interests of foreign policy goals. By allowing cases to go forward governments will have the opportunity to send a strong message that such behaviour is not acceptable, and could also use these cases as an opportunity for constructive engagement on issues around the governance of the private sector with the host countries concerned.
- Consider reforming company law to prevent companies from using the principle of limited liability to avoid liability for their actions in developing countries.

## 5.2.6 A legally binding framework convention on corporate accountability

During the WSSD process some stakeholders led by the NGO Friends of the Earth International (FoEi<sup>65</sup>) argued that governments should be seeking to negotiate ‘a legally binding international framework to deliver corporate accountability (including liability)’ in the form of a new UN convention or similar mechanism.<sup>66</sup> These proposals are based on the assumption that existing approaches to promoting corporate accountability, such as the OECD Guidelines on Multinational Enterprises and the other voluntary measures outlined in this report, do not go far enough to control the behaviour of businesses in a globalized economy. It is proposed that such a framework should include the following elements:

- Duties on corporations on social and environmental issues, including duties to report, consult with stakeholders and carry out environmental impact assessments;
- Direct liability for businesses from ‘foreign countries’ and the extension of directors’ liabilities for corporate social and environmental impacts;
- Legal rights for citizens to ensure their right to redress and access to justice, and to help enforce the new duties on corporations;
- Rules to ensure improved practices, e.g. through passing national-level legislation;
- Sanctions against companies that fail to carry out their duties (imposed at a national level), e.g. through suspending stock exchange listing or withholding access to export credit.

It is argued that a new mechanism of this sort could be based on the proposed Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights and/or on the norms established by a wide range of multilateral environmental agreements (MEAs) such as the Kyoto Protocol. FoEi argue that the main focus of the framework should be on publicly listed companies, but that it should be designed in such a way as also to impact on the activities of privately owned companies (e.g. through supply chains).

In developing such a mechanism, it is assumed that governments would negotiate general principles for action to increase corporate accountability at the international level, but that the mechanism would largely be implemented through national legislation (as with most MEAs). Another similarity with MEAs is that there would be a strong focus on funding capacity-building activities in developing countries to enable them to implement agreements made at the international level.

### Strengths

A new legally binding international framework mechanism on corporate accountability has the potential to:

- Ensure that all publicly listed companies worldwide are made legally accountable for their social and environmental impacts;
- Provide a strong incentive for companies to manage their social and environmental impacts and engage with communities and other stakeholders;
- Ensure right of redress to individuals and communities impacted on by private sector activities;
- Reflect developing country concerns and priorities (as it would be negotiated in an international forum such as the UN and implemented at the national level);

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<sup>65</sup> Friends of the Earth International is a confederation of seventy groups from both developed and developing countries.

<sup>66</sup> *Towards Binding Accountability*, Friends of the Earth International position paper for WSSD, [www.foei.org/corporates/towards.html](http://www.foei.org/corporates/towards.html)

- Help build developing country governments' capacity to design and implement measures for achieving corporate accountability;
- Help create a level playing field that would address the risk of competitive disadvantage faced by companies and governments seeking to promote CSR.

### **Weaknesses**

However, developing such a framework would also be a challenging process for the following reasons:

- Negotiating and ratifying a new mechanism on corporate accountability is likely to be difficult in the current political climate, as many governments are strongly opposed to new international initiatives on CSR (see Section 2.2 above) and would be likely to block the launch of a formal negotiating process.
- The need to take into account the wide variations globally, e.g. on priority issues, traditions of corporate responsibility and legal systems, could make it difficult to negotiate a mechanism to any level of detail. Potential interactions between such a mechanism and other areas of law (including company and trade law) could also make the negotiation process difficult.
- Once negotiated, the effectiveness of the mechanism would depend on national governments' willingness to ratify and implement it. Many international agreements such as MEAs have not been implemented despite being agreed through the UN process.
- Implementation would depend on the action of developing country governments, some of which currently have deep systemic weaknesses in their legal and governance systems, and which may not have the desire or capacity to implement CSR legislation.
- Some stakeholders believe that there is a risk that the development of other, potentially more pragmatic approaches to promoting CSR could be 'frozen' if the international community were to put its efforts into the development of a new international mechanism of this sort.

### **Options for governmental action to take forward the proposals for a new legally binding framework for corporate accountability**

At present the idea of a new framework convention on corporate accountability is relatively undeveloped. The proposals outlined above only represent one stakeholder group's view on how such a mechanism could best be designed. Governments interested in this idea may therefore want to work together with other stakeholders to analyse in more detail how such a mechanism could be designed and negotiated. Issues that it might be useful to consider in such a process could include the following:

- How would such a mechanism relate to other international CSR initiatives?
- Could such a mechanism be used to link, coordinate or replace existing international CSR initiatives?
- In what international forum could such a mechanism be negotiated?
- How could potential interactions with international trade law be addressed?
- What flexibilities would need to be designed into such a mechanism to ensure that it is compatible with national-level legislation?
- What issues would need to be addressed to ensure that the mechanism reflects developing country concerns and priorities?
- If the negotiation of such a mechanism is not politically feasible at the current time, what steps could be taken now to prepare the ground for future progress in this area?

Governments may also want to consult with their citizens and domestic businesses to get their responses to the idea of a new convention on corporate accountability.

### 5.2.7 The World Bank CSR Practice

The World Bank CSR Practice was formed in 2002 to advise developing country governments on the roles and instruments that they can most usefully deploy to encourage corporate social responsibility. The Practice focuses on helping governments to use CSR-orientated policies and measures as a cost-effective means of enhancing sustainable development strategies, and as a way of contributing to national competitiveness strategies to compete for FDI inflows and to position their exports globally. The Practice also works to help the public sector use CSR approaches to engage the private sector in delivering poverty reduction goals. It aims to help public sector bodies in developing countries to identify CSR priorities and incentives that are meaningful in their national context, and to play a role in strengthening appropriate local initiatives.

The CSR Practice is focused on building public sector understanding of CSR incentives and pressure points, and on improving strategic interactions. The team provides a country-specific diagnostic designed to enable developing country governments to work more effectively with business on this issue, to use CSR more strategically in development plans, and to take advantage of dynamic linkages between CSR-based voluntary approaches and regulation.

The Practice has two main ongoing projects. The first, *Strengthening Developing Country Governments' Engagement with CSR*, provides advisory support to developing country governments to improve the enabling environment for CSR and its pro-poor impact. The project provides an initial CSR diagnostic, generally focused on a specific issue and sector; offers recommendations on public policy roles and instruments that might be most appropriately deployed; and provides support to pilot activities in the agreed sector. The second, *Country-wide CSR Frameworks*, is run in collaboration with the Foreign Investment Advisory Service (FIAS) and advises national governments on the development of country-wide CSR frameworks to enhance the countries' competitiveness and attractiveness to investment. These projects draw on the CSR Diagnostic and Appraisal Tool that the Bank has developed to help 'formulate recommendations on public sector interventions and instruments that can be appropriately deployed in encouraging CSR'. This tool has been piloted in Vietnam, where it was used to assess what measures could be used to encourage CSR in the footwear sector; in Angola it was used to look at the oil sector; in the Philippines it had a focus on the mining sector; and in El Salvador it focused on light manufacturing and tourism.

The CSR Practice also commissions a range of research, which to date has included two overview studies of public sector roles in strengthening Corporate Social Responsibility;<sup>67</sup> an analytical comparison of company codes of conduct and international standards; and work on *Opportunities and Obstacles for Corporate Social Responsibility Reporting in Developing Countries*.<sup>68</sup> The Practice has also held an International Conference on Public Policy for Corporate Responsibility in October 2003. The conference reviewed the work done by the CSR Practice in its first fifteen months, including the pilot work done in Angola, El Salvador, the Philippines and Vietnam.

#### Strengths

- The World Bank CSR Practice is the only international CSR initiative with an exclusive focus on capacity-building for developing country governments, which, as this report argues, are crucially important actors in the international CSR agenda. Work done by the CSR Practice itself has identified a lack of action by local governments as a significant barrier to the implementation of CSR codes of conduct in developing country contexts.<sup>69</sup>

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<sup>67</sup> Fox, Ward and Howard (2002); and Ward (2004); see note 36 above.

<sup>68</sup> All reports are downloadable from [www.worldbank.org/html/fpd/privatesector/csr/](http://www.worldbank.org/html/fpd/privatesector/csr/).

<sup>69</sup> World Bank and IFC, *Strengthening the Implementation of Global Supply Chains* (2003).

- The fact that the CSR Practice is based within the World Bank gives it excellent access to developing country governments and high levels of credibility with a mainstream audience. It also enables the development of linkages between its work on CSR and the wider work that the Bank does on poverty reduction, economic development and international competitiveness.
- The CSR Practice is enabling governments to develop approaches to CSR that contribute to the delivery of developing country governments' public policy goals such as poverty eradication, economic development and international competitiveness. In so doing it is building bridges between the 'Northern' CSR agenda (with its focus on labour, environmental and human rights standards) and developing country priorities.
- The CSR Practice's diagnostic tool is also enabling governments to identify and deal with potential conflicts between 'Northern' CSR standards and developing country policy priorities (for example, where labour standards prohibit poor families from earning an income, higher environmental quality standards act as a barrier to market entry for local firms, or requirements for community investments and greater transparency reduce profit margins and disincentivize investors).
- This work is also helping to strengthen public governance, e.g. by enabling developing country governments to strengthen the implementation of existing laws and regulations.
- The Practice's work on identifying and clarifying the roles that governments can play in supporting and strengthening CSR is important for all governments, not just those from developing countries.

### **Weaknesses**

No inherent weaknesses in the work of the CSR Practice were identified by stakeholders consulted for this project. However, it is clear that at present the initiative is still at an early stage in its development, that to date it has only worked with a limited number of governments, and that it has not yet developed very strong linkages with other CSR initiatives.

### **Why should governments seek to strengthen the work of the World Bank CSR Practice as a part of international efforts to implement the WSSD CSR commitments?**

Developing country governments have a key role to play in the international CSR agenda. Their importance is two-fold in that many of the challenges that the agenda seeks to address are created by weaknesses in developing country governance, while it is also clear that developing country governments have a crucial role to play in efforts to strengthen CSR in their countries.

The World Bank CSR Practice has potential to play a central role in strengthening the international CSR agenda by engaging developing country governments by showing them how they can use CSR to achieve their public policy goals.

### **Options for action by governments to strengthen the work of the World Bank CSR Practice**

Governments could support the expansion of the CSR Practice's activities and impact by:

- Providing increased resources to the Practice either by voting for its work at Bank board meetings or by providing direct financial support for the initiative;
- Using bilateral donor relationships to encourage developing country governments to commission work from the Practice;
- Using bilateral donor relationships to provide financial or human resources to support the implementation of recommendations by the CSR Practice by developing country governments;

- Encouraging the development of strategic alliances between the World Bank CSR Practice and other key international CSR initiatives such as the UNDP Growing Sustainable Business Initiative and the Global Compact Local Networks. Such alliances could be mutually reinforcing – for example, the UNDP’s Growing Sustainable Business (GSB) initiative could encourage the governments in the countries in which it is working to draw on the CSR Practice’s advice to strengthen public sector capacity to create frameworks in which the private sector can contribute to poverty eradication, or the Global Compact could invite the CSR Practice to participate in meetings of its local networks and their national governments with a view to setting up a dialogue about government roles in strengthening the CSR agenda in the country in question.

### 5.2.8 Multi-stakeholder initiatives for addressing sector-specific CSR issues

In the last few years a number of CSR initiatives have been developed that have brought together governments, intergovernmental organizations, businesses and civil society organizations for the purpose of reaching consensus on how to develop and implement norms for the behaviour of businesses *and* governments around specific issues such as dams, transparency about payments to governments by the extractive sector and conflict diamonds. This section gives a brief overview of some of the most notable of these, and explores how they might be built on and/or replicated by governments in implementing the WSSD commitments on CSR.

#### **World Commission on Dams**<sup>70</sup>

The World Commission on Dams (WCD) was an independent, international, multi-stakeholder process that addressed the controversial issues associated with large dams. The initiative grew out of an informal process launched by the World Bank and IUCN (The World Conservation Union). The WCD commenced its activities in May 1998, chaired by Professor Kader Asmal, then Minister of Water Affairs and Forestry in the South African government. The Commission was made up of twelve Commissioners from diverse backgrounds who carried out a range of multi-stakeholder consultations. The Commission's Secretariat was located in South Africa, reinforcing its intention to serve developing countries in its approach to the work it was doing. The process was funded by governments, the private sector, foundations and NGOs.

The overarching goals of the Commission were to:

- Review the development effectiveness of dams and assess alternatives for water resources and energy development; and
- Develop internationally accepted standards, guidelines and criteria for decision-making in the planning, design, construction, monitoring, operation and decommissioning of dams.

The Commission's final report, *Dams and Development: A New Framework for Decision Making*, was launched in November 2000, after which the Commission disbanded. A two-year follow-on to the process initiated by the Commission began in November 2001 as a project of the UNEP. The Dams and Development Project (DDP) promotes dialogue on improving decision-making, planning and management of dams and their alternatives based on the WCD core values and strategic priorities.

#### **The Extractive Industries Transparency Initiative**<sup>71</sup>

Revenues from oil, gas and mining companies, in the form of taxes, royalties, signature bonuses and other payments, should be an important engine for economic growth and social development in developing and transition countries. However, the lack of accountability and transparency in these revenues can lead to corruption, conflict and poverty. The Extractive Industries Transparency Initiative was announced by UK Prime Minister Tony Blair at the World Summit on Sustainable Development in Johannesburg, September 2002. Its aim is to increase transparency of payments by companies to governments and transparency of revenues received by those governments.

Extractive industries are important in over fifty developing countries, home to some 3.5 billion people. Although a greater degree of transparency of payments is desirable in many sectors, there is a close correlation between the countries rich in natural resources and the countries with high levels of poverty. According to the Open Society Institute, between 1960 and 1990 resource-poor countries grew two to three times faster than resource-rich ones. Countries which are significantly dependent on oil or gas suffer well known economic difficulties, the so-called Dutch disease, and also political problems because the revenues

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<sup>70</sup> [www.dams.org](http://www.dams.org).

<sup>71</sup> Information on the EITI can be found on the UK Department for International Development website at [www.dfid.gov.uk](http://www.dfid.gov.uk).

from the resources can be easily captured by political elites. The aim of the EITI is to empower citizens and institutions to hold governments to account by increasing transparency and knowledge of revenues and making mismanagement or diversion of funds away from sustainable development purposes more difficult.

The initiative is led by the UK but is strongly multi-stakeholder and brings together governments from countries that either play host to extractive industries or with extractive industry companies registered in their state-owned companies and small, private companies, as well as multinationals, civil society groups and international organizations including the New Partnership for Africa's Development (NEPAD), the World Bank, the IMF, the UN and the OECD. These stakeholders have worked together to agree a process by which extractive companies will declare payments, governments will declare receipts and both will be audited in order to see if they match. So far principles and templates have been agreed and some governments have volunteered for pilot projects including Azerbaijan, East Timor, Ghana, Indonesia, Nigeria, Sierra Leone and Trinidad and Tobago.<sup>72</sup> As a part of the initiative, in August 2004 Shell revealed that it paid \$1.2 billion in tax to Nigeria in 2003 and \$608 million as royalties.<sup>73</sup> In Azerbaijan an EITI commission has been set up at the decree of the Cabinet of Ministers and a group of forty non-governmental organizations – the Coalition on the Improvement of Extractive Industry Transparency – has been launched to monitor Azerbaijan's implementation of the EITI. The initiative is voluntary for the countries but not for companies for example, if Nigeria says that it is going to implement EITI then it is mandatory for the companies to comply.

#### **The Kimberley Process on Conflict Diamonds<sup>74</sup>**

The Kimberley Process is an international initiative aimed at breaking the link between legitimate trade in diamonds and conflict diamonds. Conflict diamonds are rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments. The Kimberley Process was launched in May 2000 in the city of Kimberley, South Africa. It started out as a consultative process, later becoming a negotiating process which culminated in the adoption of the Kimberley Process Certification Scheme (KPCS) at a ministerial meeting in Interlaken, Switzerland, in November 2002. The KPCS sets an international benchmark for national certification schemes to be implemented by each participant country through national legislation.

The simultaneous implementation of the Kimberley Process Certification Scheme began on 1 January 2003. The initial focus of the Kimberley Process is to ensure that the Certification Scheme is implemented in full at the national level by each participant. This will pave the way for systematic monitoring of adherence to the scheme by all participants. It is planned that participants will meet at least once a year in plenary to review progress. The chairmanship of the process rotates between participating governments. The participant chairing the Process provides an interim secretariat to deal with organizational issues.

At present over seventy countries are formal participants of the Kimberley Process. The worldwide diamond industry, represented by the World Diamond Council, and civil society, represented mainly by Global Witness and Partnership Africa Canada, have been involved in the process from its outset.

#### **Strengths**

The strengths of these sectoral CSR initiatives include:

- Their multi-stakeholder nature which enables the sharing of different perspectives and areas of expertise, the development of a more comprehensive analysis of the issues than would be possible by any one stakeholder group;

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<sup>72</sup> Information on active EITI participants is available from [www.publishwhatyoupay.org/eiti/](http://www.publishwhatyoupay.org/eiti/).

<sup>73</sup> Shell People and Environment Report 2003 [www.shell.com](http://www.shell.com).

<sup>74</sup> [www.kimberleyprocess.com](http://www.kimberleyprocess.com).

- Their ability to build broad-based consensus, and to use this consensus to influence (or in some cases negotiate) changes in public policy and private sector behaviour;
- Their focus on changing the policies of both public *and* private sector actors which enables them to have far more impact than voluntary CSR initiatives that only focus on private sector behaviour;
- Their narrow focus on a specific issue within a specific sector, which enables them to mobilize change more efficiently than some of the broader CSR initiatives;
- The flexibility of their processes, which has allowed informal dialogues to mutate into formal intergovernmental negotiations and has not been dependent on achieving global agreement at the outset;
- All of these processes have been documented in detail, which means that the lessons learnt from them and process innovations developed by them are easily available to stakeholders interested in developing new initiatives of this sort.

### Weaknesses

- This type of multi-stakeholder process is only likely to work where there is sufficient political will and commitment from both governments and the private sector – this requires private sector engagement on the issue and for at least one government to invest significant diplomatic capital in generating the necessary momentum.
- Some stakeholders have raised questions about the legitimacy of involving the private sector and NGOs in processes that could lead to public policy change and there is also a wider question about how these processes should identify stakeholders and determine their legitimacy.
- While all of these processes have at least begun to have a significant impact on public policy and private sector behaviour, it seems that the initiatives that focus on agreeing action (such as the Kimberley Process and the EITI), rather than just proposing norms of behaviour (for example the WCD), are the most impactful, suggesting that it is important for such processes to have a strong implementation focus.
- Many developing country governments lack the capacity to fully implement the commitments that are required by initiatives such as the Kimberley Process and the EITI, and it is not yet clear whether sufficient support is being provided to tackle this lack of capacity.
- While the narrow focus of the EITI has clearly facilitated its progress, it is clear that other actions (for example, actions focused on building the capacity of civil society groups to use the information generated by the initiatives to hold their governments to account) will be needed if the initiative is to have a significant impact on the underlying problems that it is intended to address.
- Some stakeholders, including the NGO Transparency International (TI), have argued that the voluntary nature of the EITI is likely to significantly limit its impact given that ‘in many countries ... the diversion of revenues into the personal wealth of elites is seen as a perquisite of power, and where there is consequently extreme poverty among the general population.’<sup>75</sup> TI therefore argues that a more mandatory approach should be considered in future, something that the flexible nature of these processes would seem to allow for.

### **Why are multi-stakeholder initiatives for addressing sector-specific CSR issues important for international efforts to implement the WSSD commitments on CSR?**

Innovative processes that bring governments, businesses and other stakeholders together in a holistic approach that can deliver significant improvements in both corporate social responsibility and public sector governance illustrate the importance of joint government and business action for effective progress on major

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<sup>75</sup>Quote taken from Transparency International’s statement at the EITI High-Level Conference in June 2003: [www.transparency.org/pressreleases\\_archive/2003/2003.06.17.statement\\_g8\\_revenues.html](http://www.transparency.org/pressreleases_archive/2003/2003.06.17.statement_g8_revenues.html).

CSR challenges. They are important in their own right as initiatives that are successfully generating change on difficult issues and as ground-breaking initiatives that show the way towards a more integrated approach to CSR, involving a combination of public and private sector action.

It is also clear that these processes could provide the blueprint for achieving progress on other challenging issues in the CSR agenda. The WSSD follow-up process should enable governments to consider what other issues might be ripe for this sort of action. It should also give governments the opportunity to examine whether there is more that they could do to support the implementation of the existing initiatives discussed in this section.

### **Options for governmental and intergovernmental action to build on or replicate the work done by international sectoral CSR initiatives**

Governments could:

- Consider, where appropriate, participating in existing initiatives such as the EITI;
- Use diplomatic channels to engage other countries in the implementation of existing sectoral initiatives;
- Fund bilateral or multilateral capacity-building initiatives aimed at helping developing countries to implement the findings of existing initiatives;
- Seek to incentivize businesses domiciled in their countries in the implementation of existing sectoral initiatives;
- Seek to establish new multi-stakeholder initiatives to address specific issues in sectors with important CSR concerns by developing ‘coalitions of the willing’ between governments, the private sector, civil society groups and intergovernmental bodies (options could include the finance sector, water sector, etc.), drawing on lessons learnt and process innovations developed by existing initiatives.

### **5.2.9 The UNDP Growing Sustainable Business Initiative<sup>76</sup>**

The Growing Sustainable Business (GSB) Initiative is a new and experimental initiative of the United Nations Development Programme and the UN Global Compact. The initiative, which was launched at the World Summit on Sustainable Development, aims to engage multinational companies in the delivery of the Millennium Development Goals (MDGs) by facilitating the development of commercially sustainable ‘bottom of the pyramid’ business models that have a direct impact on the lives of the poor.

The assumption behind the initiative is that the private sector has the potential to play a central role in international efforts to deliver the MDGs. This assumption is based on an assessment of the size and nature of the challenge that delivering the MDGs presents – for example, delivering the MDG for water would require that 270,000–300,000 households per day for the next ten years be connected to water supplies at an estimated cost of \$1.5 billion per annum. The assumption of the GSB is that private sector assets including efficiency, logistical capability, ability to go to scale and access to private finance will be needed to meet these challenges. The initiative is also based on the assumption that the four billion people outside the modern global economy represent an important potential market for multinationals.

The initiative has been developed through a series of multi-stakeholder meetings in a group of pilot countries including Madagascar, Ethiopia, Tanzania and Bangladesh. Multinationals involved in the project have included ABB, BP, EDF, Ericsson, Shell and Unilever. An international advisory council has been established to develop the framework and rules of engagement for the initiative and a defined process for implementation. UN bodies involved in the initiative include UNDP, UNCTAD, ILO, UNHCR and UNEP. The UN Global Compact has provided a framework for the meetings, which have been coordinated by experienced facilitators or ‘brokers’ under the auspices of UNDP. To date areas looked at have included mobile telephony in rural areas, micro-off-grid electrification, food innovation, biofuels and new approaches to drilling for water.

The goals of the initiative are to ensure that:

- Each participant company can develop its own business;
- Domestic businesses can grow also;
- Economic growth (at both national and international levels) should have positive social impacts and respect the environment;
- All parties contribute and benefit.

In order to achieve these goals the initiative has needed to stimulate innovation in terms of business models as well as technologies. The new business models that are being developed as a result of the initiative have been based on different rates of return from conventional emerging market investments and on collaborative working methods involving partnerships with other businesses, civil society groups and host governments. The initiative has also had a strong focus on governance, and has developed strategies for creating ‘micro’ enabling environments for business development through direct engagement with host governments. Building business linkages between multinationals and domestic businesses has also been a key aspect of the GSB Initiative’s work.

The multi-stakeholder nature of the GSB Initiative is crucial to its success, and the UNDP brokers play a crucial role in enabling the different actors (many of whom have very different organizational cultures) to work together. UNDP currently has plans to expand this work by recruiting many more brokers.

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<sup>76</sup> [www.unglobalcompact.org/content/Dialogue/PolicyDialogues2002/SustainableDevelopment/ldc.htm](http://www.unglobalcompact.org/content/Dialogue/PolicyDialogues2002/SustainableDevelopment/ldc.htm).

### **Strengths**

- The fact that the GSB Initiative focuses on working with the private sector to develop commercially viable business models means that it has the potential to have a far greater impact than conventional, more philanthropic approaches to CSR.
- The multi-stakeholder nature of the initiative and its linkages to host governments and donors enable it to tackle barriers to bottom of the pyramid business development that would not be possible through a more business-led approach.
- The GSB process is highly flexible, allowing it to respond to needs and opportunities that are identified through its national-level process of engagement.
- The GSB Initiative's linkages to host governments and UNDP country offices ensure that the work done by the initiative relating to government priorities, is coordinated with public sector efforts to tackle poverty and deliver the MDGs, and is helping to develop governments' and UN capacity to partner with the private sector (and vice versa).
- The process of engagement between private and public sector actors that the GSB Initiative facilitates has the potential to contribute directly to the improvement of public sector governance.
- The GSB approach could also help donors to significantly leverage the impact of their funding on poverty alleviation.

### **Weaknesses**

- The development of genuinely commercially viable bottom of the pyramid business models is extremely challenging, relatively unmapped territory; while the progress made by the GSB Initiative is promising, it remains to be seen whether it will be successful in developing the critical mass of new pro-poor business activities that would be needed to have a significant impact on the Millennium Development Goals.
- Despite the fact that the GSB Initiative has been able to work with host governments and others to improve governance and create 'micro' enabling environments for GSB activities, weaknesses in public sector governance remain a major challenge to the initiative. Without a level playing field (e.g. on corruption and/or taxation) the GSB model may fail as its partner multinationals will not be able to risk investing in bottom of the pyramid approaches.
- At present many donors and UN bodies remain wary of working with the private sector and lack the understanding and skills needed to develop productive working relationships with businesses.
- Some stakeholders believe that in building partnerships between multinational businesses and developing country governments the GSB Initiative risks enabling businesses to develop inappropriate levels of influence over governmental regulation. However, it should be noted that GSB's commitment to transparency and broad participation should minimize this risk.
- At present it is unclear what protocols the GSB Initiative is using to measure the impact of its activities on poverty reduction. Developing a robust tool for measuring impact will be important for the long-term credibility of the initiative.

### **Why governments should seek to strengthen the UNDP Growing Sustainable Business Initiative**

The GSB is one of the most innovative and potentially powerful international initiatives for engaging the private sector in the delivery of international goals on sustainable development and poverty relief. Its focus on core business development rather than philanthropy is highly attractive to the private sector and has the potential to significantly scale up the positive impact of businesses on development. And its holistic, multi-stakeholder approach has the potential to improve public sector governance and build trust and relationships

between a wide range of actors in developing countries. The GSB Initiative could also help donors to leverage up the impact of their financial assistance.

However, as with all of the initiatives discussed in this paper, the GSB Initiative is still at an early stage in its development and needs funding and support if it is to fulfil its potential. Its success will also depend on active participation by host and donor governments.

**Options for governmental and intergovernmental action to strengthen the UNDP Growing Sustainable Business Initiative as a part of international efforts to implement the WSSD CSR commitments**

Donor governments could:

- Contribute to the funding that will be needed if the GSB Initiative is to train more brokers and expand its activities to more developing countries;
- Encourage the country offices of donor agencies in countries where the GSB Initiative is active to participate in and contribute to the work of the GSB Initiative;
- Encourage multinational businesses based in their countries to participate in the GSB Initiative;
- Consider how donor assistance or other measures could be used to incentivize and/or enable private sector participation in the GSB Initiative.

Developing country governments could:

- Consider whether to participate in the GSB Initiative;
- Invite multinationals based in their countries to consider participating in the GSB Initiative.

## **Section Six: Designing a process for following up the WSSD commitments on CSR**

### **6.1 Arguments for initiating a government-led, international process for following up the WSSD CSR commitments**

Based on the analysis in this report, there appear to be a range of arguments for initiating a government-led, international process for following up the WSSD CSR commitments:

- The current weaknesses in the international CSR agenda suggest that there is a need for a strategic approach to strengthening and rationalizing key initiatives in order to improve their performance in ensuring that businesses adhere to international norms on issues such as human rights, corruption and environmental protection and on engaging business in the delivery of international goals for sustainable development such as the MDGs. At present no forum exists where such an approach can be developed.
- Addressing the current weaknesses in the international CSR agenda will require increased government engagement in CSR initiatives at the international level and increased government action at the national level. However, at present there is no international forum where governments can discuss their role in promoting CSR at the national and international level other than the low-level OECD process around the Guidelines for Multinational Enterprises.
- As outlined in this report, all of the major international CSR initiatives are at a relatively early stage in their development. While each initiative has its own governance process their relative immaturity means that there is currently a window of opportunity in which governments could – through dialogue with the initiatives and with other actors – influence their development and improve their coherence.
- One of the major factors limiting the impact of all of the key international CSR initiatives at present is a lack of financial resources. An international process would have the potential to address this problem by raising donor awareness of their work and increasing governmental commitment to ensuring their success.
- Without a dedicated process to focus international attention on this issue it is highly unlikely that the WSSD commitments will lead to any significant strengthening of the CSR agenda at the international level.

## 6.2 Process design options

There are a range of process design options that governments would need to consider in creating a follow-up process for the WSSD CSR commitments. These include:

### **Should the process be intergovernmental or multi-stakeholder?**

As argued above, strong governmental participation would be important to enable a new international process to meaningfully address the key weaknesses of the CSR agenda. However, it is clear that CSR is inherently a multi-stakeholder agenda in which many of the key actors are not national governments. It is also important to note that many of the initiatives discussed in this report are not government controlled. This suggests that in order to carry out meaningful deliberations and to have real impact any new international CSR process should seek to be both intergovernmental and multi-stakeholder.

This suggests two further options: either the process could use an integrated multi-stakeholder approach – creating a global policy network involving governments and other stakeholders on an equal footing; or it could be an intergovernmental process with a multi-stakeholder element, in which other stakeholders would participate in an advisory/feed-in capacity.

### **Should the process be global or a ‘coalition of the willing’?**

Global progress on strengthening the CSR agenda is clearly an important goal for the long-term. However, given that governmental views on the importance of promoting CSR vary widely among both developed and developing countries it seems likely that a ‘coalition of the willing’ type process, in which only those governments interested in making progress on the issue would participate, would be the most pragmatic way forward at the present time. That said, it is clear that in order to be effective such a process would need to bring together a critical mass of both developed and developing country governments, as well as other key stakeholders.

### **What model should the process be based on? A commission, a global policy network or a formal or informal policy negotiation process?**

The WSSD CSR follow-up process could be based on one (or more) of the following process models:

***The high-level commission model*** – as used by the World Commission on Dams (see above), and the recent UN commissions and panels on issues such as the private sector and development and the UN and civil society – brings together experts from governments and other bodies in their individual capacity to consider an issue and make recommendations for action. The benefits of the model are that it enables independent, multi-stakeholder consideration of an issue, generally produces clear recommendations and may produce more progressive and/or politically compelling outcomes than more ‘political’ processes. The main weakness of the commission model is that it does not involve a process of discussing or negotiating implementation of its outcomes with governments or other key actors, a failing which can significantly limit the direct impact of commissions on the issue that they have been set up to address.

***Global policy dialogues or networks*** – such as the ongoing Marrakesh Process on Sustainable Production and Consumption or the World Water Forum<sup>77</sup> process – bring governments and others together to discuss key policy issues and agree general statements of principle and/or commitments to action. The benefits of these processes are that they directly engage governments and other actors that have influence over an issue; they are flexible and can be strongly multi-stakeholder; they can play an important role in raising an issue up the international agenda and can enable intergovernmental engagement on an issue outside the UN or other formal intergovernmental bodies or processes (within which there may be insufficient political will to address the issue in question). Their weaknesses include the fact that they often seem to have a relatively

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<sup>77</sup> [www.world.water-forum3.com](http://www.world.water-forum3.com).

limited impact on implementation, possibly because they do not tend to generate measurable commitments, implementation plans or accountability mechanisms.

***Informal negotiation processes*** – such as the Kimberley Process on Conflict Diamonds and the Extractive Industry Transparency Initiative – are government-led, multi-stakeholder processes that negotiate detailed policy approaches that are implemented voluntarily. The strengths of these processes are that they build consensus around an issue, directly catalyse action by governments and other actors, have informal accountability mechanisms in that the processes themselves act as peer-review mechanisms and are capable of expanding their impact over time as more governments can choose to participate in them. Their main shortcoming is that they are voluntary and therefore only have impact in those countries whose governments have the political will to participate. It should be noted that some informal negotiation processes (for example the Kimberley Process) have evolved from a less action-orientated policy dialogue or network.

Given the breadth and complexity of the CSR agenda, the importance of catalysing increased government engagement on the issue, the lack of dialogue and hence the lack of consensus on specific actions that should be taken to strengthen CSR internationally, it seems likely that at present the best model for a WSSD CSR follow-up process would be the global policy network model. That said, it could also be beneficial to use some form of commission or high-level panel either to initiate or to inform a new global policy network, and, over time, the network could evolve into some form of a negotiation process. Whatever model is used, it is clearly vitally important that the process should have a strong focus on identifying specific options for action to strengthen the CSR agenda at the international level, and on developing commitment to and momentum towards the implementation of such options.

### **Options for linking the follow-up process to the Commission on Sustainable Development**

Given the formal responsibility that the CSD has for the WSSD follow-up process at the international level it would clearly be appropriate for any follow-up process for the WSSD CSR commitments to be strongly linked to the CSD. The relative flexibility of the CSD process and its openness to multi-stakeholder processes also make the CSD a natural home for the sort of process outlined above. There are a number of different strategies that could be used to link the WSSD CSR follow-up process with the CSD, including the following:

- Negotiating the inclusion of CSR as an issue in the ongoing twelve year programme of work. This could be difficult in the near term as CSR remains a controversial issue and its inclusion in the programme of work could be blocked by some countries.
- Initiating a multi-stakeholder dialogue on CSR as a parallel activity to the formal CSD process, similar to the new Partnership Fair activities.<sup>78</sup> This is an interesting option but could be limited in its impact unless it was successful in attracting high-level and broad-based government participation (which could be difficult in the CSD context where many developing country delegations are already overstretched by dealing with formal negotiations) and key stakeholders from the private sector and international CSR initiatives (who have not in the past flocked in large numbers to CSD meetings).
- Linking a new international policy dialogue on CSR to the ongoing Marrakesh Process on Sustainable Production and Consumption. This has been suggested as an option by some governments, and it is clear that there are some overlaps between the Marrakesh and CSR agendas. However, other stakeholders have argued that the sustainable production and consumption process is not an appropriate forum given its emphasis on environmental issues, as a CSR process would need to look at a much broader range of issues including human rights, corruption, poverty alleviation, etc.
- Initiating a new CSD-linked international policy dialogue on CSR similar to the Marrakesh Process on Sustainable Production and Consumption. This would give interested governments the freedom to design a process to 'fit' the issue, would allow for a 'coalition of the willing' approach; would be more likely to attract representatives from the private sector and international CSR initiatives; and could in time build consensus towards the inclusion of CSR on the formal CSD agenda.

### **What relationship should the process have to existing international CSR initiatives?**

If the starting assumption is that the WSSD CSR commitments should be implemented by strengthening existing initiatives such as those discussed in Section Five above, it is clearly important that there are relatively strong linkages between the WSSD CSR follow-up process and the initiatives in question. Each of these initiatives (e.g. the Global Compact, the OECD Guidelines on MNEs, the Global Reporting Initiative) has its own governance processes and could not therefore be directly controlled by a WSSD follow-up process. However, the follow-up process could consider their activities and make suggestions as to how the individual initiatives could be strengthened. It would also give representatives and/or participants of the initiatives the opportunity to work together and with governments to increase coherence between the initiatives and consider how they relate to one another at both a strategic and an operational level. The process would also give governments the opportunity to consider what individual or collective action they could take to strengthen the initiatives. This suggests that both representatives and participants of the key international CSR initiatives should be invited to participate actively in the WSSD CSR follow-up process, and that a process in which they are on an equal footing with governments (rather than just in an advisory capacity) would be most appropriate.

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<sup>78</sup> [www.un.org/esa/sustdev/csd/csd12/CSD12\\_partnerships\\_fair.htm](http://www.un.org/esa/sustdev/csd/csd12/CSD12_partnerships_fair.htm).

## 6.3 Initiating an international CSR process

There are some practical questions that would need to be addressed by governments or other stakeholders in initiating a follow-up process for the WSSD CSR commitments. These include:

### **Who could initiate a process, and how?**

The process could be initiated by an individual government, by a small group of governments or by a small group of governments in partnership with relevant international governmental organizations (e.g. the World Bank, the IFC, the UN Department of Economic and Social Affairs, key international initiatives (the UN Global Compact, the GRI, etc.) and civil society and business groups. Outline agreement on objectives, participation and process could be developed by this leadership group, after which other participants could be invited to join.

### **How should its objectives be developed?**

It would be important for the process to have clearly defined objectives that could be supported by a wide range of governments and other actors. Possible objectives for an international process are outlined in Section 5.1 above. Developing objectives among a relatively small group of governments and other organizations committed to making progress in this area would be desirable as there is a risk that a more broadly participative objective-setting process would lead to a lowest common denominator dynamic in which only relatively weak or ill-defined objectives could be agreed.

### **What elements could be included in the follow-up process?**

- High-level (i.e. ministerial/head of organization-level) meetings could be used to launch the process, formally endorse its objectives and areas of work, review progress and make commitments to action. High-level participation in the process would be important to ensure that it had sufficient political momentum and to increase the likelihood that it would lead to policy change at the national level.
- Expert/official-level multi-stakeholder working groups could be used for detailed consideration of issues and development of options for action to strengthen CSR.
- Specific research projects could be used to support the work done by the high-level element and working groups.
- Some form of secretariat would probably be needed to coordinate meetings. Depending on the nature of the relationship between the process and the CSD, this could be provided by either the CSD or by a host government.

### **How could participation be decided?**

Once a core group of governments (and other potential partners – see above) had agreed overall objectives, the process could be made open to all other governments willing to work towards the agreed objectives and to all intergovernmental organizations with an interest in the issue. Governmental participation could be left open over time. The participation of other stakeholders would be more difficult to decide, as there are so many potential stakeholders and numbers would need to be limited in order to have a workable, meaningful process. One option would be to invite a range of different stakeholder groups to nominate a number of individual members of their groups to participate (e.g. international business groups, NGOs, trade unions) and to stipulate that participation should be balanced geographically. Representation from key international CSR initiatives could include representatives both from secretariats and, where applicable, from member or participant organizations (although the latter would clearly intersect with the more general stakeholder groups).

## 6.4 What issues should a follow-up process for the WSSD CSR commitments address?

In order to make a meaningful contribution to the complex international CSR agenda a follow-up process would need to identify some clear themes on which to focus. The following table uses the potential objectives for the WSSD CSR follow-up process outlined in Section 5.1 above as the starting point for making some suggestions about crosscutting themes that could be used to structure the process. It also identifies some of the relevant initiatives and activities that could be considered under each theme. The value of this crosscutting approach is that it would enable a strategic engagement between governments and international CSR initiatives and other stakeholders that could: explore issues that are common to different initiatives; identify best practices for addressing these issues; look for potential synergies between different initiatives and develop proposals for exploiting these synergies and increasing coherence and efficiency of the CSR agenda overall. Starting from the point of crosscutting themes or objectives should also enable governments and other stakeholders to develop an objective assessment of the performance of current initiatives and to identify options for improving this performance.

OBJECTIVE/THEME	RELEVANT INITIATIVES AND ACTIVITIES
<b>Working to ensure that businesses uphold global norms</b>	
Setting or interpreting international norms for the private sector	ILO Norms; OECD Guidelines for MNEs; UN Global Compact; Draft UN Norms on Human Rights; national-level legislation and regulation
Awareness raising, capacity-building and tools for encouraging and enabling adherence to norms	OECD Guideline National Contact Points; UN Global Compact and its local networks; Global Reporting Initiative; Planned ISO Standard; IFC Corporate Citizenship Facility; other voluntary initiatives at international and national levels
Incentivizing and monitoring compliance	National-level activities to incentivize adherence to the OECD Guidelines (e.g. through export credit agency requirements); assurance standards such as the AA1000; Global Compact Integrity Measures
Enabling communities to get redress when businesses flout norms	OECD Guideline National Contact Points system; foreign direct liability cases and legislation
Supporting improvements of public governance of the private sector in developing countries	World Bank CSR Practice; potential role for the Global Compact networks; bilateral and multilateral donor initiatives; regional initiatives such as NEPAD
Multi-stakeholder initiatives aimed at tackling specific CSR problems	Extractive Industries Transparency Initiative; Kimberley Process on Conflict Diamonds; potential for similar multi-stakeholder initiatives on other issues
<b>Engaging business in the delivery of international objectives for sustainable development</b>	
Engaging businesses in the delivery of the MDGs and ensuring this work is coordinated with international and national strategies	UNDP Growing Sustainable Business Initiative; UN Global Compact and its local networks; multi-stakeholder initiatives such as the Global Alliance on Vaccines and Immunization etc.
Enabling developing country governments to engage businesses in the delivery of national level objectives for poverty reduction and sustainable development	World Bank CSR Practice; UNDP Growing Sustainable Business Initiative; other bilateral and multilateral donor initiatives
Engaging businesses in the delivery of WSSD outcomes	WSSD 'type 2' partnerships

## **Section Seven: Conclusions**

At present there is no international follow-up process to the commitments to strengthening corporate social responsibility that governments made at the World Summit on Sustainable Development. In fact the only formal or informal intergovernmental process on CSR that currently exists is the low-level process around the OECD Guidelines on Multinational Enterprises. At the same time government involvement and/or investment in individual international CSR initiatives is currently minimal – in fact many stakeholders would argue that governments in general are notable for their absence from the CSR agenda at the international level.

However, as this report shows, there are strong arguments for increased governmental involvement in promoting CSR at national and international levels. Many of these arguments relate to the effectiveness of CSR initiatives, which are unlikely to have much impact on ensuring that the private sector consistently upholds international norms on issues such as human rights, corruption and environmental protection, or on enabling the private sector to contribute to the delivery of international objectives for sustainable development, without significant governmental involvement. However, there are also good arguments for governments to get more involved in CSR for the public policy benefits that such involvement will bring, which range from increased peace, security and trust in government–business relations to the ability to harness the powerful resources of the private sector for delivering public policy goals.

The report also shows that existing international CSR initiatives have huge potential to tackle the challenges at the heart of the CSR agenda – namely the weak public sector governance of the private sector in many developing countries (otherwise known as the ‘governance gap’) and the need to channel private sector resources into the delivery of the ambitious and difficult targets that the international community has set itself for sustainable development and poverty eradication. While these initiatives are all at an early stage in their development they appear to be ripe with potential. However, they are unlikely to blossom unless governments start investing seriously in them – not just financially, but through supportive policy measures and high-level political commitment.

We hope that this report will encourage and enable governments from developed and developing countries to think about initiating a follow-up process for the WSSD commitments. It seems clear that such a process could add enormous value to the rich, complex and yet embryonic world of international CSR. It would enable governments to work with other stakeholders to explore what roles they can play in strengthening CSR at national and international levels; enable different international CSR initiatives to develop a strategic vision of how they interrelate and help them explore potential synergies and address overlaps and gaps; and finally it could add coherence, direction and momentum to the international community’s progress on this vitally important issue. We look forward to working with governments, businesses and the many other stakeholders that are central to this issue in exploring this idea further.

## Annex 1: Project workshop participants

The following individuals attended the international workshop on Following up the WSSD Commitments on CSR held at Chatham House in April 2004. The outcomes of this meeting were among the main inputs to this report and we are very grateful to the workshop participants for sharing their knowledge and insight with us. However, the contents of the report are the sole responsibility of its author and do not necessarily represent the views of the workshop participants.

Name	Surname	Organization
Ross	Andrews	Department for Environment, Food and Rural Affairs (UK)
Craig	Bennett	Friends of the Earth
Edward	Bickham	Anglo American
Duncan	Brack	Royal Institute of International Affairs
Marcia	Brewster	United Nations Department of Economic and Social Affairs
C.P.	Burdess	Accenture
Fanny	Calder	Royal Institute of International Affairs
Phil	Callaghan	Department for Environment, Food and Rural Affairs (UK)
Sofia	Calltorp	Swedish Foreign Ministry
Lawrence	Cockcroft	Transparency International
Malaika	Culverwell	Department for International Development (UK)
Miguel	Doria	United Nations Department of Economic and Social Affairs
Mike	Ellis	Department for International Development (UK)
Tricia	Feeney	Rights Accountability in Development
Jim	Frehs	Natural Resources Canada
Kathryn	Gordon	OECD
John	Hobbs	Department for International Development (UK)
Paul	Hohnen	Global Reporting Initiative
Elenore	Kanter	Swedish Foreign Ministry
Lisa	Lort-Phillips	Save the Children UK
Aurore	Maillet	European Commission, International Affairs, Trade and Environment
Blessing	Manale	Ministry of Environment (South Africa)
Chris	Marsden	Amnesty International
Michael	Massey	Department of Trade and Industry (UK)
Malini	Mehra	Centre for Social Markets
Paul	Mitchell	International Council of Mining and Minerals
Jonas	Moberg	International Business Leaders' Forum (IBLF)
Elias	Mpondela	The Partnership Forum (Forum for Business Leaders and Social Partners)
Nkosie	Ndlovu	The African Institute of Corporate Citizenship
Mark	Pearson	Natural Resources Canada
Dick	Robson	European Chemical Industry Council
Tom	Rotherham	International Institute for Sustainable Development
Richard	Sandbrook	UNDP Growing Sustainable Business Initiative
Stephen	Serpell	Citizenship CSR Consultancy
Brian	Shaad	CORE Coalition
Janet	Stephenson	Natural Resources Canada
Helen	Sullivan	Shell International
Halina	Ward	International Institute for Environment and Development
Michael	Warner	Overseas Development Institute / Business Partners for Development
Ricardo	Young	Instituto Ethos, Brazil

## Annex 2: Major international initiatives in corporate responsibility

### UNITED NATIONS

Initiative	Lead organization(s)	Description and objective
<p><b>The Universal Declaration of Human Rights (1948)</b>  <a href="http://www.un.org/Overview/rights.html">www.un.org/Overview/rights.html</a></p>	<p><b>General Assembly of the United Nations</b></p>	<ul style="list-style-type: none"> <li>The Declaration has since served as the starting point for many emerging international human rights standards as standards adopted by both private and public sector entities with transnational operations.</li> <li>The Declaration states that ‘every individual and organ of society’ has the responsibility to strive to ‘promote these rights and freedoms’ and ‘by progressive measures, national and international, to secure their universal and recognition and observance’. As important ‘organs’ of society, businesses have a responsibility to promote world respect of human rights. Human rights concerns of particular interest for businesses and their employees include labour standards, management of security forces, and indigenous people’s rights.</li> </ul>
<p><b>27 Principles of the Rio Declaration (1992)</b>  <a href="http://www.worldsummit2002.org/index.htm?http://www.worldsummit2002.org/guide/riodeclar.htm">www.worldsummit2002.org/index.htm?http://www.worldsummit2002.org/guide/riodeclar.htm</a></p>	<p><b>United Nations Conference on Environment and Development (UNCED)</b></p>	<ul style="list-style-type: none"> <li>A set of twenty-seven principles on the environment and development, designed to promote international cooperation for sustainable development. They define the rights and responsibilities of nations as they pursue human development and well-being.</li> <li>Based on the notion of sustainable development, the Declaration defines a number of basic principles (e.g. precautionary principles, polluter pays principle, the right to development). The meetings at Rio de Janeiro also produced other significant documents: Agenda 21 provides guidance for governments, business and individuals on how to contribute to making development socially, economically and environmentally sustainable.</li> <li>The UN framework Convention on Climate Change, the Convention on Biodiversity and a statement of principles on sustainable management were also signed by many governments during the Rio meetings.</li> </ul>
<p><b>UNCTC Voluntary Code of Conduct for Transnational Corporations (1977)</b>  <a href="http://unctc.unctad.org/html/UNCTCEvolution.htm">http://unctc.unctad.org/html/UNCTCEvolution.htm</a></p>	<p><b>United Nations Centre to Transnational Corporations (UNCTC)</b></p>	<ul style="list-style-type: none"> <li>In 1977, the UNCTC began negotiations to establish a voluntary Draft Code of Conduct on Transnational Corporations. The code, which included environmental objectives, delineated both the rights and the responsibilities of transnational corporations. But the UNCTC was eliminated in 1992 under pressure from the United States. The code was never finalized.</li> <li>The Centre has since been disbanded and preparation of the code has been abandoned.</li> </ul>
<p><b>UN Convention Against Corruption (2001)</b>  <a href="http://www.transparency.org/building_coalitions/intern.institutions/un/un_convention.html">www.transparency.org/building_coalitions/intern.institutions/un/un_convention.html</a></p>	<p><b>General Assembly of the United Nations</b></p>	<ul style="list-style-type: none"> <li>In January 2001, the UN General Assembly, recognizing the desirability of an effective international legal instrument against corruption, decided to begin the elaboration of such an instrument and to establish an ad hoc committee for the negotiation, pursuant to the adoption of the terms of reference for the negotiation.</li> <li>The terms of reference call for the convention to be developed through a comprehensive and multidisciplinary approach and importantly identifies some ‘indicative elements’: i.e. definitions; scope; protection of sovereignty; preventive measures; criminalization; sanctions and remedies; confiscation and seizure; jurisdiction; liability of legal persons.</li> </ul>

		<p>protection of witnesses and victims; promoting and strengthening international cooperation; preventing and controlling the transfer of funds of illicit origin derived from acts of corruption, including the laundering of funds, and returning such funds; technical assistance; collection, exchange and analysis of information; and mechanisms for monitoring and promoting implementation.</p> <ul style="list-style-type: none"> <li>• The Ad Hoc Committee concluded the drafting of the UN Convention against Corruption in October 2003, open for signature on 9 December 2003.</li> </ul>
<p><b>United Nations Global Compact (2000)</b>  <a href="http://www.unglobalcompact.org/Portal/">www.unglobalcompact.org/ Portal/</a></p>	<p><b>A direct initiative of the Secretary General of the UN (Kofi Annan)</b></p>	<ul style="list-style-type: none"> <li>• The Global Compact is a voluntary corporate citizenship initiative with two objectives: <ol style="list-style-type: none"> <li>1. Mainstream the Nine Principles in business activities around the world; and</li> <li>2. Catalyse actions in support of UN goals.</li> </ol> </li> <li>• The Nine Principles (which became ten principles in June 2004) draw upon the areas of human rights, labour and environment: <ol style="list-style-type: none"> <li>1. Businesses should support and respect the protection of internationally proclaimed human rights within their sphere of influence.</li> <li>2. Businesses should make sure that they are not complicit in human rights abuses.</li> <li>3. Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.</li> <li>4. Business should uphold the elimination of all forms of forced and compulsory labour.</li> <li>5. Business should uphold the effective abolition of child labour.</li> <li>6. Business should eliminate discrimination in respect of employment and occupation.</li> <li>7. Businesses should support a precautionary approach to environmental challenges.</li> <li>8. Business should undertake initiatives to promote greater environmental responsibility.</li> <li>9. Business should encourage the development and diffusion of environmentally friendly technologies; and</li> <li>10. Business should work against corruption in all its forms, including extortion and bribery.</li> </ol> </li> <li>• Global Compact operates through collective action, facilitation and engagement through several mechanisms, e.g. dialogues, learning, local structures and projects.</li> <li>• The Global Compact is a network, a truly global political forum, and an authoritative convener and facilitator. At the core are the Global Compact Office and five UN agencies: the Office of the High Commissioner for Human Rights; the United Nations Environment Programme; the International Labour Organization; the United Nations Development Programme and the United Nations Industrial Development Organization.</li> </ul>
<p><b>UNEP Montevideo Programme (2001)</b>  <a href="http://www.unep.org/Documents/Default.asp?DocumentID=222&amp;ArticleID=2990">www.unep.org/Documents/Default.asp?DocumentID=222&amp;ArticleID=2990</a></p>	<p><b>United Nations Environment Programme (UNEP)</b></p>	<ul style="list-style-type: none"> <li>• In accordance with UNEP's role in the promotion and progressive development of international environmental law, the strategic guidance document known as the Montevideo Programme has been released.</li> <li>• The Programme is designed to examine current and future directions in the development of international environmental law, addressing such issues as implementation, compliance and enforcement, capacity-building, prevention and mitigation of environmental damage, avoidance and settlement of international environmental disputes, strengthening</li> </ul>

		and development of international environmental law, harmonization and coordination of effort, public participation and information technology.
<p><b>Global Reporting Initiative (1999)</b>  <a href="http://www.globalreporting.org/about/brief.asp">www.globalreporting.org/about/brief.asp</a></p>	<p><b>Started by the Coalition of Environmentally Responsible Economies (CERES)</b></p> <p><b>An official collaborating centre of the United Nations Environment Programme (UNEP) and works in co-operation with Global Compact</b></p>	<ul style="list-style-type: none"> <li>• An international reporting standard rather than a performance standard.</li> <li>• A permanent, independent, international body with a multi-stakeholder governance structure. Incorporates the active participation of corporations, non-governmental organizations, international organisations, United Nations agencies, consultants, accountancy organizations, business associations, universities and other stakeholders from around the world.</li> <li>• It aims to support global progress towards sustainable development. Intends the Sustainability Reporting Guidelines to become the generally accepted, broadly adopted worldwide framework for preparing, communicating and requesting information about corporate performance.</li> <li>• Its mission is to promote international harmonization in the reporting of relevant and credible corporate environmental, social and economic performance information to enhance responsible decision-making. The GRI pursues this mission through a multi-stakeholder process of open dialogue and collaboration in the design and implementation of widely applicable sustainability reporting guidelines.</li> </ul>
<p><b>UNDP Division for Business Partnerships (1999)</b>  <a href="http://www.undp.org/business/global.html">www.undp.org/business/global.html</a></p>	<p><b>United Nations Development Programme (UNDP)</b></p>	<ul style="list-style-type: none"> <li>• At the global level UNDP is coordinating its work with the private sector through its Division for Business Partnerships. This Division is responsible for coordinating UNDP's efforts to include the private sector in its development efforts around the world. Among other things, this includes: <ul style="list-style-type: none"> <li>• Establishing global coalitions of private sector companies and other stakeholders in order to advance specific development issues where the interests of the development community overlap with those of business. In particular, various global issues (e.g. accountability, anti-corruption and human rights) are emphasized. Carefully selected demonstration projects will be undertaken for advocacy and upstream policy impact.</li> <li>• Facilitating local dialogues between business and other development stakeholders, along with the creation of concrete stakeholder partnerships, focusing primarily on building national capabilities that will allow poor people wider access to opportunities and choices.</li> <li>• Providing advice to UNDP field offices and compiling and disseminating useful experiences and lessons learned from various UNDP business partnership activities.</li> </ul> </li> <li>• In addition to the global activities and efforts of the Division for Business Partnerships, UNDP is also involved in other partnerships with the business community at a global level. These include: <ol style="list-style-type: none"> <li>1. The Global Compact,</li> <li>2. NetAid,</li> <li>3. Information Technology for Development,</li> <li>4. Energy and Environment,</li> <li>5. United Nations Volunteers, and</li> <li>6. Public-Private Partnerships Programme.</li> </ol> </li> </ul>

<p><b>Engaging Stakeholder and Global Reporters Programme (1995)</b>  <a href="http://www.unepfi.org/outreach/reporting/sustainability-introduction.htm">www.unepfi.org/outreach/reporting/sustainability-introduction.htm</a></p>	<p><b>UNEP Division for Technology, Industry and Economics</b>  <b>SustainAbility Ltd</b></p>	<ul style="list-style-type: none"> <li>• The Engaging Stakeholders and Global Reporters Programme is a joint project between SustainAbility Ltd and the UNEP Division for Technology, Industry and Economics.</li> <li>• The programme aims to assist corporate leaders to better understand their stakeholders' needs for communication and accountability, to build trust and demonstrate accountability, and to understand the wider implications of being accountable for their own business. The programme also evaluates progress made by corporations in using the Global Reporting Initiative (GRI) Guidelines to develop and improve their sustainability reporting.</li> <li>• The programme aims to increase the number of companies producing sustainability reports, promotes quality and comprehensive reporting with stakeholder involvement, and promotes greater comparability of reporting within different industry sectors.</li> <li>• The most recent global benchmark survey of corporate sustainability reporting was published by UNEP and SustainAbility with Standard &amp; Poors under the title 'Risk &amp; Opportunity' in November 2004. For further information see <a href="http://www.unepfi.org/outreach/reporting/reporting.htm">www.unepfi.org/outreach/reporting/reporting.htm</a></li> </ul>
<p><b>UNEP Finance Initiative (2003)</b>  <a href="http://www.unepfi.org/">www.unepfi.org/</a></p>	<p><b>UNEP Division for Technology, Industry and Economics</b></p>	<ul style="list-style-type: none"> <li>• The UNEP Finance Initiative is the result of the merger of the UNEP Financial Institutions Initiative and the UN Insurance Industry Initiative that was launched at the time of the 1992 Rio Earth Summit (UNCED).</li> <li>• Set up by UNEP with banks and insurance companies, UNEP FI aims to identify, promote and realize the adoption of environmental and sustainability practice within the financial community.</li> <li>• The Initiative holds regional meetings, engages with regional financial sector trade associations, produces its own research and training programmes, and promotes educational, research and information sharing to support its strategy.</li> <li>• A core part of this Initiative is to encourage companies to endorse the UNEP Statements by Financial Institutions and the Insurance Industry on Environment and Sustainable Development. Currently over 270 financial institutions from 100 countries have endorsed the two statements.</li> <li>• The Initiative is supporting the UN Global Compact by engaging mainstream financial institutions in a commitment to responsible investment, following up on reports published at the June 2004 Global Compact Leaders' Summit.</li> </ul>
<p><b>Tour Operatives Initiative for Sustainable Development (2000)</b>  <a href="http://www.toinitiative.org">www.toinitiative.org</a></p>	<p><b>UNEP Division for Technology, Industry and Economics (DTIE)</b>  <b>United Nations Educational, Scientific and Cultural Organization (UNESCO)</b>  <b>The World Tourism Organization (WTO)</b></p>	<ul style="list-style-type: none"> <li>• The Tour Operatives Initiative (TOI) was developed by UNEP's DTIE, UNESCO and the WTO in 2000 to integrate sustainable business practices into the tourism industry and to develop tools to support this effort.</li> <li>• A voluntary initiative, members are asked to consider the environmental, social and economic impacts of their operations throughout the process of developing their products. Members are asked to consider their choice of suppliers, their internal operations, relations with host country stakeholders, and raising awareness of responsible travel with the customers.</li> <li>• In 2002, a set of indicators of performance were developed. Members are encouraged to produce sustainability reports using the sector supplement to the GRI Guidelines that was developed through the UNEP TOI.</li> <li>• Currently 22 tour operators have signed the 'Statement of Commitment', including Thomas Cook, TUI and First Choice. New activities undertaken by the initiative include examining the integration of corporate environmental and social responsibility into tourism supply chain and destination management.</li> </ul>

	<b>The Centre for Environmental Leadership in Business at Conservation International</b>	
<b>UN Guidelines for Consumer Protection (1985)</b> <a href="http://www.uneptie.org/pc/sustain/policies/consumer-protection.htm">www.uneptie.org/pc/sustain/policies/consumer-protection.htm</a>	<b>UNEP Division for Technology, Industry and Economics</b>	<ul style="list-style-type: none"> <li>• Adopted in 1985 by consensus at the United Nations General Assembly, the Guidelines are intended for government use in the formulation or strengthening of consumer protection policies and legislation.</li> <li>• The original Guidelines address consumer safety and consumer redress, and ask governments to facilitate equal production and distribution patterns and promote ethical business practices. They support the establishment of independent consumer groups, international cooperation of consumer groups and assistance of countries to curb business practices.</li> <li>• The Guidelines were revised in 1999 to address sustainable consumption, including the stipulation that governments encourage the development of products that consider the full life-cycle cost, and that are energy and resource efficient.</li> <li>• A progress report on the adoption of the revised Guidelines, published in 2004 and based on a 2002 survey, found 30% of OECD and 45% of non-OECD members were unaware of the existence of the Guidelines.</li> <li>• UNEP supports activities in this area as part of its role in follow-up activities on sustainable consumption and production as called for in the WSSD Plan of Implementation and Declaration. UNEP has hosted various regional consultations on this theme and held a Global Compact Policy Dialogue on sustainable consumption in 2004.</li> </ul>
<b>Global e-Sustainability Initiative (2001)</b> <a href="http://www.gesi.org">www.gesi.org</a>	<b>UNEP Division for Technology, Industry and Economics</b>	<ul style="list-style-type: none"> <li>• The Initiative was launched by a number of Information and Communications Technology (ICT) operators and service providers with the support of UNEP DTIE and the International Telecommunication Union.</li> <li>• The Initiative aims to promote the improvement of sustainability performance among the signatory companies, and to increase the awareness of the contribution of the sector to sustainable development.</li> <li>• Currently eight multinational telecommunication operators and service providers are signatory companies: Bell Canada, British Telecommunications plc, Deutsche Telekom AG, Ericsson, European Telecommunication Network Operator Association (ETNO), MM02, Telefónica SA and Vodafone plc.</li> </ul>
<b>Mobility Forum</b> <a href="http://www.uneptie.org/energy/act/tp/index.htm">www.uneptie.org/energy/act/tp/index.htm</a>	<b>UNEP Division for Technology, Industry and Economics</b>	<ul style="list-style-type: none"> <li>• The UNEP Mobility Forum is the result of a meeting convened in May 2002 by UNEP with representatives of BMW, DaimlerChrysler, Fiat, Ford Motor Company, General Motors Corporation, Honda Motor, Hyundai, PSA Peugeot Citroën, Toyota Motor Corporation, Volkswagen and AB Volvo. Since then, the group has been joined by Renault as well as Michelin and Bosch.</li> <li>• Major car manufacturers and other companies in the Forum pursue a joint approach in areas such as global standard reporting, global technical standards for vehicles, dialogue with stakeholders, development of infrastructure for renewable and traditional but clean fuels, Kyoto mechanisms, technology transfer and the needs of developing countries (especially in mega-cities).</li> </ul>

		<ul style="list-style-type: none"> <li>In addition to developing a sector supplement to the GRI Guidelines for sustainability reporting, members of the have been funding a Greener Driving campaign to promote easy- to-follow measures that have the potential to re consumption and thereby CO2 emissions from vehicle use by some 25% as compared to ‘normal’ driving.</li> </ul>
<p><b>Advertising and Communication Initiative (or Forum) (1999)</b>  <a href="http://www.uneptie.org/pc/sustain/advertising/advertising.htm">www.uneptie.org/pc/sustain/advertising/advertising.htm</a></p>	<p><b>UNEP Division for Technology, Industry and Economics</b></p>	<ul style="list-style-type: none"> <li>The Initiative originated from talks at Rio+5 Conference, with the first expert talks held in 1999.</li> <li>The aim of the Initiative is to encourage increased and improved communication on sustainability and environm issues. Targeted at the advertising sector, the goal is to raise awareness on sustainable consumption and promote sustainable consumption patterns.</li> <li>Currently the Forum is also supporting the compilation of good practice examples of sustainable advertising in th up to the Global Compact Policy Dialogue on Sustainable Consumption: Marketing and Communications. Futur activities include: identifying brand champions for sustainability and the increase of funding for large-scale camp sustainability.</li> </ul>
<p><b>The World Commission on the Social Dimension of Globalization (2002)</b>  <a href="http://www.ilo.org/public/english/wcsdg/policy/index.htm">www.ilo.org/public/english/wcsdg/policy/index.htm</a></p>	<p><b>International Labour Organization (ILO)</b></p>	<ul style="list-style-type: none"> <li>The Commission is an independent body. It was initiated to respond to the needs of people as they cope with the unprecedented changes that globalization has brought to their lives, their families and the societies in which they</li> <li>Through a series of consultations with important actors in the globalization process the Commission looks at the facets of globalization, the diversity of public perceptions of the process, and its implications for economic and s progress.</li> <li>It searches for innovative ways of combining economic, social and environmental objectives, based on worldwide expertise.</li> <li>It is examining the following topics: <ol style="list-style-type: none"> <li>Values and goals in the context of globalization,</li> <li>Making the benefits of globalization more inclusive,</li> <li>Policies for inclusion at the national level,</li> <li>Local markets and policies in a global context,</li> <li>Cross-border networks of production and technology to promote decent work, growth and development,</li> <li>International migration and the global policy agenda,</li> <li>International governance for inclusive globalization, and</li> <li>Cross-cutting themes.</li> </ol> </li> <li>The Commission publicized its recommendations in the report ‘A Fair Globalization: Creating Opportunities for February 2004.</li> </ul>
<p><b>ILO Declaration of Fundamental Principles and Rights of Work (1998)</b>  <a href="http://www.ilo.org/public/english/standards/decl/declaration/text/">www.ilo.org/public/english/standards/decl/declaration/text/</a></p>	<p><b>International Labour Organization (ILO)</b></p>	<ul style="list-style-type: none"> <li>Based on the core labour standards outlined in the ILO Conventions 87 and 98 (freedom of association and the e recognition of the right to collective bargaining), Conventions 29 and 105 (elimination of all forms of forced or compulsory labour), Conventions 138 and 182 (elimination of child labour) and Conventions 100 and 111 (elim discrimination in respect of employment and occupation).</li> <li>The aim of the Declaration is to reconcile the desire to stimulate national efforts to ensure that social progress go</li> </ul>

		<p>hand with economic progress and the need to respect the diversity of circumstances, possibilities and preferences of individual countries.</p> <ul style="list-style-type: none"> <li>• The Declaration is not binding but applies to all ILO states by virtue of their membership in the ILO. It contains a mechanism for annual review of the efforts made by member states that have not yet ratified the core labour standards conventions.</li> <li>• Its ultimate aim is to provide a basis for ILO assistance to member states in establishing these rights in law and in practice to allow for ratification of the conventions.</li> <li>• The Declaration cannot be invoked as the justification for applying economic sanctions against a country. Rather, it can be used alongside offering technical assistance and cooperation, in order to help states to provide these rights. The approach is one of building countries' capacity to have well-functioning labour markets. The Declaration reinforces the application of core labour standards in private voluntary initiatives.</li> </ul>
<p><b>ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977)</b>  <a href="http://www.ilo.org/public/english/standards/norm/sources/mne.htm">www.ilo.org/public/english/standards/norm/sources/mne.htm</a></p>	<p><b>International Labour Organization (ILO)</b></p>	<ul style="list-style-type: none"> <li>• This is a global instrument designed to provide guidelines to governments, employers and workers in areas of employment, training, conditions of work and industrial relations. All core labour standards are covered in the Declaration. As it is a non-binding instrument, its implementation is nevertheless the object of regular reviews and there is a procedure for examining disagreements concerning its application by means of an interpretation of its provisions.</li> </ul>
<p><b>ILO Conventions</b>  <a href="http://www.ilo.org">www.ilo.org</a></p>	<p><b>International Labour Organization (ILO)</b></p>	<ul style="list-style-type: none"> <li>• The ILO Conventions establish norms covering all aspects of working conditions and industrial relations.</li> <li>• Some of the most important cover core labour standards (i.e. basic rights in the workplace). These include freedom of association (no. 87), right to organize and to collective bargaining (no. 98), minimum age (no. 138), freedom from discrimination in employment and occupation (no. 111), freedom from forced labour (nos. 29 and 105), worst forms of child labour (no. 182) and equal remuneration (no. 100).</li> <li>• ILO Conventions are binding on all countries that have ratified them, although not all countries have ratified all of them and not all countries that have ratified them succeed in enforcing them.</li> <li>• The cooperative approach of the ILO, which focuses on providing technical assistance to enable countries to meet their responsibilities, receives strong support from ILO membership, especially from developing countries.</li> </ul>

## ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD)

Initiative	Lead organization(s)	Description and objective
<p><b>OECD Guidelines for Multinational Enterprises (2000)</b> <i>www.oecd.org</i></p>	<p>OECD</p>	<ul style="list-style-type: none"> <li>• A set of voluntary guidelines for promoting appropriate business conduct among multinational companies.</li> <li>• These Guidelines aim to help corporations, labour unions and NGOs meet this challenge by providing a solid framework for responsible corporate conduct. The guidelines cover topics such as disclosure, the environment, combating bribery consumer interests, science and technology, taxation and competition.</li> <li>• Governments adhering to the Guidelines encourage the companies operating within the countries to observe the Guidelines wherever they operate.</li> </ul>
<p><b>OECD Principles for Corporate Governance</b> <i>www.oecd.org</i></p>	<p>OECD</p>	<ul style="list-style-type: none"> <li>• Based on the premise that solid corporate governance is critical to the effective use of corporate capital, the OECD issued a set of Principles for Corporate Governance.</li> <li>• The principles take into account the interests of a wide array of players, focusing on issues such as the rights of shareholders, equitable treatment of shareholders, the role of stakeholders in corporate governance, disclosure and transparency, the responsibility of the board, and ensuring protection of whistleblowers.</li> <li>• The document is intended to be used as a benchmark by governments as they improve their corporate laws and regulations.</li> </ul>
<p><b>OECD Convention on Combating the Bribery of Foreign Public Officials in International Business Transactions (1999)</b> <i>www.oecd.org/topic/0,2686,en_2649_34859_1_1_1_1_37447,00.html</i></p>	<p>OECD</p>	<ul style="list-style-type: none"> <li>• The Convention targets the offering side of the bribery transaction. It is essentially an effort to eliminate the 'supply' of bribes to foreign officials, with each country taking responsibility for the activities of its companies and what happens on its own territory.</li> <li>• The Revised Recommendation calls on countries to disallow the deductibility of bribes to foreign public officials. The OECD Fiscal Committee surveys compliance with this instrument and recently reported that 28 of the 30 member states do not allow tax deductibility, and the remaining two states have measures making their way through parliament.</li> <li>• The 1997 Revised Recommendation on Combating Bribery in International Business Transactions also incorporates the proposals of the Recommendation to Combat Corruption in Aid-Funded Procurement which calls on countries to require anti-corruption provisions in bilateral aid-funded procurement.</li> <li>• Finally, the aims of the Convention are reinforced by the 1998 Recommendation on Improving Ethical Conduct in the Public Service, which calls on countries to take action to ensure well-functioning institutions and systems for promoting ethical conduct in the public service, and the work of the Financial Action Task Force on Money Laundering, which is an intergovernmental body whose purpose is the development and promotion of policies to combat money laundering.</li> </ul>

## THE EUROPEAN UNION

Initiative	Lead organization(s)	Description and objective
<p><b>European Commission Green Paper Promoting a European Framework for Corporate Social Responsibility (2001)</b></p> <p><i><a href="http://europa.eu.int/comm/employment_social/soc-dial/csr/csr_index.htm">http://europa.eu.int/comm/employment_social/soc-dial/csr/csr_index.htm</a></i></p>	<p><b>European Commission</b></p>	<ul style="list-style-type: none"> <li>• Explores how the EU could promote CSR at both a European and an international level.</li> <li>• An attempt to promote the CSR agenda as a means of resolution for various social, economic and environmental issues.</li> <li>• Parties were invited to express their view on ‘how to build a partnership for the development of a new framework for the promotion of CSR, taking account of the interest of both business and stakeholders’.</li> <li>• This agenda calls on companies to voluntarily assess and regulate their human resource management, health and safety, environmental impact, and relationship with the community in order to effect a positive change on society at large.</li> <li>• The Commission hopes that this paper will lead to an entirely new framework for the institution of CSR on a global level.</li> <li>• The Green Paper was followed by the publication of the EC's Communication on CSR entitled 'A Business Contribution to Sustainable Development'.</li> </ul>
<p><b>Commission's Recommendation that Member States should require companies to disclose relevant environmental information in their annual financial accounts (2001)</b></p> <p><i><a href="http://www.h.scb.se/mkost/eng_recommendation.pdf">www.h.scb.se/mkost/eng_recommendation.pdf</a></i></p>	<p><b>European Commission</b></p>	<ul style="list-style-type: none"> <li>• This non-binding recommendation outlines how firms can report on their environmental performance, costs, risks and liabilities.</li> </ul>
<p><b>European Parliament Report on the Commission's Green Paper on Promoting a European Framework for Corporate Responsibility (2002)</b></p> <p><i><a href="http://europa.eu.int/comm/employment_social/soc-dial/csr/csr_index.htm">http://europa.eu.int/comm/employment_social/soc-dial/csr/csr_index.htm</a></i></p>	<p><b>European Parliament</b></p>	<ul style="list-style-type: none"> <li>• A resolution promoted by Richard Howitt MEP which calls for social and environmental reporting to be included alongside financial reporting of companies and for the European Commission to put forward a proposal on social and environmental labelling.</li> <li>• The European Commission has stated that it is unlikely to propose mandatory legislation at this stage.</li> </ul>
<p><b>Commission's strategy to promote business contribution to sustainable development (2002)</b></p> <p><i><a href="http://europa.eu.int/comm/employment_social/news/2002/jul/131_en.html">http://europa.eu.int/comm/employment_social/news/2002/jul/131_en.html</a></i></p>	<p><b>European Commission</b></p>	<ul style="list-style-type: none"> <li>• The Commission's strategy includes:             <ol style="list-style-type: none"> <li>1. Setting up an EU multi-stakeholder forum on CSR which aims to achieve a degree of convergence with respect to environmental reporting;</li> <li>2. Establishing a business case for good CSR; and</li> <li>3. Encouraging SMEs to embrace CSR.</li> </ol> </li> </ul>

<p><b>EU Multi-stakeholder Forum (2002)</b>  <a href="http://www.forum.europa.eu.int/irc/empl/csr_eu_multi_stakeholder_forum/info/data/en/csr%20ems%20forum.htm">www.forum.europa.eu.int/irc/empl/csr_eu_multi_stakeholder_forum/info/data/en/csr%20ems%20forum.htm</a></p>	<p><b>European Commission</b></p>	<ul style="list-style-type: none"> <li>• Section 6 of the EU Communication announced the launch of the Multi-Stakeholder Forum.</li> <li>• This was set up by the Commission with the principal objective to promote CSR through raising the level of understanding of CSR, and fostering a dialogue between the business community, trade unions, civil society organizations and other stakeholders. The second objective was to consider the drafting of an agreed set of guiding principles for CSR practices and instruments.</li> <li>• The Forum's mandate was approved at the first meeting held on 16 October 2002. Discussions took place in 2003 and 2004 and conclusions were presented on 29 June 2004.</li> </ul>
<p><b>Council of Europe Criminal Law Convention on Corruption (1999)</b>  <a href="http://conventions.coe.int/Treaty/en/Treaties/Html/173.htm">http://conventions.coe.int/Treaty/en/Treaties/Html/173.htm</a></p>	<p><b>European Union – Group of States against Corruption (GRECO)</b></p>	<ul style="list-style-type: none"> <li>• The Convention’s implementation is monitored by the Group of States against Corruption – ‘GRECO’. States are required to provide for effective and dissuasive sanctions and measures, which can lead to extradition.</li> <li>• Legal entities can also be held liable for offences, and are subject to effective criminal or non-criminal sanctions (including fiscal penalties).</li> <li>• The UK ratified the Convention in 2003.</li> </ul>
<p><b>Council of Europe Civil Law Convention on Corruption</b>  <a href="http://conventions.coe.int/Treaty/en/Treaties/Html/174.htm">http://conventions.coe.int/Treaty/en/Treaties/Html/174.htm</a></p>	<p><b>European Union</b></p>	<ul style="list-style-type: none"> <li>• The Convention seeks to combat corruption by means of civil law measures, requiring member states to criminalize corruption (in both public and private sectors) wherever this is not the case at present. Member states will have to provide in their domestic law for effective remedies for persons who have suffered damage as a result of acts of corruption, including the possibility of obtaining compensation for damage.</li> <li>• The Convention entered into force in November 2003.</li> <li>• The Convention has been signed but not ratified by the UK.</li> </ul>
<p><b>EU Action Plan for Company Law (2000)</b>  <a href="http://europa.eu.int/comm/internal_market/en/company/company/modern/">http://europa.eu.int/comm/internal_market/en/company/company/modern/</a></p>	<p><b>European Commission</b></p>	<ul style="list-style-type: none"> <li>• The Commission was invited by the Competitiveness Council to present a Modern Regulatory Framework for company law in Europe and an action plan including corporate governance.</li> <li>• ‘The main objectives pursued by the Action Plan are: <ol style="list-style-type: none"> <li>1. To strengthen shareholder rights and third party protection, with a proper distinction between categories of companies, and</li> <li>2. To foster efficiency and competitiveness of business, with special attention to some specific cross border issues.’</li> </ol> </li> </ul>

## OTHER GLOBAL INITIATIVES, STANDARDS AND BENCHMARKS

Initiative	Lead organization(s)	Description and objective
<p><b>The Caux Round Table (CRT)</b> (1994) <i>www.cauxroundtable.org</i></p>	<p><b>Established by senior business leaders from Europe, Japan and North America, and based in Caux, Switzerland</b></p>	<ul style="list-style-type: none"> <li>• An aspirational set of recommendations covering many areas of corporate behaviour.</li> <li>• Promotes principled business leadership and the belief that business has a crucial role in identifying and promoting sustainable and equitable solutions to key global issues affecting the physical, social and economic environment.</li> <li>• The CRT has produced 'Principles for Business', a document which seeks to express a worldwide standard for ethical and responsible corporate behaviour for dialogue and action by business and leaders worldwide. The principles include the social impact of company operations on the local community, respect for rules and ethics support for multilateral trade agreements that promote the 'judicious liberation of trade', respect for the environment and 'avoidance of illicit operation', including bribery, money laundering and other corrupt practices.</li> <li>• No formal mechanism for corporate commitment to these principles exists.</li> </ul>
<p><b>The Global Sullivan Principles</b> (1999) <i>http://globalsullivanprinciples.org/principles.htm</i></p>	<p><b>Written by Reverend Leon Sullivan, endorsed by several multinationals</b></p>	<ul style="list-style-type: none"> <li>• An aspirational standard.</li> <li>• The objectives of the Global Sullivan Principles are to support economic, social and political justice by companies where they do business; to support human rights and to encourage equal opportunity at all levels of employment including racial and gender diversity on decision-making committees and boards; to train and advance disadvantaged workers for technical, supervisory and management opportunities; and to encourage greater tolerance and understanding among peoples; thereby helping to improve the quality of life for communities, workers and children with dignity and equality.</li> <li>• Companies endorse the Principles by publicly pledging to integrate them into their operations.</li> <li>• Continuing support requires that companies provide an annual letter to Reverend Sullivan restating the company commitment and outlining progress to date.</li> </ul>
<p><b>Global Framework Agreements</b></p>	<p><b>Negotiated by a trade union – usually an International Trade Secretariat (ITS) within an MNC</b></p>	<ul style="list-style-type: none"> <li>• Global Framework Agreements are agreements negotiated by a trade union organization, usually an International Trade Secretariat (ITS), with an MNC.</li> <li>• They specify minimum labour standards and rights associated with freedom of association and collective bargaining but can vary considerably in terms of their provisions for joint labour-management follow-up procedures and negotiations.</li> <li>• The agreements are increasingly being signed by union federations with major multinationals. By late 2002 there were a total of 20 Framework Agreements involving 20 corporations.</li> </ul>

<p><b>The Keidanren Charter for Good Corporate Behaviour (2002)</b> <i>www.keidanren.or.jp</i></p>	<p><b>Established by Nippon Keidanren – the Japanese Federation</b></p>	<ul style="list-style-type: none"> <li>• A 10-point charter states: ‘Corporations, in addition to being economic entities engaged in the pursuit of profit through fair competition, must be useful to society as a whole.’</li> <li>• Keidanren members agree to follow the spirit of the charter as ‘the criterion of their corporate behaviour’.</li> <li>• The Charter emphasizes roles and responsibilities of corporate executives in an attempt to prevent the recurrence of corporate misconduct.</li> </ul>
<p><b>Asian Pacific Economic Co-operation (APEC) Business Code of Conduct (1999)</b> <i>www.cauxroundtable.org/APECForumBusinessCodeofConduct.html</i></p>	<p><b>APEC</b></p>	<ul style="list-style-type: none"> <li>• An aspirational standard.</li> <li>• APEC is billed as ‘the primary international organization for promoting open trade and economic cooperation among 21 member economies around the Pacific Rim’.</li> <li>• The standard draws significantly on a variety of other internationally recognized codes and standards.</li> <li>• The drafting of the Code was initiated by business leaders from companies operating in APEC countries and is designed to supplement and support companies’ existing codes of conduct. In addition to providing recommendations for specific ‘company action’ on a range of issues, the Code addresses policy recommendations to APEC country governments.</li> </ul>
<p><b>World Economic Forum Statement ‘Global Corporate Leadership Challenge’ (2002)</b> <i>www.bsdglobal.com/issues/sr_wef.asp</i></p>	<p><b>World Economic Forum</b></p>	<ul style="list-style-type: none"> <li>• Members of the World Economic Forum issued a joint statement entitled ‘Global corporate citizenship: the leadership challenge for CEOs and boards’.</li> <li>• The key theme of the document was that corporate social responsibility must become a central component of modern business strategy. The statement calls for corporations to establish a direction, provide leadership, define key issues, effect positive change, and maintain transparency.</li> <li>• The CEOs of 36 major multinational corporations signed the statement.</li> </ul>
<p><b>World Business Council for Sustainable Development – Sustainable Development Reporting Initiative</b> <i>www.wbcsd.org</i></p>	<p><b>World Business Council for Sustainable Development (WBCSD)</b></p>	<ul style="list-style-type: none"> <li>• With its Sustainable Development Reporting Initiative, WBCSD has addressed the inability of companies to report on sustainability issues in a credible, transparent and accountable manner.</li> <li>• The Initiative is partnered closely with GRI, offering criteria from 15 different methodologies and a comparative database in order to give guidance to WBCSD members in their compilation of sustainable development reports and to improve communication between member companies and the financial community.</li> </ul>
<p><b>CERES Principles</b> <i>www.ceres.org/our_work/main.htm</i></p>	<p><b>The Coalition for Environmentally Responsible Economies</b></p>	<ul style="list-style-type: none"> <li>• A set of 10 principles promoting environmentally, socially and financially sound investment policies.</li> <li>• The principles offer guidance and higher standards against which members can assess their resource consumption, waste minimisation, product safety, hazard disclosure, risk assessments, accountability and overall sustainability. Currently, several Fortune 500 companies including General Motors have accepted the CERES Principles.</li> </ul>

<p><b>ICC Business Charter for Sustainable Development (1991)</b>  <a href="http://www.iccwbo.org/home/environment_and_energy/sdcharter/charter/principles/principles.asp">www.iccwbo.org/home/environment_and_energy/sdcharter/charter/principles/principles.asp</a></p>	<p><b>International Chamber of Commerce</b></p>	<ul style="list-style-type: none"> <li>• A voluntary Business Charter for Sustainable Development comprised of 16 principles for environmental management aimed to get a wide range of corporations to commit to improving their environmental performance.</li> <li>• The Charter, which has been adopted by over 2,300 companies, calls for education, research, precautionary practices, full reporting, and changes in technology and management strategy in order to bring about the desired effects.</li> </ul>
<p><b>The GoodCorporation Accreditation Scheme (2001)</b>  <a href="http://www.bsdglobal.com/tools/principles_goodcorp.asp">www.bsdglobal.com/tools/principles_goodcorp.asp</a></p>	<p><b>Members of the GoodCorporation</b></p>	<ul style="list-style-type: none"> <li>• The GoodCorporation accreditation scheme is designed to provide a means for corporations to develop ethical and responsible management practices.</li> <li>• The GoodCorporation charter calls for 21 commitments from member companies and looks at CSR in the context of all an organization's impacts and relationships. Companies apply and pay to be assessed by independent auditors on five specific areas: employees, customers, suppliers, community and environment, and shareholders and financiers.</li> </ul>
<p><b>ISO</b>  <a href="http://www.iso.ch/iso/en/ISOOnline_openerpage">www.iso.ch/iso/en/ISOOnline_openerpage</a></p>	<p><b>The International Organization for Standardization (ISO)</b></p>	<ul style="list-style-type: none"> <li>• ISO is an NGO created to promote the development of global standardization in order to facilitate the international exchange of goods and services and develop intellectual, scientific, technological and economic cooperation.</li> <li>• Their energy efficiency standards are documented agreements containing technical specifications to be used consistently as guidelines rules, or definitions, to ensure that materials, products, processes and services are held to a uniform standard of efficiency. These standards are a useful basis for creating environmental law or policy.</li> </ul>
<p><b>Proposed framework for ISO standard on Social Responsibility (2001)</b>  <a href="http://www.bsdglobal.com/issues/csr_standard.asp">www.bsdglobal.com/issues/csr_standard.asp</a></p>	<p><b>The International Organization for Standardization (ISO)</b></p>	<ul style="list-style-type: none"> <li>• In 2001 ISO proposed the idea of a universally accepted standard for social responsibility.</li> <li>• Members of the ISO Advisory Group on Social Responsibility include the ILO, Global Compact, WWF, GRI, the International Confederation of Free Trade Unions, Siemens and Motorola.</li> <li>• The Advisory Group has recommended the drafting of a guidance document and not a specification document against which conformity can be assessed. Among its recommendations, the Group recommended that ISO should proceed in this area only if a number of preconditions can be met, including the need to review ISO's processes to adjust them as needed to ensure participation by a fuller range of interested parties. A further recommendation was that a new technical committee should be established for any ISO work in this field.</li> </ul>
<p><b>AA1000 Assurance Module (1999)</b>  <a href="http://www.accountability.org.uk/aa1000">www.accountability.org.uk/aa1000</a></p>	<p><b>AccountAbility</b></p>	<ul style="list-style-type: none"> <li>• The AA1000 series addresses the need for more credible reporting and corporate accountability.</li> <li>• The module is designed to engage a wide array of stakeholders, and calls for the integration of stakeholder dialogue processes into daily corporate activities and generation of effective indicators, targets and reporting systems. Through planning, accounting, auditing, and reporting, the AA1000 Assurance Module attempts to facilitate the quest for sustainable development.</li> </ul>

<p><b>SustainAbility Triple Bottom Line (2002)</b>  <a href="http://www.sustainability.com/philosophy/triple-bottom/tbl-intro.asp">www.sustainability.com/philosophy/triple-bottom/tbl-intro.asp</a></p>	<p><b>SustainAbility</b></p>	<ul style="list-style-type: none"> <li>• The concept of the Triple Bottom Line, as coined by SustainAbility, gets corporations to think not just in terms of economic value, but on environmental and social values as well.</li> <li>• The three components represent society, the economy and the environment, and the term is used as a framework for measuring and reporting corporate performance regarding these parameters. According to SustainAbility, ‘society depends on the economy – and the economy depends on the global ecosystem, whose health represents ultimate bottom line.’</li> </ul>
<p><b>Clean Clothes Campaign (1998)</b>  <a href="http://www.cleanclothes.org/intro.htm">www.cleanclothes.org/intro.htm</a></p>	<p><b>Clean Clothes Campaign</b></p>	<ul style="list-style-type: none"> <li>• An international campaign and network of NGOs, trade unions and other organizations that seek to raise labour standards in the supply chains of European garment and sportswear retailers, and to promote independent verification to ensure compliance with the CCC Code of Labour Practices that was adopted in 1998.</li> <li>• CCC organizations in France, the Netherlands, Sweden and Switzerland are currently working with 15 European retailers in pilot schemes that test code implementation, monitoring and verification procedures.</li> </ul>
<p><b>Ethical Trading Initiative (1998)</b>  <a href="http://www.ethicaltrade.org">www.ethicaltrade.org</a></p>	<p><b>Ethical Trading Initiative</b></p>	<ul style="list-style-type: none"> <li>• Consists of a group of UK-based companies and organizations. The companies involved agree to respect the terms of a Base Code related to social standards, regular monitoring and auditing, and to encourage their suppliers to comply with the Base Code.</li> <li>• Currently some 36 companies, mainly in the food and beverages and garments sectors, four trade unions and 16 NGOs are members of the Initiative.</li> <li>• A central activity of the ETI to date has been a programme of pilot studies designed to test monitoring and verification systems.</li> </ul>
<p><b>Fair Labour Association</b>  <a href="http://www.fairlabor.org/all/code/">www.fairlabor.org/all/code/</a></p>	<p><b>Fair Labour Association</b></p>	<ul style="list-style-type: none"> <li>• In an effort to promote global adherence to international labour standards and improve working conditions, the Labour Association has established a Workplace Code of Conduct, which is based on the core labour standards of the International Labour Association.</li> <li>• The code deals with issues such as forced labour, child labour, overtime compensation, harassment and abuse, racial discrimination, health and safety, freedom of association, collective bargaining, wages and benefits, and hours of work, and is designed to advance fair, decent and humane working conditions.</li> </ul>
<p><b>Marine Stewardship Council (MSC) (1997)</b>  <a href="http://www.msc.org">www.msc.org</a></p>	<p><b>Marine Stewardship Council (MSC)</b></p>	<ul style="list-style-type: none"> <li>• A non-governmental body which has developed a standard and a certification system that aims to assess and promote the sustainability of marine fisheries.</li> <li>• Originally created by Unilever and the World Wide Fund for Nature (WWF), MSC began to operate as an independent organization in 1999.</li> <li>• Currently, 10 fisheries (a ‘fishery’ refers to a combination of fish species, geographical area and fishing methods) have acquired MSC certification and 15 fisheries are undergoing assessment.</li> </ul>

<p><b>Forest Stewardship Council (FSC)</b> (1993) <i>www.fsc.org/fsc</i></p>	<p><b>Forest Stewardship Council (FSC)</b></p>	<ul style="list-style-type: none"> <li>• An international NGO established in 1993 as an independent labelling scheme for forest products, it aims to provide a credible guarantee that timber and wood products come from forests that are well managed environmentally, socially and economically. Based in Mexico, it is an association of members consisting of representatives of industry, conservation and community groups, indigenous peoples, the forestry profession and forest product certification organizations from around the world.</li> <li>• As of December 2003, over 2,000 companies were participating in the FSC certification system and 40 million hectares of forests had acquired FSC certification.</li> </ul>
<p><b>Worldwide Responsible Apparel Production (WRAP)</b> (2000) <i>www.wrapapparel.org</i> <b>see also</b> <i>www.maquilasolidarity.org</i></p>	<p><b>Worldwide Responsible Apparel Production (WRAP)</b></p>	<ul style="list-style-type: none"> <li>• An initiative of the American Apparel Manufacturers Association, it aims to ensure that apparel is produced under lawful, humane and ethical conditions.</li> <li>• A set of ‘Production Principles’ was approved in 1998 and a certification system for factories was tested in 2000. Since starting operations in June 2000, over 225 sewn-product factories have registered with WRAP and 23 factories have been certified.</li> <li>• By October 2001, maquiladora and manufacturers’ associations in 13 countries had endorsed the Principles.</li> </ul>
<p><b>Workers Rights Consortium</b> (2000) <i>www.workersrights.org/</i></p>	<p><b>Workers Rights Consortium (WRC)</b></p>	<ul style="list-style-type: none"> <li>• Established on the initiative of the United Students against Sweatshops (USAS), it aims to improve labour conditions in the factories that form part of the supply chain of companies that produce sportswear goods under licence for US colleges and universities.</li> <li>• The WRC carries out investigations of factories in response to specific complaints and verifies compliance with standards contained in the WRC Code of Conduct. By September 2004, 129 US colleges and universities had affiliated to the WRC and factory reports had been prepared in relation to 11 factories.</li> </ul>
<p><b>Global Alliance for Workers and Communities</b> (1999) <i>www.theglobalalliance.org</i></p>	<p><b>Global Alliance for Workers and Communities</b></p>	<ul style="list-style-type: none"> <li>• An initiative established in 1999 that involves the World Bank, the International Youth Foundation, Nike and C&amp;A.</li> <li>• It promotes corporate adherence to internationally agreed standards; carries out in-depth assessment of workplace conditions, workers’ aspirations and community needs; and establishes training and development programmes to foster management awareness, and assist workers – particularly young adults – and communities.</li> <li>• Global Alliance is currently working in five countries, with 61 factories and a total worker population of 240,000.</li> </ul>
<p><b>The Publish What You Pay Campaign</b> (2002) <i>www.publishwhatyoupay.org</i></p>	<p><b>George Soros and a coalition of more than 130 NGOs (including the Open Society Institute and the campaign's co-sponsor, Global Witness)</b></p>	<ul style="list-style-type: none"> <li>• The ‘Publish What You Pay’ campaign aims to help citizens hold their governments accountable for how resource related funds are managed and distributed.</li> <li>• The campaign places the onus on wealthy countries’ governments to require transnational extraction companies to publish net taxes, fees, royalties and other payments made, so that civil society can more accurately assess the amount of money misappropriated and lobby for full transparency in local government spending.</li> <li>• It calls for stock market and international accounting rules to require oil, gas and mining companies to disclose their net payments to governments for resource access on a country-by-country basis.</li> <li>• The campaign now has over 200 member NGOs in 47 countries, North and South. The coalition believes that revenue transparency is an essential condition for alleviating poverty, promoting just and equitable development, improving corporate social responsibility, and reducing corruption in many resource-rich developing countries.</li> </ul>

<p><b>The Extractive Industries Transparency Initiative (EITI) (2002)</b>  <a href="http://www.eitransparency.org">www.eitransparency.org</a></p>	<p><b>The EITI is a high priority for the UK Prime Minister. Secretary of State for International Development Hilary Benn is leading on the initiative.</b></p>	<ul style="list-style-type: none"> <li>• EITI was announced by UK Prime Minister Tony Blair at the World Summit on Sustainable Development in Johannesburg.</li> <li>• Its aim is to increase transparency over payments by companies to governments and government-linked entities well as transparency over revenues by those host country governments.</li> <li>• On 17 June 2003 the UK government hosted an international conference (involving ministers, senior officials, industry, and NGO leaders) to offer the opportunity for supporters to sign up to a voluntary compact on transparency in the extractive industries, with the aim that participants would agree a Statement of the Principle underpinning EITI and agree actions to take the initiative forward. In addition the hope is that the transparency standard will be picked up in other initiatives, guidelines and codes, so that transparency is increased across an ever-widening group of countries and companies.</li> </ul>
<p><b>Kimberley Process Certification Scheme (2003)</b>  <a href="http://www.kimberleyprocess.com">www.kimberleyprocess.com</a></p>	<p><b>Governments participating in Kimberley Process</b></p>	<ul style="list-style-type: none"> <li>• The Kimberley Process is an international diamond certification scheme to ban trade in conflict diamonds. It has been cited by international forums as a model for preventing illicit exploitation of natural resources from fueling conflict.</li> <li>• NGOs are encouraged by governments to establish rules of procedure, review countries' ability to implement the scheme and report statistics.</li> <li>• Agreement was also reached to carry out the Scheme's first review mission, to the Central African Republic, to evaluate if it can implement the KPCS effectively after the recent unconstitutional change of government.</li> <li>• Importers, exporters and shippers of rough diamonds – which could include jewellers; diamond mining and exploration companies; tool, equipment and machinery manufacturers; and companies in the cutting and polishing industry – may be affected by this certification system.</li> <li>• A number of countries, which have been attending meetings of the Kimberley Process since its inception in 2003, have failed to put in place laws and regulations to implement the scheme.</li> </ul>
<p><b>Voluntary Principles on Security and Human Rights for the Extractive And Energy Sectors</b>  <a href="http://www.iblf.org/csr/csrwebassist.nsf/content/a1a2a3d4a5.html#2">www.iblf.org/csr/csrwebassist.nsf/content/a1a2a3d4a5.html#2</a></p>		<ul style="list-style-type: none"> <li>• The governments of the United States and the United Kingdom, companies in the extractive and energy sectors, and non-governmental organizations, all with an interest in human rights and corporate social responsibility, have developed a set of voluntary principles to guide companies in maintaining the safety and security of their operations within an operating framework that ensures respect for human rights and fundamental freedoms. The participants include Chevron, Texaco, Freeport MacMoran, Conoco, Shell, BP, Rio Tinto, Human Rights Watch, Amnesty International, International Alert, Lawyers Committee for Human Rights, Fund for Peace, International Business Leaders' Forum, International Federation of Chemical, Energy, Mine and General Workers Unions.</li> </ul>

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