

Corporate Social Responsibility



Preciousness or speciousness – That is the question!

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FEDERAL MINISTRY OF
LABOUR, SOCIAL AFFAIRS AND
CONSUMER PROTECTION



Foreword

Europe goes through a crisis in the fourth year. A good reason for the Austrian Network Social Responsibility - Netzwerk Soziale Verantwortung (NeSoVe) - to approach the term crisis in a literal sense. Crisis comes from the Greek *krísis* and means something like opinion, judgement, turning point.

The NeSoVe network has been founded 6 years ago with the aim to call for corporate responsibility. During this time we have seen mushrooming CSR initiatives fuelling hopes in some of us.

6 years later billions of taxpayer's money are still flowing into finance markets to save the banks. Private debts are socialised. However, the implementation of corporate responsibility is still envisaged to be privately organised: „The development of CSR should be led by enterprises themselves“, states the European Commission in its recent communication „A renewed EU strategy 2011-14 for Corporate Social Responsibility“ (COM(2011) 681 final). The dogma of primacy of voluntary action is not touched upon. Reason enough, therefore, to put again the question how and by whom social and ecological business management leading to sustainability can be ensured and which role the concept of CSR and individual CSR initiatives can play.

NeSoVe is of the opinion that socially responsible corporate conduct cannot be enforced on the society as a whole on a voluntary basis. If we have to bear the consequences of corporate conduct we should also be in the position to stipulate the paradigms of corporate behaviour in a democratically legitimized process.

For sure CSR initiatives have brought about some positive developments here and there. However, to change corporate activities completely and sustainably neither the scope of the „Business Case“ CSR is sufficient nor are the resources of socially responsible entrepreneurial projects. Hence, if social and ecological principles are to be embedded in business conduct there is no way round demanding regulatory measures and standards of corporate behaviour. Voluntary – but not discretionary – self-commitments of enterprises may provide (just) some additional options for socially responsible governance.

The Network Social Responsibility wants to unmask the myth of CSR with this brochure. In addition, we want to point out the pressing needs of the society with respect to business activities, present priority areas and potential solutions for discussion by our interested readership.

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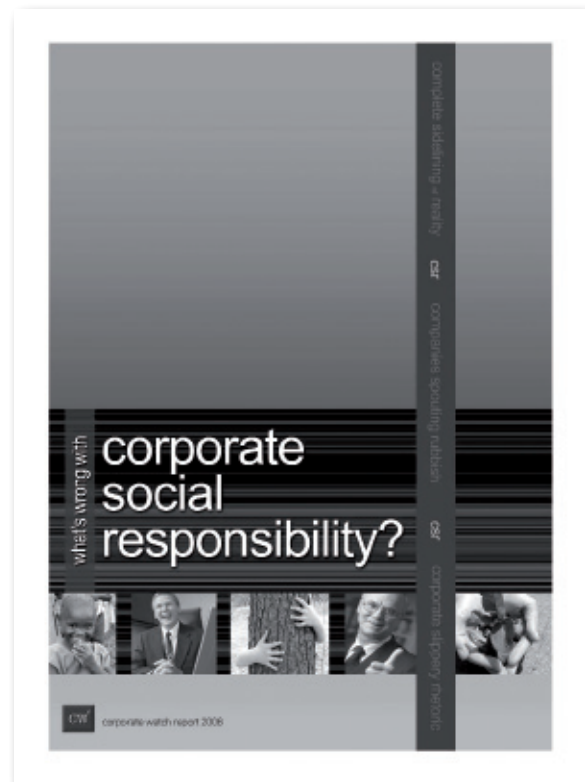
Introduction

„Corporate social responsibility (CSR) evolved as a response to the threat anti-corporate campaigns pose to companies' license to operate. But corporate social responsibility is a contradiction in terms. Companies are legally bound to maximise profits to shareholders. This duty to make money above all other considerations means that corporations can only be 'socially responsible' if they are being insincere. Any doubtful social benefits from CSR are outweighed by the losses to society in other areas. CSR is an effective strategy for: bolstering a company's public image; avoiding regulation; gaining legitimacy and access to markets and decision makers; and shifting the ground towards privatisation of public functions. CSR enables business to propose ineffective, voluntary, market-based solutions to social and environmental crises under guise of being responsible. This deflects blame for problems caused by corporate operations away from the company, and protects companies' interests while hampering efforts to tackle the root causes of social and environmental injustice “.

This statement is from the beginning of a publication entitled: „What's wrong with Corporate Social Responsibility?“ (Corporate Watch Report, 2006¹), one of the few comprehensive reviews of the basic concepts of CSR from a critical perspective which was the starting point of the present brochure.

It will be demonstrated that CSR is essentially an attempt of the big corporations to attach a green or sustainable façade to neoliberal capitalism, to prevent regulation and, thereby, to create shareholder-value. There are, in fact, many stakeholders that want to participate in this business (e.g. consultancies, certification bodies, marketing firms).

Certainly this does not mean that all CSR projects or initiatives are bad. Of course, there are also positive examples which are naturally supported by NeSoVe. However, they are firstly rare and, secondly, hardly in the position to bring the necessary course corrections regarding sustainability and the required changes of the economic system. It is pretty obvious that we will be forced to fundamentally alter our whole life-style in view of the ever increasing comprehensive economic, social and ecological crises and declining resources. Cosmetic changes will not get us much further. Thereto an-



other quote from the beginning of the above mentioned study: "Ultimately, CSR is not a step towards a more fundamental reform of the corporate structure but a distraction from it". (Corporate Watch Report, 2006)

"Turbo-capitalism" and seriously meant social responsibility are not compatible. Hence, the taming of the unleashed market forces and (re)regulation of the framework conditions of business must have highest priority. This does not preclude complementary and voluntary actions of the industry (and other organisations) provided that demanding and verifiable or controllable rules are established in a democratic process. It seems, however, more than doubtful that industry actually has an interest in this.

¹ <http://www.corporatewatch.org/download.php?id=55>

Definitions of (C)SR

Even though there are currently different definitions of the term (Corporate) Social Responsibility - (C)SR – there is broad agreement on the basic elements of this management concept.

Clearly and briefly the European Commission defined Corporate Social Responsibility in the Green Paper 2001²: „as a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis.“ (Green Paper “Promoting a European framework for Corporate Social Responsibility”, COM(2001) 366final).



More comprehensively ISO 26000 „Guidance on social responsibility“ defines Social Responsibility as „responsibility of an organization for the impacts of its decisions and activities on society and the environment, through transparent and ethical behaviour that contributes to sustainable development, including health and the welfare of society; takes into account the expectations of stakeholders; is in compliance with applicable law and consistent with international norms of behaviour; is integrated throughout the organization and practised in its relationships“.

It turns out that these definitions are so broad that they can be complied with by almost all (non-criminal) organisations. This is due to the fact that most enterprises do something more or less beneficial for the society and go beyond legal minimum requirements.

Energy-intensive companies will, for example, try to (voluntarily) reduce energy-related costs through energy savings. This is a quite usual market economy process. At best one could talk about assuming social responsibility if the reduction of energy consumption goes beyond business calculations and is significantly higher than that of other comparable enterprises!

The following fundamental questions arise:

Who determines what is to be understood by behaviour in the interest of public welfare and how it can be achieved?

Where are the boundaries between “business as usual” and engagement going beyond mere profitability considerations?

If CSR measures in the interest of the society as a whole involve additional costs (which will be normally the case) – will enterprises be prepared to accept reduced profits or will consumers be willing to accept increased costs?

If such measures are profitable – why have they not yet been implemented in the capitalistic economy which is based on profit maximisation a long time ago?

Does empirical evidence exist to demonstrate that business has significantly contributed to the improvement of social and environmental matters?

Why does business engage in intensive lobbying activities using all possible means to prevent such improvements at the political level?

² On the new definition of the Commission see chapter „CSR policy in Austria and the EU“

The neoliberal background

The destructive consequences of three decades of the neoliberal policy of unconstrained market economy, privatisation, deregulation and liberalisation in the interest of capital accumulation have become apparent at the beginning of the 21st century.

The rich became richer, the poor became poorer. It has not been the case for a long time that the wealthy have so shamelessly enriched themselves and stolen the butter from the bread of the poor. The economic consequence is the slow-down of economy by the lack of demand on the one hand. On the other hand billions have been transferred into the speculative finance sector as a result of the low profitability of productive investments.

The finance system is heading towards a crash subsequent to the crisis which was triggered by trading worthless financial derivatives ("subprimes") and threatens to engulf real economy in the abyss.

Social security systems are being destroyed at highest speed. Pensions are "secured" – to the effect that little is left. A particular radical version of this policy was implemented under Margret Thatcher. The state pension system was almost entirely abandoned. As a result age poverty in Great Britain now is significantly higher compared to other countries.

Collective redundancies and the shift of production to low-income countries – partly state subsidised – are commonly used measures that are even employed by economically healthy enterprises for profit maximisation. A taxation race to the bottom induces that enterprises contribute less and less to public welfare.

The critique of neoliberalism has reached the (conservative) political mainstream. The former Prime Minister of Bavaria Günther Beckstein declared in the German newspaper *Süddeutsche Zeitung*: "Free market economy has failed just as state overregulation" and called for a new economic system (*Süddeutsche Zeitung*, 10.3.2009). Nicolas Sarkozy even talked about a "degeneracy of capitalism" (*Welt Online*, 27.01.2010) at the World Economic Forum in Davos.

The spread of an in its tendency anti-capitalistic (or at least anti-neoliberal) mood can be observed. The

people's support of the bourgeois-democratic system declines and manifests itself in falling turnouts at elections.

People clearly understand that the influence of big corporations on policy is much too strong (e.g. in Brussels) and, therefore, should be reduced.



In a global poll conducted in 27 countries by the BBC World Service in 2009 little enthusiasm for the market liberal capitalism was found: a mere 11% considered it good and did not support the idea of more regulation (BBC World Service Poll, *Wide Dissatisfaction with Capitalism — Twenty Years after Fall of Berlin Wall*, November 2009).

There was overwhelming support for a reform of capitalism through regulation – namely by 51% of the 29.000 surveyed. Also the prospect of a stronger control for big industry met with majority support.

After all, 23% did not see any (more) perspective in the capitalist system and called for its abolition. In France even 44% shared this view!

But in spite all neo-liberalism is emerging more powerfully than ever! In this context, Colin Crouch speaks of the "Strange Non-Death of Neo-Liberalism" (John Wiley & Sons, 2011).

CSR as backlash of industrie

“New social movements” emerged in the aftermath of the student movement in the 70s and 80s in Western Europe and the United States of America. This movement was content wise quite heterogeneous – just to mention peace, women, ecology and third world – but was also ideologically very different. Particularly, the environmental movement with its focus on nuclear energy and chemicals had attacked industry and had forced its “natural” opponent on the defence. The so-called “oil shock” led to discussions about finite resources – the “limits to growth” were pointed out – and, thereby, a central paradigm of capitalistic production was questioned.

The globalisation-critical movement challenged the prevailing neoliberal policy patterns including its institutional proponents such as WTO and IMF with their predominant commitment to shareholder value, while their criticism gained centre-stage in the 90s of the last century.

The conduct of certain textile and apparel groups such as Nike, Puma or Adidas were named and shamed. It turned out that the products of these enterprises were partly manufactured under worst social conditions – including child labour and weekly working times exceeding 60 hours by far – violating even the basic norms of the ILO (International Labour Organisation). Pictures of so-called “sweatshops” which resemble forced labour camps appeared in the media.



In 1995 the oil company Shell faced punishment in form of a consumer boycott as a result of a Greenpeace action directed against the intended disposal of an oil platform (Brent Spar) and reported involvement in human rights violations.



Today we can observe that the various strands of the movement increasingly converge. This now brings along co-operations which go beyond their original constraints of organisational and geographical nature whereby new anti-neoliberal strategic alliances are formed – such as the co-operation between trade union organisations and NGOs at national and international levels.

Despite all differences there is a central element which unifies them: the insight that globally operating corporations must be opposed by a multinational and anti-neoliberal movement.

Not the reactionary back to the nation-state (as called for by the political right wing) but the regulated world economy (or the regulated Europe) aimed at social and ecological targets is envisaged to replace the radical capitalism in the market.

Parts of capital – in particular big corporations – react to the feared “rollback” with a make believe modification of the principle of unconstrained profit maximisation („shareholder value“) and assert to take into account social responsibility within their operations. Thereby the strategies described in the following chapters are vital.

Image

Enterprises do not appreciate very much to be attacked by NGOs or to become targets of consumer boycotts. This holds true, in particular, for brands which manufacture products for consumers. Producers of capital goods or of unknown makes have little to worry in this respect. However, few campaigns were as successful as the boycott of Shell in the year 1995, which led to a decline in sales by up to 50% in Germany and which actually could prevent the sinking of the oil platform Brent Spar.

Though the closure of a factory of the company Nokia in Bochum, Germany, 2008 resulted subsequently in losses of market shares but they were probably not really harmful or discouraging for future actions of this kind. From this follows that only in exceptional cases branded companies actually face strong and persistent sales losses as a consequence of calls for boycott. Thus, there is little incentive for an all-embracing corporate sustainability policy. Nevertheless, the managers of big corporations must give consideration to such calls – at least in order to avoid being associated with highly infamous practices such as child labour.

There is a similar situation with looming threats to a company's image. As Naomi Klein has shown in her book "No Logo" which was published in 2000 the classic manufacturing industry is transformed more and more into marketing enterprises which sell articles produced by external companies (for example Nike).

Billions are invested in the advertisement of such products that are marked with logos and connected to messages which promise new life feelings. The brand is associated with attractive pictures, slogans and prominent figures. Important are the images associated with a product – the real performance of products slip into the background.

This is equally true for the manufacturing industry. Danone, for example, sells the illusion of a unique yoghurt which not only brings the immune system (and thereby the state of health) in a turbo mode, but also – as a side effect – to remedy the digestive system.



Picture: foodwatch

Organisations such as the German NGO "Food Watch" can denounce questionable advertising practices of such enterprises by means of negative awards as the "Goldener Windbeutel" (the Golden Windbag) and can – to some extent – undermine the image built up using a lot of money. But do tarnished image ratings result in a (long-term) decline of revenues? And are these sufficient to force Danone to change its business model? This seems to be rather uncertain.

In addition, toothless legislation makes it easy for enterprises such as Danone to disseminate misleading advertising. As an example, the Austrian consumer organisation "Verein für Konsumenteninformation" (VKI) lost a court case at several levels against Danone concerning Actimel.³ The enterprise had used the phrase "The positive effect was confirmed by the Ministry of Health" in its advertising spots and had thereby given the impression that the health related claims by Danone were endorsed by the authority. In fact, it was only confirmed that the at that time in Austria applicable legal requirements were complied with to notify to the ministry any advertising message prior to its use.

Potential image damage is at least a limited driver towards (serious) social responsibility. However, in many cases it is extremely difficult and a resource intensive undertaking to provide evidence of (culpable) misconduct. This is further aggravated by the fact that public attention is often only short-lived.

³ [http://www.verbraucherrecht.at/cms/index.php?id=49&no_cache=1&tx_ttnews\[swords\]=danone&tx_ttnews\[tt_news\]=570&tx_ttnews\[backPid\]=2030](http://www.verbraucherrecht.at/cms/index.php?id=49&no_cache=1&tx_ttnews[swords]=danone&tx_ttnews[tt_news]=570&tx_ttnews[backPid]=2030)

Prevention of regulation

A brilliant company image has advantages not only with respect to consumers. A “responsible industry” needs less regulation. More and more business and business federations seek to present themselves from their best sides and take initiatives in all fields of sustainability. By this they succeed to determine the subjects and to tailor them accordingly to their needs.

At the same time they delay, water down or prevent necessary regulatory provisions using all available means – sometimes involving enormous expenditures for lobbying.



Robert Reich

Robert Reich, former labour minister of the Clinton administration puts it like this: “Enterprises hinder governments more and more effectively to adopt measures which could force them to undesirable changes. But why should the private sector be prepared to address concerns it has worked to block government from addressing?” (Robert Reich, *Superkapitalismus*, 2007, p. 220, translated from German).

Indeed, this preparedness is missing. However, business manages fairly well – also at the international stage - to give the impression to be interested in a far ranging socially responsible corporate conduct. In reality, particularly, transnational concerns influence to a high degree international organisations in their interest. Fortunately, the United Nations Conference on Environment and Develop-

ment in Rio in 1992 has raised sustainability to a global guiding principle and has embedded it in the Rio Declaration and the Agenda 21. Furthermore, the Framework Convention on Climate Change and the Convention on Biological Diversity were adopted. However, industry associations led by the Business Council for Sustainable Development (BCSD) and the International Chamber of Commerce (ICC) succeeded in defeating plans for a more far reaching regulation: “The BCSD and International Chamber of Commerce (ICC) took a tandem approach which effectively shifted the debate. From one side the ICC attacked any measures that moved towards corporate regulation, and the BCSD trumpeted the ‘changing course of industry’ towards voluntary self-regulation. This type of strategy has come to typify corporate lobbying against progressive regulation.” (Corporate Watch, 2006, p 6).

Within the European countries as well, major importance is attached to “self-regulation” and, respectively, “co-regulation” of business. In this connection deregulation is frequently called „simplification of regulation“ or „bureaucracy reduction“ which obscures the very nature of deregulation. The policy, herein, assumes rather different forms including, for example, voluntary agreements (particularly in the environmental field), rule-making by means of standardisation in the framework of the so-called “New approach”, industry sector codes, and so forth. This includes, of course, CSR. What all these forms of “self-regulation” or “co-regulation” have in common is that business (largely) determines the rules.

This kind of regulation typically is of low ambition so that compliance with these “requirements” does not pose many problems. Therefore, it does not come as a surprise that the OECD arrived at a very negative judgement on voluntary environmental agreements in the context of the following study: “... there are only a few cases where such approaches have been found to contribute to environmental improvements significantly different from what would have happened anyway” (OECD, *Voluntary Approaches for Environmental Policy*, 2003).

Voluntary agreements – the example of the automotive industry

The limitation of CO₂ emissions of automobiles is a very good and instructive example for how industry can sabotage environmental protection measures under the pretences of pro-active behaviour for the sake of profit maximisation.



As early as in 1994 the Environment Council specifically requested the European Commission to look into the possibility of lowering the petrol consumption of newly registered cars by 2005 - an average fuel consumption of 5 litres per 100 km for petrol cars and 4,5 litres per 100 km for Diesel cars equivalent to 120 g CO₂/km was indicated as a target.

One year later the Commission proposed “A Community strategy to reduce CO₂ emissions from passenger cars and to improve fuel economy” (COM(95) 689) which accepted the above mentioned target values.

Under the pressure of the automobile industry the objectives were diluted several times and the time frames were considerably protracted.

Though, it should be noted that even the originally proposed values had been criticised as not sufficiently ambitious by a number of people. In particular, industry initially succeeded to undermine regulation by means of a voluntary agreement which entered into force in 1998 – while legislation was adopted only in 2008 (Regulation EC No 443/2009).

The organisation Transport & Environment describes it like this:

“The first postponement occurred in 1996 when the Environment Council introduced the term ‘by 2005, or 2010 at the latest’.

The second postponement took place in 1998 when the European Automobile Manufacturers Association (ACEA) committed to the EU to reduce the average CO₂ emissions from new cars sold in the EU to 140 g/km by 2008. The Commission agreed to postpone the deadline for delivery of the ‘120’ target to 2012.

The third weakening was in December 2007 when the European Commission proposed to move the target for 2012 from 120 to 130 g/km. The Commission said that the missing 10 g/km should be taken up by non-car-related measures such as the use of biofuels, tyres and by emission reductions in vans.

The fourth weakening took place when the law was finally adopted, in December 2008. The law further postponed full compliance with ‘130’ from 2012 to 2015, and added several loopholes that would even allow a fleet average CO₂ figure of approximately 140 g/km to go unsanctioned.

In total, all these steps have resulted in a 10-year delay and a weakening of the target by approximately 20 g/km (15%). “ (Transport & Environment, “How clean are Europe’s cars? An analysis of carmaker progress towards EU CO₂ targets in 2009”, 2010).



EU Environmental Management System

EMAS is the acronym for Eco-Management and Audit System – the environmental management system of the EU (Regulation EC No 1221/2009), the first edition of which was adopted in 1993. In many ways it has been a precursor of CSR though it is limited to environmental concerns. The principles of CSR and EMAS are basically the same: industry and other organisations which apply this system have considerable flexibility as there are no substantive performance requirements included (apart from the requirement to comply with applicable legislation). EMAS establishes only the processes (e.g. identification of significant environmental aspects, establishment of a policy, etc.). However, the levels of performance can be freely chosen.



This has led to some fundamental criticism on the part of environmental and consumer organisations (Joint ANEC / BEUC / ECOS / EEB position on Making EMAS a system of excellence - Going beyond EMS, October 2006).

Major points of criticism:

- Hence, a differentiation between good and bad performers is not possible.
 - There is not much convincing evidence supporting enhanced environmental performance.
 - Therefore, tax reductions or reduced governmental control linked to EMS compliance are questionable.
- This "Quality label" is conceived in a way that everyone who can afford it can obtain it. EMAS-certified companies include producers of automobiles with high petrol consumption (even Porsche) as well as nuclear power plants (as demonstrated by the atomic power plant Isar⁴).
- 
- The approach tends to shift decision-making on environmental performance issues from democratic institutions, involving public interest advocates, to companies.
 - The business interest is limited to environmental investments which pay off, whilst many protection measures are not profitable.
 - EMS systems do not require a minimum of environmental performance.
 - Reporting requirements are inadequate, lacking clearly defined key indicators of environmental performance and benchmarks.
- A large number of consultants and verifiers praise EMAS (and the even less demanding ISO 14001 system) as a major environmental achievement – not least because they make good money out of it. Certificates are even marketed as big environmental award.
- The example shows that regulation or certification does not necessarily yield useful results per se.

⁴ http://www.emas.de/fileadmin/user_upload/umwelterklaerungen/2010/DE-163-000027_E-ON-Kernkraft-GmbH_2010.pdf

UN Global Compact, ISO 26000 & others

It seems to be a fundamental principle of CSR to primarily rely on a general set of rules or guidance documents without substance which are written in such a manner that almost all enterprises can comply with them. They share the following basic concepts:

- There are just optional recommendations (“should”), but no clear-cut compulsory normative provisions (“shall”). This means that the user has the choice and the freedom to ignore any recommendation.
- Normative provisions exist but they relate only to processes (e.g. to determine responsibilities) and do not include substantive requirements.
- The specifications are indeterminate and vague and allow the users, to a large extent, to define the performance levels themselves (e.g. reduce adverse health and environmental impacts).
- The material requirements are only on a low level (e.g. ILO Core Standards).
- Legal provisions are just reproduced.

Most existing rules apply to one or even more of the principles mentioned above. A few examples will be investigated in more detail below.



UN Global Compact

This “compact” was “offered” to industry by the former UN Secretary General Kofi Annan in 1999 with the aim to take into consideration social and environmental goals in the process of globalisation. If the truth be told, it was, however, rather the other way round: this earth-shattering initiative was elaborated in close co-operation with the International Chamber of Commerce.

According to this businesses should:

1. support and respect the protection of internationally proclaimed human rights and
2. make sure that they are not complicit in human rights abuses
3. uphold the freedom of association and the effective recognition of the right to collective bargaining
4. uphold the elimination of all forms of forced and compulsory labour
5. uphold the effective abolition of child labour and
6. uphold the elimination of discrimination in respect of employment and occupation
7. support a precautionary approach to environmental challenges
8. undertake initiatives to promote greater environmental responsibility and
9. encourage the development and diffusion of environmentally friendly technologies
10. work against corruption in all its forms, including extortion and bribery.

The tenth rule was only added later on. These “demands” are the lowest levels – the mere respect of the most basic human rights is not an indication of particular social responsibility, rather their non-observance can be judged as illegal conduct.

The very purpose of the non-binding Global Compact is to give the impression of an international regulation in order to prevent demanding and compulsory rules. The participating companies do not really assume obligations – a simple declaration of support and an annual report which can be freely drawn up is sufficient to satisfy the demands of the Global Compact. Any kind of monitoring is missing. With good reason this initiative has heavily been criticised by many NGOs.

The Global Compact also reflects the fact that multinational corporations have largely captured the UNO and other international organisations directly and indirectly and have instrumentalized them for their own purposes. It is not a „step in the right direction“ – the only way forward is its abolition: “One way of doing so is to demand with one voice that the Global Compact be disbanded and to remind UN leaders of their mandate to assist states in checking corporate power by establishing legally-binding frameworks for transnational corporations” (Building on Quicksand - The Global Compact, democratic governance and Nestlé. Judith Richter, published by CETIM, IBFAN/GIFA and Berne Declaration, October 2003).

Also Jean Ziegler is of the same opinion: “I think that we have to fight the Global Compact, not only criticise it, because it is a public relations operation of the big multinational companies” (Inter Press News Service, 06.07.2007).

UN Principles for Sustainable Investment (PRI)

Just like the Global Compact also the “Principles for Sustainable Investment” trace back to an initiative of the former UN Secretary General Kofi Annan. And this time as well business has steered the course: the biggest 20 institutional investors of the world were invited to develop the guidelines.

It is not surprising that these principles⁵ consist to a much greater extent as the Global Compact (which at least includes an obligation to observe elementary human rights) of verbal clouds of fog. The investors commit to incorporate environmental, social, and corporate governance (ESG) issues “into investment analysis and decision-making processes”, and to “seek appropriate disclosure on ESG issues by the entities in which we invest” and to “promote acceptance and implementation of the Principles within the investment industry” and to report on their implementation. How this “incorporation” should work, however, remains entirely open.

The authors of a recently published study endorse, not surprisingly at all, that PRI and similar principles have hardly any positive effects on sustainability:

“The available evidence suggests that investment principles are having a limited impact on sustainable-development outcomes. Investors will not compromise high returns on investments for improved sustainable-development outcomes.” (Investing for Sustainable Development, IIED, 2011).



⁵ <http://www.unpri.org/principles/index.php>

ISO 26000

The standard ISO 26000 “Guidance on social responsibility” was published by the International Standards Organization (ISO) in November 2010. The Austrian Network Social Responsibility (Netzwerk Soziale Verantwortung) has strongly criticised this document⁶. The most important points of criticism include:

- There are no normative requirements – just recommendations (which cannot be certified).
- It is a vendor’s tray of options - organisations can to a large extent define the scope of their social responsibilities themselves („pick and choose“).
- The performance demands are low - in many cases the levels are below applicable law in Europe and in Austria, respectively.
- Verifiability and external verification is not ensured. Recommendations are not sufficiently precise and can be interpreted in many ways. Rules for the preparation of SR-reports and indicators are inadequate.
- Societal stakeholders are not sufficiently involved – it is not clearly stated that under all circumstances labour representatives are to be involved and, where possible, also (critical) NGOs.



Though the conclusions of the Network Social Responsibility also point out the positive aspects of ISO 26000 (availability of a global definition of social responsibility including all relevant subjects, preparation of the standard using a stakeholder process different from the normal ISO procedure), it is, however, noted: “Unfortunately the ambition level absolutely falls short of expectations from the perspective of a developed country such as Austria and even constitutes a step backwards compared to existing legal provisions. There is reason to fear that ISO 26000 could be misused by enterprises to legitimize feeble or questionable SR concepts and mere marketing activities, respectively, with reference to ISO 26000 (or documents derived from it). This would mean that the guideline does not achieve its goal – to contribute to sustainable development”.

ON-Regel 192500

Based on the ISO guideline the Austrian Standards Institute has prepared a so-called “ON-Regel” (a normative low level document) entitled “Gesellschaftliche Verantwortung von Organisationen (CSR)”. Essentially, a management system was added to the ISO document and many recommendations of the guide (“should”) were converted into normative requirements (“shall” or equivalent terms). This undoubtedly constitutes a step forward. On the other hand the problem remains that most of these requirements either do not go beyond existing regulatory obligations or the ambition level can be freely chosen to a large extent. From the perspective of the Network Social Responsibility⁷ this “rule” is not a useful basis to integrate social and environmental matters as well as sustainable management into the activities of organisations to any appreciable degree. Hence, the partial substitution of recommendations by requirements has not led to a real improvement.

⁶ http://neu.netzwerksozialeverantwortung.at/media/presseNews/PI_ISO%2026000.pdf

⁷ http://www.netzwerksozialeverantwortung.at/media/PM_ON-Regel%20192500_final.pdf

CSR reporting

Sustainability reports or CSR reports are supposed to represent the social and environmental activities and attainments of enterprises and provide for transparency to interest groups (stakeholders). So much for the theory. In reality, only a few conclusions, if any, can be drawn, as regards the CSR performance, from such reports. Thus reporting is reduced to a marketing activity.

According to a study by Ernst & Young Austrian enterprises are lagging behind in terms of sustainability reporting: 80% of the Austrian top companies (the 100 with the highest turnover), the five top credit institutions, 77 % of the listed “prime market” companies and 59 % of the 17 public enterprises with the highest turnover do not have such reporting (Ernst & Young: Transparenz im Visier. Nachhaltigkeitsberichterstattung der österreichischen Top-Unternehmen, 2011).

This investigation focussed only on the number of companies which issue sustainability reports. Questions related to the quality or meaningfulness of such reports were not addressed. However, those issues would be of central importance:

“Reports purport to improve corporate accountability to stakeholders, but their value is increasingly being questioned for a number of reasons: there are no common benchmarks with which to compare the performance of different companies; the content is down to the discretion of the company, leading to allegations of spin; there are problems with verification; and the expectation that a wide variety of stakeholders would make use of the reports is proving incorrect. The readership of reports is largely restricted to the socially responsible investment community.” (Corporate Watch Report 2006, S 4).

Ernst & Young positively refer to the guidelines of the Global Reporting Initiative (GRI), which is judged to “provide an appropriate framework for sustainability reporting also in future” (see above). Especially, the GRI Guidelines as presented below are highly questionable.

The Global Reporting Initiative (GRI) was established in 1997 and their guidelines are considered as quasi standard in the field of sustainability reporting. It is considered as “multistakeholder initiative”. However, a brief look at their so-called “organizational stakeholders” shows that the initiative is clearly dominated by the business world – by the categories “business” with over 200 members and “mediating institutions” (e.g. consultancies) with around 300 firms.

The list of enterprises looks like the „who’s who“ of the corporate and consultancy world: BASF, Bayer, Bosch, BP, Daimler, Deutsche Bank, GM, ING Group, Nike, Petrobras, Royal Dutch Shell, RWE, SAP, Siemens, Vattenfall, Arthur D. Little, Ernst & Young, KPMG, etc. On the other hand, approximately 80 organisations are listed in the category “civil society”, but only few known organisations such as Oxfam can be found. By contrast, it includes names such as “American Industrial Hygiene Association”, “Entrepreneurs Foundation” or “Korean Standards Association”, do not necessarily suggest a civil society background.

Moreover, the UN Global Compact and the Global Reporting Initiative have formed a strategic partnership in 2006 – according to the motto: “birds of a feather flock together”. With this the weight of both systems has increased, but not their substance.

It can be concluded that business essentially controls GRI. It is not surprising that the figures published in sustainability reports based on GRI guidelines are hardly appropriate to assess the performance of enterprises because the indicators are not made for comparisons and benchmarking. The indicator result snapshots do not adequately represent the results of corporate conduct. Furthermore, many indicators can only be compared within one company in temporal succession (e.g. energy consumption) – and even this is difficult as the results depend on many factors such as sales fluctuations, acquisitions, sales, climate, and so forth.

The BP case

BP is an almost perfect object lesson which shows how an enterprise can muck around with the public on CSR and can receive thereby – despite a long list of environmental and human rights violations – even sustainability awards allowing the company to maximize profits.

With a budget of some 100 of millions of Euros the image of the enterprise was spruced up and the old logo was replaced by a yellow green sun. From now on BP did not mean any longer “British Petrol” but “Beyond Petrol” – the oil company mutated into a solar firm. Attractive sustainability reports – as a matter of course in compliance with GRI – helped almost make us forget that just a small proportion of the turnover was generated with solar energy. In addition, most of the production sites were even certified according to the standard ISO 14001.



“The New Black Book on Brand Companies - unscrupulous practices of renowned and popular global players” (not available in English language) accuses BP of severe violations of human rights, among other financing of civil war and arms trafficking, destruction of livelihoods in areas of oil extraction and co-operation with military regimes (Klaus Werner Lobo, Hans Weiss: Das neue Schwarzbuch Markenfirmen - Die Machenschaften der Weltkonzerne, 2010, p 176f).

But on the other hand BP was even ranked the most accountable big company of the year in 2007 by the US business magazine Fortune⁸ partnered with relevant organisations “AccountAbility” and “CSRnetwork”. It had not escaped the jury’s attention that BP had caused enormous damage – e.g. the biggest oil spillage in Alaska in 2005 owing to poorly maintained oil pipelines as well as an explo-



sion in a Texan refinery where as a result of inadequate safety measures 15 workers were killed and 180 injured. However, as BP had some heads roll the company earned additional points assuming, on the grounds, that the company had learnt its lessons from those accidents.

The explosion of the oil rig “Deepwater Horizon” on April 20, 2010 brought the public back from the CSR heaven down to earth again. And this time there were not only 11 fatalities, in total 500.000 to 1 million tons of crude oil were spilled. BP engineers had warned of the risks a long time before at no avail.



Picture: US Coast Guard

⁸ <http://money.cnn.com/galleries/2007/fortune/0710/gallery.accountability.fortune/index.html>

After the disaster BP once again presented itself as „highly responsible“: BP committed to compensate for all damages irrespective of any legal obligation. But soon after that the concern was accused of slow execution and insufficient amounts of payment. The company wanted to fob off aggrieved parties with meagre sums for refraining from legal proceedings: “For the first time the energy company BP pays claimants of the oil disaster in the Gulf of Mexico money so that they abstain from lawsuits. Critics have warned against accepting one-off payments” (Der Spiegel Online, 28.12.2010).

The US White House oil spill commission concluded in January 2011 that the involved firms had accepted safety risks to increase profits:

„Safety was not a priority for the responsible persons of the companies BP, Halliburton und Transocean involved in the disaster. (...) The explosion of the drilling platform “Deepwater Horizon” on April 20, 2010 is the result of various individual errors and mistakes on the part of BP, Halliburton und Transocean“, says the final report of the commission ...

Many of the decisions of the enterprises involved clearly saved ‚whether purposeful or not‘ those companies significant time and money, says the report of the panel appointed by US President Barack Obama“ (manager magazin online, 06.01.2011).

But also the system of self-regulation came under attack. For instance, the Wall Street Journal wrote: “The small U.S. agency that oversees offshore drilling doesn’t write or implement most safety regulations, having gradually shifted such responsibilities to the oil industry itself for more than a decade. Instead, the Minerals Management Service—now caught up in the crisis of the Deepwater Horizon rig that for weeks has sent crude oil gushing into the Gulf of Mexico—sets broad performance goals for the industry. Oil producers and drilling companies are then free to decide for themselves how to meet those goals, industry executives and former regulators say.” (Wall Street Journal, 07.05.2010).

President Obama criticised this in a speech on June 15, 2010 as “failed philosophy that views all regulation with hostility - a philosophy that says corpora-

tions should be allowed to play by their own rules and police themselves.”



The Financial Times Deutschland stated: “The company will not waive profits for the benefit of environmental protection. (...) Corporations are systems which are not oriented towards moral standards. Even if he wanted the boss of BP could not simply give up deep-water wells. In his capacity he is not committed to the society, but to his employer: the owners of the oil company.“ (FTD, 07.08.2010).

Thus new licenses for deep sea drilling in the Gulf of Mexico were already issued in March 2011: „Though BP will still face criminal charges, but overall the oil industry is on the upswing again. The Obama administration has started with granting new licenses for drilling holes in the Gulf in the last month – the first ones since the explosion. With regard to the pressing questions which arise against the background of the disaster the US Congress still must act: ranging from the increase of liability of oil companies to more stringent environmental protection requirements.“ (der FREITAG online, 22.04.2011).

The entrepreneur as social reformer

The subject “social responsibility” is by no means new. Initiatives of individual entrepreneurs to improve labour conditions have been taken time after time in the history of capitalism. One of the best examples for this is Robert Owen, a British industrialist and early socialist who is also regarded as founder of the cooperative movement.

Robert Owen reduced the daily working period from the then usual 13 to 14 hours to 10,5 hours in his Scottish cotton spinning mill in New Lanark at the beginning of the 19th century, paid wages even when the production had to stop because of raw material shortages, prohibited work of children below 10 years of age, introduced health and pension insurance, provided foodstuffs at favourable conditions, granted reduced rental rates and even set up schools for children – just to mention a few of his initiatives. On the other hand, he also increased work intensity and also the pressure on the workers by special rating systems and implemented disciplining such as e.g. the ban of alcohol.



Robert Owen

This experiment which improved the living conditions of the workers considerably attracted a lot of attention and many visitors – among other the Russian tsar Nikolaus I. One would think that this model aroused much enthusiasm and encouraged imitation. But this was not the case.

Robert Owen had big difficulties to convince his business partners of the appropriateness of his ap-

proach to improve the labour and living conditions of the workers. The productivity was rather high, but the factory was a model plant even prior to the introduction of enhanced labour conditions and had a strong market position as a result of technological innovation and not least because of the entrepreneurial qualities of Owen. The co-owners of the factory considered the measures taken as pure waste of money. The project could only be continued with the help of wealthy friends and sympathizers.

Endeavours to motivate other industrialists to follow his example or to get political support failed miserably. His publications were ignored – the interest to substantially improve the conditions of the working population was rather limited. Hence, he withdrew from the project and dedicated himself to other activities. Owen's example, regrettably enough, illustrates all too clearly that even corporate initiatives with the best intentions cannot be enforced in the society as a whole.

Happy people, higher productivity and more profit – so to speak a win-win situation – copied by everyone and within shortly all social, ecological and economic problems are things of the past. Unfortunately, this happens only in CSR fairy tales. Typically, such achievements remain isolated examples and do not win through by means of market mechanisms.

Initiatives of individuals – how valuable they ever may have been – have not lead to a significant improvement of the situation of the workers in their entirety. Progress was not made because of voluntary activities of entrepreneurs, but through the adoption of binding rules – in most cases against the strong resistance on the part of industrialists – by means of political measures and trade union activism. There is little evidence to suggest that these basic concepts are obsolete today. However, these facts do not undermine the importance of the achievement of exceptional pioneers such as Robert Owen which stand as a guidepost into a better future.

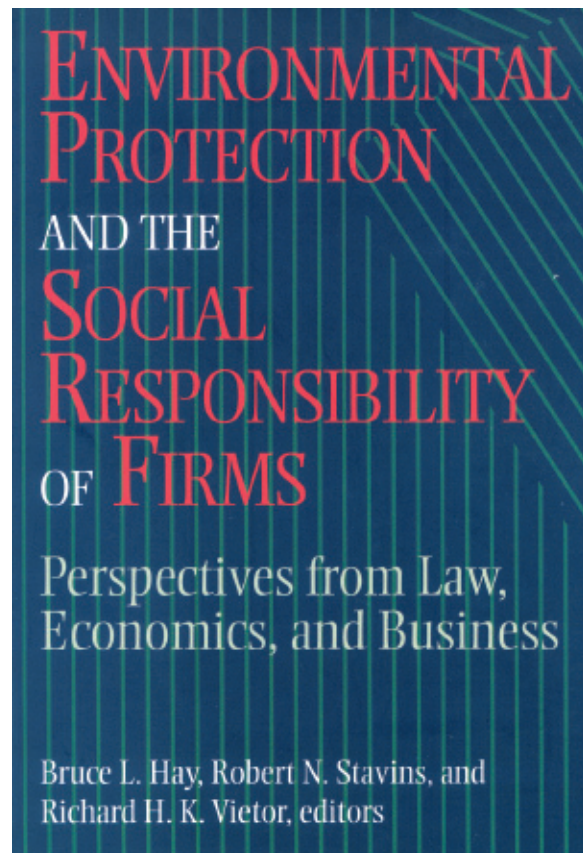
The „Business Case“

The proponents of the CSR model assume that social responsibility and economic success are, in principle, compatible with each other and, thus, no extra costs are incurred which could be interpreted from an economic point of view as reduction of profits or as illegitimate waste of resources. Sometimes it is even claimed that the subject CSR constitutes a critical factor for success, i.e. living up to social responsibility is a necessary condition for business success (e.g. to strengthen the competitive position).

By contrast, the neoliberal economist Milton Friedman has another interpretation of CSR: “Few trends could so thoroughly undermine the very foundations of our free society as the acceptance by corporate officials of a social responsibility other than to make as much money for their stockholders as possible. This is a fundamentally subversive doctrine” (Milton Friedmann, *Capitalism and freedom*, 2002, S. 133). Subversive or not – the idea that a part of the profits of a corporation is spent for purposes of public benefit (whatever that might be) is absolutely absurd from the point of view of capital. This may be agreeable or not, however, it is a correct description of the status quo.

A capitalistic enterprise does not “sacrifice” profits in the interest of general welfare. This is not just a question of will or of convictions, but a systemic necessity. Robert Reich remarks on this: “A commitment to social conscience and responsibility of enterprises is a phrase. It makes for good press and reassures the public. The truth is that no enterprise can afford in the long term to assume social responsibility which will give rise to higher costs” (Robert Reich in an interview with the magazine *Stern*, 19.01.2009).

Intensified competition as a result of globalisation leaves little room for manoeuvre – race for profit maximisation forces corporate management to cut costs and to reduce the size of the workforce. “BMW sold more vehicles than ever” read headlines of the *Tagesspiegel* on January 10, 2008. And further: “Despite record sales BMW had announced just before Christmas the loss of thousands of to become more profitable”, because: “the company’s return on sales, however, fell behind that of other premium manufacturers”. Few enterprises will be



satisfied with less than maximum profit rates owing to social responsibility, e.g. to sustain employment. Unctuous CSR commitments will not alter this.

If the reduction of profits for the sake of charitable goals are categorically excluded, what are the driving forces for companies to address social responsibility – does the so frequently invoked “business case” exist and what are its characteristics? Questions of that kind were explored in a seminar at the Harvard University (Bruce L. Hay et.al., *Environmental protection and the social responsibility of firms*, Washington, 2005).

Forest L. Reinhard of the Harvard Business School discusses in his contribution: “Environmental protection and the social responsibility of firms – Perspectives from the business literature” (ibid, p 151 ff) the question “when might it pay to be green” and addresses the following opportunities for action:

- Increased customers’ willingness to pay
- Reduced costs
- Improved risk management

Increased customers’ willingness to pay:

Increased provision of public goods result in increased costs which the enterprises can pass on to their customers. One option is product differentiation – the product is attached a high environmental value (e.g. an organic product) and consumers are prepared to pay a higher price for it.



Another possibility for manufacturers is the strategic use of regulation (e.g. when producers of thermal insulation products push through more stringent limits for the energy efficiency of buildings). Expected environmental problems can also be used in a strategic way – by developing new technologies anticipating the future scarcity of resources which can be sold at high prices.

Reduced costs

Cost-saving approaches include reduced consumption of resources, more favourable financing costs, when investors are convinced that the enterprise is “clean”, reduced labour costs due to highly motivated and thereby more productive employees or timely adaptation to future regulatory measures and appropriate consideration in investment decisions.

Improved risk management

It can be quite expensive when corporations are caught in a crossfire of criticism because of serious offences committed. This can not only lead to a decline in sales but also to compensation payments and, in a worst case, even to company closures. Hence, avoidance of misconduct can save a lot of money.



All these strategies which may certainly yield to socially desirable results to some extent are characterized by the fact that they hardly go beyond normal market mechanisms if at all. Mostly they have nothing to do with social responsibility but are in the first place just a specific expression of profit maximisation. It should be noted, however, that the highly appreciated environmental and organic labels were effectively promoted by political measures (see below).

Apart from that such approaches are subject to narrow limits: the market share of products bearing ecolabels or labels for organic farming is very small, opportunities for cost optimisation by means of operational energy savings has already been used to a large extent in the past, risk management measures will largely aim at avoiding striking and blatant misconduct (such as child labour in the production of apparel textiles). As the example of BP shows not even this was a strong driver – risk minimisation was not an issue whatsoever, profit maximisation had an absolute priority.

Therefore, Forest L. Reinhard concluded after a detailed analysis of the relevant literature the following: “More generally, however, this literature suggests that regulators and activists need to be sceptical that firms will engage in widespread voluntary public good provision in the absence of a credible threat of regulation. If it were true in general that “it pays to be green“, then it would be only a matter of time before managers discovered this and started behaving accordingly. Because the evidence indicates that “it pays to be green“ in some ways for some firms in some industries in some countries, but not universally, regulators wanting to see more public good provision need to be ready to use the power of the state to coerce it“ (Forest L. Reinhard, *ibid*). This once again demonstrates: adherence to highest environmental and social standards will in some cases be compatible with the profit-making intentions of enterprises – but this cannot be generalised.



However, if a good image can be built up with the help of specialised companies at relatively low costs CSR can pay off fairly quickly. A good placement in sustainability rankings can be a good basis for increasing the share value of a corporation. There is a financially relevant demand for shares of enterprises which are said to act in a socially responsible way. So-called sustainability or ethical funds have an estimated global volume of 7.6 trillion Euros (Eurosif, European SRI Study, 2010).

What primarily counts is appearance rather than being. „Subprimes“ could be sold as long as people believed in them (and as long as they were judged positively by paid rating agencies). Along the same lines also shares of enterprises considered as being responsible can be sold as long as their good image can be maintained. One could call this ‘trading with the illusion of sustainability’.

The German edition of the Financial Times brings it to the point under the headline “Danger of rip-off with products for do-gooders”: “Some product providers lead investors to believe that ethics and money can be easily reconciled. But the truth is: they go well together only in the rarest of the cases” (FTD, 12.02.2010).

BP is an excellent example to demonstrate how one can make money with pseudo-sustainability: Cary Krosinsky in an analysis of 350 sustainability funds from all over the world found: “end of 2008, BP was the second biggest holding, in terms of how much money the funds had collectively invested. The five biggest holdings were Royal Dutch Shell, BP, Nokia, Vodafone and HSBC Holdings” (GreenBiz, 13.07.2010).



Responsible consumers?

Would it not be obvious to motivate the “empowered” consumers to preferentially buy products which have a high societal value? Thus, increased profits for enterprises and more sustainability could be reconciled. However, this is not quite as straightforward.



The notion of the “empowered” consumer is closely linked to the neoliberal ideology: if the “responsible consumer” exists this will render regulation of products largely superfluous. The notion of “consumer protection” is shifted in the background when comprehensively informed consumers can decide themselves what best suits them. „This assumption is highly inappropriate and does not correspond to the living conditions of the majority of the population. It should just ensure a framework for an unconstrained expansion of the economy” (Harald Glatz, 30 Jahre Konsumentenschutzgesetz, 2009, p. 5). In reality, this means not just to place excessive demands on the people and an “overload” of information which is difficult to cope with but also to induce a shift of political responsibilities.

A good example for the latter is the decline of the reuse system in Austria. For a long time the reduction of the proportion of reusable beverage containers has been deplored. For mineral water, for example, it was 94% in 1994 and dropped to about 18% in 2009. Compulsory multi-trip quota are missing and their adoption is being sabotaged by

the Chamber of Commerce which warns of “nanny-ing of consumers” (Der STANDARD, Mehrweganteil sinkt beständig, 16.06.2009). Industry (mis)uses the “empowered” consumer as an excuse to prevent political solutions – and only the latter could reverse the trend.

Consumers have other priorities. A study by the institute Karmasin on behalf of the Austrian recycling association ARA with the revealing title: “Pronounced preference for reuse containers contradicts sales figures and collection rates” (2001) showed that reusable bottles were by a majority (69%) perceived as environmentally friendly. Also a clear majority (60%) indicated to prefer those to one-way bottles. However, the development of sales statistics was in clear contradiction to such statements.

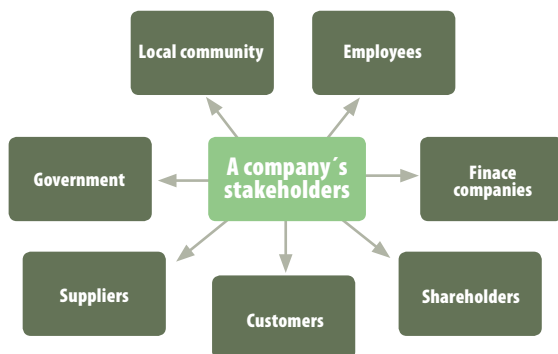
It is well-known that people do not tell the (full) truth in interviews but present themselves in a favourable light in accordance with socially favoured behaviour patterns. One could also say: “the spirit is willing but the flesh is weak” – or more sophisticatedly – speak about “attitude-behaviour gaps”.

To buy socially and ecologically beneficial products is considered a good idea, in principle, but in real life other factors matter for the purchasing decisions at the end of the day. In the example above, convenience is decisive (empty bottles do not need to be returned). But also other factors play an important role, such as price, performance, service, warranties, design, prestige, ease of operation and so forth. Generally, consumers strive to optimize their own benefit (or what they think to be the benefit). Societal benefit is secondary. Further, one should not forget that the income situation of large parts of the population does not necessarily permit to purchase products according to social or ecological criteria. Here the wallets set limits to the „empowerment of consumers“. Of course, it is important to stimulate consumers to buy responsibly (including the option not to buy). But such efforts have been severely constrained, not least by purchasing stimulating effects of a large number of advertising messages which are systematically obscuring the social and ecological incompatibility of consumption.

Stakeholders instead of democracy?

The involvement of interest groups or “stakeholders” (e.g. shareholders, customers, suppliers, workers etc.) plays a crucial role in the CSR concept. “Identification of and engagement with stakeholders are fundamental to social responsibility.” (ISO 26000, clause 3.3.3). Thus, “an organization should respect, consider and respond to the interests of its stakeholders” (ISO 26000, clauses 4.5 and 5.3, respectively) and, in doing so (shortened):

- identify its stakeholders;
- recognize and have “due regard” for their interests and respond to their concerns;
- assess and take into account the relative ability of stakeholders to interact with the organization;
- take into account the broader expectations of society;
- consider the views of stakeholders even if they have no formal role.



One wonders what this means in concrete terms. Which stakeholders will be involved when and how, what will be discussed, who sets the agenda and who decides whether “due regard” has been given to whose interests? The answer is that stakeholder dialogues are strongly biased: “However, decisions on which groups of people count as stakeholders and the mechanisms through which they are engaged, are entirely at the discretion of the company.” (Corporate Watch Report, 2006, p 4).

The demands of various stakeholders vary significantly and are occasionally fundamentally opposed. As

the weighting of particular interests is up to the enterprise it is quite easy to claim that all interests have been taken care of. Thus, the approach „stakeholder



dialogue“ becomes a carte blanche – anything goes and, in particular, structurally disadvantaged interest groups (such as labour representatives, consumer advocates, NGOs) are often no more than a scanty cover-up for entrepreneurial self-regulation.

As part of a neoliberal concept CSR becomes a substitute for regulation. “CSR both weakens and sidelines democratic decision making. It announces that democratic decision making in the form of regulation is unnecessary, and replaces the (dis)enfranchised citizen with the ‘stakeholder’ (Corporate Watch Report, 2006, p 17).

In the context of participation in stakeholder dialogues more questions arise: How much free capacity do NGOs have for stakeholder dialogues? Could the time used for this be spent more productively? Could this involvement lead to a loss of critical faculties on the part of NGOs and a loss of independence from industry? Could this be a targeted strategy of appeasement? Will NGOs be misused as fig leaves? Will critical NGOs be played-off against adapted NGOs?

One thing is clear: industry will always have the upper hand and will keep control of what is happening. They can stop the process at any time and all parties involved are aware of this. In a democratic process this is not that easy.

Positive approaches

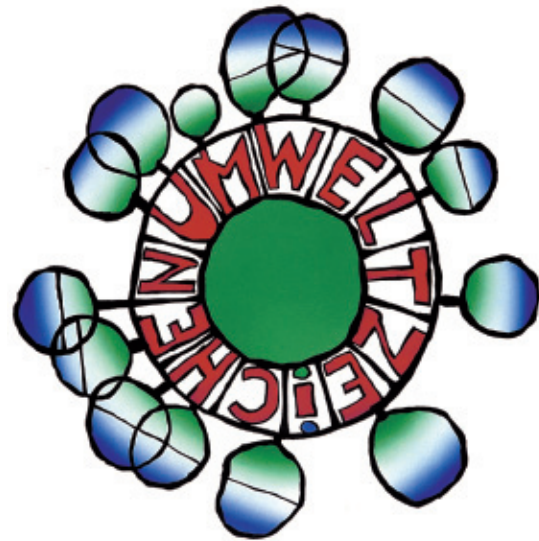
In the previous chapters it was shown that the CSR concepts advertised by business are one-sided and driven by interests. On this occasion we would like to stress that this brochure is primarily concerned with the critique of a concept – and not that much with exposing the motivation of the main protagonists involved which even with best intentions cannot escape the profit logic of capitalism in favour of common welfare: “Against the background of an ever increasing global market competition and a structure of society which establishes and accepts profit as central motive of corporate conduct such endeavours are subject to very tight limits” (NeSoVe, “Forderungen an die österreichische Politik”, 2008).

Nevertheless there are also some positive examples of voluntary initiatives taken in the interests of society which are not just owing to the rationale of the market but were rather imposed against it.

This holds true on the one hand for NGO initiatives in states which do not assume responsibilities to protect their population. Here voluntary initiatives are of higher importance and sometimes have an impact on governmental policies.

But also in our part of the world we can find some outstanding positive examples. Such as organic farming which add to compete with (cheaper) conventional products. Without political intervention and the state-controlled organic farming label which ensures demanding criteria (which, however, are considered as being too weak by some) including trustworthy controls progress would have been much less in this area.

State-run (and semi-state) ecolabels – such as the Austrian “Hundertwasser” label, the “Blue Angel” or the European Flower – have provided more or less substantial environmental criteria for a range of products (in theory only the best 10-20% of the products should be eligible for being awarded). However, these criteria are widely ignored by industry. At least such rules are used more and more as a basis for the development of public procurement criteria which are defacto beyond the sphere of voluntary action.



Also the FairTrade seal which covers more and more product groups is considered a positive example (although criticism is voiced, too).

All these labels which are not just “business as usual” have one thing in common: they are niche products and are from a quantitative point of view of low overall societal relevance although they have been advertised for many years and still are. Organic food products have a market share of less than 2% in the EU nowadays (European Commission, Directorate-General for Agriculture and Rural Development, An analysis of the EU organic sector, June 2010). Products with an ecolabel or a FairTrade seal are found well below that level. In Germany the proportion of fair-traded food products of the entire food trade was about 0,15% in 2009 (Patrick Schwan, “Die Chance für den fairen Handel?“, August 2011).

Hence, we can of course not expect a significant contribution to a change towards sustainability by these instruments. NeSoVe still supports voluntary initiatives if they are carried out as pilot projects to demonstrate options for appropriate action. A pre-condition, however, is, that these initiatives commit to substantive requirements (in the meaning of high performance demands), preferentially in a democratically legitimized political process and have a credible and democratically legitimized control system.

Résumé of the CSR concept analysis

The globalisation process driven according to neoliberal principles and the related deregulation, privatisation and liberalisation have promoted the erosion of social achievements and the deterioration of the environment. Instead of wealth for all the unconstrained markets have brought about the destruction of health, education and social systems. In the last 30 years social differentiation has significantly intensified – the rich become richer, the poor become poorer. We are farther away from sustainability than ever.

The finance industry has acted in a particularly unscrupulous manner – with pyramid selling schemes of all kinds it has manoeuvred the financial system towards a collapse. This could be delayed at first by taking hostage of the tax payers on the principle of the “privatisation of profits” and “socialisation of losses”. But a solution is not in sight. The Chairman of the US Federal Reserve, Ben Bernanke, warned of a collapse of the financial system in June 2011. Measures taken so far do not seem to improve the situation. Rigid austerity programmes – such as the one imposed on Greece and now being extended over the whole of Europe – threaten to speed up the decline.



Here a radical course correction is required. Restricting the unrestricted market forces can only be a first step towards a post-capitalistic order which does not place profit maximisation in its centre but orientation towards the common good. Strong market intervention becomes necessary and a re-regulation to bring under control as quickly as possible the worst excesses of neoliberal policy making.

What is desirable from the society's perspective can only be determined in a democratic process in the

framework of state political institutions designed for this purpose and cannot be delegated to business. As these institutions are to a large extent determined by powerful business actors their influence must be massively restricted.

Significant in this context is an initiative of some members of the European Parliament which opposed the overwhelming power of the finance lobby in a dramatic outcry for help: “The imbalance between the power of this lobby and lacking counter opinions seems to us a danger for democracy”, write members of the parliament responsible for the regulation of the finance sector in a cross-party appeal and called for the foundation of effective NGOs“ (FTD, 21.06.2010).



CSR concepts – within the meaning of the usual definitions – are much too limited to push for the necessary economic, social and ecological course corrections. The strategic political targets linked to CSR even small contributions appear rather questionable. “Corporate social responsibility is as meaningful as cotton candy. The more you try to bite into it the faster it dissolves. (Robert Reich, Superkapitalismus, p. 223).

Therefore NeSoVe pursues another concept of social responsibility. It is characterized by linking legislative and voluntary instruments whereby the first is given a clear priority.

CSR policy in Austria and the EU

The Austrian Council of Ministers adopted a work programme of the Federal State and the regional states (“Länder”) implementing the “Austrian Strategy for Sustainable Development” (Österreichische Strategie Nachhaltige Entwicklung, ÖSTRAT) in August 2011. It includes among other the topical priority CSR which envisages the elaboration of a national CSR action plan. It foresees the involvement of existing initiatives such as respACT – Austrian Business Council for Sustainable Development as well as NeSoVe representing labour and civil society organisations. In this context a series of workshops will take place in the course of the 2012.

The European Commission published the already awaited “renewed EU strategy 2011-14 for Corporate Social Responsibility” (COM(2011) 681 final) on 25.10.2011.

The essential elements of the strategy are fundamental considerations on the subject corporate social responsibility including a new definition of CSR as well as an “agenda for action” for the forthcoming 4 years with the key elements of promoting CSR and disseminating good practices, support for SMEs, improving trust in business, elaboration of codes of conduct, strengthen market incentives, ensuring transparency, integration into education, pushing for national action plans and aligning European and global approaches.

According to the new definition CSR is “the responsibility of enterprises for their impacts on society“. It is, in fact, a short version of the definition included in ISO 26000. Whilst the “voluntary basis” is no longer part of the text – as it was the case in the previous definition of the Commission – but the general gist of the paper is clearly in the spirit of self-regulation. At least it is the understanding of the Commission that assuming social responsibility includes the integration of social, environmental, ethical, human rights and consumer issues in their operations and core strategies in close co-operation with stakeholders.

From NeSoVe’s perspective the strategy is disappointing. The dogma of voluntary action as necessary “flexibility“ of enterprises to innovate is not questioned: “The development of CSR should be

led by enterprises themselves“. Public authorities should only play a “supporting role“. Voluntary measures are given priority which can be at least “where necessary” (!) supported by “complementary regulation“. A key consideration is to improve the competitive capacity of industry: “A strategic approach to CSR is increasingly important to the competitiveness of enterprises“. A further central motive of the Commission is to re-establish consumer confidence and levels of trust in European business which have been damaged as a result of the finance and debt crisis without making fundamental changes to the economic processes. Ensuring socially responsible business conduct by means of regulatory market interventions is out of the scope.

For this several „multistakeholder CSR platforms“ are to be created, codes of good practice should be prepared and award schemes be launched (COM (2011) 681 final).



Undemanding guidelines such as the Global Compact, the OECD-Guidelines for multinational enterprises or ISO 26000 are held appropriate and sufficient to achieve the set targets. Hence, all big European enterprises should make a commit by 2014 to take into account at least one of them. Similarly, European asset managers and asset owners, especially pension funds, are invited to sign up to the completely non-saying “UN Principles for Responsible Investment“. Enterprises as well as states are also supposed to “respect” and, respectively, to implement the UN Guiding Principles on Business and Human Rights. However, also the latter are just

a weak substitute for the failed efforts to establish internationally binding rules for corporations in this area.

Self- and co-regulation processes are “acknowledged”. Although, also regulatory measures are envisaged e.g. in the area of misleading marketing related to the environmental impacts of products, however, such plans have already been on the agenda of European policy making before. This holds equally true for the intended improved integration of social and environmental considerations in public procurement, „without introducing additional administrative burdens for contracting authorities or enterprises, and without undermining the principle of awarding contracts to the most economically advantageous tender“ (ibid) and the revision of the Sustainable Consumption and Production Action Plan.

The intention of the Commission to “present a legislative proposal on the transparency of the social and environmental information provided by companies in all sectors” can be judged positively. However, it is to be feared that these possible reporting obligations will be based on a set of indicators suggested by the GRI-Guidelines which are much appreciated by multinationals as they do not allow performance comparisons between enterprises and benchmarking.

NeSoVe, therefore, considers that there is no reason for a jubilant mood. The Commission sticks to the neoliberal policy paradigm in this communication. Enterprises and markets are supposed to take the lead, democratic rule making is at best complementary – and even this only “where necessary”. A sustainable economy will not be accomplished in this way.

The Ruggie process

The “UN Guiding Principles on Business and Human Rights” which were adopted in June 2011 are – as stated above – explicitly referred to in the communication. They complement the 2009 UN “Protect, Respect and Remedy” Framework for Business and Human Rights which was also developed under the lead of John Ruggie.

Before that internationally binding legal arrangements for multinational enterprises had fallen victim to business lobbyism. The “Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights” which were adopted by the “Sub-Commission on the Promotion and Protection of Human Rights” in 2003 but then dismissed by the UN Commission on Human Rights. The UN Guiding Principles are definitely not a substitute for these failed endeavours.

The essential elements of the framework and the guidelines are:

- the state duty to protect human rights
- the corporate responsibility to respect
- access to remedy

It is important to note that the second pillar means just a “moral” obligation (due diligence) of enterprises – a direct legal obligation under international law does not exist. This does not preclude to adopt such regulations at the European level. However, it is difficult to see any political will to doing this.

In any case, the emphasis of the primary state responsibility to address and regulate corporates also including the conclusion of investment treaties and trade agreements as well as the called for victim protection offer sufficient starting points for more far-reaching legal measures.

A different concept of social responsibility

On the basis of the previous analysis the following demands have been determined by NeSoVe within this context:

Corporate Social Responsibility (CSR) cannot be regarded as a universally accepted concept. In fact, the various societal actors have quite different ideas of how to shape the economy in the interest of humans and the environment adhering to the principles of sustainability.

Therefore, an Austrian or a European CSR policy must focus on the debate of what socially responsible behaviour actually means, who is to take the relevant decisions and which instruments are to be used to achieve the aims. In particular, the relation between voluntary instruments and statutory regulation must be given utmost attention.

The globalisation process driven according to neoliberal principles and the related deregulation, privatisation and liberalisation have promoted the erosion of social achievements and the deterioration of the environment. Even with best intentions of voluntary action at the level of an individual company cannot counteract these developments.

Especially, in light of the current financial turmoil the necessity of compulsory and efficient regulation for the sake of all of us becomes apparent.

Turbo-capitalisms und social responsibility are not compatible. Hence, the Austrian and European CSR policy must launch a discussion about alternatives to the neoliberal capitalistic system as well as options to reverse undesirable developments of the last decades (e.g. partial privatisation of the pension scheme).

An Austrian or a European CSR policy cannot be limited to funding and support measures and to the regulation of the framework conditions of CSR activities (e.g. compulsory reporting rules for enterprises with meaningful indicators and benchmarks). Rather should such efforts be linked to the review of existing regulatory provisions and the determination of regulatory gaps (e.g. in the fields of taxes, social issues, labour protection, consumer protection and environmental protection) and this

at a national, European and international level.

Proceeding from this, appropriate political measures should introduce new regulations or improve existing legal provisions applicable for all enterprises. Socially responsible conduct must be ensured primarily by means of statutory provisions valid for any kind of business or collective agreements. Accordingly, an Austrian or a European CSR action plan must focus on regulative measures.

The starting point for voluntary as well as compulsory measures should be the major issues or focal points identified by Austrian and European interest groups including those identified by NGOs. Based on this concrete targets should be established in all relevant thematic fields of action (protection of workers, environment, consumers, etc.) including the definition of benchmarks and measures to achieve these objectives.

To this end a series of series of thematic events should be held. In the following some examples are given which could be extended, complemented or modified as appropriate in the course of the debate.

Some of the proposals were taken from the study „Der ‘Public Policy Case for CSR’ –Rahmenbedingungen für einen starken CSR-Business Case – Diskussionsgrundlage für eine österreichische CSR-Strategie“ (E. Angerler, B. Ungericht, 2011).



Examples for activities in the field of social responsibility and the possible measures

Example working environment

Investigations have shown that a significant proportion of employees is dissatisfied with their jobs – and this with an upward trend! Different factors are responsible for this tendency such as increasing stress at the workplace, an unstable work situation as well as discrimination. These facts do not only speak for a comprehensive revision of all relevant legal provisions (e.g. employee protection laws, equality laws) but also for an extension of worker participation and democratisation as well as for an obligatory common good orientation of business conduct. Of primary importance is also the pushing back of precarious terms of employment. Socially responsible entrepreneurs must commit to the elimination of atypical working relations to the largest possible extent. In addition, voluntary best practice benchmarks could be established (e.g. regular independent measurements of job satisfaction in an enterprise using standardised approaches as well as publication of the results which allow comparisons with other companies).

Example people with disabilities

A goal could also be the increased integration of people with disabilities into the work process. In this context it would be useful to review the relevant legal provisions (e.g. in Austria act on the employment of people with disabilities) to verify their adequacy (e.g. whether the compensation payments in case of non-employment are sufficiently high). At the same time one could also set tax incentives to promote the increased recruitment of persons with disabilities (in case the compensation payments are not claimed). One could then define socially responsible conduct as non-utilisation of compensation payments and incorporate this in voluntary CSR guidelines.

Example income distribution

The increasingly unequal distribution of income (the rich become richer, the poor become poorer) is not just highly unsocial but also counterproductive on economic-political grounds as the lagging real wage development correspondingly leads to losses of the purchasing power and thereby to a decrease of demand and a weak economic growth. The redistribution

from earned income to unearned income is one of the pivotal moments for the current economic crisis. Investments in the real economy were put back in favour of speculative investments. The unequal payments of men and women are particularly outrageous. A radical change of the income distribution from the top to the bottom and, respectively, an abolition of gender pay differentials must therefore have top priority for trustworthy politics towards social responsibility. Possible measures include, among others, sufficient legal or collective provisions concerning minimum wages, effective taxation of wealth and high salaries as well as full income transparency. The corresponding provisions of the equal treatment act could be implemented voluntarily by the companies not (yet) affected. On a voluntary basis a ceiling of wage differentiation – relation between the highest and the lowest wages – could be established (e.g. of 7:1).

Example finance sector

The neoliberal policy of deregulation had particularly negative consequences on the finance sector. The “casino capitalism” with its financial house-of-cards strategy built on questionable financial products (e.g. risky financial products for betting and securitised debts) and characterized by unscrupulous speculation – also with raw materials and against the interest of the states – must be tamed through socialization and regulation. It is crucially important to ban certain financial products, to eliminate tax heavens and “offshore financial centres” and to introduce a tax on financial transactions. Of particular concern is the area of the so-called ethical investment (Socially Responsible Investment, SRI) with its guidelines predominantly consisting of pseudo-rules (as described above). A critical evaluation of these “rules” and the elaboration of alternatives must therefore be attributed high priority in an Austrian or European CSR action plan.

Example advertising insanity

A further example is to push back the more and more proliferating advertising as well as to fight misleading advertising practices. In this context relevant legislation (law against unfair competi-

tion and the European directive on unfair marketing practices) should be reviewed with regard to the question whether the provisions are stringent enough (e.g. concerning advertising directed towards children) and whether they are effective (e.g. in Austria there is no authority in charge of enforcement). In addition, also voluntary advertising restrictions (codes of self-limitation) could be subject to evaluation. Further, one could consider whether the voluntary self-control bodies of the industry (e.g. advertising council) should not be better replaced by independent institutions or at least by multi-stakeholder platforms.

Example energy – buildings and mobility

Buildings (heating, hot water) and mobility are responsible for more than 60% of the energy consumption in Austria (Energiestatus Österreich 2011, BMWFJ). There we can also find the biggest saving potentials. Key strategies include thermal insulation of buildings (in particular of existing ones), traffic reduction and more efficient means of transportation. In addition, a review of outdated building regulations and their strengthening is warranted. Similarly, this holds true for not very demanding regulatory provisions regarding the energy efficiency of vehicles or insufficient taxation of “gas guzzlers”. From responsible entrepreneurs we can expect an exemplary performance in both fields. This means, for example, that new buildings should at least have a minimum rating of A in accordance with the energy performance certificate and existing buildings should be upgraded to this level in the near future. They should also ensure that the average CO₂ emission of the car fleet should not exceed 140g CO₂/km. New cars should have a maximum emission of 120g CO₂/km. Along the same lines benchmarks for the energy consumption (and for other environmental parameters) in other areas (e.g. industrial processes) should be defined.

Example extraterritorial entrepreneurial activities

Large, internationally operating enterprises should – in particular, in countries with insufficient legislation and/or law enforcement – be

imposed clear and binding regulatory standards including their whole supply chain and should be made accountable for their business activities. This involves binding conventions and rules based on international law for large enterprises, legally prescribed due diligence and reporting duties, obligatory entrenchment of human rights in international trade conventions and investment agreements, binding rules for export promotion, compulsory complaint and sanction mechanisms as well as international law enforcement of claims of affected victims. It should also be ensured that Austria and other European countries ratify all relevant norms of the ILO (e.g. concerning child labour) and to make liable Austrian and European corporations for their conduct according to Austrian and European, respectively, criteria in other countries. This comprises changes to the corporate criminal law as well as the international private law. As regards the voluntary level we can discuss transparency obligations going beyond baseline requirements as well as the introduction of human rights clauses in general terms and conditions for enterprises for contracts used in international trade relations.

Example (public) procurement

The „Austrian action plan for sustainable public procurement“ includes environmental criteria for 16 purchasing groups (minimum requirements). However, any binding minimum quota have not yet been fixed (this is envisaged for 2012). With this a very first and important step was taken. The integration of social criteria is foreseen. It is also crucial to make sure that the requirements as well as the target quotas are sufficiently ambitious. This set of rules, however, should be also used outside state institutions and should be incorporated in guidelines of social responsibility.

Existing guidelines in the field of CSR typically lack substance and concrete normative provisions albeit to different degrees. This includes e.g. ISO 26000, UN Global Compact, UN Principles for Responsible Investment, GRI Reporting Guidelines, EMAS, ISO 14001, Guidelines of respACT (Austrian Business Council for Sustainable Development), the Austrian standard ONR 192500 etc.). All these instruments give industry extensive organisational freedom, hardly provide tangible and demanding performance requirements or establish reporting obligations of only limited significance (i.e. excluding comparability and capabilities for benchmarking). Thus they qualify for marketing purposes rather than for a demanding policy in terms of sustainability. An Austrian or a European action plan must therefore thoroughly scrutinize the existing CSR guidance documents and develop more demanding alternatives.

It is extremely difficult – if not impossible – to define comprehensive and ambitious criteria at a general level. Consequently, any Austrian CSR quality label exclusively based on such general criteria would make little sense. It is indispensable to compile sector specific “best-practice” documents with clear benchmarks and reporting obligations. It should be also borne in mind that general “soft” management system oriented criteria could undermine existing substantial rules, for instance, ecolabel criteria for tourism or quality criteria for organic farming. Voluntary and compulsory rules for social responsibility applicable in Austria or Europe must be elaborated in democratically legitimised political processes taking in due account the positions of all relevant interest groups. Where possible both kinds of criteria (compulsory basic requirements as well as voluntary best practice benchmarks) should be established in a joint process.

Incentives, promotion and financial support for CSR activities should be employed with caution. Financial subsidies should only be given – if at all – where demanding and selective requirements (widely still non-existing) that not everybody can fulfil, are complied with. The EU ecolabel may serve as an example insofar as it is by definition reserved for the best performing 10-20% of the products.

Socially responsible conduct does not only need to be backed by sets of rules and incentives, it also needs sanctions in case of misconduct (“carrots and sticks”). Here it is essential that questionable business activities are made visible to the public with the assistance of “watchdogs”. Such monitoring systems including appropriate internet platforms should be definitely supported (such as the platform “food clarity” (“Lebensmittelklarheit”) recently founded in Germany with the support of the government which allows consumers to complain about misleading food labels). This also includes a negative award (e.g. following the example of the German organisation Foodwatch which awards the prize “Golden Windbag” (“Goldener Windbeutel”) for the most blatant advertising lie in the food-stuffs sector, or the Public Eye Award donated by the Swiss organisations “Berne Declaration” and Greenpeace).

Existing systems and regulations for accreditation and certification do not appear to be suitable for the field of CSR as adequate socially responsible conduct includes value choices and judgements which can only partially be objectified (for example, it is difficult to judge whether advertising is misleading or wages are fair). Here new avenues must be explored which allow the involvement of stakeholders into verification activities of state inspection bodies (e.g. confirmation of trade unions that the enterprise has not hindered the foundation of a works council). A purely commercialised certification system is not useful as economic dependence of the certifiers on enterprises hardly allows an independent assessment.

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