UNITED
NATIONS

E

Economic and Social Council

Distr.
GENERAL

ECE/CEP/AC.10/2009/7
19 June 2009

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

COMMITTEE ON ENVIRONMENTAL POLICY

Working Group on Environmental Monitoring and Assessment

Tenth session
Geneva, 3-4 September 2009
Item 8 of the provisional agenda

SUPPORTING FRAMEWORKS FOR CORPORATE ENVIRONMENTAL REPORTING

Note by the secretariat

Summary

The present document was prepared in accordance to a decision of the Working Group taken at its ninth session (ECE/CEP/AC.10/2008/2, annex I, task 3.2). It.reviews legal and regulatory requirements for environmental reporting by enterprises that have been established in some member States of the European Union and in the United States of America. It describes also guidance documents prepared or used in these countries to promote corporate environmental reporting. The Working Group is expected to discuss the experiences described therein and make possible recommendations to relevant public authorities in countries of Eastern Europe, Caucasus and Central Asia and interested countries of South-Eastern Europe on the use of good practices presented in this document.

INTRODUCTION

1. The Working Group's activities on environmental monitoring and reporting by enterprises resulted in the *Guidelines for strengthening environmental monitoring and reporting by enterprises in Eastern Europe, Caucasus and Central Asia* (ECE/CEP/141, hereinafter Enterprise Monitoring Guidelines). The Belgrade Ministerial Conference "Environment for Europe" (October 2007 endorsed these Enterprise Monitoring Guidelines and called for their full implementation. As a follow-up, the Working Group decided, in particular, to review country experiences with specific legal approaches, incentives and inducements to promote the publication of open corporate environmental and sustainability reports (ECE/CEP/AC.10/2008/2, annex I, task 3.2).

2. In 2006, the Working Group discussed a note by the secretariat (CEP/AC.10/2005/5) that evaluated the regulatory and institutional frameworks for enterprise self-monitoring and environmental reporting established in countries of Eastern Europe, Caucasus and Central Asia (EECCA). The latest developments in these frameworks in Kazakhstan, Kyrgyzstan, Montenegro, Serbia and Ukraine were analysed in the second environmental performance reviews (EPRs) of these countries[1].

3. The present document attempts to supplement the analysis made so far by reviewing relevant legal and regulatory requirements that have been established in several member countries of the European Union (EU) and in the United States of America. It focuses on environmental reporting that goes beyond statutory requirements for reporting compliance (emission) data and statistical environmental data. The current review is based on open literature sources.

I. ENVIRONMENTAL REPORTING AND THE ROLE OF GOVERNMENTS

4. The Enterprise Monitoring Guidelines recommend that mandatory, regulatory environmental reporting by enterprises should be supplemented by corporate environmental or sustainability reports. The latter reports should provide information to stakeholders, clients and members of the public about the operator's environmental performance. Specific legal frameworks and inducements (e.g. methodological guidance and information campaigns) should be established to promote corporate environmental or sustainability reporting. Four examples of country experiences with such frameworks and inducements are presented below.

A. Denmark

5. The Green Accounts Act regulates stand-alone environmental reports in Denmark. It was adopted by the Danish Parliament in 1995 as an amendment to the Danish Environmental Protection Act. Its primary objectives are to increase public and corporate interest in environmental issues and to encourage enterprises to adopt more active and targeted environmental initiatives.

---

[1] The country reports are available online at: www.unece.org/env/epr/publications.htm.

6. Under this Act, approximately 1,200 companies in nine specific sectors – including iron and steel, processing, oil and gas, chemicals, animal processing and power generation – must publish Green Reports (Green Accounts). Approximately 200 companies do so voluntarily. Companies have substantial freedom in how they present environmental information in the Green Reports, which must be submitted to both local and national authorities. A Green Report consists of three elements: general company information, a director's report that must inform readers with no expert knowledge, and a resource consumption report. The resource consumption report reflects a material flow-based approach to reporting on inputs and emissions/releases of polluting substances.

7. Management is not required to sign the report. If an audit is performed, although this is not a requirement, it must be included in the report. The annual statement and the eco-management and audit scheme (EMAS) report (see box 1) may be allowed as a substitute for the Green Report.

Box 1: Reporting under the eco-management and audit scheme

The Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organizations in a Community eco-management and audit scheme (EMAS) promotes a management tool for companies and other organizations, requiring them to evaluate, report and improve their environmental performance. The scheme has been available for participation by companies since 1995 (Council Regulation (EEC) No 1836/93 of June 29, 1993) on a voluntary basis. Following a site-based approach, EMAS requires companies to set environmental goals, to report on their site-level performance against these goals and to have their reporting ("environmental statement") examined and externally verified by an accredited environmental verifier.

Source: Official Journal L 114 page 1 on 24 April 2001 (http://ec.europa.eu/environment/emas/index_en.htm).

8. The Act was reviewed in 2001. Requirements have been extended to include more information on waste and waste handling and the environmental behaviour of the company. To improve credibility, local authorities are now required to draw up a statement as part of the accounts on whether the company's activities are consistent with information held by local authorities.

Box 2: United Nations Global Compact

The largest global corporate citizenship initiative to date, the United Nations Global Compact provides a network of United Nations agencies, business, labour, non-governmental organizations (NGOs) and public institutions working to promote companies internalizing 10 principles in the areas of human rights, labour, environment and anti-corruption. The United Nations Global Compact's environment principles are derived from the Rio Declaration on Environment and Development. Its three principles are:

(a) Business should support a precautionary approach to environmental challenges;

(b) To undertake initiatives to promote greater environmental responsibility;
(c) To encourage the development and diffusion of environmentally friendly technologies.

Since 2004, the initiative has expected its company participants to annually submit Communications on Progress (COPs) on the United Nations Global Compact website and to share the COP widely with their stakeholders, using reporting indicators such as those of the Global Reporting Initiative (GRI). A simplified COP template has been created for use by small and medium-sized companies. Supported by the Initiative, the Global Compact also published a practical guide on COPs.

Source: www.globalcompact.org

9. From 1 January 2002, Denmark has introduced into legislation parts of the European Commission (EC) Recommendation of 30 May 2001 on the recognition, measurement and disclosure of environmental issues in the annual accounts and annual reports of companies (2001/453/EC)[2]. The Danish Financial Statement Act requires listed companies and State-owned public limited companies to report on environmental aspects in a management report if this is material to providing an accurate view of the company's financial status. Section 99 of the Act provides that this review should, inter alia, describe the enterprise's impact on the environment and the measures taken for the prevention, reduction or resolution of environmental damage. From 2005, companies have been furthermore required to supplement the management report with information on non-financial aspects relevant to the company's activities, including environmental and human resource aspects.

10. In the event that management wishes to disclose more thorough and specific information on environmental issues, the Danish Financial Statement Act provides the opportunity to disclose such information in a supplementary report that must be clearly separated from and placed after the statutory components of the annual report.

11. Under the new law on "Social Responsibility for Large Businesses" adopted by the Danish Parliament on 16 December 2008, an estimated 1,100 of the largest Danish companies, both listed and State-owned, will be required to include information on their corporate responsibility policies and practices in their annual financial reports. For the purpose of the law, corporate responsibility means that businesses "voluntarily include considerations for human rights, societal, environmental and climate conditions as well as combating corruption in their business strategy and corporate activities". The new reporting requirement will take effect from 2010. The Government will have to issue specific guidelines on how to report the required information before this deadline.

[2] See the *Official Journal of the European Communities* 13.9.2001 L156/33. The Recommendation details how to treat environmental expenditure and liabilities. It also recommends that environmental issues should be disclosed to the extent that they are material to the financial performance or financial position of the reporting entity. These issues include environmental policies, programmes and improvement, and information on environmental performance including energy use, water use, material use, emissions and waste disposal.

Box 3: Global Reporting Initiative

In 1997, the United Nations Environment Programme (UNEP) and the United States-based Coalition for Environmentally Responsible Economies (CERES) launched the Global Reporting Initiative (GRI) process to develop guidelines for reporting on the "triple bottom line": economic, environmental and social performance. The aim was to elevate sustainability reporting to the same level and rigour as annual financial reporting. In 2006, GRI released the third edition of its *Sustainability Reporting Guidelines* (G3 Guidelines). This new version places more emphasis on the reporting process and further elaboration of methods for calculating indicators. The Guidelines consist of principles for defining report content and ensuring the quality of reported information. It also includes standard disclosures made up of performance indicators and other disclosure items, as well as guidance on specific technical topics in reporting. It covers 30 environment performance indicators among other sustainability indicators. Environmental indicators cover performance related to inputs (e.g. material, energy, water) and outputs (e.g., emissions, effluents, waste). In addition, they cover performance related to biodiversity, environmental compliance, and other relevant information such as environmental expenditure and the impacts of products and services. Various language versions, including English and Russian ones, are available on the GRI website.

Source: www.globalreporting.org.

12. To minimize costs and workload, businesses are given a high degree of flexibility in terms of how the reports are made. Reports can be part of a management review, an annual report or on the company's website. The key issue is that they are accessible to the public.

13. In a nod to the widening practice of corporate responsibility or sustainability reporting using recognized international initiatives, businesses that have acceded to the United Nations Global Compact (see box 2), for example those which publish reports in this context, are exempted from the law. They are, however, required to identify where their reports can be found.

Box 4: Guidelines for Multinational Enterprises of the Organisation for Economic Co-operation and Development

The Guidelines for Multinational Enterprises contain non-binding recommendations by Governments to multinational enterprises. They provide principles and standards of good practice consistent with applicable laws. The Guidelines are not aimed at introducing differences of treatment between multinational and domestic enterprises; they reflect good practice for all. They include, among others, the following recommendations:

III. Disclosure

(a) Enterprises should apply high-quality standards for disclosure, accounting, and auditing. Enterprises are also encouraged to apply high-quality standards for non-financial information including environmental and social reporting where they exist.…

(b) Enterprises are encouraged to communicate additional information that could include:

(i) Value statements or statements of business conduct intended for public disclosure including information on the social, ethical and environmental policies of the enterprise and other codes of conduct to which the company subscribes.…

V. Environment

Enterprises should:

(a) Establish and maintain a system of environmental management appropriate to the enterprise,
(b) including:

(i) Collection and evaluation of adequate and timely information regarding the environmental, health, and safety impacts of their activities;
(ii) Establishment of measurable objectives and, where appropriate, targets for improved environmental performance, including periodically reviewing the continuing relevance of these objectives;
(iii) Regular monitoring and verification of progress toward environmental, health, and safety objectives or targets;

(c) Taking into account concerns about cost, business confidentiality, and the protection of intellectual property rights:

(i) Provide the public and employees with adequate and timely information on the potential environment, health and safety impacts of the activities of the enterprise, which could include reporting on progress in improving environmental performance;
(ii) Engage in adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise and by their implementation.

Source: OECD, 2001 (DAFFE/IME/WPG(2000)15/FINAL) (www.oecd.org/document/28/0,3343,en_2649_34889_2397532_1_1_1_1,00.html).

14. The supporting explanatory material also references the Global Reporting Initiative (see box 3), the OECD *Guidelines for Multinational Enterprises* (see box 4) and a number of other international principles relevant to business-driven social responsibility to which businesses can refer in developing their corporate responsibility policies.

B. France

15. Under the Law n°2001-420 related to new economic regulations (the Nouvelles Régulations Economiques (NRE), operative since 2003), French companies listed on the stock exchange have to give social and environmental information in their annual reports. The objective is to encourage companies to establish the tools necessary to measure the social and environmental impact of their activities in a strategic way.

16. The amended NRE indicates that listed companies will be required to report on social and environmental performance in their financial statements. More detailed requirements followed in the enforcement order issued in 2002. The requirements are based on a list of 40 indicators, many of them inspired by the GRI performance indicators.

17. The following information on environmental consequences of the activity of the company must appear in the annual corporate report:

(a) Consumption of water resources, raw materials and energy, and a description (if applicable) of the measures taken to increase energy efficiency and the use of renewable energies, conditions of soil use, air, water and soil pollution emissions that could dramatically affect the environment, the list of which is determined by an order of the Ministers for the Environment and for Industry, noise, and factory pollution and waste;

(b) Measures taken to limit the damage to biological balance, the natural environment and protected animal and vegetal species;

(c) Assessment or certification of actions taken in terms of environmental protection;

(d) Actions taken, if applicable, to ensure the conformity of the company's activity with the legal provisions in that field;

(e) Expenditures made to prevent the consequences of the company's activity on the environment;

(f) The existence, within the company, of internal departments in charge of environmental management issues, training and information of employees on these issues, means dedicated to the reduction of environmental risks as well as the methods the organization has put in place to deal with pollution accidents with consequences beyond the company's sites;

(g) The amount of provisions and guarantees allocated for environmental risks, unless this information is likely to cause a serious prejudice to the company in an ongoing lawsuit;

(h) The amount of compensation for environmental damages paid during the fiscal year in execution of a court order and measures taken to repair these environmental damages.

C. United Kingdom

18. In 2002, the Government of the United Kingdom introduced the Operating and Financial Review (OFR). OFR applied to all companies listed on the main markets and had mandatory reporting requirements on non-financial issues including the environment.

19. In 2005, the Government repealed OFR as the EU Accounts Modernization Directive (see box 5) was transposed into the country legislation including the requirement that all quoted companies[3] should include relevant environmental information in a "Business Review". This must include analysis using key performance indicators (KPIs) as part of audited annual reports and accounts. Deciding what to include is ultimately the decision of the directors, who are legally liable for the adequacy of information included.

Box 5: The European Union Accounts Modernization Directive

The Directive 2003/51/EC of the European Parliament and of the Council of 18 June 2003 requires organizations seeking a stock market listing to disclose risks associated with capital assets and requires financial regulators to assess those risks (in line with Commission Recommendation 2001/453/EC). Setting minimum mandatory standards for EU countries, the Accounts Modernization Directive (2003)
requires all large companies (not just quoted ones) and medium-sized ones to include in their annual reports a fair review of the development and performance of the company's business and its position, including – "to the extent necessary for an understanding" – information on environmental and employee matters. Large companies are also expected to produce non-financial key performance indicators. The EU has demanded sustainable development disclosures from all member countries since January 2005.

Source: Official Journal L 178, 17/07/2003 P. 0016 – 0022 (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0051:EN:NOT).

20. Among the changes under the 2006 Companies Act is the right for shareholders to sue directors of the company for breaches of duty. One such duty is that a director must promote the success of the company, and that in so doing he or she must have regard to a number of factors. These include "the impact of the company's operations on the community and environment".

21. The transposition into the national legislation of the EU Transparency Directive[4] in 2007 increased the liability of companies and their directors with respect to the accuracy of reporting. The Directive aims to harmonize the disclosure by EU-listed companies of accurate, comprehensive and timely information. It sets minimum content requirements for annual and interim reports in order to establish a high standard of reporting.

22. In 2001, the Department of the Environment, Food and Rural Affairs (Defra) produced General Environmental Reporting Guidelines with supplements on Waste, Water and Greenhouse Gases. These were superseded in 2006 by Defra guidelines for businesses on how to measure and report on KPIs in their Business Reviews (see box 6). This followed a lengthy consultation with companies, trade and professional bodies, and public sector organizations.

---

[3] Private and public companies with a turnover of more than £5.6 million, a balance sheet of more than £2.8 million and with more than 50 employees.

[4] Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonization of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC.

Box 6: Environmental key performance indicators for businesses in the United Kingdom

The Defra Guidelines of 2006 aim to help businesses address their most significant environmental impacts, and report on these impacts in a way that meets the needs of a range of stakeholders. They set out 22 environmental key performance indicators (KPIs) and describe which KPIs are most significant to which business sectors. The majority of sectors (about 80 per cent) have five or fewer relevant KPIs, and no sector needs to report on more than 10. For most companies, greenhouse gas emissions are the most significant KPI. KPIs are grouped as follows:

(a) Emissions to air: greenhouse gases, acid rain, eutrophication and smog precursors, dust and particles, ozone depleting substances, volatile organic compounds and metal emissions to air;
(b) Emissions to water: nutrients and organic pollutants and metal emissions to water;
(c) Emissions to land: pesticides and fertilizers, metal emissions to land, acids and organic pollutants, waste (landfill, incinerated and recycled) and radioactive waste;
(d) Resource use: water use and abstraction, natural gas, oil, metals, coal, minerals; aggregates, forestry and agriculture.

In addition to the quantitative information, a KPI should be accompanied by a general narrative, explaining its purpose and impacts. Each KPI should describe the process undergone, the calculation methods and any relevant assumptions. Progress should also be discussed, including against targets, whether improvements or set-backs have occurred and how these are being tackled. Any information relating environmental performance to financial performance should be also discussed. This can include environmental fines and expenditures.

Source: *Environmental Key Performance Indicators. Reporting Guidelines for UK Business*, 2006 (www.defra.gov.uk/environment/business/reporting/pdf/envkpi-guidelines.pdf).

23. Additional guidance documents that companies in the United Kingdom use when preparing their environmental reports include:

(a) *International Guidance Document: Environmental Management Accounting*[5] commissioned by the International Federation of Accountants and supported by the United Nations Commission for Sustainable Development;
(b) Relevant standards by the International Standards Organization (see box 7)
(c) *A Manual for the Preparers and Users of Eco-efficiency Indicators* by the United Nations Conference on Trade and Development (UNCTAD)[6];
(d) *Guidance on Corporate Responsibility Indicators in Annual Reports* by UNCTAD[7];

---

[5] IFAC 2005. Available online at: www.ifac.org/Store/Details.tmpl?SID=1123595939318284.
[6] UNCTAD 2004 (UNCTAD/ITE/IPC/2003/7). Available online at: www.unctad.org/en/docs/iteipc20037_en.pdf.
[7] UNCTAD 2008 (UNCTAD/ITE/TEB/2007/6). Available online in English, Russian and other United Nations languages at: www.unctad.org/en/docs/iteteb20076_en.pdf.

Box 7: Environmental communication standards by the International Standards Organization

ISO 14001 on environmental management systems recommends reporting, as opposed to the EMAS standard (see box 1) that requires reporting. ISO 14063 on “environmental communications” offers guidance on what should be considered in developing an environmental communication program. This guidance has important implications for sustainability reporting world-wide. The International Standards Organization (ISO) is currently in the process of developing a guidance standard on social responsibility (ISO 26000). The guidance standard will be published in 2010 as ISO 26000 and be voluntary to use by organizations of all types, in both public and private sectors.

Source: www.iso.org.

D. United States of America

24. The basic United States securities laws authorize the Securities and Exchange Commission (SEC) to require the disclosure of information “necessary or appropriate in the public interest or for the protection of investors” (Securities Act, Section 2b). This mandate applies to information disclosed in conjunction with the registration and public offering of securities, solicitation of proxy votes and periodic public reporting. Disclosure requirements thereby serve a dual purpose: protecting investors from fraud and inefficiency in the pricing of securities, and promoting responsible corporate management.

25. The public interest mandate of SEC has been extended with the National Environmental Policy Act (NEPA) of 1969, (Public Law 91-90, 83 Stat.852, 42USC§4321 et seq.1970), which states that the protection of the environment is a national policy. Congress hereby authorized and directed SEC, as a Federal agency, to include environmental protection in its mandate to issue regulations in the public interest.

26. SEC was thus directed to take environmental protection into account when enacting disclosure requirements and other securities regulations, other than when this is clearly incompatible with the protection of investors and the promotion of efficiency, competition and capital formation. Accordingly, SEC set forth specific disclosure requirements (see box 8). Some disclosure requirements apply specifically to information of an environmental nature, but do not preclude the firm’s obligation to comply with the more general requirement that all material information must be revealed (SEC Release No. 33-6130; 44FR56925). For example, if a company publicly discloses its environmental policies, it must ensure that statements made are accurate and sufficient to make the information not misleading.

Box 8: Disclosure requirements by the United States Securities and Exchange Commission

“Appropriate disclosure also shall be made as to the material effects that compliance with Federal, State and local provisions which have been enacted or adopted regulating the

discharge of materials into the environment, or otherwise relating to the protection of the environment, may have upon the capital expenditures, earnings and competitive position of the registrant and its subsidiaries. The registrant shall disclose any material estimated capital expenditures for environmental control facilities for the remainder of its current fiscal year and its succeeding fiscal year and for such further periods as the registrant may deem material."
For foreign issuers in the United States, Form 20-F requires companies to "describe any environmental issues that may affect the company's utilization of the assets".

Source: SEC Regulation S-K (www.sec.gov/about/laws.shtml).

27. An innovative development in the United States of America is the use of voluntary reporting guidelines within contractual arrangements between government and industry. Box 9 presents an example of such arrangements.

Box 9: Environmental cooperative agreement between the private utility Wisconsin Electric and the Wisconsin Department of Natural Resources

In Wisconsin, an environmental cooperative agreement was signed in February 2001 between the private utility Wisconsin Electric and the Wisconsin Department of Natural Resources. It requires Wisconsin Electric to prepare an annual environmental performance report in accordance with GRI Sustainability Reporting Guidelines. As part of the agreement, Wisconsin Electric must demonstrate measurable improvements in environmental performance, implement an environmental management system and expand its stakeholder involvement programme. In exchange, Wisconsin Electric will benefit through permit streamlining, alternative monitoring and more flexible operations.

Source: UNEP 2006. *Carrots and Sticks for Starters. Current Trends and Approaches in Voluntary and Mandatory Standards for Sustainability Reporting*. Parktown, South Africa: UNEP/KPMG. Available online at:
http://www.kpmg.com.au/Portals/0/Carrots_and_Sticksfinal.pdf

II. CONCLUSIONS

28. The present review evidences for a move by Governments and international institutions and organizations to mandate rules for disclosure of certain environmental information and issue supportive guidance. There seems to be a tendency in the analysed countries to set rules for disclosure of environmental information in annual accounts and financial reports, particularly when the environmental impacts of the company have direct or indirect implications on the financial performance. These schemes are in tune with a current trend for the integration of environmental reporting with economic reporting. Furthermore they respond to needs of stakeholders who want to see how environmental issues drive overall performance.

29. Convergence of various reporting requirements on the environmental, social and economic issues seems to be another tendency in the European Union. With increased interest in corporate social responsibility issues, the scope of environmental reports is widening to

include social, environmental and economic factors. Most guidelines now are shifting in the use of taxonomy from environmental reporting to sustainability and social responsibility or "triple bottom line" reporting.

30. Overall, it is difficult to conclude about the effectiveness and efficiency of country schemes presented. Various surveys have been recently published to this effect.[8]

31. Countries that lag behind the above tendencies may wish to apply the good practices described in the present paper to improve corporate environmental performance and promote corporate social responsibility.

*****

[8] See, for instance, *Environmental Disclosures. The Second Major Review of Environmental Reporting in the Annual Reports & Accounts of the FTSE All-Share*. Bristol, United Kingdom: Trucost for the Environment Agency, 2007 (available at: www.trucost.com/reports.php?file=EAD) and the *KPMG International Survey of Corporate Responsibility Reporting 2008*. KPMG International, 2008 (available at: www.kpmg.com/SiteCollectionDocuments/International-corporate-responsibility-survey-2008_v2.pdf).