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Corporate Social Responsibility in the EU, 1993–2013: Institutional Ambiguity, Economic Crises, Business Legitimacy and Bureaucratic Politics*

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Abstract

What drives European Union (EU) policy change in a sensitive and contentious area? To answer this question, this article tells the story of corporate social responsibility (CSR) in the EU from its beginnings until the present. The EU's role in EU CSR has changed from social-liberal standard-setter to neo-liberal cheerleader and back. This article attempts to explain these shifts. It argues that Europe's institutional diversity hampers standard-setting while economic crises and declining levels of business legitimacy facilitate it. Contention has been fuelled by CSR's inherent ambiguity: is CSR a means to regulate the economy, or a domain of voluntary activity that must remain free of state regulation? Fearful of regulation, business groups – German employers in particular – have forcefully advocated the latter view. In addition to converting EU CSR from social-liberal to neo-liberal, business has neutralized two of the Commission's standard-setting advocates. The financial crisis, the power of arguments and discourse, and the impact of global policy developments in the field of CSR have re-empowered standard-setters. The article concludes with a critical analysis of the EU's renewed CSR strategy and non-financial reporting agenda.

Introduction

Corporate social responsibility (CSR), commonly defined 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' (European Commission, 2001, p. 6), is a sensitive and contentious subject. Since its appearance on the European Union (EU) agenda, CSR policy has changed from social-liberal standard-setting to a neo-liberal business agenda and back again. To explain these shifts and assess CSR's 'varied history' in Brussels (Fairbrass, 2011, p. 949), this article tells the story of EU CSR from its beginnings until the present.

I argue that fluctuations in business legitimacy, economic crises and broader changes in the institutional field have propelled a pendulum movement between interventionism and market-conforming policy. Significant declines in the legitimacy of business, fuelled

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by downturns in the business cycle and economic crises, facilitate standard-setting. High or rising levels of business legitimacy facilitate business control over the CSR agenda and market-conforming, non-interventionist policy. Moreover, CSR's inherent ambiguity facilitates business groups' sway over the CSR agenda. Because ambiguous institutions mean several (different and possibly contradictory) things at once, we should expect to find more contention in these areas than in unambiguous ones. This makes ambiguous institutions an important resource in struggles over policy. While all institutions are ambiguous to some degree, CSR is an extreme case (De Schutter, 2008).

CSR is a multidimensional, 'contested and fuzzy' concept (Fairbrass, 2011, p. 952) that means different things to different people in different countries. CSR is thus an example of semantic ambiguity (Abbott, 1997, p. 364): the indicator of CSR signifies more than one concept. Some groups use CSR to legitimate a social vision of the corporation, while others use it to advocate a more economic one. Non-governmental organizations (NGOs) define CSR as conformity to valid moral norms of corporate conduct, leading to a revision of the framework rules of the market economy.[1] Business people prefer a soft version of CSR. They stress that market freedom is indispensable if they are to innovate and do good (Kinderman, 2012). Europe's institutional diversity hampers standard-setting: while business associations unite in support of voluntarism, governments disagree on how to regulate CSR.

The Commission's role in EU CSR can be divided into three periods, which speak to the status of different European integration projects, regulated social-liberal capitalism and neo-liberalism (Van Apeldoorn, 2002). In 1993, the social democrat Jacques Delors called for business to address the problems of unemployment and social exclusion. The Commission aligned EU CSR with regulated capitalism, 'a project to build environmental, social, infrastructural, and redistributive policy at the European level' (Marks and Steenbergen, 2002, p. 887). Delors 'gambled that the market rationality underpinning the single market program would lose its Thatcherite flavour when it came into contact with reality' (Jabko, 2006, p. 185). CSR was part of that social-liberal gamble.

In the face of employer resistance, this social-liberal project faltered. The Commission official responsible for CSR was relieved of the file; and over time, business associations and Commission officials aligned EU CSR with market liberalism – a project that facilitates regulatory competition (Marks and Steenbergen, 2002, p. 888) and rejects market-correcting supranational regulation. Under Barroso I, the Commission's CSR policy thoroughly opposed regulation and a role for public authorities in standard-setting. Under Barroso II, confronted with the eurozone and banking crises, the spread of non-financial reporting and the evolution of global CSR frameworks, the Commission launched a renewed agenda to revise the framework rules of the market economy. Business resistance to this project led to a restructuring of the Commission's CSR file; and at the time of writing, the fate of the renewed agenda is uncertain.

This article contributes to the recent literature on EU CSR policy (De Schutter, 2008; Fairbrass, 2011; Kröger, 2011; Ungericht and Hirt, 2010) by focusing on two influential business organizations: BusinessEurope – a business lobby organization; and CSR Europe. The latter is a business membership organization that seeks to mainstream CSR inside of companies. It has been tightly connected with EU CSR since its beginnings as

[1] I am indebted to Christoph Sprich for this formulation.

a public policy initiative. In the words of CSR Europe's Chairwoman Celia Moore, CSR Europe has 'a special relationship with the Commission'.[2] Richard Howitt, the European Parliament's rapporteur for CSR, states that CSR Europe is 'the best show in town in Brussels in terms of having a business-led organization that is interested in CSR policy initiatives'.[3]

The examination of CSR Europe sheds new light on the evolution and transformation of EU-level CSR. Initially the creation of a social-liberal political initiative, over time CSR Europe aligned itself with the neo-liberal policy agenda of business groups. CSR's ambiguity facilitated its conversion, as European business associations repeatedly opposed attempts at regulation (Ungericht and Hirt, 2010). This business opposition to interventionist policy is a central theme in the historical narrative. From the start of EU CSR in the 1990s, companies feared regulation. Business has recently mobilized against the Commission's push to mandate non-financial reporting. This article draws on two dozen interviews conducted by the author between 2006 and 2012.

The article is organized as follows. The first section places CSR Europe in the context of Europe-wide developments. The second section discusses the initial, social-liberal phase of EU CSR. The third covers early business resistance to social-liberal CSR. The fourth section discusses EU CSR's neo-liberal conversion. The fifth section, on the return of politics, is followed by a conclusion.

I. Putting CSR Europe in Context

CSR came to Brussels earlier than many scholars realize. Although the received wisdom it that it arrived in Brussels with the Commission's 2001 Green Paper on CSR, the origins of EU-level CSR actually reach well back into the 1990s. While the words 'corporate social responsibility' only entered EU-level discourse at the turn of the millennium, labels must not be confused with content.

The European Business Network for Social Cohesion (EBNSC) was established in March 1996 and renamed 'CSR Europe' in 2000. The Commission charged the EBNSC with the task of combating social exclusion. Together with its member companies – predominantly large multinational firms – and its network of national partner organizations, it has advanced the cause of CSR in EU institutions and across Europe as a whole. CSR Europe describes itself as:

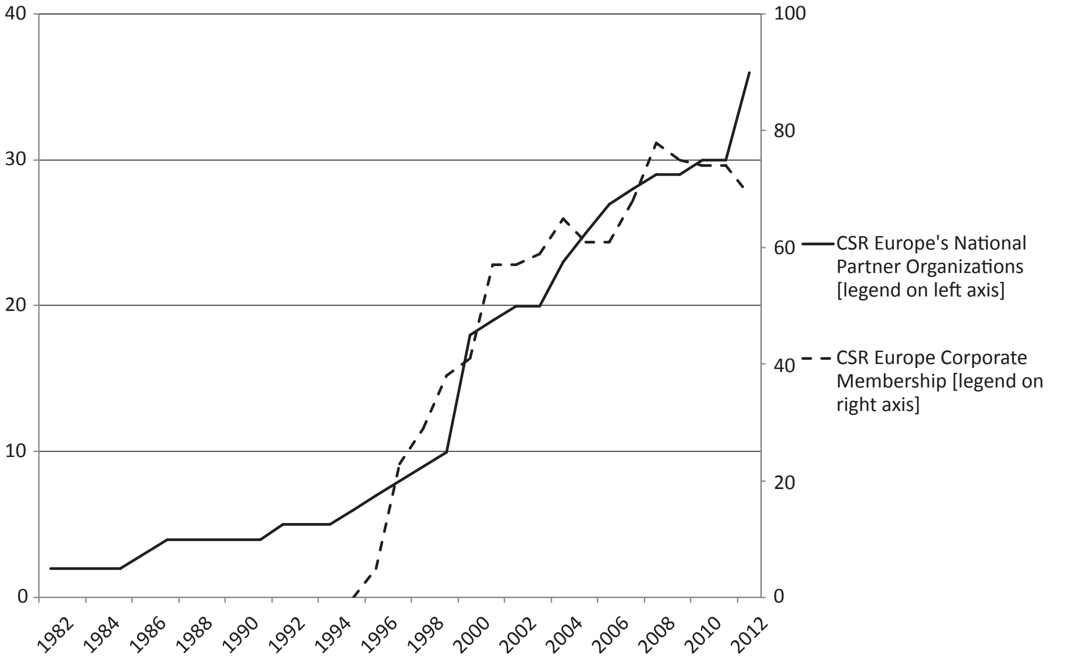
> The leading European business network for corporate social responsibility. CSR Europe's mission is to act as the European platform for companies and stakeholders to exchange and cooperate to make themselves and Europe global leaders in sustainable competitiveness and societal wellbeing. (CSR Europe, 2011)

By joining the network, companies commit themselves to CSR. Figure 1 provides a graphical representation of the number of firms in membership from 1996 until 2013. The sharp rise in the EBNSC/CSR Europe's corporate membership occurs already in the 1990s, before the Green Paper.

Figure 1 also shows that CSR arrived at the EU level later than in some, but earlier than in most, European countries. In 1996, the EBNSC began its European campaign for

[2] Interview with Celia Moore, 3 February 2012.
[3] Interview with Richard Howitt, 20 June 2007.

Figure 1: CSR Europe



Source: Author's own calculations.

corporate social engagement. While some CSR coalitions preceded CSR Europe, the latter has also founded several of these organizations,[4] which have a combined membership of thousands of companies. It uses its ties to these national partner organizations to promote the exchange of best practice and diffuse its expertise to the local level. With fewer than two dozen staff, CSR Europe is small and non-profit, yet it has had a significant influence on public policy and on responsible businesses practice across Europe. The next section examines the initial, social-liberal phase of EU CSR.

II. Managed Globalization and Social Europe: The Genesis of CSR at the EU Level

The Commission built EU CSR around the 'social exclusion agenda' in the midst of an economic slump, high unemployment, industrial restructuring and an impasse in European integration. Danish voters rejected the Maastricht Treaty and French voters approved it with only a razor-thin majority: the permissive consensus supporting integration was at risk.

In January 1993, Jacques Delors appealed to businesses to help overcome Europe's structural problems of unemployment and social exclusion. He was 'the driving force' of an 'action plan for European regulated capitalism' (Hooghe, 2001, p. 132). Together with

[4] The EBNSC/CSR Europe more or less founded the CSR associations in Belgium and Greece, and it played an important role for the associations in Germany and Sweden (Noterdaeme, personal communication, 23 May 2011).

Padraig Flynn, Delors invited a group of managers to sign a 'European Declaration of Businesses against Social Exclusion'. Delors sought to enlist business support for the Commission's social objectives, bypassing the European employers' federation Business-Europe (formerly UNICE),[5] which had shown little enthusiasm for Delors' social agenda.

After no less than 17 drafts,[6] the Declaration went public. It laments the 'extent of exclusion and poverty within the European Union' and draws attention to the '17 million unemployed, 53 million living below the poverty line and between 3 and 5 million in inadequate housing' in the EU-15. This exclusion is a 'major challenge' which will 'not disappear automatically' with renewed economic growth, necessitating joint efforts by businesses and business organizations:

> Exclusion can be found in the fields of employment, housing, health care and education and also in access to certain services and the law. It takes on many different forms: the districts and urban areas in crisis; marginalization of the long-term unemployed; the helplessness of young people with few qualifications; the persistence of barriers to the integration of migrants and minorities; the slide into poverty of over indebted households; the rise in the number of homeless people. All of these situations are structural in essence; they result neither solely nor primarily from an individual's disabilities or failings, but from the economic, social and technological changes occurring throughout European societies. (CSR Europe, 1995, pp. 1–2)

The Declaration's diagnosis is social-, not neo-liberal. Economic changes, not labour market rigidities, are to blame for Europe's woes. The report identifies five 'areas for action by businesses': labour market integration; improving vocational training; minimizing redundancies; helping to create new jobs and businesses; and targeting deprived areas and marginalized groups (CSR Europe, 1995, pp. 3–4). From Delors' point of view, the Declaration enlisted business support for the Commission's social goals. From business' point of view, company discretion was important: '[I]t is up to each business, depending on its particular characteristics and its resources, to identify the most suitable ways of applying its sense of responsibility to the fight against exclusion and its prevention' (CSR Europe, 1995, p. 5).

Heavily influenced by the social exclusion agenda, a learning organization for responsible business – the European Business Network for Social Cohesion – was founded in 1996. The Commission played an indispensable role in the EBNSC's creation: it provided 'the spark' and funded the network,[7] which helped it steer the EBNSC's agenda. In turn, the EBNSC's activities helped legitimate the Commission, which could boast that it 'is a strong advocate of finding the right balance between economic advance and social progress' (Flynn, 1997). Alan Christie, long-time chair of the EBNSC's executive committee, recalls:

> Social exclusion was the #1 political item on the European agenda. The idea of a growing European underclass was scaring politicians. What Delors said to the business community is: where the hell are you guys? Where's your contribution?[8]

[5] Union of Industrial and Employers' Confederations of Europe (UNICE) was renamed 'BusinessEurope' in 2007. I will refer to 'BusinessEurope' for the flow of the argument.
[6] Interview with Noterdaeme, 2012.
[7] Interview with Alan Christie, 20 November 2006. The King Baudouin Foundation (a Belgian public benefit foundation) also provided initial support.
[8] Interview with Alan Christie, 20 November 2006.

Figure 2: Corporate Membership in CSR Europe by Country of Origin

Source: Author's own calculations.

While the EBNSC contributed to these goals, it is unclear whether Delors' ideas were ever fully shared by the business community. As we will see below, this did not bode well for social-liberal CSR, and foreshadowed more recent and forceful business activism.

III. Early Business Resistance to Social-Liberal CSR: German Companies and the EBNSC

German involvement in the EBNSC during the 1990s presents a puzzle. They joined the network in substantial numbers. By 1997, Germany had five member companies – Bayer, Siemens, Daimler-Benz, Volkswagen and RWE – or approximately 30 per cent of total membership for that year – more than any other country at the time. By the year 2000, all German firms except for Volkswagen had left, leaving Germany with the smallest contingent of any large country. Membership fluctuations are normal in membership organizations. The mass exodus visible in Figure 2 is not.

What led the German companies to withdraw en masse from the network? German firms endorsed the 1995 Declaration and its agenda to promote employment-related social cohesion, but German business representatives soon 'felt very uncomfortable' in the network.[9] Regine Mathijesen, who represented Philips in the EBNSC, recalls that the departure of the German firms and Philips from the network 'was a political decision'.[10] What happened?

[9] Interview with Renate Hornung-Draus, 24 April 2008.
[10] Interview with Regine Mathijesen, 27 June 2008.

German companies viewed the expansion and broadening of the EBNSC's activities with concern. They feared that the EBNSC was harbouring a hidden regulatory agenda: 'DG Employment wanted to be in charge', Mathijesen recalls. But 'companies have to have their freedom' to determine their engagement according to their own needs and capabilities.[11] Volker Büring, then chair of the EBNSC's supervisory board, states that: '[German] member companies were first and foremost interested in preserving their independence [. . .] standards, guidelines or directives for the activities of the EBNSC were not welcome'.[12] CSR had a different meaning for these companies than it did for the Commission. Whereas social-liberal and social-democratic policy-makers such as Delors viewed CSR as an instrument to facilitate social goals, business people viewed it as a domain of voluntary activity that must remain free of state regulation.

By the end of the 1990s, BusinessEurope felt that the EBNSC was impinging on its jurisdiction and authority. For Ann Vandenhende, a long-standing director of CSR Europe:

> [German companies'] role in the EBNSC was not compatible with the role they were playing in these organizations. When it came to expanding the [CSR] agenda there was a perception that this is not something that companies should be dealing with.[13]

German companies perceived the Commission's activities as threatening. For example, the paper commissioned by DG for Employment and Social Affairs 'Social Labels: Tools for Ethical Trade' (Zadek *et al*., 1998) was far from an EU Directive, but employers' representatives perceived it as such, and panicked.[14] These tensions erupted in an open clash between the chairmen of the EBNSC and BusinessEurope in 2000: BusinessEurope questioned the legitimacy of the EBNSC to represent the voice of business. A statement in the Lisbon Agenda, drafted by CSR Europe, on the role of CSR in achieving the Lisbon goals triggered this clash. While that statement 'was a big damn deal' for CSR Europe,[15] it was unwelcome from the perspective of BusinessEurope and the German employers' association BDA (Bundesvereinigung der Deutschen Arbeitgeberverbände). Within the business community, two different understandings of CSR came head-to-head. German firms felt they had to choose one or the other, and Bayer, RWE, Siemens and Daimler-Benz cancelled their memberships. Why were German business representatives so paranoid? Although a full explanation cannot be provided here (yet see Kinderman, 2008), for our purposes, the following is important.

Europe's institutional diversity poses a challenge for EU CSR policy (Kröger, 2011), as it does in other areas (Scharpf, 2002). Policy-makers confront a multiplicity of different national understandings of CSR. The very same policies and initiatives are understood differently in different countries. Yet not even businesses groups from highly regulated states seem interested in having these standards met by their competitors in other countries. While a voluntaristic attitude toward CSR is particularly pronounced in Germany (Bluhm *et al*., 2013), companies everywhere prefer to define CSR themselves (Kröger, 2011). Business people want to have their hands free. The next section tells how business converted the meaning and orientation of EU CSR from social-liberal to neo-liberal.

[11] Interview with Regine Mathijesen, 27 June 2008.
[12] Volker Büring, personal communication, 9 January 2012.
[13] Interview with Ann Vandenhende, 18 August 2007.
[14] Interview with Regine Mathijesen, 27 June 2008.
[15] Interview with Alan Christie, 20 November 2006.

IV. The Neo-liberal Conversion of European CSR

From the launch of the EBNSC in 1996 until the 2006 European Alliance, EU CSR underwent a process of 'conversion' culminating in regulatory capture by Business-Europe. Through their structural, lobbying and rhetorical power, European employers gave EU CSR a neo-liberal imprint and orientation. Conversion stresses actors' strategic activism to 'interpret [an institution's] rules in their own interest (or circumvent or subvert rules that clash with their interests)' (Streeck and Thelen, 2005, p. 27). Thus, the 'social case' for CSR, which had been strong during EU CSR's initial phases, progressively weakened compared to the 'business case'. Mahoney and Thelen (2010, p. 18) note: '[L]acking the capacity to destroy an institution, institutional challengers may be able to exploit its inherent ambiguities in ways that allow them to redirect it towards more favorable functions and effects'. The ambiguity of CSR was instrumental, if not invaluable, for this conversion:

> The polysemy of the concept of CSR has facilitated its instrumentalisation in the course of the European-wide debate on its significance, and that the end result has been the diversion of CSR from its original ambition. [. . .] While CSR may have been initially an idea about the scope of the responsibility of business towards its environment, it ended up becoming a process in which the representatives of the business community have come to occupy the central role, and from which politics essentially retreated. (De Schutter, 2008, p. 205)

Following the clash between BusinessEurope and the EBNSC/CSR Europe, the latter gradually aligned its positions on those of the former. In 2002, CSR Europe and Business-Europe sent a joint letter to Commission President Prodi rejecting an CSR approach based on '"European values", with standardized ways of proceeding, specific certification procedures or specific demands in the area of CSR reporting that would undermine European competitiveness' (Ungericht and Hirt, 2010, p. 11). At the conclusion of the Multistakeholder Forum in 2004, the statements by BusinessEurope and CSR Europe were virtually identical. In 2006, ten years after the launch of the EBNSC, Delors was scheduled to speak at an event entitled 'Towards a Regulatory Approach to CSR' organized by the European Coalition for Corporate Justice (ECCJ), an NGO campaigning for the regulation of CSR. The ECCJ's object of critique was the European Alliance, an initiative led by CSR Europe. Delors was slated to speak against the very organization he had helped to create a decade earlier.[16] A notable shift in CSR Europe's outlook and orientation had taken place.

When the EBNSC renamed itself 'CSR Europe' in 2000, its agenda was broadened to incorporate the whole gamut of issues relating to CSR. These reach beyond social cohesion to sustainability and human rights in global supply chains. In a more subtle shift, social cohesion receded into the background as CSR Europe became increasingly business-driven. It changed from an advocacy and awareness-raising organization to a service-delivery organization focused on capacity-building, consulting and the competitiveness of its members. According to Pierre Echard, formerly at CSR Europe: 'We came to reflect whether raising awareness is our role. We decided that it was time to move on and close the doors a bit and focus on internal CSR processes'.[17] In part, this change

[16] Delors was unable to attend in the end.
[17] Interview with Pierre Echard, 19 October 2006.

reflects the maturation of CSR: there is no need to advocate for something that is taken for granted. But the change in emphasis is important.

Whereas EU CSR had begun as a 'Declaration of Business against Exclusion', five years later, CSR Europe's publications were titled 'For an Entrepreneurial and Inclusive Europe'. Whereas a 1997 ENBSC publication (Benjamin and Griffiths, 1997) lists 75 partner organizations in eight Member States, including the Dutch Labour Foundation and the Danish Federation of Trade Unions, 15 years later, CSR Europe had approximately 70 corporate members and 36 national partner organizations, but no formal relations with trade unions or labour. CSR Europe did not abandon goals of social inclusiveness; they were supplemented by business objectives. As time progressed, the business case became more and more prominent relative to the social case.

Amidst CSR Europe's turn towards the market, the Commission was not yet willing to give up the cause of product labels and transparency standards for CSR (De Schutter, 2008; Ungericht and Hirt, 2010). The Commission's 2001 Green Paper envisaged an important role for public authorities. De Schutter (2008, p. 207) pinpoints the difference between the Commission's work under the DG for Employment and Social Affairs and the neo-liberal position of business associations such as BusinessEurope:

> [W]hile CSR, being voluntary in nature, was conceived as something distinct from, and not a substitute for, the adoption where necessary of appropriate legislation, an active role was envisaged for the public authorities in the promotion of CSR.

Rather than simply leaving CSR to the market – the neo-liberal stance – public authorities would construct an 'overall European framework' to provide verification, and naming-and-shaming lists and monitoring systems would assure CSR's credibility. This was not an anti-business agenda: giving a CSR label to EU companies would be a way to support the competitiveness of EU companies.[18] But it was not to be:

> We accept it is based on voluntary commitments but we don't want this to be a blank cheque. We want accountability about the outcomes of what they do. If you don't have standards you also have free-riders and false advertising. The logical step for the Commission would have been to establish transparency rules. We need to have proper information, transparency and accountability. That's where companies said no.[19]

With the establishment of the European Alliance for CSR in 2006, the *de facto* leadership of the Commission's CSR file moved from DG for Social Affairs to DG Enterprise.[20] While the Prodi Commission had supported the triple bottom line approach, the first Barroso Commission prioritized competitiveness and the reduction of administrative costs over social and environmental objectives. Dominique Bé, who had been in charge of the Commission's CSR policy, was relieved of his file – he was collateral damage of the first Barroso Commission's preference for neo-liberal/soft-law solutions to just about everything. 'Anything annoying business had to be removed, and CSR had become a nuisance for business.'[21]

The European Alliance abandoned the multi-stakeholder approach and aligned the Commission's CSR policy with the neo-liberal positions of business. The Alliance was

[18] Interview with EU official I, 2012.
[19] Interview with EU official I, 19 October 2006.
[20] Officially, it was a joint responsibility both before and after the launch of the Alliance.
[21] EU official I, personal communication, 2011.

an 'outsourcing of policy'[22] to business and CSR became a business-led facilitator of competitiveness. No deviations from BusinessEurope's neo-liberal stance were allowed.[23] A leaked memo from BusinessEurope reveals just how lopsided this victory was: '[A] few passages [in the communication] must be interpreted as verbal concessions to other stakeholders, which will however have no real impact'. The Commission explicitly acknowledged that 'enterprises are the primary actors in CSR' and that it 'can best achieve its objectives by working more closely with European business'. The Alliance 'is a political umbrella for new or existing CSR initiatives by large companies, SMEs and their stakeholders. It is not a legal instrument and is not to be signed by enterprises' (European Commission, 2006, p. 2). An official explains that the Commission has 'a considered policy line designed to let business do more',[24] but the Alliance's position regarding regulation is neo-liberal: the 'status quo' (Hooghe and Marks, 1999, p. 85). The Commission was 'heavily influenced' by BusinessEurope's 'hard lobbying at a high level', and reduced to the status of a 'cheerleader' for business.[25]

The position of business associations is that CSR is companies' business; binding regulation is counterproductive or contradictory. BusinessEurope, which represents the whole of European industry *vis-à-vis* the EU, is an outspoken opponent of regulation. As a membership organization, BusinessEurope may have 'a natural tendency toward "lowest-common-denominator" positions' (Greenwood, 2002, p. 116). Moreover, theoretical arguments are always available to support the neo-liberal position. Since CSR is voluntary, it by definition cannot be regulated. Remarks a BusinessEurope representative:

> The debates about more social and environmental legislation are absolutely valid debates but they are not debates about CSR. CSR is about what companies do beyond legislation. By definition it is voluntary.[26]

When queried about the regulation of CSR, then Commissioner for Enterprise Günter Verheugen responded: '[H]ow it is possible to regulate something that is voluntary? How should this be possible?'[27] Given the positions of German business associations throughout this article, perhaps it is no coincidence that the 2006 policy was directed by a German Commissioner.

CSR Europe's political role has been ambivalent. In 1996, the EBNSC was at the forefront of the social-liberal agenda. A decade later, CSR Europe ran the neo-liberal European Alliance for CSR – although it should be emphasized that BusinessEurope, not CSR Europe, lobbied for the one-sided bias towards business.[28] In each time period, CSR Europe has been in the thick of interest group politics. Without the Commission's financial support (approx. €250,000 per year) and 'without the [Commission's] willingness to engage, the organization would have died a very rapid death'. But CSR Europe has also exerted an influence on the entity that created it, helping to 'instil a sense of realism in the Commission' on matters of CSR:

[22] Interview with EU official II, 2012.
[23] Interview with David Grayson, 7 July 2012.
[24] Interview with EU official II, 2007.
[25] Interviews with EU official II, 2007 and 2012.
[26] Interview with Natasha Waltke, 19 November 2006.
[27] Interview with Günther Verheugen, 17 June 2010.
[28] Interview with Noterdaeme, 2012.

> There's been a huge development in business practice and in government understanding of business practice and the role that it can and cannot play. It was not so long ago that 'we thought well we have a problem we'll get the private sector to solve it'.[29]

Some evidence supports the claim that CSR is part of the corporate lobbying arsenal (Ungericht and Hirt, 2010). The neo-liberal Alliance was not issued against the protests of CSR Europe, which led the Alliance until it ran out of steam. In addition, CSR Europe was 'very pleased when the commissioner for enterprise [Verheugen] came on board' and reoriented the agenda towards 'enterprise and business growth rather than business duty'.[30] CSR is a quid pro quo for business-friendly policy: 'The Commission is committed to creating a more business friendly environment for companies as long as these companies demonstrate CSR'.[31] Resistance to neo-liberalism looks different.

Yet CSR Europe is not simply a 'consortium of lobbying organization of European TNCs' (Ungericht and Hirt, 2010, p. 12). The leading European responsible business network is focused on learning, social innovation, the exchange of best practice and developing innovative solutions to wicked problems. Under the mantle of the Alliance, CSR Europe's 21 laboratories have generated and disseminated a wealth of valuable knowledge for CSR practitioners. Indeed, it may not be an exaggeration to claim that 'without [CSR Europe's involvement] there would have been no results at all' (Baker, 2010).

CSR Europe's staff is sincerely committed to making a difference. Ben Davies, a former staff member, remarks that CSR Europe 'exists to put itself out of business' through a universal dissemination of CSR.[32] Staff members criticized the European Alliance, favouring a genuine multi-stakeholder approach incorporating stakeholders other than business.[33] In 2009, BusinessEurope wanted to continue the Alliance, but CSR Europe did not: it was time to move on.[34] Propelled by a massive financial crisis, the winds were shifting. The next section examines the most recent developments, the Commission's new definition for CSR and its legislative proposal to mandate non-financial reporting.

V. The Return of Politics

The Commission's 'renewed strategy' contrasts sharply with the European Alliance, underlining CSR's amorphousness and plasticity. The most notable change is CSR's redefinition as 'the responsibility of enterprises for their impacts on society'. More than any other aspect of the renewed strategy, this move is radical, for it broadens the scope of CSR to encompass all business impacts. CSR is no longer voluntary; it is always there. The question becomes whether businesses take ownership of their externalities and how they minimize their negative and maximize their positive impacts. The new communication embraces some of the European Parliament's and civil society organizations' and trade unions' criticisms of the Alliance. It stresses the need for 'complementary regulation' such

[29] Interview with Alan Christie, 20 November 2006.
[30] Interview with Celia Moore, 3 February 2012.
[31] Interview with Pierre Echard, 19 October 2006.
[32] Interview with Ben Davies, 2 May 2007.
[33] Interview with Ann Vandenhende, 18 August 2007.
[34] Interview with Noterdaeme, 2012.

as mandatory non-financial reporting, respect for the law,[35] social dialogue, human rights, international CSR frameworks and genuine multi-stakeholder approaches (European Commission, 2011, pp. 5–6). How can we explain this shift and what are we to make of it?

Four developments were significant. First, the financial crisis that began in 2007, intensified in 2008 and since 2010 has had major impact on the eurozone through the sovereign debt crisis (Buti and Carnot, 2012) is a powerful catalyst as it weakened the legitimacy of business. Kerstin Born, formerly CSR Europe's executive director, recalls how in the crisis:

> [L]ots of criticism of how companies behave came up. National Partner Organizations were struggling with corporate membership and with defending the [voluntarist] idea [of CSR]. One of the questions we were debating is: has CSR failed? Did the concept fail?[36]

Unemployment and social deprivation have skyrocketed in many countries, surpassing levels seen in the 1990s. The crisis 'began to shift the tectonic plates', weakening the legitimacy of business and re-legitimating the role of public authorities that neo-liberalism had discredited.[37] The economic shocks took place against the background of a political legitimacy crisis. 'The tension between the citizenry and those who govern has never been as acute as today' (Mény, 2012, p. 161).

Second, global policy developments in the field of CSR have re-empowered standard-setters. Global CSR frameworks – including the United Nations Guiding Principles on Business and Human Rights, the recently updated OECD Guidelines for Multinational Enterprises, and ISO 26 000 – have evolved to a point where they can inform and even replace a European strategy. John Ruggie's ideas on business and human rights, in particular, were 'a significant challenge to our concept and mission'. As a result, the Commission's 2001 definition 'was beginning to look a bit outdated'.[38] The EU's new definition closely resembles that of ISO 26 000.

Third, institutional investors such as Eurosif (the European Social Investment Forum) have increasingly advocated risk disclosure (Monciardini, 2012). At a high-level meeting in Brussels in 2009, representatives of responsible business representatives talked – in ambiguous terms – about the regulation of CSR. CSR policy-making is very difficult without support from business, and these voices from inside the business community helped legitimate the Commission's new stance.

Fourth, within the Commission, individual agency and normative arguments have been important. The appointment of Commissioner Michel Barnier was significant: as Internal Market Commissioner, Barnier has fought for non-financial disclosure and financial regulation. In DG Enterprise, Pedro Ortún opened up a space that his staff used to push the envelope – not a simple task as 'there were very difficult balancing games going on'. Yet the renewed strategy does not simply 'reflect the balance of forces' within the Commission and between the latter and outside interest groups. It also reflects the power of the arguments of stakeholders who persuaded Commission staff that the European Alliance

[35] This implies that the law should be obeyed even when, according to a firm's cost–benefit calculus, it would be cheaper to break the law.
[36] Interview with Kerstin Born, 26 September 2012.
[37] Interview with EU official II, 2012.
[38] Interview with EU official II, 2012.

suffered from critical flaws. And it reflects courage by Commission staff who used the space available to 'do what was right'. The new definition came relatively late in the drafts of the renewed strategy.[39] This supports the case for discursive institutionalism (Fairbrass, 2011; Schmidt, 2008). The result has impressed stakeholders such as Patrick Itschert, deputy general secretary of the European Trade Union Confederation, who:

> did not like the move of CSR going to DG Enterprise [from DG Employment as part of the European Alliance]. But I have to admit that the team Tom Dodd and Pedro Ortún is good. And they've been through an evolution. They are doing what they can on the issue.[40]

Remarkable as it is, the renewed agenda seems to pick up where the Commission left off before its neo-liberal conversion, and it may be a less significant departure from the status quo than it at first appears. The financial crisis produced a political climate more favourable towards regulation, but not a paradigmatic or transformative shift. The Commission's failure to break decisively with shareholder value and voluntarism in its late-2012 Action Plan on European Company Law and Corporate Governance is a case in point. The Commission's only concrete policy proposal in the area of CSR is an amendment of the 4th Company Law Directive of 1978. The Commission's first attempt to amend this Directive to promote non-financial reporting took place in 2003 in the earlier social-liberal phase of EU CSR, but this article was 'ineffective' and failed to deliver tangible outcomes.[41] Without knowing the final content of the new legislative proposal, the following observations can be made.

There are few indications that the new non-financial disclosure requirement will be unduly burdensome on business.[42] The Commission 'did not want to propose a policy that was intrusive, difficult or excessively demanding on business'.[43] Integrated financial and non-financial reporting is increasingly the norm for large companies, and disclosure requirements in a number of EU Member States go farther than the Commission's proposal. The Commission also does not intend to abrogate CSR's voluntariness:

> Maybe we should have made clearer that we have absolutely no intention of writing a piece of legislation that says this is CSR written on a piece of paper and it's mandatory for companies. That's definitely not what we have in mind. We have no plans to do anything like that.[44]

How has business reacted to the new agenda? While welcoming some aspects of 'renewed strategy', business associations criticize its reference to regulation.[45] The financial crisis has not transformed business groups' attitude towards transparency rules and regulation. Just as they did during the 2002–04 Multistakeholder Forum, business groups stress that the EU 'should not interfere with companies seeking flexibility to develop an approach to

[39] Interview with EU official II, 2012.
[40] Interview with Patrick Itschert, 17 August 2012.
[41] Interview with EU official III, 16 August 2012.
[42] This burden will depend on the size threshold of companies that are covered by the new requirements – the lower the threshold, the greater the burden on SMEs.
[43] Interview with EU official II, 2012.
[44] Interview with EU official II, 2012.
[45] Interview with EU official II, 2012.

CSR according to the specific needs of their stakeholders and their individual circumstances'; the 'more interventionist approach is not the right way forward' (BusinessEurope, 2012, pp. 1, 4).

A continuation of their earlier stance, but amplified by growing Euroscepticism, German officials have been particularly outspoken in their opposition to the Commission's new definition and its attempts to introduce non-financial disclosure requirements. BusinessEurope's position was quite moderate until the Germans mobilized. The BDA has demanded that the Commission rescind the entire renewed agenda,[46] leading EU insiders to characterize Germany's reaction as 'virulent' and 'out of proportion compared to all other countries'.[47] This evidence leads one to question Gond *et al.*'s (2011, p. 656) characterization of Germany as 'relatively statist [. . .] preferring CSR as mandate'. An EU official expresses frustration:

> [I]t's as though because our formal definition doesn't include the term voluntary they've assumed that we're going to impose on law on companies a CSR model or a series of things that they should do. People confuse a disclosure requirement with a CSR requirement.[48]

As a result of this pressure and disagreements of opinion within the Commission, it was unclear whether the non-financial disclosure legislation would see the light of day: in mid-2012, a person close to the file estimated that 'there's a 20–30 per cent chance the proposal might get delayed, or cancelled altogether'.[49] In a development with ominous parallels to the establishment of the European Alliance, Pedro Ortún has been removed from the CSR dossier, and Tom Dodd, the brainchild of the Commission's 'renewed strategy', has been moved to the small and medium-sized enterprises (SMEs) and entrepreneurship directorate, meaning that he is no longer under Ortún's leadership. This shift could restrict Dodd's work, and reorientate and reduce the scope of the EU CSR strategy. It could be a major setback for the champions of a regulatory approach, shrinking the scope of EU CSR to a strictly pro-business, pro-SMEs strategy, notes Jerôme Chapelier of the NGO organization ECCJ.[50]

The above analysis indicates that business is less supportive of regulatory CSR than is suggested by some recent literature. Nordic pioneers with the strongest CSR performance may support binding international regulation, rather than CSR or soft law, to level the playing field (Gjølberg, 2011), but these CSR leaders only comprise a small fraction of business associations. The further away from individual firms and the more into business associations you go, the greater the intensity of hostility to regulation.[51] CSR leaders rarely speak out against their associations, and it is the latter, not the former, that shape policy.

Two decades since the inception of EU CSR, CSR Europe remains on the inside of the EU policy-making track. The renewed agenda endorses only one private-sector initiative: CSR Europe's Enterprise 2020. CSR Europe's action plan closely shadows the Commission's, allowing it to 'capitalize on these policy developments'.[52] Yet while welcoming

[46] Interview with Renate Hornung-Draus, 2012.
[47] Interview with EU official II, 2012; BDA *et al.*, 2011; German Federal Government, 2011.
[48] Interview with EU official II, 2012.
[49] Interview with EU official II, 2012.
[50] Interview, 16 August 2012.
[51] Interview with Richard Howitt, 20 June 2007.
[52] Interview with Karen Davidson, 20 February 2012.

the thrust of the Commission's new communication, concern has been voiced that a 'level playing field' could pose administrative burdens and 'destroy the creative nature of CSR';[53] and that the Commission's proposal is characterized by a 'mind-set of compliance' and an inadequate emphasis on innovation and opportunity.[54] Following the Commission's communication, CSR Europe's board of directors had initially intended to give 'feedback that was quite hard', notes Karen Davidson, a member of the board: '[M]ember companies felt that the EU could be moving too fast towards legislation and that it [the renewed strategy] could be anticompetitive for them'. Yet CSR Europe has not 'pushed back' against the renewed agenda:

> The Board felt that we should not be hard on this. That is not the 'CSR hat' that we should be having. Some CSR Europe corporate members are also members of Business Europe so let them voice the more negative stuff and let the CSR Europe voice be more positive and supportive of it.[55]

This suggests a 'good cop/bad cop' division of labour between CSR associations and large business associations in which the latter take care of hard lobbying while the former advocate the responsible business agenda.

Apart from the Commission's new definition, it is unclear to what extent its renewed CSR agenda represents a decisive departure from the status quo. Even this initiative has encountered substantial business resistance. While this communication goes further than any before it at the EU level, it may nonetheless qualify as 'drift': the failure to adjust public policies fully in response to changes in the economic environment (Streeck and Thelen, 2005). In the context of the current crisis, the renewed strategy is a testament to the weakness – not the strength – of politics.

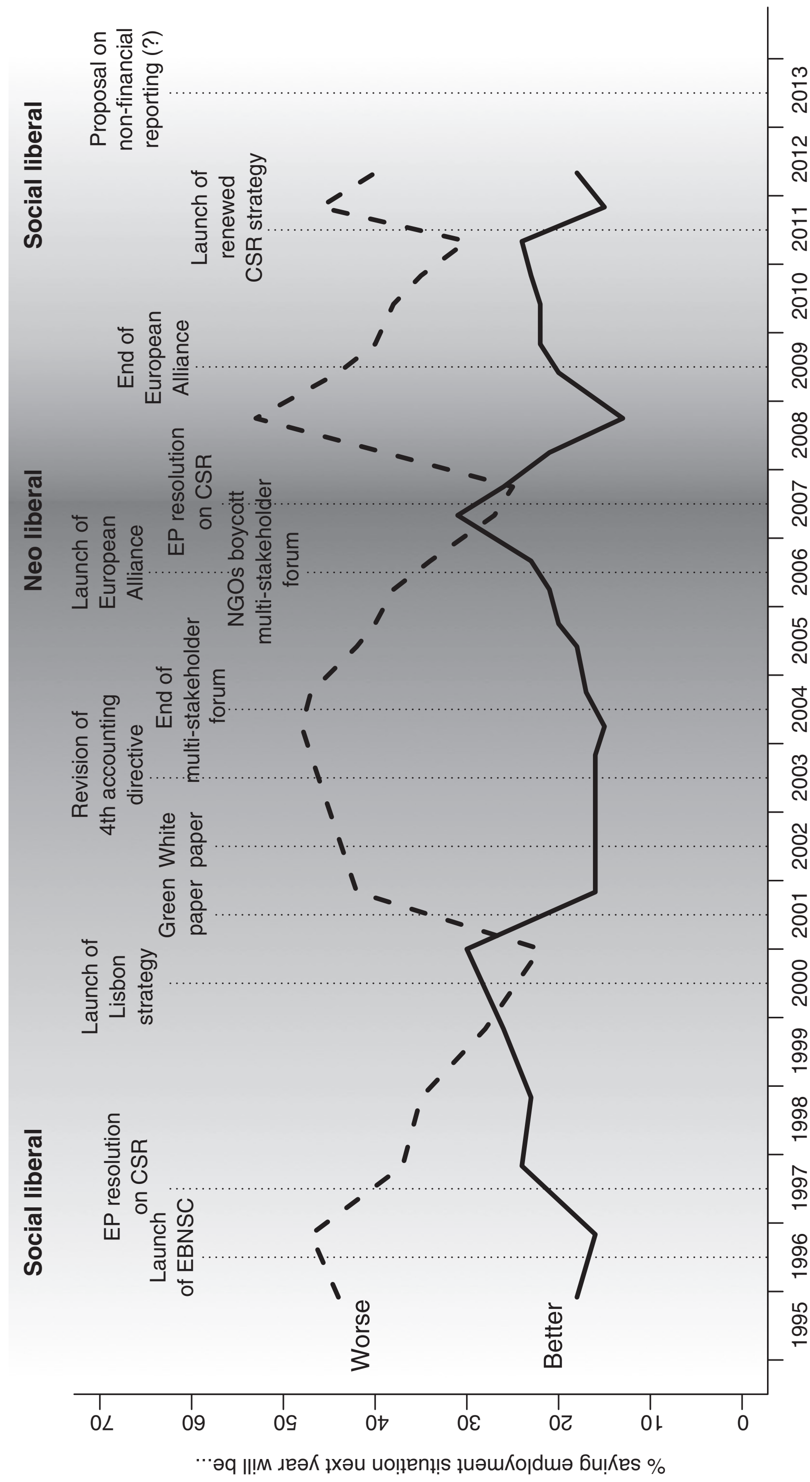
Conclusions

This article has told the story of EU-level corporate social responsibility, with an emphasis on Commission policy and business organizations, and CSR Europe in particular. Facilitated by CSR's inherent ambiguity, the agenda has shifted from social-liberal to neo-liberal and back again. Both the Commission and European business groups have used CSR to legitimate political projects. Jacques Delors founded the EBNSC to bypass the opposition of BusinessEurope and tackle social exclusion, which was thought to constitute a political liability for European integration. In this phase, EU CSR had social-liberal coloration. Over time, business transformed this agenda, and the Commission followed suit. The triumph of neo-liberal CSR was facilitated by Europe's institutional diversity and by the dominance of doctrines of liberalization, privatization and deregulation in policy-making circles. In turn, these developments reflect an increase in the power of business. Above all, neo-liberal CSR reflects a concentration of agenda-setting power in one actor: business. Whether this is the norm or the exception for EU CSR remains to be seen.

Future research should further probe the relationship between CSR policy and business legitimacy. Figure 3 plots the major events of EU CSR and Eurobarometer data of the

[53] Interview with CSR official II, 16 August 2012.
[54] Interview with CSR official I, 27 September 2012.
[55] Interview with Karen Davidson, 20 February 2012.

Figure 3: Perceived Employment Situation and Phases of EU CSR



Source: Author's own calculations.

percentage of EU citizens saying that the employment situation in the coming year will be better or worse than in the current year. Although this is an admittedly imperfect proxy for legitimacy, its fluctuations are correlated with Commission policy. Declining business legitimacy appears a necessary though not sufficient condition for standard-setting by public authorities.

The employment crisis in the early 1990s prompted the launch of the EBNSC. The rapid deterioration caused by the financial and eurozone crisis hastened the demise of the Alliance and the renewed push for regulation and standard-setting. The Green Paper, White Paper and initial revision of the 4th Accounting Directive took place in the early 2000s recession. Conversely, sustained improvements in legitimacy are associated with passive public policy, non-policy, rather than with standard-setting. It is no coincidence that the Commission initiated the neo-liberal European Alliance during an economic boom.

The neo-liberal agenda is a double-edged sword as it corrodes institutions that are dear to many Europeans, upon which business itself ultimately depends:

> In the eyes of most European citizens, the EU owes its legitimacy partly to being able to protect them from the negative side-effects of globalization while shaping aggressively a globalization in Europe's image. (Jacoby and Meunier, 2010, p. 367)

As Offe (2003, p. 457) suggests, 'in order to maintain popular support [. . .] Europe must present itself to its citizens as a credible project of social security and protection, and certainly not as a threat to established social status rights'.

It took a near-collapse of neo-liberalism to revive the social-regulatory agenda, and its policy proposals seem modest against the backdrop of the current crisis. Although deteriorations in business legitimacy and the business climate help germinate activist policies, these very same conditions may hamper their implementation: when business is weak, it is in a strong position to resist demands that can be construed as burdensome to growth or jobs. Perhaps business groups' preponderance over policy should be expected given that CSR is *corporate* social responsibility and that political authorities are reliant on business for implementation (Fairbrass, 2011, p. 966). The marginalization of one of the Commission's CSR champions during the current crisis serves as a potent reminder of business power.

EU CSR's origins and the recent revival of a social-liberal approach underline that CSR is also *social*. CSR Europe's more critical attitude toward the Alliance and its more supportive response to the Commission's renewed agenda (compared with BusinessEurope) suggest that although CSR associations shift in the political winds, they also contain progressive potential: 'Companies are against a lot of this [regulatory] stuff, but when they put their "CSR hat" on they have to be more favourable to listening and working with this agenda'.[56]

In conclusion, CSR is ambiguous, amorphous and elastic. The shift from social exclusion to laissez-faire to integrated reporting is not the end of the struggle to define the meaning of EU CSR. Will business representatives get the new definition? Only time will tell whether the Commission's attempt to provide conceptual clarity will resolve CSR's ambiguities; whether the emergent 'transparency coalition' (Monciardini, 2012) will convince mainstream business associations that non-financial reporting is in their

[56] Interview with Karen Davidson, 20 February 2012.

members' interest; whether it will be possible to bridge the gap between French *dirigisme* and German ordoliberalism; whether the spirit of solidarity and social cohesion stressed by Delors will persevere at last (Delors, 2013). Struggles to define the CSR agenda will continue in Brussels and across Europe, and their outcome is open-ended (Ungericht and Hirt, 2010, p. 17). Something important *is* at stake in these struggles. Their very existence suggests an answer to the question 'is CSR just fluff?' CSR is not (yet) a countervailing force, capable of reining in capitalism's destructive and disruptive tendencies (Kinderman, 2012), but as an ambiguous institution, CSR could be powerful, so some groups have to work very hard to ensure that it is not.[57]

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[57] I am grateful to Robert Denemark for this insight.

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