

Second progress report on International Corporate Social Responsibility



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The Social and Economic Council in the Netherlands

The Social and Economic Council (Sociaal-Economische Raad, SER) advises government and parliament on the outlines of national and international social and economic policy and on matters of important legislation in the social and economic sphere.

Employers, employees and independent experts are equally represented in the SER. Their recommendations voice the opinion of organised industry. In addition to its advisory function, the council is responsible for the execution of certain laws.

A brochure on tasks, structure and procedures of the SER can be obtained, free of charge, from its Sales Department. Please also visit the SER's home page on the Internet: (www.ser.nl) and its section in English. It offers a host of information, such as the composition of the Council and its committees, press releases and the latest news.

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Abstract

1 Background

The Social and Economic Council's Statement on International Corporate Social Responsibility (ICSR) arose from the SER's advisory report *Duurzame Globalisering [On Sustainable Globalisation: A world to be won]* in 2008. In that report, the SER discussed four paths along which sustainable globalisation can be achieved: (1) through agreements, by applying pressure and providing aid to the countries where production takes place; (2) through the demands placed on imported products; (3) by holding Dutch companies operating abroad accountable for their social responsibility towards their own production facilities and those of their suppliers; and (4) through the choices consumers make with the help of quality marks and labels.

The SER's Statement is an important element of the third path towards sustainable globalisation (corporate accountability for social responsibility). It is essential that sustainable development embraces social, economic and ecological ambitions (the Triple P approach). Sustainable development is also a shared ambition of governments, companies and civil-society organisations. Corporate Social Responsibility (CSR) encompasses the contribution made by companies to each of these three dimensions of sustainable development.

The central employers' organisations and trade union federations stated that (international) CSR should be encouraged and facilitated at every level (including efforts to achieve supply chain responsibility) and called on companies and sectors to actively pursue it. The SER defines supply chain responsibility as a commitment by enterprises to exert a positive influence on the social and environmental policy of their suppliers. A commitment that is voluntary but not without obligation. Enterprises are not legally responsible for what their international suppliers do. An enterprise may have numerous suppliers and it cannot be held accountable for everything that happens in the supply chain. However, the closer the enterprise's relationship with a supplier, the more contact they have, and the more familiar the enterprise is with the supplier's situation, the greater the commitment it can be expected to show. However, the commitment of enterprises does not discharge national governments from their responsibility to adopt and enforce social and environmental standards by means of legislation.

The statement is not without obligation in the sense that enterprises – individually or in association with other enterprises – can be expected to demonstrate a form of corporate citizenship that minimises the negative effects and promotes and reinforces the positive effects of their actions. It also means that enterprises can

be expected to provide answers to legitimate questions, to be transparent and to be willing to engage in a permanent dialogue with stakeholders¹.

The signatories of the SER Statement are engaged in a variety of activities to promote the implementation of international CSR (ICSR). The ICSR Committee publishes progress reports on these activities. The emphasis in the first progress report², in November 2009, was on the committee's working methods and elaborating the initiative in more detail. In that report the committee announced that in the second progress report it would provide a review of the current situation, activities that had been developed and the results that had been achieved. In 2010, the committee drew up a working plan detailing the specific activities that are planned for the period 2010-2012.

This is the second progress report. The final evaluation, which will follow in 2012, will include more conclusions for policy measures.

The purpose of the progress reports is to provide a clear picture of the actions that are being undertaken, particularly by enterprises, to promote ICSR, partly in light of the SER Statement.

The second progress report follows the structure adopted in the working plan drawn up by the committee at the beginning of 2010:

- Part I provides an overview of the ICSR activities at central level (SER and the social partners).
- Part II provides an overview of local ICSR activities (by enterprises, sectors and commodity boards) and discusses the findings of the *Transparency Benchmark 2010* and the SER study into ICSR.
- Part III considers the basic philosophy in more depth by looking at remedy mechanisms and the scope of chain management.

1 See SER advisory report (2000) *De Winst van Waarden*, publication number 00/11, pp. 12-17. See for a summary in English: http://www.ser.nl/en/publications/publications/-/media/Files/Internet/Talen/Engels/2000/2000_11.ashx

2 SER (2009) *Waarde winnen, ook in de keten*. First progress report on the International Corporate Social Responsibility initiative, The Hague.

2 Part I: Overview of ICSR activities at central level

Under the auspices of the SER and otherwise, the social partners have taken initiatives, jointly and separately, to promote ICSR. Some of the highlights are presented below. Activities under the auspices of the SER

Sustainability and corporate social responsibility are recurring themes in the advisory reports the parties in the SER submit to the Dutch government. Since the publication of the SER's report *De Winst van Waarden* [Corporate Social Responsibility: A Dutch Approach]¹ in 2000, corporate social responsibility has been a crucial element of the core activities of enterprises.

Two new reports were published last year that touched on the topic of CSR. The report *Meer werken aan duurzame groei* [Making sustainable growth work]² concentrated mainly on the role of the Dutch government and the various policy programmes and policy instruments it has developed. The SER also addressed the role of enterprises in creating a more sustainable society in general, and corporate social responsibility in particular. The report devoted special attention to collaboration between enterprises in relation to competition law. Cooperation is often necessary to bring about sustainable development, but that can conflict with the rules against forming cartels. That applies also for initiatives relating to CSR. The Council concluded that competition law could be a *limiting factor* in terms of the precise nature of collaboration, but that there were few if any specific instances where competition law had actually prevented collaboration. The Council concluded that competition authorities could help by making it clear to enterprises what CSR initiatives are permitted by competition law.

The report entitled *De biobased economy* [The bio-based economy]³ made recommendations for government policy but also specifically addressed the social responsibility of Dutch enterprises. In this context, that responsibility extends mainly to guaranteeing the sustainability of the biomass that is used as input in the bio-based economy. The EU has adopted various binding criteria for the sustainability of imports that

1 SER advisory report (2000) *De Winst van Waarden*, publication number 00/11.

2 SER advisory report (2010) *Meer werken aan duurzame groei*, publication number 10/03. See for a summary in English: http://www.ser.nl/-/media/Files/Internet/Talen/Engels/2010/2010_03_en.ashx

3 SER advisory report (2010) *Meer chemie tussen groen en groei. De kansen en dilemma's van een biobased economy*, publication number 10/05. See for a summary in English: http://www.ser.nl/-/media/Files/Internet/Talen/Engels/2010/2010_05.ashx

are encouraged as part of the renewable energy policy. The SER's report stressed that enterprises can be expected to adopt additional standards on top of these binding criteria to guarantee minimum social and environmental conditions.

Commitment of social partners to international CSR initiatives

Every year the social partners are represented in the Dutch delegation to the International Labour Conference.

In May 2010 a large tripartite conference was held in The Hague on child labour. The conference was organised by the Ministry of Social Affairs and Employment in association with the ILO. The delegates at the conference adopted a roadmap for the eradication of the worst forms of child labour by 2016. Following the ILO conference, on 1 October 2010 a business network was launched to campaign for the eradication of child labour. The network will operate under the auspices of IDH for the first few years, and then join Global Compact International (at the UN in New York). A steering group has been established under the leadership of the chairman of Global Compact Network Netherlands.

In addition to the ILO initiatives, the employers and trade unions are also involved in the following international projects:

- The updating of the OECD Guidelines for Multinational Enterprises;
- The drafting of ISO 26000, *Guidance standard on social responsibility*;
- Consultations on the draft guiding principles for public authorities and enterprises on the implementation of the protect-respect-remedy framework of John Ruggie, the UN's special representative for human rights and business.

Employers' organisations

The Council of Central Employers' Organisations (RCO) – a consortium of VNO-NCW, MKB-Nederland and LTO Nederland – devoted a lot of attention to the importance of sustainability last year. In April 2010, the employers' organisations published the pamphlet entitled *Optimistic*⁴, in which they presented the views of the business community on the prospects for sustainable growth and employment in the Netherlands. Naturally, the pamphlet also specifically addressed sustainability and CSR, and international CSR in particular.

⁴ VNO-NCW, MKB-Nederland and LTO Nederland (2010) *Optimistisch! Over duurzame groei en werkgelegenheid*, 22 April 2010.

The employers' organisations actively promote their views on ICSR and sustainability. They will continue to encourage their members to take up the challenges identified in this progress report.

In that context, they will naturally also communicate in various ways with their members, particularly on the following subjects:

- The text and the background to the SER Statement on International Corporate Social Responsibility and this progress report;
- The Dutch Accounting Standards Board's Guideline 400 and the Guide to Sustainability Reporting;
- OECD guidelines (especially in the context of the review that is due to take place this year);
- Human rights (in the context of the Ruggie philosophy and activities relating to the Global Compact Network Netherlands);
- ISO 26000.

The employers' organisations also hold regular talks with civil-society organisations and with international employers' organisations on issues relating to sustainability.

Trade unions

Trade unions can use their influence to promote ICSR in enterprises, for example through the collective bargaining process. The policy papers on working conditions published by FNV and CNV refer specifically to sustainability issues. MHP promotes ICSR mainly through its representatives on the Works Councils of multinational enterprises.

In 2010, FNV Global drew attention to the consequences of outsourcing and flexible working for employees of multinationals and people who work indirectly for multinationals in the FNV Company Monitor.

The Fair Bank Guide is an initiative of Oxfam Novib, Amnesty International, Friends of the Earth Netherlands, the Dutch Society for the Protection of Animals and the FNV to inform consumers about how responsible their bank's investments are⁵.

CNV International's public campaign in 2010 was dedicated to 'fair wear'. As part of the campaign, CNV International and the union's youth organisation conducted a survey of young people's views about fair wear.

⁵ See also: SER (2009) *Waarde winnen, ook in de keten*. First progress report International Corporate Social Responsibility, The Hague, p. 81.

The trade unions regularly engage in a dialogue with civil-society organisations and with international trade unions on sustainability issues.

3 Part II: List of ICSR-related activities at local level and SER research

Activities in sectors

Dutch trade associations are involved in many initiatives designed to enhance the sustainability of production chains, ranging from various sector-wide agreements to measures to increase sustainability in the food chain, supermarkets, the chemical sector, the clothing and textile industry and the metal industry. Table 1 provides an abridged list of these activities.

Tabel 3.1 List of activities of Dutch trade associations (not exhaustive)

Sectors	Who?	What?
<i>Cross-sector</i>		
Agreements on sustainability	Agreement in 2007 between the former government and VNO-NCW, MKB and LTO. Fleshed out in separate agreements for all of the relevant sectors.	Joint approach to the development of renewable energy and the reduction of CO2 emissions and energy consumption.
Alliance for sustainable food	Launched in 2009 on the initiative of the Minister of Agriculture and agricultural organisation ZLTO, the food and grocery industry (FNLI), the hospitality sector (KHN), the supermarkets (CBL) and the catering sector (Veneca).	The parties want to make food production more sustainable through long-term and constructive collaboration.
Sustainable Palm Oil Task Force	A consortium of the links in the palm oil chain established in the Netherlands	The joint aim of ensuring that by the end of 2015 all palm oil destined for the Dutch market is sustainably produced.
Sustainable Soya Initiative	Nevedi, FrieslandCampina, VION, Gebr. Van Beek Group, Storteboom and Ahold.	The Sustainable Soya Initiative has set up a joint programme for the purchase and sale of certified soya in the Netherlands.
<i>Sector-specific</i>		
Food industry	Federation of the Dutch Food and Grocery Industry (FNLI)	The FNLI attaches great value to sustainability and encourages its members to publicise what they do in terms of increasing the sustainability of the production processes and in terms of ICSR.
Chemical industry	Netherlands Chemical Industry Association (VCNI)	In 1992 the VNCI joined the worldwide <i>Responsible Care</i> initiative. It publishes progress reports every year.
Clothing and textile industry	Trade associations CBW-MITEX, MODINT and VGT.	Promoting improvements in working conditions and environmental aspects in

	Fair Wear Foundation, a multi-stakeholder initiative	the production chain by means of a code of conduct and through alliances with stakeholders.
Supermarkets	The Dutch Food Retail Association (CBL)	The CBL promotes sustainability in its members' products and in the food chain and reports on its activities in the <i>Zichtboek Duurzaamheid</i> .
Metal and electronics industry	FME-CWM and affiliated organisations, the Dutch Association of the Metallurgical Industry (VNMI)	The Wecycle initiative for the collection and sustainable recycling of appliances brought onto the market. Provides public access to documents on the Internet with descriptions of CSR issues.
Electricity companies	The Dutch Sustainable Coal Dialogue was launched in 2010 by the electricity producers, NGOs, trade unions and the Dutch government.	Greater transparency in the coal supply chain.
Promotional products	Platform Promotional Products (PPP), the trade association.	With the help of MVO Nederland, in 2010 a new code of conduct was drawn up which devoted greater attention to the international purchasing activities that are characteristic of this sector. Members of PPP must explicitly endorse the code of conduct. The members can also opt for voluntary certification of their CSR policy and so further promote their social responsibility.
Fund-raising institutions	Trade association VFI	Together with the VFI and a number of its members, MVO Nederland has produced a plan for the phased introduction of CSR in the sector with many practical tips and practical examples of socially responsible purchasing.

ICSR activities by the commodity boards

The SER invited the commodity boards, the public bodies that jointly represent the employers' organisations and trade unions within a particular sector, to play a greater role in promoting CSR and increasing the sustainability of chains. Various boards have responded to this appeal and have launched new ICSR activities or intensified existing activities. The Horticulture commodity board, for example, recently established a CSR Platform Horticulture, one of whose tasks is to keep the government and the public informed of sustainable trends in horticulture. The Dutch Product Board for Margarine, Fats and Oils provides the secretariat for the Sustainable Palm Oil Task Force that was established at the end of 2010, which has set itself the target of ensuring that by 2015 only palm oil that has been produced with respect for minimum environmental and labour standards will be used in the

Dutch market. In addition, the commodity boards for Animal Feed, Arable Farming, Margarine, Fats and Oils, Poultry and Eggs, Livestock and Meat and Dairy Products have launched a joint project to reduce the international carbon footprint of the animal feed chain.

Considerable advances have been made in terms of transparency. In 2011, five commodity boards will also produce their first sustainability report covering 2010.

Global Compact Network Netherlands

Global Compact (GC) is an initiative instigated by UN Secretary General Kofi Annan in 2000 to promote compliance with ten principles in the area of human rights, working conditions, environmental protection and anti-corruption.

Last year the Global Compact Network Netherlands, whose members include around 70 companies and several NGOs, concentrated mainly on a study into business and human rights, which built on the work of the UN's special representative John Ruggie. VNO-NCW, which provides the secretariat for the network, provided practical and financial support for this project.

Ten large corporate members of the Global Compact Network¹ provided information about their human rights policy for the purpose of the study. The findings from the study were published in a book entitled *How to do business with respect for human rights. A guidance tool for companies*². The book contains specific tips for other companies on how to implement a commitment to respect for human rights in accordance with the framework developed by Ruggie.

The Statement on International Corporate Social Responsibility is concerned with improving environmental and social conditions in international productions chains. In that context, the emphasis is often on preventing environmental and social *risks*. However, it is also important for multinational enterprises to make a substantial contribution to increasing local prosperity, including employment creation. The companies in the Global Compact Network are actively involved in various initiatives by the business sector to make a contribution to achieving the Millennium Development Goals to which the international community committed itself in 2000. One of the eight goals is the eradication of extreme poverty worldwide. The following section discusses the *Partnering for Prosperity* alliance and the *MDG Scan*,

1 They are AkzoNobel, Essent, Fortis, KLM, Philips, Rabobank, Randstad, Shell, TNT and Unilever.

2 GC Netherlands (2010) *How to do business with respect for human rights: A guidance tool for companies*, June 2010, Business & Human Rights Initiative, Global Compact Network Netherlands.

a project designed to quantify the contribution made by companies to achieving the Millennium Goals.

Activities of MVO Nederland and IDH

Many ICSR-related activities of the Dutch employers' organisations take place under the auspices of the programmes of MVO Nederland and the Sustainable Trade Initiative (IDH).

MVO Nederland is a centre of expertise that was established in 2004. The concept was developed in the SER's advisory report *De winst van waarden* in 2000. VNO-NCW and MKB-Nederland are represented in its Programme Committee. For several years, now enterprises and organisations have been able to become partners of MVO Nederland for a fee. VNO-NCW, FNV Formaat and CNV Metaaltechniek have since become partners. Around 35 trade associations have also become paid-up partners of MVO Nederland. The total number of affiliated companies and organisations is now around 1,450.

MVO Nederland is a rapidly growing knowledge and network organisation that has increasingly evolved into the central repository of expertise in every aspect of CSR. Supply chain responsibility and sustainable procurement are important aspects of practically all of MVO Nederlands' publicity materials and training activities. The director and staff of MVO Nederland give more than 150 lectures and training courses for enterprises every year. They also publish columns and articles in various media, most of which deal with sustainable procurement and supply chain responsibility, often illustrated with examples of good practices.

MVO Nederland launched the International Sector Programme with funding from the Ministry of Economic Affairs in October 2009. The principal objective of the International Sector Programme is to help SMEs to implement supply chain responsibility in accordance with the SER International Corporate Social Responsibility initiative. The programme started on 1 October 2009 and will continue until 1 October 2012. During that period, MVO Nederland will support the implementation of international supply chain responsibility in a significant number of sectors of the Dutch economy, at the request of trade associations or in response to existing initiatives.

VNO-NCW, MKB-Nederland, CBL, VBZ, VBP, VION, the Product Board for Margarine, Fats and Oils, Nevedi, FNV and CNV are actively involved in the Sustainable Trade Initiative (IDH). In 2008, programmes started for cocoa, wood, tea, natural stone, soya, tourism, cotton, aquaculture, electronics, cashew and spices. Various new

programmes have recently begun – or are being started – for fruit and vegetables, palm oil, fish, flowers and plants, shoes and sports shoes, sugar cane and beef.

With the expansion in the range of products, various new companies and civil-society organisations have signed up to the IDH. The commodity board for Horticulture is also actively involved in various programmes. The stakeholders also invest in the programmes. On 24 June 2010, more than 70 companies in the Netherlands agreed to invest half a billion euro in measures to increase the sustainability of their supply chains when they signed the Sustainable Trade Action Plan 2011-2015.

General studies into the reporting on ICSR activities

An important element of the progress report is the monitoring of the *reporting* by enterprises on the application and implementation of the SER's normative framework. According to the SER statement, the progress reports will include information about the number of companies that publish reports, the subjects covered in their reports and good practices, but also about bottlenecks and problems.

The largest Dutch companies are global leaders when it comes to formulating policy and reporting on sustainability and supply chain management. For example, Dutch companies lead three of the 17 sectors in the Dow Jones Sustainability Index (DSM Nederland (chemicals); Unilever (food and beverages); Philips (personal and household articles)).

In its advisory report *Duurzame Globalisering*, the SER asked the Dutch Accounting Standards Board (DASB) to expand its existing instruments for reporting on sustainability, Guideline 400 and the Guide to Sustainability Reporting with provisions on supply chain management. In the autumn of 2009, the DASB published a new version of Guideline 400, which can be found in appendix 3. The revised Guideline 400 applies to the financial year commencing on 1 January 2010. Large companies are obliged to report on non-financial aspects of their business.

In the first progress report, it was mentioned that there are already various surveys the committee could rely on to analyse the reporting by individual companies. Given the close correspondence with Guideline 400, the committee feels the Transparency Benchmark is a useful instrument for assessing the reporting by companies on sustainability.

The Transparency Benchmark 2010 devotes special attention to the theme of supply chain responsibility, which follows logically from the greater emphasis on supply chain management in the DASB's Guideline 400.

Slightly more than 20% of the reports contained an analysis of the chain in which the organisation operates, including a description of the most important social factors affecting the chain.

Almost 60% of companies describe their policy towards supply chain responsibility. Roughly 20% of companies provide a specific description, covering the environmental issues and the social challenges they face in pursuing a responsible chain management policy. It is interesting to note the wide discrepancies between the frontrunners and the laggards; not one company in the latter category gives a precise description of its policy.

More than 40% of the reports contain information about *activities* in relation to sustainable chain management, although the information is often quite general. In other words, the report contains a description of the organisation's activities in relation to supply chain responsibility, including an explanation of the management and control processes in relation to the chain. A third of those 40% provide specific information.

A third of the organisations that provide specific information report on how the organisation deals with suppliers who fail to comply with internal or external codes and the circumstances under which the organisation would terminate its relationship with the supplier. Only ten organisations had faced such a situation.

The performance of the frontrunners in terms of reporting on policy and activities in the area of supply chain responsibility compares favourably with the scores of the recognised international frontrunners in sectors in the Transparency Benchmark³.

According to the Transparency Benchmark 2010, there is therefore room for improvement in the development of corporate policy for handling non-compliance with agreements by suppliers. However, the question is whether the failure to publish a report is a good indicator of the absence of policy and whether it is possible to generalise. This point is considered in more detail in the discussion of the SER study (see below).

3 71 percent of the Dutch frontrunners can specifically explain the policy and 52 percent can specifically explain the activities. Among international frontrunners the figures are 46 percent and 36 percent, respectively (See Transparency Benchmark 2010, p. 49).

SER study into sustainable procurement in the non-food sector

By its nature, the Transparency Benchmark is concerned with reporting and not with the policy itself. It is difficult to gain a clear picture of what enterprises are actually doing because the Transparency Benchmark only covers some companies, it does not encompass all forms of public reporting and disclosure and/or because some enterprises do not report on their activities in the area of ICSR and sustainability. The SER therefore asked EIM to conduct a survey to investigate what companies do in terms of ICSR, specifically in relation to sustainable procurement. Although sustainable procurement only covers one aspect of ICSR activities, in the committee's view it is a good indicator of the scale of those activities.

An important finding of the study is that companies that use non-Western suppliers devote greater attention to sustainable procurement and social and environmental aspects. The study qualifies the impression created by the Transparency Benchmark about the activities of enterprises in terms of chain management, which is based exclusively on public reports.

The study was based on a telephone survey of enterprises with more than 50 employees in the non-food sector.

The following table presents the main findings for the group of companies that do have a policy on sustainable procurement. The percentages in the table therefore relate to enterprises with a sustainable procurement policy. That is 40% of the enterprises in the research population (n=514).

Tabel 3.2 Main findings for enterprises with sustainable procurement policy

Aspect	Results
Insight into chain	<ul style="list-style-type: none"> - Most companies know the number of links in the chain. - Almost 80% of the companies with a sustainable procurement policy and non-Western suppliers say they are familiar with social and environmental aspects affecting the chain. - For almost half of the enterprises, how second-line suppliers deal with social and environmental aspects is a factor in the selection of the principal supplier.
Procurement process	<ul style="list-style-type: none"> - 60% of companies with a sustainable procurement policy include environmental and social criteria in their standard purchasing conditions. - More than two-thirds of enterprises that have a sustainable procurement policy and import from non-Western countries incorporate CSR aspects in risk analyses. - Almost half of the enterprises with a sustainable procurement policy have a code of conduct (more than a third have their own code, 14% adopt a code of conduct drawn up by the sector or by another organisation). - Half of the enterprises are not familiar with OECD guidelines and ILO standards.

Control	<ul style="list-style-type: none"> - Almost two-thirds of the enterprises that have a sustainable procurement policy and import from non-Western countries monitor the performance of their suppliers with respect to CSR. - Most enterprises visit companies or arrange audits. Three-quarters perform their own audits.
Consultation	<ul style="list-style-type: none"> - Almost 60% of the enterprises with a sustainable procurement policy discuss environmental and social aspects with suppliers. - Almost 60% of the enterprises with a sustainable procurement policy also consult external stakeholders.
Transparency	Fewer than half of the enterprises with a sustainable procurement policy report on it and say that they have verifiable indicators for it.

An important question for the ICSR Committee was whether enterprises do more in terms of sustainable chain management than the reports and the studies based on them, such as the Transparency Benchmark, would suggest.

The study itself shows that only half of the frontrunners report on sustainable chain management and that only a third report on it in their annual report. Enterprises that do report concentrate more on environmental aspects and focus less on issues such as child labour, forced labour and discrimination, although these aspects of CSR policy are also covered. The explanation for this could be that reporting on environmental aspects is more often mandatory (under the government's policy on sustainable procurement, for example).

Enterprises were asked about obstacles to reporting, but the replies to this question provide little certainty. More than 43% of enterprises do not produce regular reports. Various obstacles were mentioned. The Transparency Benchmark shows that very few enterprises (5%) explain how they deal with suppliers that do not comply with external and internal codes. The Transparency Benchmark 2010 suggests that the benchmark's research group could improve the situation by developing a policy for non-compliance with agreements by suppliers.

The SER study shows, however, that 44% of enterprises with a sustainable procurement policy and non-Western suppliers say that they inform all of their first-line suppliers that they can expect to face sanctions if they do not comply with their code of conduct and/or criteria for ICSR. Twenty percent of enterprises say they inform some of their first-line suppliers. In all, this is almost 20% of the research population and almost 30% of enterprises with non-Western suppliers. This is a far larger number than the Transparency Benchmark suggests. The source of the discrepancy is probably the number of enterprises that do not report, the greater representativeness of the SER study and, in connection with that, the far wider range of sectors represented

by the organisations in the Transparency Benchmark (not all sectors make intensive use of foreign suppliers).

The research by the SER is the first study embracing a large number of enterprises to enquire what they do in terms of sustainable procurement as an important indicator of international corporate social responsibility.

An important finding from the study is that companies that choose non-Western suppliers devote more attention to sustainable procurement and social and environmental aspects. But the study also identified a number of challenges. Although almost all of the frontrunners in the study have non-Western suppliers, the enterprises with non-Western suppliers are not all among the frontrunners. A substantial number of the research group say they need more information about sustainable procurement and still regard themselves as being at the bottom or midway up the sustainability ladder. This suggests that many followers are starters and that many laggards want to make a start. This creates opportunities for trade associations to use the instruments developed by MVO Nederland to help and encourage enterprises to establish or further implement a sustainable procurement policy. It is also important to make enterprises more aware of the fundamental ILO standards and OECD guidelines and to continue stressing the social dimension of sustainability. The central employers' organisations will continue to encourage their members to meet these challenges.

Since transparency and consultation are basic elements of corporate social responsibility, it is also important to encourage enterprises to report on their activities in the field of sustainable chain management in accordance with Guideline 400.

4 Part III: Deepening the basic philosophy

The ICSR Committee has decided to deepen the basic philosophy of the ICSR initiative as expressed in the ICSR Statement in 2008. In this second progress report it addresses three topics: the possibilities for correcting abuses (remedy mechanisms), the scope of the supply chain responsibility of enterprises, and the importance of transparency and verification. These subjects are closely connected. Deciding whether an enterprise can be made responsible for eliminating abuses in the chain depends in part on the scope of the chain responsibility of enterprises. For a social dialogue on this subject there must be transparency. The topics are linked to the further implementation and operationalisation of the protect-respect-remedy framework of John Ruggie, the UN special representative on human rights and business.

The report contains an overview of legal and non-legal remedy mechanisms and investigates where there may be obstacles and gaps. The legal mechanisms involve complicity under criminal law and liability in civil law. The use of judicial remedies to rectify abuses in the chain elsewhere via the Dutch parent company could raise complex legal issues for two reasons. First, the question is to what extent the Dutch parent company is responsible for the conduct of a subsidiary or its suppliers. A second question is which country's law is applicable and which court has jurisdiction. At the moment, there are no examples of legislation in the Netherlands or in other countries explicitly providing for the liability of parent companies for the acts of subsidiaries or their suppliers. There do not seem to be any easy answers to these questions in the existing international legal system.

Non-legal remedy mechanisms can be found in companies (internal complaints procedures) and sometimes at the level of sectors and branches (the complaints mechanism of the Fair Wear Foundation, for example). At national level, there are the National Contact Points (NCP) for the OECD guidelines for multinational enterprises. John Ruggie advocates remedy mechanisms based on mediation and dialogue with stakeholders, such as the NCP. The survey of non-legal mechanisms shows that such external procedures are uncommon at company or sector level. A requirement that a remedy mechanism at company level must be based on mediation and dialogue may be going too far. The ICSR Committee would favour expansion of internal complaints procedures aimed at the early identification and rectification of abuses. The recommendations of the Labour Foundation on this point remain valid. It is important that a person who reports abuses does not suffer any detriment from doing so. The committee also stresses the importance of a

properly functioning NCP that provides access for external stakeholders from producing countries and whose purpose is to provide independent mediation and supervision.

In practice, the use of legal and non-legal mechanisms will yield different outcomes. The relative added value of a remedy will depend to a large extent on the result desired by the parties concerned. Legal remedies will generally provide greater certainty about the standards to be assessed and enforcement. Legal remedies will also frequently offer the option of imposing sanctions or awarding damages, which is often not the case when non-legal remedies are used. Non-legal remedies will often have advantages in terms of accessibility, affordability and speed. Existing external non-legal remedies concentrate more on future-oriented joint solution of problems and dialogue.

According to the SER's ICSR Statement, the closer an enterprise's relationship with its suppliers, the more intensive their contacts, and the more familiar the enterprise is or can be with the suppliers' situation, the greater the enterprise's responsibility. The report explores the scope of this supply chain responsibility in more depth along two related paths: a *conceptual* discussion of supply chain responsibility and three *case studies*.

The conceptual discussion focuses primarily on the relevant elements in the SER's normative framework, such as the definition of the term investment relationship employed by the Dutch NCP and the recommendation of the International Chamber of Commerce. The report then considers the views of the Danish human rights institute, the Global Compact, the Global Reporting Institute and a recent discussion paper by John Ruggie on this subject.

The three dimensions of *frequency*, *intensity* and *awareness* distinguished by the SER to indicate the degree of chain responsibility of enterprises remain useful and correspond with international discussions. A further refinement could be made by making a distinction between the direct or indirect impact that an enterprise or its suppliers has on human rights, labour rights or the environment and the influence or leverage that a company can exert on the social and environmental policy of its suppliers. The intensity and frequency of contacts with a supplier are mainly concerned with the leverage an enterprise has: the ability to influence its suppliers' policies.

Given the diversity between countries, sectors and enterprises in the degree to which an enterprise can exert influence, it is difficult to generalise. Nor is it useful

to formulate quantitative standards for the degree to which a company can exert influence or for the frequency and intensity of contacts with suppliers. Such boundaries will always be arbitrary. Furthermore, setting such boundaries could also entice anticipatory behaviour by enterprises.

As far as *awareness* is concerned, it is important for enterprises to perform a risk analysis to identify the actual and potential impact their supplier can have in terms of violations of human rights, fundamental labour standards and environmental standards and to investigate how these risks can be avoided or mitigated (due diligence). This applies in particular for primary suppliers. It is legitimate to expect enterprises to be careful in their selection of primary suppliers. Often they will be unaware of specific risks further down the supply chain. Here too, there is no point in drawing precise boundaries, but enterprises can be expected to form a general impression of potential risks in the chain on the basis of their own observations and publications by public authorities and international organisations, such as the ILO or NGOs. This applies in particular if there is evidence of serious violations in the chain. The ‘seriousness’ of violations of the normative framework is not yet a separate criterion in the SER’s definition of chain responsibility. The committee naturally feels that seriousness, in qualitative and quantitative terms, is a principle that could usefully be included.

The three case studies relate to the import of conflict minerals from the Democratic Republic of Congo, child labour in seed cultivation in India and sustainability in the production of palm oil. These examples were selected mainly as examples to show the limits and dynamic nature of chain responsibility.

The cases confirm the conclusion in the conceptual discussion that it is unrealistic to define the precise scope of the chain responsibility of enterprises. The interpretation of responsibility is a dynamic process, during which abuses requiring attention in the chain are often identified in the course of the dialogue with stakeholders. This means that efforts to promote sustainability are, in a sense, ‘demand driven’. The influence of NGOs on the measures taken by enterprises may be regarded as unsatisfactory, for both the sender and the recipient. Enterprises might feel that their being chosen as the target of a campaign is arbitrary. For example, some types of enterprise may feel they are criticised more than others because of their visibility or good reputation. Enterprises that accept responsibility and publicise their efforts are vulnerable. It is impossible to give watertight guarantees that there are no abuses in the chain.

The case studies also show that differences in national standards and ambitions must be taken into account in establishing (increasingly strict) standards for Western countries. For example, if Chinese companies or local companies adhere to less strict standards, the effectiveness of the measures is limited. The role of local authorities is also important in this regard.

It is not a good idea to adopt a ready-made framework to establish where the responsibility of enterprises starts and ends, according to the committee. But enterprises can be expected to investigate where they have an impact in their chains and where the most important CSR issues arise.

In the ICSR Statement, the SER stressed the importance of transparency and verification, in addition to internal complaints procedures. The report addresses this aspect in more depth. As the SER noted in its advisory report *Winst van Waarden* in 2000, transparency is a feature of an ethical organisation. Transparency enables enterprises to win the trust of their stakeholders, strengthen their reputation and command the loyalty of their employees and customers. The social context demands openness and transparent communication.

Reporting is one of the instruments enterprises can use to interact with their stakeholders. With the growing number of enterprises publishing sustainability reports, attention to their reliability is also growing. It is very important for both enterprises and their stakeholders that reporting on CSR is felt to be reliable. It is crucial that the information provided is complete and meets the needs of stakeholders. Openness about dilemmas also increases the credibility of the information. In the committee's view, DASB400 provides adequate indicators for meeting these criteria. The Global Reporting Initiative (GRI) is another useful instrument for providing even more extensive verifiable information.

The discussions of the various remedy mechanisms and of the scope of chain responsibility underline the importance of due diligence. The report refers to a useful guide from the Global Compact Network Netherlands on how enterprises can perform due diligence.

5 Conclusions

Corporate Social Responsibility is assuming an increasingly prominent place on the business, political and social agenda. This trend is frequently traced back to the SER's advisory report *De winst van waarden* at the end of 2000. The concept developed at that time (Triple P, CSR as core business, customisation) still applies.

One of the recommendations in that report was that the government should establish a centre of expertise, which it did with the establishment of MVO Nederland in 2004. The ICSR Committee observes that since then MVO Nederland has played an important role in creating and disseminating knowledge and advising enterprises. The committee assumes that MVO Nederland will be able to continue performing this role in the coming period (2012-2015) and counts on the continued close cooperation with the parties.

Since the report in 2000, the international dimension of CSR has become increasingly important as a component of the irreversible process of globalisation. The SER therefore devotes a lengthy chapter to ICSR in its report *Duurzame globalisering* in June 2008. That report prompted the SER Statement on ICSR in December 2008, which was addressed to all the relevant parties in the business sector. Such a statement (recommendation) by the SER and the central employers' organisations and trade unions is highly exceptional, which in itself indicates the importance that the signatories attached to the subject of the statement. The first progress report was published within a year (in November 2009), but was only able to give a limited impression of developments. On the basis of that report, a working plan was adopted, after consultation with the government and the Lower House of Parliament, on the basis of which this second report has been produced.

ICSR relates to the Ps of people, planet and profit in an international context and is concerned not only with the conduct of Dutch multinational enterprises but also with what happens in 'their' chain.

The progress report analyses this description again and compares it with others (see section 4 above). The conclusion reached is that it is unrealistic to define the precise scope of the chain responsibility of enterprises. But enterprises can be expected to select their suppliers carefully and to investigate where they have an impact in their chains and where the most important CSR issues arise. That calls for due diligence (risk analysis). The interpretation of chain responsibility is a dynamic process, during which abuses in the chain are often identified in the course of the dialogue with stakeholders.

As far as remedy mechanisms are concerned, the committee endorses the importance of a properly functioning NCP that provides access to external stakeholders from producing countries and whose purpose is to provide independent mediation and solve problems. The committee also calls for expansion of internal complaints procedures that provide effective protection for the complainant, guarantee an objective assessment and which are designed to identify and rectify abuses at an early stage.

Efforts must also continue to close the gap between reporting and actual policy. In the ICSR Statement, the SER stresses the importance of transparency. After all, transparency and consultation are basic elements of international corporate social responsibility.

The progress report shows that the subject of ICSR is widely embraced and that many initiatives are being developed, at central level (to encourage measures at local level) and, above all, by the relevant enterprises, sectors and commodity boards. Some of these are multi-stakeholder initiatives involving a number of different actors.

Reports are published on some of these initiatives, but not on others. This is an important finding in the context of the monitoring of the reporting by enterprises on the application of the SER's normative framework. The largest Dutch enterprises are regarded as international frontrunners in the area of sustainability, particularly with regard to the environmental dimension. In the first progress report it was observed that the global frontrunners in the Netherlands include a large number of Dutch enterprises that do not report on chain management. That seems to be the case again in the reports for 2009. It is difficult to say whether the gap has narrowed because of the changes in the Transparency Benchmark 2010. It must also not be forgotten that chain management is a complex subject that does not apply to all enterprises to the same extent.

The limited reporting on chain management is only part of the story, however. In the SER study into sustainable procurement policy, enterprises said they undertake more ICSR activities than is apparent from the reporting. Companies that use non-Western suppliers and have a certain market power over those suppliers appear to devote more attention to sustainable procurement. Four in ten companies in the research population have a sustainable procurement policy. Half of those implement that policy broadly in their business activities and can therefore be regarded as frontrunners. But only some of those frontrunners publish reports

on their activities. Accordingly, the SER study modified the impression created by the monitoring of public reports.

Frontrunners and followers say that they mainly have an intrinsic motivation for pursuing a sustainable procurement policy: they feel they should and that it pays far more than that they must.

At the same time, the SER study highlights a number of challenges. A significant number of enterprises in the research group have no policy on sustainable procurement, say they need more information about sustainable procurement and place themselves at the bottom or midway up the sustainability ladder. This means there are opportunities for trade associations, if necessary using the instruments developed by MVO Nederland, to take initiatives to encourage enterprises to introduce or further implement a sustainable procurement policy and to help them in doing so. It is also very important to increase awareness among enterprises of the fundamental ILO standards and the OECD guidelines and to continue stressing the social dimension of sustainability.

Reporting is an important element in this context. Whether this should be an annual written sustainability report depends partly on the size of the enterprise or the applicability of the relevant code provisions of the Dutch Civil Code. The amended DASB guideline and guide will apply formally from the annual reports for 2010, naturally for those enterprises that are legally obliged to provide information, but also for other enterprises that want to pursue this course.

The SER Statement stressed that there are other ways of communicating, for example through mission statements, corporate codes, special ad hoc reports and public meetings, digital information, providing answers to questions from NGOs, etc.

All things considered, this second progress report of the SER shows that CSR is a vital subject in business and society and that there is a colourful array of activities at central, meso and micro level. There is a growing awareness that CSR is, or ought to be, the basic feature of modern enterprise and therefore cannot be free of obligation. It is simply enterprise in the 21st century, voluntary and naturally on the basis of the national and international normative framework, which is described in detail as it applies for ICSR in the SER Statement.

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