



Rules, Regulations and Codes

There are a wide variety of rules, regulations and codes of conduct that have been promoted by different sectors of society as a source of the principles by which companies should operate. Some are voluntary and unilaterally supported by companies, whilst others are more binding in nature. Some cater for all companies whilst others cater for a specific size or sector of business. There are a wide variety of opinions about what the ideal regulatory framework for business behaviour should be, with many business organisations advocating voluntary codes arguing that they allow companies to be innovative in Corporate Social Responsibility; NGOs argue that regulation is necessary to change behaviour and ensure that good intentions mean more than publicity material.

Company Codes of Conduct

Some companies have adopted their own codes of conduct. Many are voluntary with weak or no enforcement and many do not respect or include standards or legal obligations that already exist by for example:

- Not including the right to freedom of association
- Not respecting the International Labour Organisation's treaties on labour standards

ILO Conventions

The Core Labour Standards enshrined in the ILO Declaration on Fundamental Principles and Rights at Work (1998) are the basic minimum human rights enshrined within the ILO's eight specialised conventions. The eight core Conventions are:

- Forced Labour (1930)
- Freedom of Association and Protection of the Right to Organize (1948)
- Right to Organize and Collective Bargaining & Equal Remuneration (1951)
- Equal Remuneration Convention, 1951
- Abolition of Forced Labour (1957)
- Discrimination (Employment and Occupation)(1958)
- Minimum Age Convention (1973)
- Elimination of the Worst Forms of Child Labour (1999)

OECD Guidelines for Multi-National Corporations

A broad code of conduct where governments have taken the obligation to promote the code to business. This includes a weak and confidential dispute mechanism, which operates through national contact points in each country that has signed the guidelines. Key points include:

- Covers most areas of CSR (see Briefing Paper1)
- Includes most ILO Minimum Labour Standards
- OECD governments have pledged support
- Includes some dispute resolution
- NGOs, trade unions, business and government involved in recommendations
- Not legally binding on business

National Regulations

National Regulation will always be the major area of law that enforces behaviour on companies. Some countries have already adopted CSR law. And almost all countries have laws that cover areas such as labour standards, environmental protection, and human rights. Key characteristics of national regulations include:

- Varying inclusion of international standards
- Varying ability to enforce the regulations especially in developing countries
- Can leave open forum shopping by corporations (where they seek to have cases heard in the weakest legal system)
- Difficulty in enforcing standards in third countries

ISO 9000 & ISO 14000 & ISO on CSR

The ISO issues guidelines for voluntary standardisation for an extremely wide variety of areas, primarily for technical aspects. The ISO sets guidelines that businesses have to follow to be accredited with the standard. More recently they have developed environmental management standards ISO 14000 series. In addition the ISO 9000 is a quality management system. The ISO is currently in the process of developing an ISO standard for CSR. Key aspects of the ISO Standards are:

- High International profile
- Sets guidelines for management systems but not for actual performance attained
- No third party verification of standard

SA8000

Is a voluntary standard for ensuring that workplaces and the workplaces of subcontractors meet specified standards. Key points include:

- Standard that businesses can adopt voluntarily
- International
- Uses ILO Conventions and international human rights instruments as starting points
- Drafted under a multi-stakeholder approach including business, trade unions and NGOs
- Includes a system of outside verification
- Can be extended to include social reporting of conformance with the standard

UN Draft Principles for Behaviour of Trans-National Corporations

These draft principles drawn up by a working group of the UN Subcommittee on Human Rights would provide an internationally binding set of principles by which TNCs should operate. The principles are broad in that they include aspects of non-discrimination, war crimes, workers' rights, environmental protection, and consumer protection as well as interpreting TNCs' responsibilities with regard to international law. However, it remains to be seen whether the UN Human Rights Committee and eventually national governments will ever ratify these draft principles and so make them binding under international law. It is also unclear what, if any, enforcement mechanism would be included in this mechanism.

Questions:

- What do you think are the relative merits of voluntary versus legal enforcement mechanisms?
- To what extent do you think that companies should be legally accountable for non-financial areas?
- What differences should there be in how small and large companies are regulated with regard to their Corporate Social Responsibility?
- Should companies be responsible for ensuring standards within their supply chain?
- At what level (national, regional or global) should companies' behaviour be regulated given businesses' global reach and local impact?
- To what extent should the courts of one country be able to impose conditions on how a business operates in a different country? (Is this too large an intervention in the sovereignty of that country?)
- Should there be Corporate Social Responsibility legislation or should measures be introduced into all areas of law that affect business?