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Taking corporate social responsibility seriously

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INTRODUCTION

You have in your hands a handbook on corporate social responsibility, which is intended primarily for all active citizens in non-governmental organizations and trade unions in the new member countries of the European Union, intended for citizens that are not indifferent and do not just stand by while corporations push through their private interests to the detriment of public interests – that means to the detriment of all – and who want to stop this selfishness and hypocrisy.

The public in new EU member countries is not all that aware of what social responsibility really is and what to expect from corporations and what to demand from them. That is why we have prepared this handbook. It is divided into two basic parts. The first contains a description of voluntary social responsibility and a summary of useful tools to implement it. The second part presents many practical recommendations regarding strategic steps that can be taken to rectify the irresponsible behaviour of corporations.

Social responsibility founded on the voluntary fulfilment of above-standard obligations in the field of sustainability is primarily promoted by corporations (primary multinational) that in essence state: “We do not need any coercive measures in order to behave responsibly towards society, we do this voluntarily.” However, there exists much

evidence that corporations often do not voluntarily fulfil their obligations. Their private interests come first and they continue in the destruction of our Planet in an unchanged degree along with diminishing the protection of human rights. That is why this kind of “responsibility” can be dangerous, because it lulls the public into thinking that “things are being taken care of.” Fulfilling one’s obligations within the scope of voluntary social responsibility can be an effective means of resolving the growing environmental and social crisis; however, only under certain conditions. One of these is the public control of corporate behaviour. This handbook is precisely intended to help in this: to give you instructions in how to carry out this active control.

This entire handbook was created in a demanding time, a time when we were hard at work labouring on individual cases of corporate irresponsibility. Unfortunately, that resulted in it being hurried due to unmerciful project deadlines demanding that the entire text be completed. That is why we hope you will overlook certain imperfections and we hope that our handbook will help lead you to success.

Pavel Franc a Jiří Nezhyba

I. CORPORATE SOCIAL RESPONSIBILITY

I. A What is Corporate Social Responsibility?

The history of the concept of **Corporate Social Responsibility** (CSR) is not long. Some fundamental ideas of this concept can be found in connection with some entrepreneurs behaving responsibly when doing business already in the 1st half of the 20th century. 1953 is considered to be a pivotal year. That was when Howard Bowen's book "Social Responsibilities of the Businessman" was published in which he first defines social responsibility. In the second half of the 20th century, and particularly from the 1970s in the USA and in the United Nations (UN), initial debates concerning what CSR means and the creation of the fundamental principles for understanding its definition in today's form took place. The real development of concept of CSR took place only during the last decade of the 20th century, when it was meticulously defined also at an international level. The first codes of conduct for trading companies were created along with entrepreneurial standards. The first platforms and initiatives were created that dealt with the subject of CSR and that spread awareness of it among the business and non-business sectors.

The European Union then started dealing with the concept of CSR only in the second half of the 90s and primarily in the new millennium (*more on this subject can be found in chapter I.B*).

Corporate social responsibility is a concept within the scope of which corporations are expected to behave responsibly during everyday business decisions and during the creation of its strategy concerning employees, suppliers, clients, shareholders, and other stakeholders (*this concept is described in greater detail below in this chapter*). This is a concept based on the conjecture, and at the same time fact, that a corporation, via its activities, more or less also influences its surroundings (e.g. the surrounding community, social situation of employees, etc.). That is why socially responsible corporations should act by taking into account the needs of not only its internal but also its external environment, should contribute to enduring sustainable development, should be transparent, and should help the overall improvement of society.

That is why doing business responsibly requires abandoning the "profit only" view and changing the overall view of how the business functions in the wider system of social relationships. It is possible to summarize that CSR is a broad concept that contains subjects from environmental protection through labour rights, the fight against discrimination,

community work, transparency, all the way to socially responsible investment policies. It is an integral part of the concept of sustainable development, only with a specific focus on the role of a corporation within its scope. CSR stands on three pillars designated the **triple bottom line**, which offers an all-encompassing view of how a corporation should function in **economic, social and environmental spheres**.^{1/}

The abovementioned three pillars and the individual activities that fall under them can be further divided for clarity:

CSR ECONOMIC LEVEL

- A corporation's business code of conduct and ethics code of conduct
- Transparency
- Corporate governance
- Combating bribery
- Shareholders dialogue
- Behaviour towards customers / consumers
- Behaviour towards suppliers
- Behaviour towards investors

CSR SOCIAL LEVEL

- Stakeholder dialogue
- The health and safety of employees
- The development of human capital
- Observance of labour standards, ban on child labour
- Balanced employee work and personal life (work-life balance)
- Equal opportunities for men and women and other disadvantaged groups in general
- Diversity at the workplace - ethnic minority, the disabled and older people
- Providing requalification for laid off employees to ensure their further employment
- Corporate philanthropy, sponsorship and volunteering

- Community engagement, mentoring and consultancy
- Human rights

CSR ENVIRONMENTAL LEVEL

- Environmentally friendly production, products and services (e.g. environmental management standards and EMAS and ISO 14000 series audits, and FSC – Forest Stewardship Council - responsible forest management certification, etc.)
- Environmental business policies (e.g. recycling, the utilization of environmentally friendly products, energy savings, etc.)
- The decrease of environmental impacts, investment into BAT (Best Available Techniques)
- The protection of natural resources

The Definition of Social Responsibility

Even though the concept of CSR has been intensively developing for the past ten years, today there does not exist an integrated, generally accepted definition. From the beginning of the development of the responsible behaviour of businesses, a view has begun taking shape that states that corporations that only comply with legislative requirements, and no more, are not really socially responsible. So even though CSR is not clearly defined, its determining characteristic is the **principle of voluntariness**. That is why the fulfilment of obligations declared by individual companies cannot be, in principle, legally enforced.

DEFINITION OF CSR ACCORDING TO THE EUROPEAN COMMISSION

For our needs, probably the most relevant definition of corporate social responsibility^{2/}, which is utilized

^{1/} The information source for this table comes from the publications of Trnková, J.: "Corporate Social Responsibility – the Complete Guide to the Subject & Study Conclusions in the Czech Republic", Business Leaders Forum, 2004 (Czech only) and Group of Authors: "Across Corporate Social Responsibility", AISIS, o.s., 2005, (Czech only), which when dividing activities according to the triple bottom line agree in principle. We edit, change the order and further expand upon the data in the publications.

by the European Community Commission (hereinafter only "European Commission") is:

"CSR is essentially a concept whereby companies decide voluntarily to contribute to a better society and a cleaner environment." (EU – Green Paper on CSR, COM (2001) 366 final)

On the basis of the Green Paper, a Communication from the European Commission (COM(2002) 347 final) was issued, which further specified what the European Commission interprets corporate social responsibility to be:

"CSR is a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis."

The European Commission, in the Communication, stated the main attributes of the CSR concept, in which general agreement prevails:

- *"CSR is behaviour by businesses over and above legal requirements, voluntarily adopted because businesses deem it to be in their long-term interest;*
- *CSR is intrinsically linked to the concept of sustainable development: businesses need to integrate the economic, social and environmental impact in their operations;*
- *CSR is not an optional "add-on" to business core activities - but about the way in which businesses are managed."*

ADDITIONAL DEFINITIONS OF SOCIAL RESPONSIBILITY

A. B. Carroll in 1979 proposed a definition of CSR that has four components: economic, legal, ethical, and voluntary responsibility. Carroll also proposed the importance of individual components to go along with the definition: 4:3:2:1.

We quote from additional definitions:

"...these are the obligations of entrepreneurs to carry out the kinds of procedures, to adopt those

kinds of resolutions, and to follow those kinds of directions of negotiations that are desirable with regard to the objectives and values of our society" (Carroll, A. B., Corporate Social Responsibility – Evolution of a Definitional Construct, 1999)

"Social responsibility is the obligation of the decision-makers to take steps that lead to the protection and improvement of society as a whole while following their own interests" (Keith Davis and Robert Blomstrom, 1966)

"CSR is a way of doing business that meets or exceeds ethical, legal, commercial, and social expectations." (the international organization Business for Social Responsibility, <http://www.bsr.org/>)

"CSR is the continual obligation of corporations to behave ethically and contribute to economic growth while simultaneously striving to improve the quality of life of employees and their families, and the local community and society as a whole." (World Business Council for Sustainable Development, 1997, <http://www.wbcsd.org/>)

"Corporate social responsibility (CSR) represents the voluntary obligation of companies to behave responsibly towards the environment and the community where they do business." (Business Leaders Forum, an association of international and Czech businesses – <http://www.blf.cz/>)

STAKEHOLDERS

An important manifestation and essential part of corporate social responsibility is voluntarily taking part in **stakeholder dialogue**, open dialogue with all parties and groups that either directly or indirectly have an impact on the operation of the corporation or are impacted by its activities. These parties are called **"stakeholders."**

Who belongs among stakeholders?

- Customers
- Shareholders or other participants of the corporation
- Employees

^{2/} The European Community utilizes the name "Social Responsibility of Businesses"

- The neighbouring community and its members
- Suppliers
- Business partners
- State and local government representatives
- Trade unions
- Non-governmental organizations
- The media
- Other interest groups

A dialogue with stakeholders means the active opening up of a corporation, proving that it really is interested in their opinions, endeavours, and their activities. That means taking into account the view of all stakeholders if possible.

Potential positive results of a stakeholder dialogue can be the dissemination of good practices, and mutual inspiration and motivation. This aspect distinctly manifests itself in the example of supplier-customer relationships: if the customer is a corporation with high-profile social responsibility, it will require that its suppliers have the same standards. This is a direct and very effective way of propagating the principle of CSR.^{3/}

No matter how complicated a stakeholder dialogue is, particularly with groups the corporation does not really consider to be its stakeholders (e.g. non-governmental environmental organizations), if it takes place on time, transparently, effectively, rationally, and with mutual good will, it can at least help overcome mutual distrust, find common ground, and strengthen mutual understanding. The dialogue, in ideal conditions, can result in long-term partnerships between individual sectors of society – private, public and civil (cross-sector partnership). *(For further options of non-governmental organizations and unions during dialogues with corporations see Chapters III. and IV.)*

I.B. The Past and Present of Corporate Social Responsibility in the European Union

CSR Europe

The European Union started dealing with corporate social responsibility only in the second half of the 90s and mainly at the turn of the millennium. An important milestone occurred in 1995 when Jacques Delors initiated the creation of a European network of professionals dealing with the issue of corporate social responsibility named CSR Europe, which associates both businesses and partnership organizations. The objective of CSR Europe is *“to help corporations achieve profitability, long-term sustainable growth and the development of human capital by integrating CSR into their business habits.”* CSR Europe via its campaigns, publications and conferences strives to explain the specific benefits that the implementation of the CSR principle can have for businesses. More information can be found on the web pages of CSR Europe: www.csreurope.org.

The Lisbon Strategy

The **Lisbon Strategy** of March 2000 was a fundamental step of the EU in the sphere of CSR. An ambitious objective was set at the EU Summit: by 2010 change the EU into the most competitive and most dynamic knowledgeable economy that is capable of sustainable growth and that has more and better jobs and with greater social cohesion. That was why

^{3/} As described by Trnková, J.: “Corporate Social Responsibility – the Complete Guide to the Subject & Study Conclusions in the Czech Republic”, Business Leaders Forum, 2004

the contributions of corporations for fulfilling this objective were discussed for the first time. The European Council appealed officially for the first time to corporations and their sense for social responsibility in the Lisbon Strategy.

Green Paper

Another important milestone in this process was the **Green Paper**^{4/} from 2001 – Promoting a European Framework for Corporate Social Responsibility –, which was prepared as a document for the consequent consultation process by the Directorate-General for Employment, Social Affairs and Equal Opportunities. The objective of the Green Paper was to open a debate on the concept of CSR and to lay the basic strategy for building CSR in the EU. One can find the first European definition of CSR in it that is built upon the triple bottom line, according to which corporations must also take into account the impact of their activities on society and the environment when seeking profit.

Communication from the Commission from 2002

The subsequent Communication from the European Commission from 2002^{5/} – Corporate Social Responsibility: A business contribution to Sustainable Development – then confirmed the thesis of the Green Paper and established basic EU strategy in the sphere of social responsibility. The Communication emphasized the need to incorporate the considered environmental and social aspects into the everyday decision-making and operations of corporations along with the importance of transparency. The Commission confirmed that *“CSR is behaviour by businesses over and above legal requirements,*

voluntarily adopted because businesses deem it to be in their long-term interest.”

The concept of CSR was thus defined as a new tool to achieve sustainability and it was emphasized that *“CSR is not an optional “add-on” to business core activities – but about the way in which businesses are managed.”*

CSR – European Multi-stakeholders Forum

The Communication from the European Commission laid down the foundation for creating **The European Multi-Stakeholder Forum on Corporate Social Responsibility**,^{6/} during which for a period of almost two years (2002–2004), during periodic roundtables, there sat, next to the representatives of EU bodies, European employer associations, entrepreneurs’ organizations, trade unions, and non-governmental organizations (NGOs). The objective of the CSR Forum was to promote transparency and innovation in the concept of CSR and to gradually converge existing initiatives in this sphere, to enable the exchange of know-how and good examples, to gather and monitor all existing CSR tools and initiatives, and to assess the suitability of establishing common criteria for CSR with regard to the existing initiatives in the EU and with regard to common European legislation.

Výstupy z jednání Fóra CSR završeného v červenci 2004 pak měly posloužit k vytyčení další strategie EU v oblasti společenské odpovědnosti a pro novou zprávu Evropské komise o CSR. Závěrečná zpráva byla výsledkem kompromisu a pro zúčastněné strany především z řad nevládních orgánů. The outputs of CSR Forum discussions, which culminated in July 2004, were supposed to serve to prepare further EU strategies in the sphere of social responsibility and for a new European Commission report on CSR. The final report was the result of a compromise and for the

^{4/} COM(2001) 366 final

^{5/} COM(2002) 347 final

^{6/} European Multi-stakeholders Forum homepage:

http://forum.europa.eu.int/irc/empl/csr_eu_multi_stakeholder_forum/info/data/en/csr%20ems%20forum.htm

parties that had participated in the Forum, particularly NGOs, it brought many disappointments. That is to say, business asserted and maintained its view that CSR is solely a voluntary concept in which only market mechanisms and consumer involvement can regulate the behaviour of corporations. Non-governmental organizations were not successful in their requirement to enhance CSR with binding international regulations including the possibility of imposing sanctions on corporations if they do not comply with standards regarding the protection of the environment, and human and labour rights.^{7/}

Communication from the Commission from 2006

Two years after the CSR Forum was convened, the European Commission, on 22 March 2006, published its second Communication,^{8/} in which it laid down the EU's new strategy in the sphere of CSR, the creation of the "European Corporate Social Responsibility Alliance", (CSR Alliance), which should associate on a voluntary basis European businesses that register themselves to be socially responsible. In 2006, the new European Commission communication should also discuss the European Parliament and then adopt its own standpoint regarding the entire matter.

The European Alliance for Corporate Social Responsibility

The CSR Alliance, according to the text of the new Communication, should be considered to be only a voluntary

contribution of the business sector to achieving, in 2005, the objectives of the **revised Lisbon Strategy**^{9/} – when a "reassessment" of its ambitious objectives took place, which proved to be too megalomaniacal because the gap between the productivity of the USA and the EU did not lessen but grew wider. Emphasis was also newly placed on growth and employment, the need to jointly coordinate steps leading to stimulating economic growth, employment, and competitiveness in the EU – and a **revised strategy of sustainable growth**.^{10/} Officially this strategy (together with the Lisbon Strategy) again puts as its objective to build a healthier, fairer and more prosperous Europe. If it is possible to constitutionally join these two strategies, one can only guess.

Shortcomings of the Communication from the Commission from 2006

Even though the Communication from the Commission was supposed to be the culmination of the CSR Forum, it was published two years after the Forum ended. In it the European Commission neglected to take into account mainly the outputs of the CSR Forum and it did not accept any of the many recommendations of the non-governmental sector and trade unions, as envisioned by the Communication from the Commission from 2002. The Communication almost entirely reflects the view of the business sector and does not attach importance to "multi-stakeholders policies", when it insists on creating the CSR Alliance only as business

^{7/} See e.g. the standpoint of the "Green 8" coalition of the strongest "Brussels" non-governmental environmental organizations: "Position Paper on Corporate Social Responsibility & The EU Multi-Stakeholder Forum Process"

^{8/} Communication of the Commission to the European Parliament, the Council, and the European Economic and Social Committee, "Creating a partnership for growth and employment: Make Europe a centre of excellence in the sphere of corporate social responsibility", COM(2006) 136 final

^{9/} Communication of the Spring European Council session "A Partnership for Growth and Jobs – A New Beginning of the Lisbon Strategy", COM(2005) 24 final

^{10/} Communication of the Commission Council and the European Parliament, "Assessment of the Sustainable Development Strategy – Action Platform", COM(2005) 658 final

platforms. It also does not appreciate the importance of transparency and independent monitoring as important manifestations, or more precisely, tools for the credibility of CSR. The European Union thus took a step backward and missed out on the chance to become a leader in the sphere of CSR when it only focused on “raising awareness” and “exchange of know-how” instead of utilizing its existing experience in the sphere of CSR and effectively enriching this concept with a binding legal framework for the behaviour of corporations. That is why many non-governmental organizations publicly spoke out against the new Communication from the Commission.¹¹⁷

Source of Information

All relevant EU documents regarding corporate social responsibility can also be found on the web pages of the European Commission, the Directorate-General for Employment, Social Affairs and Equal Opportunities: http://ec.europa.eu/employment_social/soc-dial/csr/index.htm

I.C Individual Actors in the Corporate Social Responsibility Field

The objective of this chapter is not to offer you an exhausting list of all the possible parties involved in corporate social responsibility – thus it does not refer to all the stakeholders, the overview of which we stated in *Chapter I.A* – but to touch upon the most fundamental ones and their roles in the concept of CSR. Besides the corporations themselves, the civil sector, investors, rating agencies, and individual countries (see the following individual chapters), also dealing with the subject of CSR are the European Union, the policies of which we described in detail in *Chapter I.B*, the United Nations (UN), the Organisation for Economic Cooperation and Development (OECD), and other multinational and inter-governmental entities. You will not be able to read about their activities in this chapter, however, we will touch upon them in connection with individual tools utilized in the concept of CSR (see *Chapter III*).

I.C.1 Corporations

If we are dealing with corporate social responsibility, we also have to ask what possible benefits do corporations – which are naturally the central characters in the concept of CSR – receive if they decide to adopt CSR. There is relatively wide agreement on certain benefits of responsible behaviour.

The benefits of socially responsible behaviour can be traced mainly to the following spheres:

- Business reputation – the protection and building up of its reputation, increasing the value of the brand

¹¹⁷ See e.g. the joint press release of Amnesty International and the International Human Rights Defenders Federation FIDH from 24 March 2006: http://www.fidh.org/article.php3?id_article=3196

- Distinction from the competition – competitive advantage
- Enhancement of corporate culture
- Improvement of relationships with the surroundings (with stakeholders) – the creation of a foundation for the long-term operation of where the business is active (licence to operate)
- Attracting and retaining quality employees
- Lowering costs of risk management – improving risk forecasting, the ability to avoid risk factors
- More attractive to investors
- Enhancing customer loyalty
- The opportunity for innovation, education and the continual improvement of the business
- Direct savings associated with environmentally friendly practices
- Direct savings arising from higher quality management

It also describes other (primarily non-financial) benefits of socially responsible behaviour from a relatively large number of case studies and research conducted by trading companies that state these additional benefits:

- Greater corporate transparency and credibility
- Long-term corporate sustainability
- Increased loyalty and productivity of current employees
- Lower risk of boycotts and strikes
- Lowers costs of risk management

And what about CSR in everyday practice in Central European corporations? On the web pages of the Czech organization “Business Leaders Forum”^{12/} (an association of international and Czech companies that have adopted the idea of CSR) we can read that CSR in practice means that a corporation that has adopted it “...voluntarily sets for itself high ethical standards, strives to minimize negative impacts on the environment, cultivates good relationships with its employees, and supports the region where

it is active. These kinds of firms are the bearers of positive trends and are helping change the business environment as a whole, they distinguish themselves from their competition, they become a sought after partner for similarly minded firms and organization, and attractive employers.”

However, we can often come across corporations that utilize the concept of CSR primarily to improve their reputation and in essence only feign social responsibility (*more on this issue can be found in Chapter IV*).

While not long ago corporations could in essence simply distinguish themselves in a positive manner in that, as compared to others, they have implemented the ISO 9001 standard of quality management (quality control), Today, it is more and more commonplace that in addition to this standard they also have implemented an environmental management system and audits pursuant to the series of ISO 14001 or EMAS II (pursuant to Regulation no. 761/2001 of the European Parliament). However, the significance and meaning of these letters and numbers is not all that comprehensible to the public as compared to a flamboyant proclamation on the Internet, at a press conference, in an advertisement, or during an activity that clearly depicts the positive policies of the business in protecting the environment or its financial and voluntary engagement in socially recognized projects that can be classified in the sphere of CSR.

I.C.2 The Civil Sector and Social Responsibility

WATCHDOG ORGANIZATIONS

The sphere of corporate social responsibility has many actors, the so-called stakeholders, which include the civil sector, and covers the activities of many varied individuals and primarily organizations, associations and institutions. Their views of the activities of corporations, entrepreneurs, producers, industrialists, providers of services, and the relationships with them

^{12/} See the web pages of Business Leaders Forum: <http://www.blf.cz/aktivity/databaze.htm>

are naturally varied. For example, they have differing basic visions of how and in what direction our Earth should develop and what role corporations could and should play in this development. Their objectives and the methods they use to obtain them also vary.

On one side stand those that are not satisfied with the way some (primarily multinational) corporations behave towards the environment and the health and well-being of people that are affected by their activities; those that have different ideas concerning to what extent the labour rights should be protected, or those that point out the dubious quality level of products and services that reach consumers, who then often point out the indisputable (joint) responsibility of corporations, and particularly multinational corporations, for the state of the World we live in.

The more active ones in this group gather into **watchdog organizations**. These non-governmental organizations (NGOs) irreplaceably carry out the role of a control everywhere the state and its bodies insufficiently carry out their roles, or outright fail, in protecting public interest. Watchdog organizations are organized for non-profit purposes. Their activities focus on environmental protection, labour rights, gender rights, human rights, socio-economic and cultural rights, rights to fair, just, and equitable development and trade, etc. Slowly they are being called **PINGO**^{13/} (Public Interest NGO – non-governmental organizations promoting public interest). Their activities also include any, some, or all of the following: consultancy, advocacy of community interests, legal research and analysis of political strategies, education, housing, environmental protection

and conservation, animal welfare promotion and protection, campaign preparation and management, direct involvement in projects, etc.

Between the one side and the other, which we will talk about in a moment, there exists a wide range and plentiful amount of groups, organizations and institutions that also belong to the civil sector and among non-profit organizations. They have various objectives and their relationships with corporations are mixed and can oscillate between indifference, through neutrality, all the way to support of their activities, because businesses can be an important resource in their, in principle, beneficial activities.

BINGO ORGANIZATIONS

On the other side there stand many organizations whose policies concerning the business sector and view of the world are different. They are gradually being called **BINGO** (Business-oriented international NGO, Business-Initiated NGO); commercial, money-making or “pro-business” oriented, or established directly by a corporation, organizations.^{14/} Thus, they are understandably the mostly closely connected to corporations and their activities because they often only exist thanks to direct financial support from corporations. They are often personally connected to the representatives of the business sector or directly to businesses for the purpose of fulfilling the various more or less money-making activities they were established for.

A certain problem arises within the tangle of civic initiatives and organizations regarding the way the public perceives them if we are talking about a BINGO organization that is established in the form

^{13/} The Friends of the Earth International (FOEI) describes the spheres of interests and individual activities of PINGO organizations in one of their materials. See <http://www.tradeobservatory.org/library.cfm?refID=25736>. An interesting side note: besides PINGO and BINGO (see below) organizations, a FOEI document describes another category called GONGO (Government-Organized NGOs), which are organizations established or subsidized by national governments or regional governments for the purpose of carrying out or helping during the implementation of various government programmes, primarily in economic or social sectors.

^{14/} Business-Initiated NGO. These are organizations that are organized by commercial enterprises in order to promote their commercial interests, whether in the form of a non-profit organization, industry association or federation, industry coalition, or some other form of organized undertaking by one, some, or all of the commercial, for-profit actors in a particular commercial industry.

of a civic (and formally non-profit) association. The public, at first glance, might not be able to tell that this is a "pro-commercial" organization whose interests and objectives are diametrically different from the first group of organizations, i.e. the non-profit and watchdog associations.

That is why we will state several examples of BINGO organizations in the Czech Republic:

Business Leaders Forum (BLF – www.blf.cz) is a company that represents Czech and international industry and trade and other important institutions in the Czech Republic, which has its equivalent in many countries that just joined the EU (Slovakia, Hungary, Poland). The objective of BLF, according to the proclamation on their web pages, is to demonstrate and account for socially responsible business management in the Czech Republic and in the global market place and to cultivate ethics in business practices. Members of the Czech BLF: Unilever, McDonald's, PricewaterhouseCoopers, Skanska, Komerční banka, Ernst & Young, Metrostav, Plzeňský prazdroj, DHL, Barum Continental, Makro and others.^{15/}

The Czech BLF was founded in 1992 (e.g. the Slovakian BLF in 2004 – www.blf.sk) via an initiative of several companies and the international organization **The Prince of Wales International Business Leaders Forum** (IBLF – www.iblf.org). The IBLF is headquartered in London and for a long time has been devoting itself to the promotion of the responsible behaviour of firms in Europe and the world. Its president is Prince Charles.

BLF is one of the national partners of the already mentioned in *Chapter I.B*, the Brussels organization of CSR Europe, Europe's network of professionals dealing with the issue of corporate social responsibility. Its mission is to promote and advocate responsible business practices at the European Union level. CSR Europe associates both individual corporations and also BINGO organizations, such as BLF.

The Corporate Social Responsibility Centre (Centrum SOF – sof.ispcr.cz), an initiative of the

Confederation of Industry of the Czech Republic (SP ČR – www.spcr.cz) and the Institute of Czech Industry Confederation (ISP ČR – www.institut-sp.cz) represents a BINGO organization that was created via the impetus of industrial unions and employer organizations. The Centrum SOF was founded in 2004 on the basis of the need for entrepreneurs to express themselves and disseminate their position concerning current trends in and views of CSR, to acquaint the entrepreneurial public with this phenomenon, with its content and significance, and to support its dissemination and practical application in life and in the activities of businesses.

The Czech Donors Forum civic association (Czech Donors forum – www.donorsforum.cz) associates donors in the Czech Republic (foundations, foundation funds, corporate donors). It states on its web pages that it endeavours for the support and development of philanthropy in the Czech Republic and via its activities strives to create favourable conditions for donations at individual, institutional, community, and business levels. The Donors Forum also deals with new trends in marketing, which is e.g. **cause related marketing** (*more on this in Chapter II.A*). That is why it organizes projects (www.socialnimarketing.cz) designated for corporation representatives responsible for CSR, PR, marketing, sponsoring and communication. The **Asociace nadačí Fóra dárců** (Donors Forum Foundation Association), the **Asociace nadačních fondů Fóra dárců** (Donors Forum Foundation Funds Association) and the **klub firemních dárců Donator** (Donator, corporate donors club) were created and found their vision within the scope of the association. The Donors Forum is also a member of the multinational network **Worldwide Initiatives for Grantmaker Support** (WINGS – www.wingsweb.org). The Brussels international network of independent donors active worldwide, the **European Foundation Centre** (EFC – www.efc.be), is a member of this organization.

AISIS (www.aisis.cz) also belongs among civic associations active in the field of CSR in the Czech

^{15/} The complete list of BLF members: <http://www.blf.cz/about/seznam.htm>

Republic. It has been working with the commercial sector for a long period of time in the realization of publicly beneficial and educational projects. Since 2002 AISIS has been engaged in the strategic support of CSR principles, particularly development, i.e. corporate philanthropy (*more on this in Chapter II.A*). AISIS, on its web pages, states that it supports a balanced partnership between a business and a non-profit organization, a worldwide growing trend that has been appearing, more and more, in new EU countries. The association's activities included the publishing of a comprehensive publication "Across Corporate Social Responsibility" and it operates the closely CSR-oriented web pages of www.sof.cz that were created via the initiatives of AISIS, the Donors Forum and also with the support of Philip Morris ČR.

Another example of a professional organization of entrepreneurs is the **Correct Manner of Doing Business Association** (www.korektnipodnikani.cz). Its objective is supposed to be improving the image the public has of doing business and entrepreneurs and the cultivation of the business environment in the Czech Republic. The association, via the voluntary compliance with the Code of "the Correct Manner of Doing Business", intends to separate the honest and earnest entrepreneurs from those parties on the market that harm the reputation of the business environment in the Czech Republic.

Without citing an exhaustive listing in this handbook, finally we will mention **Hestia – The National Volunteer Centre** (www.hestia.cz), whose primary objective is to develop positive interpersonal relationships in society. That is why they mediated volunteer work for corporation employees in the programme "Volunteers from Commercial Firms" also called "corporate volunteering". Both Hestia and businesses engaged in this volunteering want to help the local community, particularly in the sphere of social services and education.

TRADE UNION ORGANIZATIONS

If we are talking about the activities of the civil sector, we have to at least briefly mention the activities of trade union organizations, which represent its mem-

bers – workers, employees – when defending and protecting their labour, economic, social, and other rights and interests with regard to their employers. Trade unions essentially can utilize the tools of CSR, because they are in contact with corporations and their management basically every day and they are corporation stakeholders, the direct influence of which nobody should doubt. Corporations as employers are obligated to respect the rights of their employees when dealing with trade unions, abide by legal employment standards and collective labour relationships, observe work safety rules, respect employees' rights to equal treatment, and the many other employee rights that are defined in the laws of individual countries and at the EU level, and also various international conventions and intergovernmental standards.

One of the most fundamental activities of trade unions is collective bargaining, which directly manifests itself in the social dialogue between corporations and their employees and their representatives. Trade unions, during collective bargaining, strive to ensure and advocate the abovementioned and to negotiate other possible benefits. These benefits can primarily pertain to how the corporation publicly obligated itself to them in its corporate social responsibility policies. With regard to the fact that the activities of trade unions take place via employees right at the workplace, trade union members often have (or could have) very detailed information on the activities of the business. The said familiarity of the work environment can be to their advantage, enabling them to accurately identify possible problems in the manner the business operates with regard to its employees or the public, or it can be to their disadvantage, when knowledge of their possible negotiating strength leads many corporations to directly forbid trade unions access to their workplace, or more or less openly make it difficult for employees to enforce their rights to be represented by trade unions, or they obstruct these rights.

Trade union organizations regularly take part in tripartite, i.e. institutionalized three-party negotiations between the representatives of the state (government), employers and employees, where, at the highest level, social issues, wage trends, work

conditions, etc. are discussed. Individual trade union headquarters (in the Czech Republic, this is the **Asociace samostatných odborů** (Association of Independent Trade Unions – www.asocr.cz); and **Českomoravská konfederace odborových svazů** (Czech-Moravian Confederation of Trade Unions – www.cmkos.cz) then represent members in international organizations and possible in other international institutions.

FOUNDATIONS AND ENDOWMENT FUNDS

It is necessary to add that various **foundations and endowment funds** (see also *Chapter II.A*) play an important role in the sphere of CSR in the civil sector and outside the civil sector and in trade unions. They are able to utilize funds provided or entrusted to them by corporations for fulfilling various publicly beneficial objectives and thus help in the development of the activities of non-governmental organizations and civil society as a whole. Thanks to their know-how, trained personnel, and also possibly thanks to their renown, they can significantly improve the quality of allocations within the scope of corporate philanthropy and the expended money.

Individual foundations and endowment funds can exist either in the form of independent entities that control and allocate funds from various private and public sources, or as entities created directly by corporations solely for the purpose of further distributing the funds of the business. We further differentiate foundations into the categories of community (focussing on the support of selected communities or regions), business (corporate), and others, which include education, health care and Church foundations.^{16/}

I.C.3 Investors

Most multinational companies are listed on the stock market. They issue stocks which are owned and traded by shareholders, which serve as investors

to the company and build the capital of the company. One can distinguish between smaller private investors like individuals and bigger institutional investors like pension funds, banks, asset managers, insurance companies or public entities.

Obviously the community of investors is a very important actor within the economy. By investing or disinvesting into companies they can influence the value of a company and approve or disapprove decisions taken by the company's board. The financial market usually pays a lot of attention to the quarterly reports of companies – which might be one of the biggest barriers to sustainable development. Asset managers and capital owners often want to make quick profits, otherwise they might shift capital somewhere else. But for a company incorporating social and environmental aspects often means costs at short term perspective and profits and risk reduction at long term perspective.

Long term investors like pension funds start to see that taking into account social and environmental aspects reduces risks and helps creating a sound value and revenues to them and the capital owners, to the companies as well as to society. They focus on mid to long term developments of maybe 20 to 40 years. Within these time horizons many environmental and social aspects such as climate change get attention. More and more investors create their own investment policy which includes social and environmental elements.

For the (relatively small but quickly growing) niche of ethical or **Socially Responsible Investment (SRI)** – for further information, please see *chap. II.B*), sustainability considerations are relevant to differentiate between more and less sustainable companies. But for main stream investors this distinction is only convincing, if it can be proved, that there are material risks to less sustainable companies and competitive advantages to pioneers that result in better company performance. NGOs can play a strong role to create and highlight these risks, so that the finance sector can play a more constructive role to get companies

^{16/} see the Report on the State of Slovakian Foundations, Fórum donorov, 2005

to offer more sustainable solutions.

Besides this, there are groups of small shareholders that make use of the rights related to the ownership of shares. The 'Critical Shareholders' ask where the dividend comes from rather than how high it is. During the annual general meetings of shareholders of a specific company they loudly demand more environmental protection, more social justice, and the maintenance of human rights. For instance in Germany there is a network of critical shareholders each year active in about 30 German corporations.

I.C.4 Rating Agencies

Rating corporate social responsibility (CSR) can be utilized in many ways. However, besides using the results of the rating for public relations, this concept has greatest significance for investors. These are investors that invest their capital under the condition that these investments are not "harmful". The CSR rating is an important guideline for appraising the suitability of including individual investments in one's portfolio.

Many research organizations – rating agencies, came into being and gradually entrenched themselves during the nineties. Their objective is the systematic appraisal of the social responsibility of individual corporations. The primary customers of rating agencies are, for one, "class-conscious" investors, and also the corporations themselves, who want to attract the attention of these investors. Investors that actively utilize the services of rating agencies include pension and other investment funds, special "sustainability" funds of large banking institutions, and others. For example, a customer of the Oekom-Research (OR) rating agency, the Ethik Bond Company, invests into the most important bonds and currencies throughout the world, whereas its management chooses government bonds of countries with a rating of at least "AA" and corporate bonds with a rating of at least "BBB" according to the research of OR. Another example can be the French pension fund ERAFP (Etablissement de Retraite Additionnelle de la Fonction Publique), which administers additional pension insurance for 4.6 million French white-collar workers and which decided

on a policy called socially responsible investment (SRI – more on this in Chapter II.B). In the beginning this will concern 1.5 billion euros; however, by the year 2010 this SRI policy will concern 8 billion euros, i.e. 100% of the money of this pension fund. ERAFP will utilize the services of the Vigeo and Oekom-research rating agency.

RATING SOCIAL RESPONSIBILITY

Social responsibility is most often rated in large or medium-sized (multinational) corporations. However, rating agencies also focus on the sustainable development of countries – this is important for those who invest into government bonds. Rating social responsibility, as carried out by rating agencies, consists of appraising internal documents provided by the corporation being rated, information from public databases and sources of information, and other entities, which often are non-governmental non-profit organizations. The acquired information is cross-checked as standard procedure. The evaluation takes place in many categories (e.g. customers and suppliers, human rights, the community and society, the environment, corporate governance, human resources). The rating categories are defined according to many existing systems (the regulations of OECD, ILO, UN, FOE and others) and international rights. Individual rating agencies use their own rating methodology, that which they consider to be the best. Criteria are defined for each area (an example of this criteria can be "external reports on environmental issues") and within these criteria are precisely defined indicators concerning their fulfillment (in the case of the said criterion there are, for example, 1. the existence of an external reporting system, 2. the extent that employees are covered by this reporting, and 3. an appraisal of the report by an independent auditor. On the basis of to what extent the given criteria is fulfilled, a grade is assigned to this criterion (e.g. on a scale from A+ to D-) and a weight is assigned concerning the importance of the given criterion in the overall rating. Weights are determined according to specific branches of industry in which the corporation is active. The overall rat-

ing is weighed by the average rating of individual criteria. However, the methods of individual rating agencies can differ. The final rating is then expressed with a grade on the same scale (e.g. B+) and further it is noted if the rated company belongs among the best in the branch ("best in class"), i.e. it meets certain minimum requirements and belongs among the best rated companies in the given branch.

Rating agencies also carry out what is called negative screening, which means the monitoring of certain minimal requirements that the rated corporation must meet in order to be rated as socially responsible. These requirements include activities such as being involved in controversial aspects of trade (e.g. abortion: the production of pharmaceutical products for abortions, carrying out abortions; or nuclear energy: operating nuclear power stations, the production of key components, and others), and also conducting controversial business practices (using child labour, testing on animals, operating or financing environmentally controversial facilities, such as dams, product pipelines or mines; behaving especially inconsiderately towards the environment, and others). The customers of rating agencies often make specific requirements, which the investment incorporated into their portfolio must meet, and the rating agency takes these special requirements into account when researching their social responsibility.

SOURCES OF INFORMATION

Additional information on rating methodology, on the customers of rating agencies, etc. can be found on the web pages of rating agencies, e.g. www.oekom-research.de, www.vigeo.com, www.eiris.org etc., and also in the GARDE analysis at www.responsibility.cz.

I.C.5 Individual States

Is it possible for individual countries and their governments to affect whether, and to what extent, corporations and entrepreneurs active within their territory behave socially responsibly? Yes, because they are "in for the long haul". Western European EU-15 countries have an advantage in this direction.

Democracy and rule of law have been developing uninterruptedly here for many decades. The values arising from this, along with society as a whole, were naturally able to positively influence and cultivate the business sector. That is why it is no coincidence that in the sphere of CSR, these countries have a head start on the post-communist countries of Central and Eastern Europe that is very difficult to catch up to.

REGULATING THE BEHAVIOUR OF CORPORATIONS VIA THE LAW

It is obvious that the important function of the government in the sphere of regulating social relationships is limited in its possibilities and extent. Individual countries can influence the behaviour of trading companies primarily via legal regulations concerning the activities of corporations, and if they are violated, they can impose sanctions on the corporations. Thus the country regulates various activities of the company, e.g. in the spheres of the capital market, taxes, the environment, labour-legal relationships, and it sets certain fundamental standards of behaviour via legal regulations (Acts). It is also evident that various standards can exist in various countries. As was already mentioned, socially responsible behaviour means an above standard approach and thus the fulfilment of obligations above and beyond the law. However, in some countries a corporation can behave in a way that is considered to be only complying with the requirements of legal standards, whereas in another country, the same behaviour can be seen as above standard, i.e. socially responsible. To pick a category at random, let's choose socially responsible investment (more on this in Chapter II.B.). Laws exist in certain EU Member States that create fundamental control mechanisms and pension funds must then make public information concerning in what manner they take into account environmental, ethical, and social criteria when making their investment decisions.^{17/}

Because the concept of CSR is based on voluntariness, it is outside the sphere of legal regulations. However, social corporate responsibility can successfully develop only in that kind of (cultural) environment where the supply of responsible behaviour

on the part of corporations and demand for it on the part of the public is at least fundamentally balanced. Individual government representatives or the government as a whole can contribute to this in no small way by actively participating in policy making. Not without reason did addressed surveyed businesses acknowledge that they run into obstacles on the part of the state when trying to implement and further develop CSR and that is why they requested that the socially responsible behaviour of selected corporations be reflected in things such as the suitable wording of legal regulations, various incentives, tax breaks, or the generally more active creation of a favourable entrepreneurial climate.^{18/}

GOVERNMENT POLICIES ON CSR IN INDIVIDUAL EU COUNTRIES

At the close of 2000, the European Commission called upon individual EU countries to establish a High-Level Group of National Representatives on CSR. The first meeting took place in December 2000 and then the Group met regularly until November 2004. Their objective was to coordinate individual national contributions to the European strategy on CSR. The agenda of the meetings have consistently included information on EU CSR policy developments; on activities, resources, and projects concerning CSR; and the exchange of information on national CSR-related policies and initiatives. The objectives of the Group were to understand and appraise CSR public policies; to ascertain what are its mechanisms, drivers, obstacles and factors of success; to examine where convergence of CSR concepts, instruments and practices could be promoted; and to develop an EU reference framework for CSR public policy.

Thanks to the work of this Group, on the web pages of the Directorate-General for Employment, Social Affairs and Equal Opportunities,^{19/} which within the scope of the European Commission is responsible for the area of CSR, since 2002 there has been appearing regularly updated information from the founded by Member States **Compendium on national public policies on CSR in the European Union**, which divides the possible policies on corporate social responsibility of individual countries into 3 chapters and further subchapters, which describe the various individual government activities within the scope of:

1) Promoting CSR

- Awareness raising,
- Research,
- Public-private partnerships,
- Business incentives,
- Management tools,

2) Ensuring transparency

- Codes,
- Reporting,
- Labels,
- Socially responsible investment (SRI),
- Advertising,
- Other,

3) Developing CSR-supportive policies

- Sustainable development,
- Social policies,
- Environmental policies,
- Public procurement,
- Trade and export policies,
- Other

^{17/} These are Belgium, France, Germany, Great Britain, and Sweden (quoted from Trnková, J.: "Corporate Social Responsibility – the Complete Guide to the Subject & Study Conclusions in the Czech Republic"). For example, in 2001 in Great Britain the "Pension Act Amendment" was adopted that requires pension funds to require CSR reports from corporations and to appraise their CSR performance before they invest into them. See: <http://www.csr.gov.uk/ukpolicy.shtml>

^{18/} The stated information is a summary of certain data from World Bank research – World Bank, Enabling a Better Environment for CSR in CEE Countries Project, 2005, presented at the Brussels conference "CSR in enlarged Europe" in March 2006

^{19/} See: http://ec.europa.eu/employment_social/emplweb/csr-matrix/csr_matrix_en.cfm

NATIONAL POLICIES ON CORPORATE SOCIAL RESPONSIBILITY

Some EU Member States, in addition to their application and development of most of the policies on the abovementioned areas of CSR, have also created their own **National Policies on Corporate Social Responsibility**, which usually consists of the more or less comprehensive coverage of the sphere of CSR. These national policies are elaborated by and their content is provided by one or more pertinent ministries or by specially created for this purpose bodies and institutions. In 2000, in Great Britain the government even named a CSR Minister (<http://www.csr.gov.uk>).

ADVOCATING INTERNATIONAL ENTREPRENEURIAL STANDARDS BY THE GOVERNMENTS OF INDIVIDUAL COUNTRIES

There is no doubt that an important function of individual governments is the advocacy of international standards that govern particularly the administration and management of corporations. These very important standards include the **Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises**. These represent the recommendations of OECD member governments addressed to multinational enterprises and contain the principles and standards of responsible entrepreneurial behaviour. Every OECD Member State must have a National Contact Point whose job is to implement Guidelines, monitor the behaviour of multinational enterprises and resolve disputes (*you can read more about OECD Guidelines in Chapter II.A*).

OECD STANDARDS

Besides the abovementioned Guidelines, OECD is also active in the sphere of corporate governance

(the administration and management of companies). The OECD Principles of Corporate Governance were adopted at a OECD Council session at the minister level in May 1999 and their objective is to assist member and non-member governments in their endeavours to appraise and improve the legal, institutional and regulatory framework for the governance of companies in their countries and to provide guidelines for stock exchanges, investors, companies and other parties that play a role in the process of creating good corporate governance. The Principles focus on publicly listed companies and to a certain extent they are valid for and can also be used as a useful tool for improving the governance of state and private corporations. The revised wording of the Principles was approved by the Ministry session of the OECD Council in May 2004.^{20/}

The gestion for this issue was accepted by the Ministry of Justice of the Czech Republic, which works with the Ministry of Finance in this sphere. In 2000, the government of the Czech Republic took into account the Utilization Evaluation of the OECD Principles and instructed government members to deal with and as much possible take into account the principles and recommendations stated in the OECD Principles with regard to relevant Czech legal regulations.

REGULATION OF THE CAPITAL MARKET

The Czech Securities Commission is an important authority in the regulation of the capital market. Its agenda are carried out by the Czech Nation Bank (CNB) in the Czech Republic. In 2001, the Commission published an Administration and Management Code based on OECD Principles (Code 2001) primarily designated for companies with listed stock on the regulated market. Code 2001 was revised in September 2004 and published under the name (Code 2004).^{21/}

^{20/} See the web pages of the Ministry of Finance of the Czech Republic (Czech only):

http://www.mfcr.cz/cps/rde/xchg/mfcr/hs.xsl/meo_oecd.html

^{21/} The Code 2004 can be downloaded from the web pages of the Czech Securities Commission (Czech only):

http://www.sec.cz/export/CZ/Publikace_zpravy_a_vestnik/Publikace.page?FileId=2340

II.

CORPORATE ACTIVITY IN THE FIELD OF SOCIAL RESPONSIBILITY

II.A Donations, Sponsoring, Philanthropy, etc.

Donations and Sponsorship

More and more corporations have been giving donations and sponsorship. In addition to multinational enterprises, small and medium-sized businesses have been gradually taking part in these and other activities. Research^{22/} shows that among corporations the most widespread form of donations, monetary donations, is followed by material donations. The difference between a donation and sponsorship is obvious. With donations nothing in return is required from the party receiving the donation. The party donating the funds can write off this amount from its taxes on the basis of a donation contract (legal practice in the Czech Republic). Sponsorship is an activity primarily aimed at fulfilling the marketing objectives of the sponsor. The sponsor provides funds or other resources paid for from its budget and receives definite services in return, usually the

placement of its advertising. In contrast to a donation, the funds provided via sponsorship are accounted for, in full, in the expenses of the sponsor.

Trading companies often expend many millions in donations and sponsorship. Can this kind of activity be considered socially responsible? Yes, but only if this is just one of many activities in which corporations express their social responsibility. It is not possible to put an equals sign between philanthropy and social responsibility. If we interpret CSR as defined by the Communication from the European Commission “*CSR is not an optional “add-on” to business core activities – but about the way in which businesses are managed*”, then no amount of donated money, no matter how large, makes a corporation socially responsible.

Business Foundations and Endowment Funds

The best thought-out and meaningful activity in the sphere of corporate philanthropy is the financial support of beneficial activities via one’s own **corporate foundation** or **endowment fund** that, for this purpose of the corporation, will further and better entrust these funds to other foundations or endowment funds,

^{22/} As stated in the publication “Across Corporate Social Responsibility”, AISIS, o.s., 2005 (Czech only)

which in the sphere of publicly beneficial projects have sufficient experience and renown. These foundations or funds can then utilize the funds provided by the corporation to support projects that best match the needs of stakeholders, who themselves have applied for the contributions to realize their plans.

Other Forms of Donations and Corporate Support

Another common form of donations and sponsoring is when a corporation supports a selected non-profit organization directly. In some cases they form a **long-term partnership** and they annually contribute to the organization or collaborate on joint projects.

Another form of supporting society or a community is via **non-monetary donations** or offering **education, schooling** or **professional aid**. Relatively widespread is the combination of corporate support and the involvement of employees via a **matching fund**, when a corporation multiplies or increases the financial amounts collected from employees with its own funds. A similar but not as effective form of support is the **employee collection**.

Corporate Volunteering

The voluntary work of employees (often members of management) of a corporation to the benefit of local communities, primarily in the sphere of social services and education, is called **corporate volunteering**. Mainly because of the bad memories of "mandatory volunteering" during the reign of totalitarian governments, this form of corporate engagement in new EU countries, as compared to the EU-15 countries, is having a hard time finding its place. However, employee volunteering can serve as an interesting "team building" tool.

Cause Related Marketing

Cause related marketing is a strategy that can be included in the sphere of support of society by corporations. Many well-known corporations found out

a long time ago that helping non-profit organizations or certain publicly beneficial projects can increase their own revenue, profits and attract new customers. Thus corporations in cause related marketing use marketing principles and techniques to encourage a change in the behaviour of target groups, with the objective of creating product or service markets via this encouragement. Thanks to this they can become more attractive, more competitive, and more profitable as was demonstrated by certain projects implemented using cause related marketing.

The best known types of corporation campaigns in this sphere are those that undertake to donate a certain amount (in principle always a minute amount, e.g. 10 ha, 1 Eurocent) from every product sold to the benefit of some virtuous matter, event or organization. The company then bases its advertising strategy on this and often the amount of money it invests into the advertising exceeds the subsequent proceeds from the sale of the products. Nonetheless, in this manner corporations score points with the public, the effectiveness of their subsequent advertising campaigns increases, and they build up a good reputation; all this, even though this does not really have to be CSR. Let's not forget that social responsibility is an integral concept that requires corporations to behave responsibly during their everyday business decisions and during the creation of their strategy concerning stakeholders.

II.B Social and Socially Responsible Investment

Socially Responsible Investment

With the growing interest in CSR during the past few years, interest also has been growing in this manner of appraising investments and investing, which is called Socially Responsible Investment or Investing (SRI). The criteria in this policy that are considered when appraising investments include not only financial performance and a guarantee of security, but also the ability of a corporation to respond to environmental and societal challenges and problems.

The change in appraising a rate of return on investment only on the basis of economical results was most probably caused by the sudden and unexpected collapse of large companies, which were up to the last minute considered successful, or more precisely profitable, and that led to the unexpected appreciable decrease in value of property invested by shareholders or participants and by certain stakeholders. This probably also led investors into thinking that investment into corporations that have adopted the concept of CSR is less risky thanks to their ethical and transparent practices and policies.

Thus, SRI represents investment decision-making that combines financial factors with environmental, social and ethics factors. Socially responsible investors include both individuals and institutions such as universities, hospitals, foundations and foundation funds, insurance companies, non-profit organizations, and The Church. The growing number of pension funds has increased interest in SRI, because the long-term sustainable growth of a corporation is very important to these funds. In fact, some EU Member States have laws that apply to this sphere which require pension funds to make public information concerning in what manner they take into account environmental, ethical and social criteria when making their investment decisions. These laws

create fundamental control mechanisms to make sure that funds that say they make socially responsible investments actually abide by these principles.

Social Investment

Next to SRI there is a similar term, **social investment** (SI), which however does not mean investment into some business but non-market resource investments into the community. Social investment thus denotes the policies of corporations that, within the scope of their CSR, endeavour to contribute to improving the economic and social environment of the (closest) surroundings in which it carries on their business. Typical this includes the support of education, research and cultural projects. Corporations subsequently expect long-term returns on their "investment into society", that is why we are talking about social investment.

II.C Reporting on Social Responsibility

Mainly large multinational enterprises offer the public various, more or less, comprehensive reports that are prepared outside the scope of regular financial reports. These are supposed to bear witness to the corporation's policies concerning the environment (environmental report), sustainability (sustainability report), or are directly aimed at the fulfilment of the obligations the corporation took upon itself within the scope of the concept of CSR (e.g. environmental & social report, CSR report). Communicating with the public in this manner is still a question of a good reputation, prestige, and a demonstration of effective and class-conscious management.

What could interest you in the contents of these reports? This will certainly be the basics, particularly the profile of the corporation, i.e. a collection of specific information (including numerical indicators) bearing witness to how the corporation is doing in the protection of the environment, or how it is doing in its relationships with its employees and the surrounding community. You can also take a look at its environmental impact and possible risks associated with the operations of the business (e.g. what activities endanger the environment and annoy its surroundings), reports on mishaps and industrial accidents, or how its declared objective and the vision of the corporation are being fulfilled (e.g. limiting emissions, support of the local community, etc.), and what specific events and projects in the sphere of CSR did the corporation undertake and what events and projects it is planning, including anticipated benefits and results.^{23/}

However, we will only find this information in those reports that strive to portray the environmental, social and economic aspects of the corporation's

activities comprehensibly, clearly, and if possible, truthfully.

The published report is a sort of calling card for the company, a sign that it is endeavouring to take its social responsibility seriously; or better said, more seriously than those corporations that do not utilize high standards of reporting or do not provide any reports on their performance in the sphere of CSR. The said then require that one specific employee methodically and systematically deal with the subject of CSR within the scope of the corporation in order to appraise the performance of his company.

If you thoroughly read this kind of report, you might be surprised at the extent of its socially responsible activities and the amount of money that the corporation donated for publicly beneficial purposes. You can also find out about all the environmental and social factors the trading company does not take into account in its everyday decision-making, e.g. how it respects the rights of the surrounding community, the opinions of employees and non-governmental organizations, how it contributes to protecting the environment, how it comes up with this or that activity that is beyond the scope of the law, and how it fulfils its relevant obligations. It is not in the power of the overwhelming majority of consumers and the public to verify whether what businesses claim "on paper" they actually carry out. However, many non-governmental associations and trade unions, as employee representatives, often have relatively good opportunities to verify the information stated in reports. In essence, every violation of the law, e.g. cases of not abiding by the law and violating environmental protection resolutions or labour-legal regulations, means violating the corporation's CSR policies. Let's remember that this concept is understood to be voluntary activities above and beyond the scope of legal regulations. That is why abiding by them is the fundamental and minimum standard.

^{23/} See "Voluntary Company Reports on Relationships to the Environment, on Health and Safety, and on Sustainable Development", Planeta, Volume XIV, number 1/2006, Ministry of the Environment (Czech only)

Corporation Reports Presented According to the Standards of the Global Reporting Initiative

It is becoming more common in Central Europe for mainly large multinational enterprises and their subsidiary branches to present the public with various reports prepared above and beyond the scope of annual reports in which they try to describe the performance of their corporation in the sphere of sustainability and within the scope of the CSR. This is of course a voluntary initiative of individual corporations.

Roughly thousands of organizations use one of the most widespread in the world reporting standards: Sustainable Reporting Guidelines created by the Global Reporting Initiative (GRI – www.globalreporting.org). GRI is an international institution headquartered in Amsterdam that was founded in 1997 by the Coalition for Environmentally Responsible Economies (CERES) and the United Nations Environment Programme (UNEP). In 2000 GRI first issued Guidelines 2000, however, currently applicable are Sustainable Reporting Guidelines, named Guidelines 2002, published in 2002.^{24/} In October 2006 GRI is supposed to publish third generation guidelines named G3, which currently can be downloaded from the web pages of GRI in the form of a draft.^{25/}

GRI Guidelines will create a framework for presenting reports and their objective is to help corporations compile the most objectively possible report on their social responsibility performance. GRI's vision is that reporting on economic, environmental, and social performance by all organizations becomes as routine and comparable as financial reporting.

The Contents of GRI Guidelines

If we take a look at the contents of GRI Guidelines, **part A** describes the Guidelines' purpose and explains what a sustainability report is, how it relates

to a stakeholders dialogue, who should use the Guidelines, and how to correctly use the Guidelines. It also contains recommendations concerning the structure of the report and how it relates to other tools of sustainable management such as codes of conduct, environmental management systems, various internal corporate methodologies, and procedures and guidelines with regard to CSR.

Part B of the GRI Guidelines lays down the principles for reporting, which are transparency, completeness, verifiability, comprehensiveness, earnestness, connection to sustainability, aptness, neutrality, comparability, comprehensibility, and timeliness.

Part C of the GRI Guidelines describes the actual content of the report. Besides having a well-arranged structure, it must primarily state the vision and strategy of the corporation with regard to sustainability together with a word by the executive director of the business, it must show the structure and system of company management, and in conclusion it must thoroughly describe the performance of the corporation with regard to the individual groups of the 3 fundamental indicator groups: social, of which there are 24; economic of which there are 10, and environmental of which there are 16. Each group of these indicators is then further divided into subgroups, which comprise of individual indicators for better clarity and comprehensibility. A corporation that intends to publish a report that should comply with the standards of GRI Guidelines is obligated to adhere to the stated indicators, or possibly give a reason for why some of them were omitted.

For Whom are GRI Guidelines Intended?

Originally only entrepreneurial entities were intended to proceed according to GRI Guidelines, however, now it is recommend for use by other organizations and institutions including state authorities and

^{24/} GRI Guidelines can be downloaded from the web pages of GRI: <http://www.globalreporting.org/guidelines/2002/contents.asp>

^{25/} More can be found on the web pages of GRI: <http://grig3.org/>

non-profit organizations. Small and medium-sized companies can choose to use a relatively limited selection of criteria.^{26/} You can take a look at individual reports compiled according to GRI Guidelines on the web pages of GRI.

Why should corporations even compile such reports, especially in accordance with the relatively great demands of GRI Guidelines? The process of compiling such a report could allow entrepreneurs a more comprehensive look at their corporation as a whole, give managers a more than just economic view of their business, and possibly stimulate innovation. It can also help reveal weak spots in the operation of the company and increase its efficiency in sustainability. Besides the above-mentioned, the course of its preparation and the creation of the report can serve as a good impetus for intensifying stakeholder dialogue and can provide relevant information to existing and future investors.

CSR Internet Presentation

While large multinational enterprises have responded to the trend of publishing reports by designating special pages on the Internet for individual spheres of CSR or even creating a complete presentation on the Internet focusing on only CSR and sustainability, this kind of approach is an exception in countries that have just joined the EU. Even the subsidiary companies of large multinational corporations often do not even have a basic presentation on the Internet, much less any references to the CSR or environmental policies of its parent company, even though it presents itself as responsible. You can find, in essence, the same information in CSR presentations on the Internet as in corporation reports on their social responsibility and the reports that are for downloading.

II.D Measuring Corporation Social Responsibility

At a time when the number of entrepreneurs trying to present themselves as having a socially responsible profile grows, naturally interest has been increasing in having reliable data that could truly show the CSR practices of corporations. Not only are corporations themselves interested in this kind of information but also their stakeholders and non-governmental and trade union organizations.

Thanks to this interest an entire field of research and appraisal is forming called Measuring Corporate Social Responsibility. The results of this serve, among other things, as a foundation for SRI decision-making. Investors themselves often elaborate comprehensive corporation appraisal criteria that are built upon both economic and also social and environmental aspects.

In the past few years a large number of national and international standards and techniques of measuring and reporting CSR has been created. Among them the following three indexes play first fiddle: Dow Jones Sustainability Index, Ethibel Sustainability Index, and FTSE4Good Index series.

Dow Jones Sustainable Indexes

Dow Jones Sustainable Indexes^{27/} (DJSI) were the first global indexes that monitored the long-term financial performance of corporations throughout the world. Dow Jones Sustainability Indexes are a cooperation of Dow Jones Indexes, STOXX Ltd. and SAM Group. They were first published in September 1999.

^{26/} See "Voluntary Company Reports on Relationships to the Environment, on Health and Safety, and on Sustainable Development", Planeta, Volume XIV, number 1/2006, Ministry of the Environment (Czech only)

^{27/} The web pages of DJSI: <http://www.sustainability-index.com/>

Ethibel Sustainability Index

Ethibel Sustainability Index^{28/} (ESI) is an independent advisory and research organisation for SRI and CSR. It is said that ESI is based on much more precise research than all the other indexes. It is considered to be the most widespread index in Europe and on the other continents its pertinent version mainly competes with Dow Jones Sustainability Index and FTSE4Good.

FTSE4Good Index series

FTSE4Good Index series^{29/} (FTSE) is an independent company owned by The Financial Times and the London Stock Exchange. FTSE sole business is the creation and management of indices and associated data services, on an international scale.

Even though there exist many research organizations in the field of measuring and appraising CSR, they often do not make their methodology public, or they just outline it. It is then very hard to ascertain what weight to give these organizations, which utilize varying criteria. Indexes then suffer from a certain schizophrenia when they try to appraise various spheres of CSR but only include those corporations in their portfolio that achieve good results, which are extrapolated from stock exchange indexes. Thanks to this, a situation can arise in which corporations, even though they have a high degree of social responsibility, are excluded from the sample because their economic results are not good enough.

Then, if you want to compare the results of the CSR ratings of individual corporations in which the criteria of different indexes were used, you will get yourself into a very problematic situation. The weak side (not only in the abovementioned most well-known) of indexes lies in their different extent and thoroughness. However, in the sphere of measuring

corporate social responsibility, no entity has yet come up with a uniform methodology that would prevail and that then could become generally accepted and employed. That is why this real absence of the possibility to compare the results of corporation performance and contribution measuring in the sphere of CSR is often criticized (not only) in the EU by non-governmental organizations and trade unions.

^{28/} The web pages of ESI: <http://www.ethibel.org/>

^{29/} The web pages of FTSE: <http://www.ftse.com>

III.

DIFFERENT TOOLS TO HOLD COMPANIES TO ACCOUNT

III.A OECD Guidelines for multinational enterprises

The OECD Guidelines for multinational enterprises were established in 1976 for the first time and reviewed several times since then, with the most important review in 2000. The Organisation for Economic Cooperation and Development, OECD, created the OECD Guidelines at a time when at UN level there was intensive demand for binding regulation for transnational companies, mainly coming from developing countries.

Voluntary to companies, binding on governments

The OECD Guidelines are an international code of conduct that governments recommend to their companies. The OECD Guidelines have been signed by the 30 OECD countries and in addition by nine governments, so far. There are quite some East European countries adhering to the Guidelines, either by being member of the OECD (like Poland, Czech Republic, Slovak Republic, Hungary), or by signing on to the Investment Declaration of the OECD and

thus to the Guidelines, like Estonia, Lithuania, Latvia, Romania and Slovenia. But as well for non-members the OECD Guidelines are interesting, for two reasons. Companies from adhering countries are requested to observe to the Guidelines – wherever they operate, as well in non-adhering countries like Bulgaria or Macedonia. And with the review in 2000, a clause on supply chain was included. Even if being quite vague and interpreted even weaker, it is stating that in the chapter about the responsibility of corporations concerning their suppliers: ‘Where applicable’ the suppliers shall be ‘encouraged’ to apply principles of corporate conduct compatible with the Guidelines.

Whereas the Guidelines remain voluntary for companies, governments are obliged to implement the Guidelines. Each government has to set up a so called National Contact Point (NCP). NCPs are responsible to make the Guidelines known. In case of problems with the implementation of the Guidelines, the NCP has to handle complaints. As there can be a complaint raised against any company from an adhering country, there is even the question whether this instrument is completely voluntary to companies.

Content of the Guidelines

The ten chapters of the Guidelines provide recommendations for responsible business conduct

concerning: transparency and information, employment and industrial relations, environment, combating bribery, consumer interests, science and technology transfer, competition and taxation. The Guidelines refer to international agreements, such as the Universal Declaration on Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work (for further information, please see chap. III.B), and they focus on the overall principles of sustainable development and precaution.

Complaint Procedure at National Contact Points

For NGOs and TUs, the most interesting element of the OECD Guidelines is the complaint mechanism, which is open to NGOs since the 2000 review. Any company from an adhering country, that itself or through its suppliers, is violating the OECD Guidelines for multinational enterprises, can become object of a complaint. NGOs and TUs can raise these complaints at National Contact Points – either in the country where the problem occurs or if this is a non-adhering country, in the home country of the enterprise. The NCPs have to follow procedures for handling complaints and will aim to find a solution of the problem. After reviewing the complaint, the NCP conducts a mediation process. If this fails, the NCP has to issue an official statement and make recommendations on the implementation of the Guidelines. Further mechanisms of sanction do not exist.

Experience with the OECD Guidelines

Since 2000, NGOs raised more than 50 complaints. There have been positive changes in some cases like recently in Norway and Australia that have contributed to victories for the NGO campaigns (often in combination with other tools, especially media). But often, the results when analysing the complaints raised by NGOs is that most of the time the results are disappointing and not contributing to any significant change in corporate behaviour. NCPs have de-

viated wildly in how they have handled complaints and many cases have been mishandled.

But the OECD Guidelines, as one of the few international complaint mechanisms available for NGOs and TUs to use against corporations, could contribute to positive changes in some cases. The OECD Guidelines complaints procedure can contribute to the aims and campaigns of NGOs towards multinational corporations. To what extent the case can be helpful depends on a large number of factors and should be assessed on a case by case basis. It provides an opportunity for NGOs to get government attention and involvement in certain issues, and to establish a dialogue with the companies in a more formal setting.

Support from NGO network OECD Watch

In 2003, NGOs created the international network **OECD Watch** of civil society organisations promoting corporate accountability. The purpose of OECD Watch is to test the effectiveness of the OECD Guidelines for Multinational Enterprises, to advise and assist NGOs in filing complaints against companies, to monitor, analyse and influence the functioning of NCPs and to inform the wider NGO community about policies and activities of the OECD's Investment Committee and in general to contribute to the wider NGO campaign towards international binding regulation. OECD Watch has elaborated extensive material on the OECD Guidelines. If you need further support for a complaint, please contact OECD Watch at info@oecdwatch.org. If you want to become a member, you can get access to the database of cases which is a good source of information and experiences before filing a complaint.

Guidance and further information

Recently, OECD Watch published a guide on the OECD Guidelines complaint mechanism. Based on lessons from past NGO complaints, OECD Watch is providing recommendations what to consider before

filing a complaint, what to expect after a complaint is filed and what to include into a complaint.^{30/}

Source of information

For more general information on the OECD Guidelines, pro and contra of the instrument and more background on the OECD etc., please refer to two manuals, produced by Milieudefensie and by Friends of the Earth US and to further information at OECD Watch website www.oecdwatch.org.

III.B International Labour Organisation and its mechanisms

ILO Conventions and Principles and rights at work

The International Labour Organisation (ILO) is the oldest organisation of the United Nations, as it was already founded in 1919. It is distinguished from other UN bodies by having a tripartite structure: next to governments, as well trade unions and business associations are represented in the ILO. Since the setting up of the ILO, it has issued 185 conventions on labour issues. As the next step, governments ratify them and implement them into national law, but not all conventions have been ratified by all countries, yet. Out of all conventions, the ILO selected core labour standards as inalienable rights, which all workers should enjoy by virtue of being human beings and created the Fundamental Principles and Rights at Work. Adopted in 1998, this Declaration commits Member States to respect and promote principles and rights in four categories, whether or not they have ratified the relevant Conventions. These categories are: freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation. Many documents and codes of conduct refer to these basic principles of workers rights.

Tripartite Declaration

Whereas the ILO Conventions address governments, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy is directly addressing companies. The Conventions was

^{30/} This manual can be downloaded at: http://www.oecdwatch.org/docs/OW_complaint_guide_4.pdf

established in 1977 and was revised in 2000 to incorporate the fundamental principles and rights at work. It contains detailed guidelines for companies on labour issues. The declaration contains recommendations for enterprises in the field of employment (promotion, equality of opportunity and treatment, security of employment, training), conditions of work (wages, benefits, work conditions, safety and health considerations) and industrial relations.

Implementation of the declaration

There are no provisions within the document that stipulate mechanisms for implementation, monitoring and independent verification of the Declaration by companies. Although it is a non-binding instrument, there are some implementation procedures. There is a mechanism for examining disagreements concerning its application by means of an interpretation of its provisions. In March 1979 ILO established an ad hoc committee to monitor the implementation of the Declaration. This became a standing committee in November 1980. In 1993, the Governing Body established the Subcommittee on Multinational Enterprises within the framework of the Committee on Legal Issues and International Labour Standards. One of its tasks is to interpret the Declaration through a dispute procedure. But this procedure is not judicial, and the institutional follow-up does not provide for the public shaming of companies. Only member states or trade unions can request such interpretations, not NGOs. So far, there have been only five cases considered by this committee out of which four have resulted in interpretations.

Complaints through Committee on Freedom of Association

In general, the Tripartite Declaration is not used as much as other complaint mechanisms existing at ILO level. Even if those are not directly referring to companies, there seems to be more of an impact on companies, finally. The Committee on Freedom

of Association is the one most widely used and is competent for dealing with complaints raising the issue of a State failing to uphold workers' rights to Freedom of Association and Collective Bargaining. The mechanism is often used to address violations by specific companies. The complaint submitted by a workers association must show that ILO conventions on Freedom of Association and the Right to Organise (n° 87) and Right to Organise and Collective Bargaining (n° 98) are being violated.

These kind of ILO complaints are usually a tool to exert pressure on a company via pressure on the government of its country. The experience from Trade Unions is that the procedure is quite slow. In some urgent situations, often when the Committee on Freedom of Association issues its recommendation, the dispute is over. On the other hand the conclusions and recommendations of the Committee can sometimes prove to be useful as they form a kind of 'jurisprudence' that can be used in following disputes occurring in the same location or in disputes of a similar nature. Even if ILO recommendations are not directly implemented, the moral impact of the Committee's conclusions is strong and they constitute an unquestionable set of rules that unions can use for defending worker's rights.

But there are limits to this procedure, next to the problem of slow decisions and weak implementation. No NGO can raise a complaint at the ILO, this is only possible for Trade Unions. In cases of non organised labour, this might be some kind of a problem. As well issues that concern homeworkers etc., will hardly become an issue at this committee.

III.C United Nations Global Compact

The United Nations **Global Compact** (GC) is an initiative to encourage businesses worldwide to adopt sustainable and socially responsible policies, and to report on them. The Global Compact was first announced by United Nations Secretary-General Kofi Annan during the World Economic Forum in Davos in 1999 and was officially launched in New York in July 2000. As of March 2006, the Compact consisted of 3,000 participants, including over 2,5000 businesses in 90 countries around the world, as well as international labour and civil society organizations.

Content of the Global Compact

Companies that join the Global Compact, commit themselves to follow the ten basic principles in the areas of human rights, labour standards, the environment, and anti-corruption. They are derived from The Universal Declaration of Human Rights, The International Labour Organization's Declaration on Fundamental Principles and Rights at Work, The Rio Declaration on Environment and Development and The United Nations Convention Against Corruption.

What is the Global Compact

The Global Compact is not a regulatory instrument, but rather a forum for discussion and a network for communication. The Compact's goals are rather flexible and vague. Through policy dialogues, learning forums, local networks and projects the Global Compact aims to facilitate learning and dialogue. The Global Compact has developed its own logo, which use is regulated by Guidelines on Cooperation between the United Nations and the Business Community issued in 2000.

Critic of the Global Compact

There has been many criticism on the Global Compact, mainly coming from NGOs. Especially because the aims are very vague and that it is including companies that do not follow all of the principles. To participate in the Global Compact, a company has to only:

- Send a letter from the Chief Executive Officer to Secretary-General expressing support for the Global Compact and its principles (sample Entry Letter could be found on Global Compact website);
- Set in motion changes to business operations so that the Global Compact and its principles become part of strategy, culture and day-to-day operations;
- Is expected to publicly advocate the Global Compact and its principles via communications vehicles such as press releases, speeches, etc.; and
- Is expected to publish in its annual report or similar corporate report (e.g. sustainability report) a description of the ways in which it is supporting the Global Compact and its ten principles

Some seem only to use the compact as an PR instrument without really changing something on the ground. Some NGOs were of the opinion, the UN is selling itself towards companies. For non-compliance, first of all there were no sanctions at all. Companies only had to report on how the compact was implemented by them, and some even didn't do that.

New governance framework and complaint mechanism

After protest, especially from NGOs participating in the Global compact and from outside, in 2005 the Global Compact decided to establish a new governance framework. This is including several "**integrity measures**" in cases of misuse of association with the UN or the Global Compact, failure to communicate progress or in case of allegations of systematic or egregious abuses. For NGOs working on companies misbehaviour, mainly the last issue seems to be

interesting. Even if the Global Compact is reiterating that it is not aiming to become a compliance based initiative, in the interest of saving the reputation and integrity of the initiative, it agreed to handle “credible complaints of systematic or egregious abuse of the GC’s overall aims and principles”.

As part of the new governance structure, the Global Compact introduced some kind of complaint procedure. If the Global Compact office receives a complaint in writing regarding one of the member companies of the compact, they will assess the case and if they accept it, will take actions to remedy the situation. If the company refuses to participate in a dialogue, it will be declared as “inactive” on the website of the Global Compact. If as a result of the complaint process, the Global Compact office is of the opinion the membership of that company would not be supported anymore, the office has got the right to remove that company from the list of participants and to indicate that on the website. Even if further sanctions are not foreseen, for companies being interested in having a good public image, this might have an impact.

How to use the mechanism and experience with the mechanism

As of July 2006, there have been 13 complaints regarding violations, since the Global Compact adopted the new integrity measures. Some complaints have been outside the scope of the Global Compact, for instance where tackling competition policy which is not part of the Global Compact. Most complaints raised the issue of misuse of the logo, but as well issues like child labour, freedom of association or discrimination at the workplace. In the six cases finished so far, an agreement was reached regarding the problem. No sanctions have been necessary so far. Further information regarding the complaints, the companies involved etc. will not be published by the Global Compact.

If you are considering to use the mechanism of the Global Compact, first you have to make sure

that the company you want to approach is member of the Global Compact. To find out, you can go to www.unglobalcompact.org and check at “Participants and Stakeholder”. Then you should approach the Global Compact office with your problem. If you know about a national level of the members of the Global Compact, you could as well approach them, as the GC’s office is aiming to have the cases handled by the national platforms. The German platform, for instance, is creating some kind of specific structure of two levels: In case of a complaint, first they try to find a solution amongst the business members. If this is not possible, they will transfer the case to the OECD Guidelines complaint procedure. So far, there has not been any case.

III.D Labels

Consumers are an important actor in the global economy. Companies like Shell or Nike experienced, what it means to become the target of a consumer-boycott. It can have impacts on the sales and even on the value of a company. But for large boycotts you need heavy impacts which can be addressed to one company and you need a lot of informed consumers who act at the same time. And for having a real impact on the company and getting it to change its behaviour, you will need continual acting of consumers. Experience shows, that this is not so easy to rely on consumers. Especially if you want to have consumers to take care of issues in the production of a product that is not directly having an impact on the consumer. It would be easier to get consumer not to buy contaminated fruits than to buy fruits, which in addition, are produced without child labour. And even more difficult to buy fruits from companies that guarantee their employees freedom of association. Even quite shortly after panic reaction because of contaminated food or diseases like BSE, people fall back into their consumption patterns. Often, aspects like prices, habits and advertisements are more important than questions of the production process of a product.

Transparent information required

One main problem, even of the willing consumers, is transparent information. Often consumers don't know at all the conditions under which a product is produced, sometimes even don't know where it was produced. Some companies are trying to do better, others don't do anything, but often you don't notice at their product. But consumers don't google in the internet every day before they go shopping. What they need, is transparent information directly on the products itself.

Labels

One way to inform consumers about additional qualities of a product can be achieved through la-

bels. There is a growing number of labels on very different aspects, including private brands or regional indications. Against the background of social and environmental issues, different kinds of labels are an interesting element to inform consumers. Labels can inform consumers about the production process, about specific social standards or environmental conditions during the production of a good. They can vary from very single issues like "no child labour" which is indicated by the Rugmark-Label on carpets, or very comprehensive issues like several fair trade labels or the FSC label on sustainable produced wood. Labels on product allow consumers to prefer goods because of specific qualities.

Creating a label

Often, the basis of a label is some kind of code of conduct for a company or for a production process. Observance of this code is certified by the label. First step would be to create this code or the conditions to fulfill this label. For achieving a convincing label, a transparent and participatory process is needed. All stakeholders (like trade unions, environmental groups, local communities) should be included in the drafting of a code. Second step is independent monitoring of the fulfillment of the required conditions. If a company or a product is not following the code, it should not be allowed to use the label anymore. Sanctions for misuse should be included. Having said that, one can imagine that creating a new label and all the necessary process around, is very time consuming and needs a lot of resources. Thus, it is not a solution for a short term conflict with a company, but a longer process.

FSC as an example

One of the most known international labels is the Forest Stewardship Council, FSC. This is a system to certify wood products with the aim to secure sustainable using of woods. Main purpose is to produce woods in a socially acceptable, environment-friendly and economic sustainable way. This membership association was founded in 1993 and is funded by

various businesses, governments, foundations, and environmental organizations such as Greenpeace, FoE and the WWF, as well as by accreditation fees.

Any timber company or other organization that wishes to become FSC-certified and bear their logo must first contact an accredited third party representative of the FSC. The FSC does not directly certify forests but certifies the auditors that do certify forests. Certification representatives then inspect the practices and maintenance of the forestry resource. The final step is to ensure that products made with lumber coming from FSC-accredited forests end up with the FSC-certified logo; chain of custody certificates are used to track the products from forest to final point of sale.

III.E Shareholder Activism

Most multinational companies are listed on the stock market. They issue stocks which are owned and traded by shareholders, which serve as investors to the company and build the capital of the company. One can distinguish between smaller private investors like individuals and bigger institutional investors like pension funds, banks, asset managers, insurance companies or public entities. The commercial codes and the stock corporation acts define the rights related to the ownership of shares.

Attending the Shareholders Assembly

Shareholders of a specific company meet once a year at the annual general meeting of the company. Each person holding at least one share, has the right and is called to attend the annual general meeting. There, shareholders can raise questions towards the board of the company which have to be answered directly. A few weeks time before the annual general meeting, shareholders can apply a counter-motion which the company is obliged to publish on its website. Besides this, shareholders can vote at the end of the shareholders meeting – but this depends on the amount of shares one has got.

Critical Shareholders

Most shareholders are first of all interested in their profits. But there are groups of small shareholders that make use of the rights related to the ownership of shares in a different way. The 'Critical Shareholders' ask where the dividend comes from rather than how high it is and especially use the annual shareholders meeting. For example, in Germany, the Critical Shareholders asked that environmental protection and product liability be included among the main company goals in the corporate charter

at BASF, Bayer, RWE, Thyssen, Deutsche Bank and Dresdner Bank in 1996 and 1997 – and received considerable success with between three and eight per cent of the votes cast.

In some cases, having the element of shareholder activism in a campaign, really had an impact on the successful outcome. For example, for three successive years 2002-04, the Mexican trade unionists from Euzkadi company as well as the German NGOs FIAN and Germanwatch called attention to the problems of violation of labour rights at the local branch of the German tire producer Continental in Mexico. They called the chairman to account in front of the gathered owners of the company and the economic press. Results of these activities, amongst others were to re-open the deadlocked negotiations between the company and the trade union, which the CEO of the company promised in front of all shareholders.

Impact on media

Speaking at the shareholders assembly has not only an impact because of directly asking questions to the board of the company. As well it is important because all the media, especially the important business media is sitting there and listening to the debate. They are sitting in a special part of the hall, having direct access to internet and can transmit their articles directly to their editorial offices. So, presenting well prepared facts, asking well considered questions and directly approaching the journalists, might have an important impact on next days coverage in the news. But companies might want to prevent you from getting into direct contact with journalists sitting at their desks, so distribution of your press release directly to the journalists sitting there, might be difficult.

Delegating right to speak

If shareholders are not able to attend the shareholders meeting themselves, they can ask someone else to present them. They can provide a power of attorney to others which is covering their proxy rights. Networks of critical shareholders can organise such

kind of transferring the right to attend a shareholders meeting and to speak there.

How to know about the shareholders assembly and how it works there

To find out the date of the shareholders assembly of the company you are working on, go to the website of the company and look at the section of investor relations. Maybe this can be found by going to “about the company” etc. As well there should be pages in each country where you could find such kind of information, for instance in Germany via www.ebundesanzeiger.de.

Further information

If you want to search for more information, please go to the website of the international network of critical shareholders at: <http://www.ethicalshareholders.net>. Especially the German network is quite active, you can find it at <http://www.critical-shareholders.de>.

III.F Using Investment Rating Agencies and Long-term Investors

As shown above, investors and rating agencies are important players in global economy. Amongst them, especially SRI rating agencies and SRI Investors and more and more mainstream investors take social and environmental issues into account. They are even approaching NGOs to ask for information regarding specific enterprises and specific issues and are very interested in data about cases. The NGO OECD Watch, for instance, was approached by several SRI rating agencies as they are interested to get access to their database of cases filed by NGOs against multinational companies.

Accessing large funds

There are a few large funds, especially pension funds (like ABP, USS, CalPERS), that consider social and environmental aspects. They do active ownership and do engage with companies on these issues to change the behaviour or in case of serious concerns and no noticeable changes, they consider to withdraw their investment from this company. One recent example is the Petroleum Fund of Norway, a government controlled pension fund owned by the state of Norway. Part of the investment policy debate is related to the discovery of several cases of investment by The Petroleum Fund in highly controversial companies, involved in businesses such as arms production and tobacco. As a result, the Petroleum Fund's Advisory Council on Ethics was established in 2004 and a new regulation on the management of the Government Petroleum Fund was issued which also includes ethical guidelines. The Ethical Council is checking all investments of

the funds and is advising where to step back from investments. On the recommendation of the Council of Ethics, the Norwegian Ministry of Finance on 6 June 2006 has announced the exclusion of Wal-Mart Stores Inc. from the Norwegian Government Pension Fund Global's investment universe.

Accessing large investors (churches, trade unions etc.)

Next to large investors that have a code of conduct for their investments, one could consider to approach institutions with savings and with some kind of ethical interest, like churches or trade unions. Churches own money which they need to pay to their pastors. They are preaching justice, and should consider how they invest their money, too. The same refers to trade unions, who are fighting for workers rights and who are saving money for the pensions of their members. It can result in a longer process, but it might be very effective and change things in companies, if you manage to put pressure by engaging with these kind of investors.

Rating Agencies

Major rating agencies such as Standard&Poors and Moodys are very powerful actors within the finance markets, too. Rating agencies assess companies and give recommendations whether to invest in a company or not. As quite some effects of unsustainable development already are material (e.g. damage due to heavy weather events) and other creates risks on the long run (see above), they start to take these issues into consideration. The major rating agencies are difficult to approach as they act discreetly or just do not want to talk to NGOs. But they will have to incorporate sustainability criteria into their analysis, the sooner they do the better. Coalitions of investors (clients of rating agencies), proactive companies and NGOs might get the things move. It might be easier to start with rating agencies, that put social and environmental issues on their agenda (SRI rating agencies).

Next to investigating the company itself and asking questions to the company, SRI rating agencies take information from NGOs and from the media into consideration. So by providing those with specific cases may result in drawing a more negative picture on the company.

For instance you could inform SAM, who is producing the Dow Jones Sustainability Index (DJSI), one if not the most important international SRI indexes. Germanwatch managed to get SAM to consider issues of lobbying of the German chemical company BASF, which tried to undermine the Emissions Trading system. SAM directly confronted the company with these allegations. As SAM is deciding who is listed in the DJSI and who is not, getting SAM taking up an issue can have quite some impact on a company.

III.G Directive 2005/29/ES: Violating Codes as a Deceptive Practice

Codes of Conduct and Violating CSR Obligations

Codes of conduct are one form of communicating a trading company's voluntary obligations that are above and beyond minimum legal and administrative requirements. On the one hand they should establish a corporation's principles of behaviour that it has adopted, and on the other hand they represent tools that individual companies can present the public and thus shape their "corporate face".

The relative preciseness of codes and their formal character theoretically allow authorized non-governmental organizations,^{31/} pursuant to Directive 97/7/EC, to file a lawsuit or file an initiative at relevant administrative bodies, citing consumer deception if a company is acting in contradiction to its codes. This possibility was specified in European Community Directive 2005/29, which defines violating the obligations stated in the code of conduct as a deceptive practice or unfair business-to-consumer commercial practise.

The Directive is not a directly binding legal regulation. However, Member States are obligated to make their legal regulations comply with the requirements of the Directive by 12 June 2007. These regulations must come into effect no later than 12 December 2007. National implementing regulations will be decisive in this regard because of a controversial

^{31/} This power arises from Directive 97/7/ES and new Directive 2005/29/ES. However, the specific wording and authorization of non-governmental organizations is left up to the wording of domestic legal regulations. In the Czech Republic, the non-governmental organizations that have consumer protection as one of their goals in their statutes can file a deceptive practice lawsuit.

subject; the Directive does not clearly answer the question of what the bearer of the codes is actually responsible for.

Violating Codes as a Deceptive Practice

According to Directive 2005/29/ES a company commits deceptive practices when it simultaneously fulfils all the following conditions:

1. The company does not comply with commitments contained in code of conduct
2. These commitments must be firm and capable of being verified, not just aspirational
3. The company outwardly presents itself with the code of conduct
4. The declaration of obligations in the code of conduct can cause an averagely cautious consumer to decide on a business transaction that he otherwise would not.

The Directive anticipates that the codes of conduct will be sets of rules in a specific branch and any company can choose to abide by them and which are elaborated by a specific entity, called the holder of the code, that will make sure that they are abided by. Directive 2005/29/ES gives one the opportunity to turn to the holder of the code with a complaint concerning a violation of the code. Nonetheless, this procedure is completely informal and an overwhelming majority of codes of conduct don't have the kind of character of branch regulations, which are guaranteed by independent entities and abiding by them is validated by a certificate. For example, the Forest Stewardship Council (FSC – see Chapter III.D.) will have this characteristic. In any case, the code of conduct might be also a purely private document of one trading company. It's questionable whether such codes of conduct will be subject to the rules in the abovementioned Directive. Again it very much depends on the national implementations and national courts' and Court of Justice practice.

Corporate Accountability for Violating a Code and the Power of Non-governmental Organizations

The power of non-governmental organizations dealing with consumer protection to file a consumer deception lawsuit or to file a complaint with a relevant administrative body is more substantial. Here, the Directive gives national law the power to determine which of these alternatives it will allow and also what non-governmental organizations can claim from the company at relevant proceedings concerning the violations. Usually, it will not be possible to enforce compliance with the obligations contained in the code of conduct. The court or administrative body will only be able to forbid the company from further presenting itself with the code of conduct and possibly fine it.

A clear advantage of codes of conduct within the issue of corporate accountability is, thanks to Directive 2005/29/ES, their actual legal liability. On the other hand, this liability does not apply to the direct actions of the corporation, only the presentation of these actions. Simply said, corporations are not allowed to present something that they themselves do not do. The greatest problematic area that will be decisive for putting this tool into effect will be how specific the declared code of conduct has to be so that its violation can be punishable as deceptive practice.

IV.

HOW TO USE CSR AS A TOOL TO HOLD COMPANIES TO ACCOUNT

IV.A How far goes the responsibility of companies

International business has witnessed far-reaching structural changes. Through international business transactions and global production networks the boundaries of enterprises tend to blur. The globalised economy is characterised by the enlargement and complexity of supply chain relationships. Civil society organizations demand that multinational enterprises take responsibility for their supply chain. This requires an assessment of how far the responsibility of multinationals for social and environmental issues in the supply chain goes, and where it stops.

Supply chain structures depend a lot on the sector. Some industries are completely internationalized and outsourcing is very common. Textile and sportswear producing companies like Adidas have got 99% of their production outsourced to their suppliers. Especially after intensive NGO campaigns, these brands like Adidas have accepted responsibility for their suppliers, as well. They created Codes of Conduct and have implementation processes going on. There is still the question, how much is really changing and how much is only PR, especially if the

CSR department of a company is working separately from the purchasing department. But at least many of these brand companies don't negate anymore their responsible completely.

But there remains intensive debate, how far the responsibility goes. What is still in the sphere of influence of a company or where is it in the sphere of influence of other companies or of states. There are several debates going on. The most important is taking place at UN level in connection with the Special Representative on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, and the debate around the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights. As well the Global Compact is asking companies to embrace, support and enact the 10 principles within their sphere of influence, without further defining them. Furthermore, at OECD level there is a discussion about the scope of the OECD Guidelines towards supply chain. In 2003, the OECD clarified that the Guidelines apply only to investments and investment-like relationships, not to trade relations, and that the relationship should be determined on a case-by-case basis. However, NGOs feel that the flexibility and ad hoc approach is being misused by NCPs to reject OECD Guidelines cases filed by NGOs.

Of course NGOs understand that companies cannot be responsible for everything, their responsibility still has to be reasonable. But indeed with growing companies and growing inter-linkages and increased outsourcing, their responsibility is growing, as well. There might be room for interpretation of the scope of legal responsibility and moral responsibility. But in some cases of brand names, if someone can show a relationship between a company and its suppliers, it doesn't depend so much on the percentage of products that have been sourced there and the possible level of influence, but the simple fact of a relationship.

The network of NGOs working on the OECD Guidelines, OECD Watch, worked out some kind of levels of influence of a company and tried to further elaborate the criteria given by the OECD: number of suppliers, structure and complexity of the supply chain, market position towards the suppliers and existence of certification or product tracing systems for quality standards. In the case of direct investment such as through purchase of a subsidiary, location of a fully or partially owned plant, joint venture, merger, or other forms where a clear ownership of the entity or operation exists the company is fully responsible for their suppliers. Where a company has invested money by buying shares, it is can depend on the percentage of investments. Normally, 10 percent investments are seen of having an influence on a company. In established and direct business relationships and direct influence other than investment from market power (sourcing and manufacturing), from other business practices (certification and product tracing systems), companies should encourage their suppliers to implement certain standards like the OECD Guidelines. In cases where the potential influence is limited, a company is expected to show how it uses this influence to promote the implementation of the Guidelines by its business partners. This can for example be done by urging business partners to apply principles of corporate conduct compatible with the Guidelines or by means of dissemination of general policy statements of the enterprise.

In general, OECD Watch was of the opinion: If companies readily accept responsibility for product quality in the supply chain, this responsibility should be extended to the issues as covered in the Guidelines in relation to that supplier. Enterprises should enable their suppliers to fulfil standards like the OECD Guidelines. An important precondition is fair purchasing practices, such as in like fair prices and adequate delivery time. If a company alone has not enough influence on a supplier, it should team up with other companies or participate in sector initiatives.

IV.B Strategy

The concept of corporate social responsibility (CSR) rises and falls as ordered by society. If society does not call for greater responsibility by corporations, then they alone, because of their fundamental objective (maximization of profit), would never consider this activity. That is why the extent of responsible behaviour depends upon the extent to which the public, where the corporation is active, is informed and the pressure that society exerts on corporations. That is why social responsibility rises and falls with the activities of civil society and with the expectations of the public. That is why we consider the participation of civil society in the formation of the concept of corporate social responsibility as key.

If the preceding part of the handbook is intended to provide a basic overview of corporate social responsibility, then this part is devoted to the principles and strategies that can be useful for members of civil society if they want to induce a specific business to take its social responsibility seriously.

The Recommendations stated here are primarily aimed at the following situations:

- The activities of a corporation have or could have a negative impact on the environment, human rights, the community, etc.,
- A corporation is acting in direct contrast to its declared voluntary obligations,
- A corporation is utilizing selected tools of social responsibility to improve its good name; however, it has not changed its socially problematic activities.

Once more we would like to call readers' attention to the fact that even though the below-mentioned principles, strategies, etc. come from practical experiences, they are not all-purpose. It will always be necessary to consider all the circumstances and factors of a specific case.

1. Initial principles

A greater part of the below-mentioned principles could be considered a matter of course. However, in practice, civic initiatives often forget about them. That in itself weakens one's initial position for dealing and negotiating with the irresponsible corporation. That is why we have intentionally stated them first.

1.1 EQUALITY PRINCIPLE

Clubs, initiatives, trade unions, consumers, affected owners, employees, etc., – all those that have entered into a relationship with the corporation should remember that from the point of view of the general concept of CSR, they are a stakeholder (*for details see Chapter I.A*). That is why they should place emphasis on being dealt with as an equal partner worthy of respect and on being treated properly. If this is not the case, the business is clearly sending a signal that it does not take its social responsibility seriously enough.

Recommendation

You should dismiss any doubts about your legitimacy for dealing with the company right at the start, stating that this is a demonstration of irresponsible behaviour by the company. Refusal of a corporation to negotiate with you demonstrates the same thing and nothing stands in the way of the corporation being publicly labelled as irresponsible.

1.2 A CORPORATION CANNOT BE SOCIALLY RESPONSIBLE IF IT VIOLATES LEGAL REGULATIONS

An essential characteristic of social responsibility is voluntarily fulfilling one's obligations above and beyond the requirements of the law. This implicitly means that a socially responsible corporation must act in accordance with the legal regulations of the country in which it is active. Even though this is a matter of course, because complying with legal regulations is mandatory (usually enforceable via sanctions), it is not unusual for a corporation with extensive CSR activities to repeatedly breach its obligations arising from

legal standards. Businesses with problematic activities understandably arouse public controversy. A socially responsible profile helps diminish this controversy and diverts attention away from the socially problematic activities of the business. A good example of this approach can be a well-known company such as Shell, which when extracting often uses methods that are very hard to justify, even though it is considered to be a leader in social responsibility in its field (compare: Lessons Not Learned; The Other Shell Report 2004, Friends of the Earth).^{32/}

Note

New European Union Member States can be considered, to a certain extent, a touchstone for the social responsibility of multinational enterprises that are coming into the region. They are attracted by cheap labour, accessibility to the strong markets of the old EU Member States, and the investment incentives offered by the state. Just the purposeful relocation itself of the business's production capacity into a country with the abovementioned advantages could be, under certain circumstances, qualified as irresponsible behaviour towards society. Even if we turn away from this provocative reasoning and only study the behaviour of businesses coming into this region, we can still come to some disturbing conclusions. From our practical experience it is possible to responsibly say that businesses, even though they are active in the sphere of CSR, very often, with the help of national governments and public administrations, behave in a manner that as a rule is on the edge of violating the legal regulations of the country where they made their investment. That is why we recommend developing any kind of civic activities with the objective of inducing specific corporations to behave more responsibly, in order for them to pay due attention to the behaviour of businesses when they enter the target country of their investment. Thanks to this, it is

possible to get a good idea of which corporation takes social responsibility seriously.

Recommendation

If you are starting negotiations with a corporation that is in any kind way active in the field of social responsibility, it would be a good idea to carry out a legal analysis on the business's behaviour, in order to get a clear picture of how seriously the business takes social responsibility, and how much of this is only the unjustifiable improvement of its good reputation and simultaneously a violation of legal regulations.

1.3 A BUSINESS THAT SAYS IT IS SOCIALLY RESPONSIBLE MUST INTEGRATE SOCIAL AND ENVIRONMENTAL CONCERNS INTO ALL OF ITS CORPORATE ACTIVITIES

Authors of this handbook share the interpretation of social responsibility stated in the Communication from the European Commission from 2002 (*for details see Chapter 1.B*), which understands the concept of social responsibility to be practically "holistic", i.e. integrated. This interpretation considers responsible behaviour to be an integral part of all corporation activities. That is why responsibility cannot be considered as just a kind of "add-on" that has no impact on entrepreneurial activities themselves, that it is only "sop for the public". In this case, this is not actual social responsibility but the sophisticated creation of the good name of the corporation.

Recommendation

If you want to induce a corporation to behave responsibly, first find out what kind of negative environmental impacts the primary business activity of the business has and demand that they minimize them. This should be the first thing the

^{32/} See http://www.foe.co.uk/resource/reports/lessons_not_learned.pdf

trading company should do if it is serious about social responsibility.

1.4 INFORMATION ON CORPORATE SOCIAL RESPONSIBILITY POLICIES SHOULD BE EASILY ACCESSIBLE

One of the characteristic attributes of social responsibility is the necessity to disclose all business activities. Transparency is one of the characteristic attributes of a responsible corporation. Stressing the requirement for transparent behaviour within the scope of social responsibility is obvious, no matter how many activities are being engaged in within the field (see e.g. *the standards of the Global Reporting Initiative*). Because the concept of social responsibility is founded on the principle of voluntariness, it conceals within itself certain justifiable expectations arising from the logic of matters themselves. A company that voluntarily states that it has adopted the concept of CSR and has engaged in certain activities in this field, should also duly inform other stakeholders and the public about these activities. This is because social responsibility is an activity that is intended to benefit stakeholders. It would defy logic if a business carried out publicly beneficial activities without the knowledge of those that these activities affect. Additionally, the requirements to duly disclose socially responsible activities is connected with the necessity of public checks to see whether a business that declares certain above-standard behaviour is actually behaving in such a manner. It is necessary to be aware that the motives of businesses are often very different when implementing their own CSR policies. An appreciable proportion of them are after a better appraisal by rating agencies (*more on this in Chapter I.C.4*), which will make them more attractive for investors aiming for responsible investment. That is also why they present their above-standard behaviour in the entrepreneurial sphere. They do not care that much about the informed public because they do not want to undergo a detailed public inspection.

Note

Notably clear is the problem of the public not being sufficiently informed about the above-standard behaviour of businesses in new EU Member States. It is almost a rule that the public is not aware, or very insufficiently informed, of the CSR policies of a subsidiary company of a multinational enterprise, which has created its own CSR policies. This is particularly obvious in the difference of the Internet presentations of individual businesses of the corporation, whereas on the web pages of the parent company one can find a detailed description of above-standard activities, the web pages of the subsidiary company do not even mention it. This highly diversified approach of corporations creates substantial barriers in awareness. Not only is the information not easily available, one must also count with a language barrier, because the information on social responsibility on the web pages of the parent company is not in all the language versions of the countries in which the business is active.

Recommendation

First of all check the web pages of the parent company if you want to find out something about its social responsibility policy.

1.5 A CORPORATION IS RESPONSIBLE FOR ALL THE ACTIVITIES OF ITS SUBSIDIARY COMPANIES, SUBCONTRACTORS AND SUPPLIERS

We deal with the issue of responsibility for subcontractors in detail in Chapter IV.A. That is why here we will only warn you of several important points concerning this issue. First of all you must remember that outsourcing, creating a subsidiary company, etc. is not only due to economic motives or the need for internal systemization of the management of the business. A significant reason for this is understandably to limit legal responsibility of the business. In this regard, social responsibility goes beyond the scope of the formal interpretation of the legal responsibility of a legal entity. That is why in this case, if the corporation has implemented a CSR policy, it is necessary to de-

mand that this policy also apply to all of its subsidiary companies and to its subcontractors and suppliers.

Note

The relationship between a customer and supplier is usually unequal. The degree of inequality depends on the economic strength of one of the parties in this relationship. In practice, it is a rule that if the customer is a multinational enterprise, then the supplier is very dependent. The supplier in these relationships often supplies to one or only a few customers. Large businesses in particular in the role of customer have the opportunity to directly influence the behaviour of their suppliers.

Recommendation

If a business is behaving irresponsibly and is a supplier (subcontractor) to a large multinational corporation, find out what obligations the corporation (customer) has publicly made in the field of social responsibility. Find out if the behaviour of its supplier or subcontractor is not in contradiction to the publicly declared obligations of the corporation. If this is the case, demand that this be rectified because it is usually only the corporation, within the scope of a supplier-customer relationship, that can affect the behaviour of its suppliers. That is also why the corporation is responsible for the behaviour of its suppliers within the scope of the CSR concept.

1.6 PHILANTHROPY BY ITSELF IS NOT SOCIAL RESPONSIBILITY

Philanthropy is only one of the tools of social responsibility, which cannot be the sole activity of a corporation if this corporation wants to pass itself off as socially responsible.

We deal with this issue in the handbook in several places (see Chapter II.A), because many misconceptions are associated with philanthropy, both on the part of the public and on the part of businesses. It is fitting to use the term "Add-on" for philanthropy, as used by the European Commission in its Communication from 2002 (more on this in Chapter I.B.). Philanthropy is undoubtedly a very useful activity.

However, it brings great risks, because it can be easily misused for building up the good name of a business without the business as a whole actually behaving responsibly. In order to better understand this problem we give an example.

Example

An automotive plant publicly declares that it wants to be socially responsible and that is why it will become a regular contributor to charitable purposes. However, in addition to this, it continues to manufacture diesel engines without a solid particle filter, it manufactures cars that do not meet the best possible passive safety criteria, and it does not invest a sufficient amount of funds for research into limiting the negative impacts of its products. In this case, in no way is it possible to say that this business is socially responsible.

Recommendation

If a corporation engages only in philanthropy and due to this it declares itself as socially responsible, we can only recommend for you to chart the negative impacts of the activities of the business, place them in contrast to its activities in the field of philanthropy, and demand actual changes be made in the behaviour of the business.

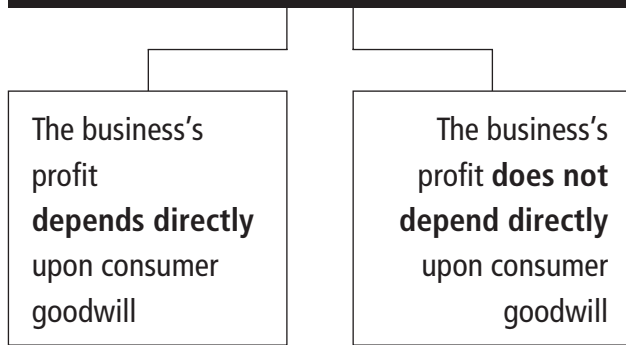
2. Methods and strategies

In this part we will focus on specific suggestions for what methods and strategies individuals in a civil society can utilize if they want to induce a corporation to behave responsibly towards society and the environment.

2.1 THE NATURE OF A BUSINESS DETERMINES THE CHOICE OF A STRATEGY

If you want to utilize the tools and line of reasoning arising from the principles of corporate social responsibility, it is essential to find out how important a good reputation is for the business and how much of this reputation is based on the policy of being socially

The nature of a business determines the choice of a strategy



responsible. That is why the nature of a business determines the choice of a strategy. That in itself is obvious. Základním vodítkem pro nás bude v prvé řadě to, nakolik je úspěšnost společnosti (rozuměj výše dosaženého zisku) závislá na její dobré pověsti (tzv. „goodwillu“) u spotřebitelské veřejnosti. Jde o zcela zásadní rozdíl, který bude ovlivňovat případný postup vůči korporaci, a to z následujících důvodů:

If a corporation's profits depend directly upon consumer goodwill, it can be anticipated that:

- Any steps taken with regard to this type of corporation will be of interest to the public because they are its direct customers. That is why it is highly probable that they will be attractive to the media.
- The corporation is very particular about its good reputation with the public. That is why it is very sensitive about any negative publicity.
- It is highly likely that the corporation already has a specific social responsibility policy. However, to what extent it actually fulfils its publicly declared obligations should be the subject of detailed and objective research.
- Not fulfilling one's own voluntary obligations in the field of social responsibility could have a significant impact on the good reputation and profits of a business if this fact was made public.
- The complaint process according to OECD Guidelines for Multinational Enterprises (*more details in Chapter III.A*) can be very unpleasant for a corporation if it will be referred to by the media.

Example

Automotive manufacturers (e.g. Volkswagen, Toyota, General Motors, etc.) and manufacturers of consumer electronics (Electrolux, Sony, Nokia, etc.) represent typical businesses that are well-known by consumers and their success depends directly on consumer goodwill and the way they are perceived by consumers.

Note

There exist many factors that influence to what extent it is important for trading companies, whose direct profits depend on consumer goodwill, to behave socially responsible. That is why we will not go into further details, as we will with companies that are not directly dependent on consumer goodwill (see below). Instead, allow us to call attention to one important factor, and that is the type of business, or type of products (services) that the company offers. If the company bases its business on the production or sale of low priced goods (services), then presenting itself as socially responsible does not have to be strategically important for it and thus pointing out its irresponsible behaviour does not have to be all that dangerous to it.

The situation when the profits of a company do not depend directly upon consumer goodwill

If a business is not known by the public and its direct customers are not consumers, it can be anticipated that:

- It is generally less sensitive to negative publicity
- It is not a very attractive subject for the media
- Its needs to create a social responsibility policy are low
- The options to engage in a complaint process according to OECD Guidelines for Multinational Enterprises are limited. Even succeeding in front of the National Contact Point does not have to result in positive changes in the behaviour of the business
- In order to decide upon a strategy, it is necessary to find out whether the business is connected to a publicly-known corporation, and whether this is

via the ownership structure or the supplier (sub-contractor) structure or as a customer (see below)

If a business's profits do not depend on consumer goodwill, it is necessary to further differentiate them into:

- **Businesses that must pay attention to entrepreneur goodwill**

Most businesses are not known to the public and their profits are not directly dependent on consumer goodwill. In spite of this, they must often pay attention to entrepreneur goodwill, because on it depends primarily:

- Credibility for other business partners
- Credibility with regard to potential investors (see chapter I.C.3, I.C.4, II.B, 3.F)
- Credibility with regard to potential customers (see below)

That is why businesses often take great care to be well-known and to have a good reputation among other entrepreneurs, which understandably begins with the quality of products (or provided services). Understandably, reliability is also important (keeping to delivery deadlines, payments, prices, etc.), along with a not insignificant new aspect, corporate social responsibility.

- **Subcontractors (suppliers) of publicly well-known concerns**

That which was stated in the previous paragraph understandably also applies to businesses that are subcontractors to publicly-known concerns. In this case, another aspect is that their socially irresponsible behaviour could cause problems with the corporations that are its customers. Their co-responsibility understandably depends on the position of the customer. If for example the concern is its exclusive or most important customer, then their relationship comes close to that of being one of ownership, because the subcontractor is directly economically dependent on the customer. In practice it is typical that in this kind of relationship the customer has a real influence on the manner in which its

subcontractors (suppliers) operate (*more details can be found in Chapter IV*).

Note

It is time to call your attention to one more aspect concerning the issue of the behaviour of subcontractors. It is not an exception for businesses to evade responsibility for the risky processes of their operations via "outsourcing", when the problematic part of production is simply ushered out of the business and on the basis of a contract it is handed over to another business.

- **Businesses, directly or indirectly, owned by publicly-known concerns**

This situation in businesses that are directly or indirectly owned by publicly-known concerns will be very similar to the previous case. We are stating them separately primarily to emphasize the greater and direct responsibility of the owner for the behaviour of the business it owns. That is why it is important for the owner to be pursued for the responsible or irresponsible behaviour of its business.

Note

Even in this case, in practice it can be difficult to ascertain ownership relationships because the ownership structure is often very complicated, and when consulting official information, it is not always clear who really owns what company.

- **Businesses that do not need to worry about their good reputation**

There exists a manner of doing business that does not require a good reputation, or requires a good reputation in a perverted sense of the word. This largely concerns very risky business with only one objective: the maximum amount of profit in the shortest amount of time. A typical representative of this is e.g. a gold mining company, etc. In cases such as this, pointing out the irresponsible behaviour of the business will probably miss the point. If this kind of company possibly has a social responsibility policy, it can be anticipated that this is most likely

nothing but sophisticated PR (public relations). If you want to induce a corporation engaged in these types of business activities to behave responsibly, it is not possible to rely on the sphere of CSR, but to focus on other aspects and utilize other tools (legal procedures, direct actions, working with the community, etc.). However, this issue exceeds the scope of this handbook because it is not directly related to social responsibility.

2.2 SPECIFIC STRATEGIES IN RELATION TO THE KIND OF BUSINESS

2.2.A Strategy to be utilized on a “publicly-known business” (see point IV.B.2.1)

2.2.A.1 Preparatory phase

If you want to be successful in inducing a corporation to behave more responsibly, a thorough preparatory phase is essential. This is necessary in order to collect a sufficient amount of the necessary documents and information. It is also a good idea, during the preparatory phase, to elaborate positive proposals on possible ways to resolve the irresponsible behaviour of the corporation. This will help limit the public (and the business that you are focusing on) in perceiving you as only critical, someone who is not able to come up with constructive proposals.

Recommendation

During the preparatory phase, it is not a good idea to simultaneously utilize the work of the media, address the business, etc., because:

- You will not be able to present sufficiently elaborated lines of reasoning,
- You will not be sufficiently prepared for rebuttals
- It is necessary to have positive proposals prepared for resolving the entire situation

With regard to proceeding strategically, it is advantageous to concentrate your efforts onto one point – officially commencing proceedings against the irresponsible corporation. This can only be effective if you are well prepared.

2.2.A.1.1 Find out what is its corporate social responsibility policy

a) Visit the web pages of the business

You should be able to acquire basic information on the web pages of the company. If this information is not made public here and this is a subsidiary company, take a look at the web pages of its headquarters. In any case, this information should be easily accessible, and if it is not, then it is necessary to point out this inconsistency (see *Chapter II.C*).

b) Get a hold of the annual report of the business

If the business has elaborated a social responsibility policy, then most likely this will be mentioned in its annual report. This is usually made public on their web pages and if it is not there, definitely ask for it. However, it is important to remember that even though the obligation to elaborate an annual report is a frequent obligation arising from national legislature, that does not mean that this is automatically connected with the obligation to publish it publicly.

Note

An annual report in business law is considered foremost a tool for the internal auditing of a company, and not as a tool for public transparency. However, within the scope of the social responsibility concept, great emphasis is placed on transparency. And with this is connected the necessity to make public annual reports, which should be supplemented with detailed information on the business’s impact on the community and society, just as with activities to the benefit of the public (*for CSR reporting see Chapter II.C*). Precisely for these reasons it is a good idea to ask for it at the business to ascertain its transparency.

c) Try to acquire any related information on the business

It is a good idea to try to acquire as much information as possible on the activities of the business, especially if this is a multinational corporation. Its practices can markedly differ in the individual countries it is active depending

on the legal and social environment of the given country. And not only that. The social responsibility policies of individual subsidiary companies can also differ. That is why it is a good idea to point out the best practices of multinational corporations in connection with the irresponsible behaviour you are facing.

Example

The Toyota Motor Corporation, besides the overall concept of social responsibility, which applies for the entire corporation, has varying specific objectives and activities in various countries and businesses. For example, in Japan, where Toyota is headquartered, it has greater and more detailed obligations as compared to other countries. Besides this, individual subsidiary companies of Toyota have their own specific activities in the field of CSR, which fundamentally differ from business to business.

- d) Find out if the business is a member of a known initiative in the field of social responsibility

There are many voluntary initiatives in the field of social responsibility that have as their objective to raise the social responsibility of businesses. Understandably, among the most well-known belongs Global Compact (*more on this in Chapter III.C*), but many others also exist, e.g. CSR Europe, Business Leaders Initiative on Human Rights, Ceres, Ethical Trading Initiative and many others. The large number of various initiatives makes this matter a markedly difficult survey. Nonetheless, it is very useful to find out if and where the business that you are focusing on is a member. Understandably, this information will affect your following strategy.

- e) Find out what kind of reputation the business has in the corporate world

Besides the abovementioned, an extremely good idea is to ascertain what kind of reputation the business has primarily with investors and rating agencies. The most well-known of these is the Dow Jones Sustainability Index, but of course there are many more (*for additional information see Chapter II.D*).

2.2.A.1.2 Confront the corporation in the field of CSR regarding their publicly proclaimed obligations as compared to reality

If you have sufficiently charted the activities of the corporation in the field of social responsibility, elaborate a summary of discrepancies that occur in practice as compared to the officially declared CSR policy of the business. We must recommend elaborating a clear and concise list of shortcomings in the corporation's fulfilling its own obligations in the field of CSR. This can be utilized well in subsequent communications with the company, and also with the public.

2.2.A.1.3 Confront its CSR business practices with social responsibility standards

As we have already mentioned in many places in this handbook, within the scope of social responsibility there exist an abundant amount of various social responsibility standards, platforms creating codes of conduct, etc. That is why we have selected several standards the utilization of which could be useful when proceeding against a business.

- a) Compare the business's practices with the OECD Guidelines for Multinational Enterprises

We dealt with OECD Guidelines in *Chapter III.A* of this handbook. That is why, first of all, we refer to this passage. OECD Guidelines contain administration and management standards and socially responsible behaviour standards and thus are a certain kind of gauge according to which it is possible to appraise whether a business is behaving responsibly or not. You can utilize the results of the appraisal when further proceeding against the corporation.

Notices and recommendations

OECD Guidelines are general standards that are completely independent of the specific CSR policy of the business. Simply, these are standards that contain criteria that can be utilized if the business is responsible or irresponsible from the point of view of the Guidelines. That is why, if the business has not implemented a social responsibility policy, it is always possible to point out practices

that are in contradiction with these Guidelines (of course, if that is the way it really is).

In any case, we recommend comparing the behaviour of the business with the standards of the OECD Guidelines. This is with regard to the possible later utilization of their complaint mechanism (*details of this are in Chapter III.A*).

- b) Compare its business practices with the ten fundamental initiatives of the UNO Global Compact Without regard to whether or not the business joined the Global Compact platform, analyze whether the business is not violating any of its 10 fundamental principles. First of all, they are derived from international public law, international conventions on the protection of human, social and environmental rights, and anti-corruption conventions,^{33/} and if you get any negative results in this comparison, this could overlap into a purely legal matter (*see below*).

Notice

If the business is a member of the Global Compact, it is possible to utilize its complaint mechanism (*more details on this in Chapter III.C*).

- c) Compare its business practices with SA 8000 standards

SA 8000 focuses on the protection of employees. It contains a large amount of criteria derived from International Labour Organization treaties. Even here applies that it is not important whether or not the business is certified by the SA 8000 standard. What is important is that this standard mostly contains requirements that are commonly made into law in European countries and in spite of this are very often violated by businesses. That is why we must recommend comparing the behaviour of the business with these standards if you suspect the business of behaving irresponsibly towards its employees.

- d) The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy
If irresponsible behaviour of a corporation occurs within the scope of labour-legal relations,

then in essence the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy is a similar standard as compared to the OECD Guidelines for Multinational Enterprises. A formal process of discussing its interpretation is associated with the declaration; unfortunately, it cannot be considered a useable tool (for details see Chapter III.A.). In spite of this, when comparing the practices of a specific business with internationally accepted standards, it can be very useful.

2.2.A.1.4 Prepare/have prepared a legal analysis of the business's behaviour

If a corporation violates its publicly declared obligations in the field of social responsibility, it is most likely that it is also violating legal standards. Here we will remind you once more that a natural connection applies – violating legal standards automatically means that it has betrayed its own CSR policy. It is not possible to consider a business socially responsible if it has violated legal standards created to protect society and public interests, especially when the concept of CSR is based on voluntariness that goes above and beyond the scope of legal standards. (*for details see Chapter I.A*).

The legal analysis itself can focus on answering two different questions:

- Whether the irresponsible behaviour of the business led to the violation of public law standards protecting various public interests (protection of the environment, health protection, cultural heritage protection, etc.), the violation of labour-legal regulations (social rights protection), or whether basic human rights were not violated.
- Whether the behaviour that is in contradiction to publicly declared voluntary obligations in the field of social responsibility is not in the end unfair competition and whether, thanks to this, consumers are deceived. Of course, even in this case this is the protection of specific public in-

^{33/} <http://www.globalcompact.org/AboutTheGC/TheTenPrinciples/index.html>

terests; however, their violation can only lead to the fact that the business is not abiding by its publicly declared voluntary obligations. In connection with this we also refer you to Chapter III.G. which deals in greater detail with Directive 2005/29/EC, on unfair business-to-consumer commercial practices in the internal market.

Notice

It is widespread practice for a business to show off its social responsibility policy in its home country and then silently violate legal regulations in countries that lack adequate public and state controls.

Recommendation

If you acquire sufficient evidence on irresponsible behaviour of the business and there exists a legal tool that can enable you to rectify matters, we definitely recommend using it. The most effective way of proceeding is to utilize evidence of unlawful behaviour together with facts that concern the violation of the business's own social responsibility policy and thus utilize the created synergy of both tools.

2.2.A.1.5 Proposing rectifying measures

If you want to rectify the irresponsible behaviour of a corporation, we recommend taking the initiative. For that you will need to prepare your own proposals on rectifying measures, because:

- a) You will become fairer in the eyes of the business – (you know what you want and what you expect of the business)
- b) You have the opportunity to formulate and advocate requirements that the business by itself would not accede to even if it is willing to commence steps towards rectification
- c) The public will better understand you and thus you will lower the risk of being perceived as just a critic. Positive proposals are also publicized well in the media and within the scope of the media's work they will help you.

Recommendation:

Rectifying measure proposals can contain:

- a) Specific measures rectifying the negative impacts of the business (on the environment, social rights, human rights, the community, etc.), which are ei-

ther in violation of the social responsibility policy of the business itself, or worse, in violation of legal regulations.

- b) Besides the proposals aimed at rectifying the bad situation, it is also possible to propose measures that in a certain way will counter the negative impacts that already occurred due to the irresponsible behaviour of the business (understandably only if they violated their own CSR policy or legal regulations)
- c) Proposals for improving the behaviour of the business in the future.

2.2.A.2 Active phase

If you have all the necessary documents and information prepared, then there is nothing stopping you from commencing taking steps in order to induce the business to behave responsibly. Before we get to the actual description of individual steps, allow us right at the beginning to give you several general recommendations.

Recommendation

- a) Concentrate on the first step. The first step should be the most intense (*see below*). Of course, this depends on the type of business, circumstances of the given case, etc.

Our practical experience shows that:

- Corporations do not like to make rectifications if they have to make them due to outside pressure. They are admitting their own mistake in this way. That is why it is necessary to create just the right pressure so they will respond.
 - Even concerns with the best social responsibility repute in reality do not like to take civic activities and their requirements legitimately. That is why you should sit down at the negotiating table only if they are under genuine pressure.
- b) Keep some tools for creating pressure in reserve, so that you can respond if the business advocates a standpoint of denial and does not want to accede to any positive steps.
 - c) Always act transparently. Inform the public as much as possible concerning the steps you

are taking, your demands, and the results of negotiations.

2.2.A.2.1 The first step

The first step is intended to get the business to negotiate, or the direct rectification of the negative state of affairs. That is why it must have a corresponding impact and relevance so that it can overcome the anticipated initial resistance.

Recommendation

It is best to take steps under letters a) – c) simultaneously.

a) Send an open letter to the business with explanations of the analyses and proposals for possible solutions

First of all it is necessary to address the business in an open letter that contains:

- **The results of analyses** of the social responsibility of the business and stating the violations that occurred with regard to:
 - The business's own social responsibility policy
 - The values and obligations arising from membership in certain CSR initiatives
 - OECD Guidelines, or possibly the ILO Tripartite Declaration
 - Legal regulations (if they were violated and if you have such an analysis available)
 - **A proposed solution** to the mistakes
 - **A proposal for negotiating** about your proposals
- Notice*

Very often non-governmental organizations choose a different strategy. The basic difference is that the company is addressed with proposals and this is not made public. The company is given a certain period of time for its response, and if it does not respond, only then will the entire matter be made public. Our experience shows that this is not an optimum and effective strategy. Primarily, proceeding like this gives the company sufficient time to prepare for the next steps of the "opponent". Thanks to this, the subsequent publicity in the media does not have to be as effective, because the company will have rebuttals prepared, which – even though they factually do not make

sense or are irrelevant –, will be made public by the media and they will have no small effect: they will make the entire problem look relative in the eyes of the public. The public, without detailed knowledge of the matter, is not able to differentiate whether or not a line of reasoning is true, false, misleading, etc.

Recommendation

Send the open letter to the company to various addresses. That means not just to the corporate social responsibility department, or only to the executive director of the business, but if possible to all of the top management of the company and also to the supervisory board. If you were able to ascertain who the owner of the company is, send the letter to them too.

The abovementioned goes double for large multinational enterprises. Send your demands not only to the subsidiary company, which is directly responsible for its irresponsible behaviour, but also send detailed information to the parent enterprise of the entire corporation. It could happen that local management has not been informing the headquarters of the enterprise about its violations and that is why it does not always have to suspect what is going on at the lower levels of the enterprise.

b) Issue a press report or possibly hold a press conference

Addressing the business should be supported with sufficient media coverage, so that the business is aware that it is under public scrutiny and its next steps will be monitored by the public.

Note

The success of media coverage, understandably, depends on many factors: to what extent is the company interesting to the public, what have you revealed, what are your demands, etc. A rule of proportion applies here: the more interesting the company is, the more controversial and full of conflict the subject is, which means one can expect a greater amount of publicity.

Notice

Here we would like to point out the fact that we are describing strategic steps taken regarding

a publicly-known business, it is necessary to remember that the success of individual steps depends on many factors. One of them is understandably the sensitivity of the business to any kind of negative information connected with its name and activities. It is possible to anticipate what it will be with this type of business; however, the degree of sensitivity can differ.

- c) Sending the results of analyses to rating agencies and possibly even noteworthy investment companies

Turning to rating agencies operating in the field of social responsibility and informing them about the irresponsible behaviour of the business has great potential (e.g. Oekom-research (<http://www.oekom-research.de>), Vigeo (<http://www.vigeo.fr>), and Eiris (<http://www.eiris.org>). This could have relevant economic impacts, because the rating agencies might change the rating of the business, and thanks to that, the corporation will become less attractive for those investors who are considering their next investments based on which company is behaving socially responsible.

- d) Synergy and other tools

If the irresponsible behaviour of the business is of an unlawful nature, we must recommend simultaneously utilizing legal means for rectification. As mentioned above, unlawful behaviour itself is irresponsible social behaviour even though the business otherwise abides by all of its voluntary obligations within the scope of its social responsibility.

2.2.A.2.2 Negotiating, possible follow-up steps

The next strategic steps understandably depend on the response of the company, which in essence can be in several ways:

- a) The company accepts the proposed solutions and publicly declares that it will implement them
 b) The company accepts the proposed solutions, however, only unilaterally and will deny any connection to your activities
 c) The company agrees to negotiate about the proposals

- d) The company refuses to make any changes and refuses to negotiate with you
 e) The company takes legal steps against you and speaks out against you in the media

Ad a) The business accepts the proposed solutions and publicly declares that it will implement them

Resolving the entire matter without the need to take additional steps is not likely. The acceptance of some of the proposed solutions but not all of them is much more likely. Naturally, it usually will accept those proposed solutions that are the least problematic, and the rest it will set aside. Depending on the extent of what they accept, it will be necessary to select other steps stated *in part ad d*).

Ad b) The business accepts the proposed solutions, however, only unilaterally and will deny any connection to your activities

Even though this alternative of how a corporation might possibly proceed may seem strange, it may choose to do so because it has many advantages:

- It can show that it is taking positive steps by itself and thus draw public attention to itself and instead of possible negative information create positive publicity to its own benefit
- It cannot publicly demean itself and admit that it has accepted proposals from representatives of the civil sector
- Businesses generally do not like accepting any kind of civic initiatives as an equal partner. Choosing this approach does not strengthen and make legitimate their position in society.

In this case one can also presume that the corporation only accepts those proposed solutions that are the least problematic, it has set the rest aside. Depending on the extent of what they accept, it will be necessary to select other steps stated *in part ad d*).

Ad c) The business agrees to negotiate about the proposals

One of the most likely responses of the corporation is to agree to negotiate about your demands.

Recommendation

Pro jednání doporučujeme dodržovat několik základních principů:

- **Transparency**
If the corporation agrees to negotiations, then before they start, inform the public about it. Also inform them of the final results of the negotiations. Proceeding transparently minimizes the risk of creating any kind of suspicions. On the other hand, it can be counterproductive to agree upon, with the business, to both inform the public about the ongoing results of negotiations. Because of this, you can easily come under public, and even purely mental, pressure to persevere in your demands and to be "constructive". This can result in your not prevailing with the necessary demands.
- **Equality during negotiations** (*for more details of initial principles see, point 1.1*)
- **Documentation**
Make written records of individual negotiation sessions. The best kinds are those the content of which can be agreed to by all parties. It is an especially good idea to utilize a data projector and a direct record of the of the negotiation session, so that all parties have constant control over the contents of the record. The results themselves of the negotiation session should be in written form.
- **Contractual nature of the results of the negotiations**
We recommend that the final output be in the nature of a contract containing, if possible, sanctions if the contract is broken.

Ad d) The business refuses to make any changes and refuses to negotiate with you

If the corporation refuses to negotiate with you and does not rectify its behaviour and if in the "first step" phase, the general rule that it is necessary to take several steps simultaneously applies, then in this case the opposite applies:

- Take each step successively, so that the company has room to reassess its position with regard to your proposals
- Publicize your individual steps in the media

The steps mentioned below are stated in the time sequence they are to be followed:

1. Inform the following about the negative position of the corporation:
 - **The public**
Issue a press report with which you will inform the public about the negative position of the corporation.
 - **The entrepreneurial sphere**
Simultaneously inform selected entities from the entrepreneurial sphere about the entire matter, typically: business partners who have a social responsibility policy and which could be disgusted by this behaviour.
 - **CSR platforms that the business is member of**
Inform CSR platforms, which the corporation is a member of, about the corporation's negative position.
 - **Rating agencies and investors**
Also inform rating agencies and potential investors of the corporation's negative position.
2. Utilize the complaint mechanisms within the scope of social responsibility
With regard to the fact that corporate social responsibility is conducted on the principle of voluntariness, there is a short supply of complaint mechanisms. That is why it is essential to utilize them in the best way possible.
 - **OECD Guidelines for Multinational Enterprises**
We deal with the complaint mechanism of the OECD Guidelines for Multinational Enterprises in another part of this handbook. That is why we will proceed and we refer you to *Chapter III. A* for more details.
 - **Global Compact**
Similarly with regard to the complaint mechanism of the Global Compact, we refer you to *Chapter III.C*, which deals with it. Here, we would like to call your attention to the fact that this can only be utilized if the business is a member of the Global Compact.
 - **ILO Commission for Freedom of Association**
If the corporation is behaving irresponsibly within the scope of labour-legal relations, it is possible

to utilize the complaint mechanism of the ILO Commission for Freedom of Association. This is also dealt with in *Chapter III.B*.

- Tripartite Declaration and Commission for Multinational Enterprises

We are only mentioning the ILO Tripartite Declaration here because of tidiness, because it is not possible to really count with the utility value of the procedures of the Commission for Multinational Enterprises (see *Chapter III.B*).

3. Utilize other tools outside the sphere of social responsibility

There exist many other steps that can be utilized that are outside of the sphere of social responsibility.

- Legal steps

We of course recommend utilizing legal means simultaneously if the irresponsible behaviour of the business has the nature of unlawful behaviour.

- Consumer campaign

Social responsibility for a corporation is primarily a question of prestige and a tool for improving the good reputation of the business and brand with consumers and business partners (which understandably often have a direct influence on the profits of the business). Consumers can often become the victims of a company that evidently exploits the concept of social responsibility in that it voluntarily implements it, publicly states that it is its policy, and it practice it does not abide by it. A relevant answer would understandably be a consumer campaign based on boycotting the products of the business that is exploiting the concept of CSR. Initiating a consumer campaign is a very effective tool in inducing greater responsibility in a corporation.

- Direct action

Even though this is a tool that is disdained by a large proportion of society, one must ask a question, if in the situation when a business is behaving really irresponsibly and fundamental human rights are being violated – people's health, the environment, etc. are endangered, and conventional means of social defence (filing criminal charges, a lawsuit, a complaint with administra-

tive bodies, publicizing in the media, etc.) cannot guarantee sufficient effectiveness -, is it not the time to take extreme measures. Of course, it is necessary to only take those kinds of steps that are directed at minimizing the harm and damage caused by the business and that protect human rights and the environment. Simultaneously, it is always necessary to make sure that the direct action itself causes the least amount of damage and harm. And always act and behave transparently towards both the public and the irresponsible corporation.

2.2.B Strategy to be utilized on a corporation whose profits do not depend on consumer goodwill

We are now going to deal with strategic steps to be taken with regard to corporations whose profits do not depend on consumer goodwill. In accordance with the fundamental typology that we stated in point IV.B.2.1., first of all, we will describe in what way individual strategies will differ depending on the type of company.

With regard to the fact that we went into detail with strategy that applies to corporations whose profits directly depend on consumer goodwill, in the following cases we will primarily point out differences, i.e. how the strategies should differ (how they should be modified).

2.2.B.1 Strategy to be utilized on a corporation whose profits depend on entrepreneur goodwill

2.2.B.1.1 Preparatory phase

Just as with a publicly-known corporation, we recommend elaborating a thorough preparatory phase. Generally, it can be said that in contrast to a strategic plan to be utilized on a publicly-known company, it is necessary to exert greater effort in revealing the ownership structure, potential investors, and business partners.

The success of publicizing the irresponsible corporation in the media, in this case getting to know the corporation, will depend more upon how important

the behaviour of the corporation is to all of society and how well the media will be able to seize upon this. You also have to count with the fact that possible negative publicity will not be all that important for the business. This will understandably primarily depend on the type of clients the company has and if they themselves are particular about a good reputation in connection with a social responsibility policy.

Differences in strategic steps as compared to a publicly-known corporation

- Find out what professional publications are relevant to and concern the business of the corporation
 Negative publicity could be unpleasant for the company if it appears in specialized publications that its potential clients read, etc. That is why it is a good idea in the preparatory phase to spend time finding out about professional media that is relevant for the given company.
- When preparing proposals for rectification measures, take into account the prevalent practice in the given entrepreneurial branch and the criteria of potential investors and business partners
 Try to become acquainted with the prevalent social responsibility trends in the given entrepreneurial branch. Similarly, try to find out what are the social responsibility criteria, requirements and policies of its business partners, investors, etc. of the given business. Adapt your proposals for rectification measures to this.
- A legal analysis has become more important
 As was already said, social responsibility usually does not play a significant role in the business of this type of corporation. That is why it is all the more necessary to use legal tools if at all possible.

2.2.B.1.2 Active phase

Negative publicity does not have to be directly dangerous for the corporation. That is why it is a good idea to primarily focus on the entrepreneurial community with which the business is in contact with. However, that does not mean that the steps described in the strategy regarding a publicly-known business should not be taken, only that their impact

will be limited. So, besides the already described steps, we recommend the following:

- Push your subject through a professional publication
 It can happen that professional publications will not be too inclined to publish negative information about a certain corporation because it is usually tied to corporations that are active in the same field. That is why it is necessary to assess in advance whether or not you could be successful. The expended efforts will be worth it if a professional publication writes about the problematic behaviour of the corporation.
- Stress the legal level of the case
 Calling for voluntary responsibility with this kind of corporation could be, to a great extent, ineffective. That is why we recommend placing emphasis on the legal level of the irresponsible behaviour of the corporation. Simultaneously, it can be anticipated that utilizing unfair competition rights and consumer rights will be, for understandable reasons, not possible. That is why the subject of research will be primarily the violation of public law standards, or possibly a direct encroachment into subjective rights (neighbour rights – the right to a private and family life, etc.).

2.2.B.2 Strategy to be utilized on subcontractors (suppliers) or companies owned by publicly well-known corporations

It is not very likely that a company of this type has elaborated a detailed social responsibility policy. The company's good reputation with the public is not that important for its doing business. On the other hand, there are publicly well-known corporations in the subcontractor (supplier) chain (in the ownership structure) that very likely will have elaborated a social responsibility policy. That is why the basic difference in the strategy consists of concentrating primarily on the customer/owner. The objective of this strategy is to get the customer/owner "to join the game", i.e. those parties that are particular about their good reputation and have direct responsibility either as the owner or as the highest link in the

supply chain. In both cases they could have and do have direct influence on the entire situation.

2.2.B.2.1 Preparatory phase

It is understandably a good idea to take similar steps as with a business that is publicly well-known, but it is important to take into account the two steps below:

1. Analysis of the ownership and customer structure
First of all it is necessary to focus on acquiring relevant information on who are its customers and the owner of the irresponsibly behaving business. This information is very difficult to acquire. It will be necessary to utilize many sources of information and sometimes, in the end, it is not possible to find out the customer/owner via e.g.:
 - Commercial Register
 - Annual report of the business
 - Information portals for the entrepreneurial community.

Recommendation

Visit the web pages <http://www.corpwatch.org>, which contain instructions and Internet links for acquiring the relevant information on corporations. Unfortunately, this portal is primarily intended for the American public, which is why it will sometimes not be able to help you. In spite of this, it can be very inspirational in instructing you on how to proceed when trying to find out this kind of information.

2. Analysis of the social responsibility of the customer/owner
Focus on the social responsibility standards that the customer/owner of the irresponsibly behaving business has. Pay particular attention to who has elaborated social responsibility standards in the supply chain. Even if it does not have them, that does not mean that it is not responsible for the irresponsible behaviour of its supplier. Direct responsibility applies even more so if this is an ownership relationship.
3. Try to find out whether the activities of the subcontractor are not "outsourcing"
Information that is very valuable concerns

whether an activity, whose nature is considered problematic, was not originally carried out by the publicly-known corporation. It was then ushered out of the business and today this same activity is being carried out for it by a subcontractor or company owned by the corporation. This would be evidence that a publicly-known corporation is trying to divest itself of responsibility. This information by itself would be a very sensitive issue for them and it would force them to exert relative pressure on the subcontracting/owned company to minimize its harmful and damaging behaviour.

4. Proposed rectifying measures stressing the responsibility of the customer/owner
The proposed rectifying measures should take into account the social responsibility standards that the customer/owner of the irresponsibly behaving company has adopted.

2.2.B.2.2 Active phase

The fundamental principle of the active phase is the co-responsibility demands on the owner/customer, so:

1. Create two versions of an open letter with analyses results (*for recommended contents see point IV.B.A.2*)
The first is intended for the company that is behaving irresponsibly. The second is intended for its customer/owner. The letter intended for the customer/owner should point out his co-responsibility. If a discrepancy exists between the social responsibility policy of the customer/owner and the behaviour of the subcontractor/owned company, it is necessary to point this fact out in the letter.
2. Invite not only the irresponsibly behaving company to negotiate, but also invite its customer/owner
3. Point out the co-responsibility of the owner/customer within the scope of publicizing in the media
4. Inform rating agencies and investors about the co-responsibility of the owner/customer

2.2.C Businesses that do not have to pay particular attention to their good reputation

You cannot count with a business, which does not have to pay particular attention to its good reputation, in having elaborated a social responsibility policy. Even if they have one, the voluntary obligations arising from it are usually very general and often are only a non-obligatory proclamation. Possibly not abiding by it does not endanger the business of the company. If you are going to want to induce the company into behaving more responsibly, you will not be able to rely on the tools of voluntary social responsibility. Instead, utilize primarily legal means to decrease the negative impacts of irresponsible behaviour.

IV.C Corporate Social Responsibility vs. Corporate Accountability

This handbook is devoted to corporate social responsibility, i.e. a concept based on the principle of voluntariness, which is promoted primarily in the entrepreneurial sector. However, the rapid development of voluntary social responsibility very strikingly corresponds with the rise of the anti-globalization movement in the nineteen nineties and its call for the greater legal responsibility of corporations and the enforceability of rights. The demands of this movement are aptly described by a quote from the standpoint of non-governmental organizations to the UNO Commission for sustainable development from 1997:^{34/} "The concept of corporate accountability refers to the legal obligation of a company to do the right thing. The aim of corporate accountability is to be sure a company's products and operations are in the interests of society and not harmful."

The concept of voluntary social responsibility was and is the private sector's response to the call for responsible behaviour. Corporations offer voluntariness instead of legally enforceable behaviour. In other words, while the concept of corporate accountability advocates legislative changes, which would lead to a greater degree of legal responsibility and thus also to the protection of human rights and the resolution of the most burning environmental problems, the concept of CSR puts emphasis on voluntariness. Understandably, this by itself does not mean that both concepts are contradictory. In reality, the advocates of CSR behave and reason as if voluntariness implicitly excludes the possibility of increased legal

^{34/} An NGO report to the UN Commission on Sustainable Development – The Role of Corporate Accountability in Sustainable Development, March 1997

responsibility of corporations. However, this kind of an assertion cannot stand up to closer scrutiny. That is why the concept of voluntary social responsibility is utilized as an argument against any kind of call for legislative changes that would lead to the responsible behaviour of corporations.

In practice, evidence is mounting that social responsibility without any kind of additional legal enactments does not attain the kind of results that would make it a given thing in discussions about legislative changes, which would lead to greater enforceability of rights regarding legal entities and also to the more effective protection of the environment. Without a legal framework of fulfilment, corporate social responsibility understandably suffers from many shortcomings such as transparency, the exploitation of CSR for the improvement of a good reputation without having a real foundation, the slow propagation of effective social responsibility tools in the entrepreneurial sphere, etc.

Corporate accountability

Corporate accountability is, first of all, a legal subject, both complicated and extensive. There are many tools that fall into the scope of this, which understandably create problems for not only anti-globalization movements, but also for civic activities that deal with this issue. The subject of corporate accountability deserves its own handbook, and that is why we will only briefly acquaint you with the issue and mention only several tools for advocating corporate accountability:

- **Better access to justice for victims of corporate abuses**

One of the fundamental tools of corporate accountability is the propagation of right to sue (standing, access to justice) for the victims of the irresponsible behaviour of corporations. This is because of various reasons and points of view:

- a) Right to sue for foreign citizens

A large problem that remains is when a corporation takes very controversial steps leading to

the violation of fundamental human rights in developing countries. This area has a limited enforcement of rights and it is precisely this situation that corporations exploit. That is why there should exist, for victims of the irresponsible behaviour of corporations, the possibility of taking their matters in front of a court where the corporation is headquartered, i.e. mostly in developed countries. Understandably, this is not a totally unknown legal tool. A typical example can be the 217-year-old federal law of the United States: the Alien Torts Claim Act.

- b) Right to sue for entities defending public interests

Generally, legal systems are based on the priorities of defending private subjective rights (in other words, the protection of the individual), which understandably has one great shortcoming: that often forgotten is that public interests, which require protection, exist. This should be guaranteed by the state, which however often is not able to do this because corporate influence is so great that the state chooses to rather yield to private interests. Understandably, this situation invokes the need to strengthen the protection of public interests with a law that will establish rights for entities of a different country (typical non-governmental organizations, but also individuals) to demand the protection of public interests via the courts without this entity proving that its rights were violated. Even this is not a new institute (see the Aarhus convention concerning the matters of the environment). In spite of this, it is not utilized in the legal system to a sufficient extent and often is not linked with effective means of legal protection (typically preliminary measures).

- **Legal liability for subsidiaries' and subcontractors' activities**

Limiting the responsibility of trading companies when they violate human rights and harm the environment is a subject unto itself. Legal systems often do not demarcate any kind of trading company responsibility for the activities of its

subcontractors and subsidiaries, which understandably is a problem, because the parent company, or possibly the dominant customer, undeniably has direct influence on the behaviour and decision-making of this company; however, usually without having any responsibility for it. This aspect of irresponsibility is further spread if the company operates in more than one country. Understandably, even in this case there exist legal institutes in some legal systems that cover these situations. However, they are not too widespread and there is no possibility of any regulation of the activities of a corporation at the international level.

▪ **Criminal liability of legal entities**

The criminal liability of legal entities is probably the most widespread institute in the legal systems of developed countries, and has also been incorporated into international conventions. Typical sanctions can include:

- Depriving rights to public allowances and subsidies,
- Temporary or permanent exclusion from commercial activities,
- Court supervision,
- Liquidation of the legal entity
- Deterrent sanctions

Conventions that incorporate the criminal liability of legal entities include: the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the Convention on the Protection of the Environment through Criminal Law, and the Criminal Convention against Corruption.

- **Legal duty to incorporate management system standards that would secure integration of environmental and social standards into the decision-making of transnational corporations**

An example of corporate accountability tools can be the implementation of management's obligation to appraise planned company activities not only from an economic perspective but also from an environmental and social risks perspective.

A combination of corporate accountability and social responsibility

Social responsibility based on voluntariness is not really and necessarily in contradiction to the concept of corporate accountability. On the contrary, both concepts could supplement each other well. Yet, integrating a legal framework for social responsibility is more than necessary, because social responsibility often suffers from a lack of transparency and is exploited too often. Introducing this could, understandably, do away with at least some changes in relative legislature. This could be based on a principle similar to Regulation (EC) No. 761/2001 of the European Parliament and of the Council allowing voluntary participation by organizations in a Community eco-management and audit scheme (EMAS).^{35/}

This means that if a corporation voluntarily obligated itself to behaviour that is above the scope of legal requirements, it would have to undertake to mandatorily prove that it is actually fulfilling its voluntary obligations.

^{35/} Regulation (EC) No. 761/2001 of the European Parliament and of the Council dated 19 March 2001 allowing voluntary participation by organizations in a Community eco-management and audit scheme (EMAS)

V.

SOURCES OF INFORMATION ON THE SUBJECTS OF CSR AND CORPORATE ACCOUNTABILITY

V.A Literature

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V.B Internet links

In English

- EU, DG Employment, CSR: http://ec.europa.eu/employment_social/soc-dial/csr/index.htm
- Organisation for Economic Co-operation and Development: <http://www.oecd.org>
- Text of the OECD Guidelines: <http://www.oecd.org/dataoecd/56/36/1922428.pdf>
- Business and Human Rights Research Centre: <http://www.business-humanrights.org>
- Global Reporting Initiative: <http://www.globalreporting.org>
- UN Global Compact: <http://www.unglobalcompact.org>
- CSR Europe: <http://www.csreurope.org>
- Eurosif, European Social Investment Forum: <http://www.eurosif.org>
- Trade Observatory: <http://www.tradeobservatory.org>
- International Business Leaders Forum: <http://www.iblff.org>
- Worldwide Initiatives for Grantmaker Support: <http://www.wingsweb.org>
- European Foundation Centre: <http://www.efc.be>
- Social Investment Forum: <http://www.socialinvest.org>
- Codes of Conduct: <http://www.codesofconduct.org>
- Ethical corporation: <http://www.ethicalcorp.com>
- Foundation for the Global Compact: <http://www.globalcompactfoundation.org>
- Principles for Responsible Investment: <http://www.unpri.org>
- Social Funds: <http://www.socialfunds.com>
- Business for Social Responsibility: <http://www.bsr.org>
- World Business Council for Sustainable Development: <http://www.wbcsd.org>

NGOS AND CORPORATE ACCOUNTABILITY

- European Coalition for Corporate Justice: <http://www.corporatejustice.org>
- Forest Stewardship Council (FSC): <http://www.fsc.org>
- Ethical Shareholders of Europe united: <http://www.ethicalshareholders.net>
- Critical shareholders in Germany: <http://www.critical-shareholders.de>
- GermanWatch: <http://www.germanwatch.org>
- OECD Watch: <http://www.oecdwatch.org>
- Corporate Responsibility Coalition: <http://www.corporate-responsibility.org>
- Milieudéfense (Friends of the Earth Netherlands): <http://www.foenl.org>
- SOMO, Centre for Research on Multinational Corporations: <http://www.somo.nl>
- Corporate Watch UK: <http://www.corporatewatch.org.uk>
- CORP Watch US: <http://www.corpwatch.org>
- Corporate Accountability Project: <http://www.corporations.org>
- Corporate Europe Observatory: <http://www.corporateeurope.org>
- AccountAbility: <http://www.accountability21.net>

CSR INDEXES AND RATING AGENCIES

- Dow Jones Sustainability Index: <http://www.sustainability-index.com>
- SAM-Website: <http://www.sam-group.com/html/main.cfm>
- Ethibel: <http://www.ethibel.org>
- FTSE: <http://www.ftse.com>
- VIGEO: <http://www.vigeo.com>
- EIRIS: <http://www.eiris.org>
- OEKOM Research: <http://www.oekom-research.de>
- Bench Marks for Measuring Business Performance: <http://www.bench-marks.org>

Internet links in Czech:

- Business Leaders Forum: <http://www.blf.cz> a <http://www.csr-online.cz>
- Institut Svazu průmyslu ČR: <http://www.institut-sp.cz>
- Centrum Společenské odpovědnosti firem ISPČR: <http://sof.ispcr.cz>
- Fórum dárců (Czech Donors Forum): <http://www.donorsforum.cz>
- Fórum dárců – Sociální marketing: <http://www.socialnimarketing.cz>
- ASIS, občanské sdružení: <http://www.aisis.cz>
- Společenská odpovědnost firem: <http://www.sof.cz>
- Sdružení Korektní podnikání: <http://www.korektnipodnikani.cz>
- Hestia, občanské sdružení: <http://www.hest.cz>
- CG Partners, s.r.o. – Corporate Governance: <http://www.governance.cz>
- Databáze nejlepších praktik: <http://www.bestpractices.cz>
- Národní kontaktní místo ČR pro Směrnice OECD pro nadnárodní společnosti, Ministerstvo financí: http://www.mfcr.cz/cps/rde/xchg/mfcr/hs.xsl/mez_ekon_organizace_12363.html
- Komise pro cenné papíry: <http://www.sec.cz>
- Portál Evropské unie: <http://www.evropska-unie.cz>
- Asociace samostatných odborů ČR: <http://www.asocr.cz>
- ČMKOS, Návod pro uživatele Směrnic OECD pro nadnárodní společnosti: <http://www.cmkos.cz/aktualne.php?action=detail&id=21>
- EPS, občanské sdružení, program GARDE: <http://www.responsibility.cz>

Internet links in Slovak:

- Business Leaders Forum: <http://www.blf.sk>
- Partnerstva: <http://www.partnerstva.sk>
- Fórum Donorov: <http://www.donorsforum.sk>
- Nadácia Pontis: <http://www.nadaciapontis.sk>
- Národné kontaktné miesto SR pre Smernice OECD pre nadnárodné podniky, Ministerstvo hospodárstva: <http://www.hospodarstvo.sk/index/go.php?id=999>



Ekologický právní servis

(EPS – www.eps.cz) is a non-governmental, non-profit, apolitical organization of lawyers, whose goal is the legal protection of the environment and human rights, to deepen democratic processes, and to advocate the principles of the rule of law.

EPS (Environmental Law Service):

- Provides free legal aid to individuals and communities if their environment is threatened or harmed.
- Resolves important legal cases that support increasing the public's opportunities to take part in decision-making that concerns the environment.
- Responds via legal channels to conflicts between the pressure to build large infrastructure projects (motorways, waterways) and interests to protect nature and the landscape.
- Helps people who are hurt by the negative impacts of globalization, focuses on the activities and impacts of multinational corporations.
- Endeavours, via legal means, to advocate the effective protection of national parks, protected landscape areas, reservations, etc.
- Monitors the legislative acts of the government, ministries and even individual members of parliament and calls attention to undemocratic, discriminatory and pro-corruptive provisions of draft legal regulations.
- Cooperates with lawyers from other professions and students of legal faculties with the objective to influence the way they regard the utilization of law in the protection of public interests and human rights.

EPS is a member of the international network of environmental lawyers E-LAW (Environmental Law Alliance Worldwide), a member of EEB (European Environmental Bureau), and the Green Circle association of Czech non-governmental environmental organizations. EPS initiated the creation of the international network Justice & Environment (J&E).



The GARDE (Global Alliance for Responsibility, Democracy and Equity) Programme of the Environmental Law Service (ELS/EPS) reflects rapid societal changes connected to globalization processes. That is why it focuses on the identification of the key issues of this phenomenon. Its aim is to help people who are hurt by the negative impacts of globalization. Therefore, the primary objective of the GARDE Programme is to make multinational corporations behave responsibly. We try to achieve this mainly through strategic litigation. It is thanks to such missions that we not only provide legal aid to citizens who suffer from the irresponsible and reckless behaviour of corporations who cooperate with state institutions, but we also open social debates over such issues.

GARDE is unique in the Czech Republic in that no other organisation here is as systematically concerned with the activities of multinational enterprises (MNEs). Both corporate accountability and corporate social responsibility fall under the GARDE programme. During the past several years, GARDE has begun to concern itself with discrimination against employees and consumer protection. GARDE represents EPS in the international OECD Watch network and is a member of the executive committee that represents the Czech Republic in the ECCJ (European Coalition for Corporate Justice).

GARDE's main topics currently are:

- Legal aid to communities and individuals negatively affected by multinationals' Foreign Direct Investment in the Czech Republic.
- Legal aid for employees discriminated against by multinationals.
- Holding corporations accountable by utilizing consumer rights.
- Raising awareness about CSR and corporate accountability and problems connected with them in the EU-10 states

Four lawyers work full-time for the GARDE programme. GARDE uses a wide range of legal tools – environmental law, labour law, consumer law,

Czech Constitutional law, administrative law, business law, and civil law, as well as EU law.

For further information, please visit
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