Concept Note

Towards a Private Sector Accountability Protocol for Sustainable Development

Time: 10 April from 10am to 1 pm   Place: New York, UN Building (Conference Room B)

Summary of Proposed Session: Diverse criteria for sustainable development practices of private enterprises have been developed by various official, business and civil society organizations, particularly in the last 20 years. The Third Financing for Development (FfD) summit provides a unique opportunity to unify and strengthen those initiatives and begin to move them from voluntary commitments toward regulatory requirements, as proposed in the "zero draft" of the outcome document for the FFD conference, which is under negotiation. In this context, **a "Private Sector Accountability Protocol for Sustainable Development" is proposed as a model framework for mandatory reporting by large enterprises and eventually to cover also medium-sized enterprises in priority sectors for sustainable development.** The protocol would include both rules concerning **financial transparency as well as sustainable development impact of financial, environmental, social and governance** areas, so as to best deliver on promises to align businesses with the sustainable development goals.

At current levels of investment in SDG-related sectors, developing countries face a potential gap of $2.5 trillion annually, according to the UN Conference on Trade and Development (UNCTAD). Filling this gap is entirely feasible. A share can be mobilised from tax revenue[1]. However, private finance will also have to play a critical role.[2] The accountability of the private sector towards SDGs will become an ever more important topic, in contrast to the more limited impact of private financing on the Millennium Development Goals (MDGs).[3]

The FfD conference in Addis Ababa, 13-16 July 2015, will endorse the role of the private sector in development, but also recognize that its role comes with responsibilities. On private sector transparency and accountability the zero draft of the Addis Ababa outcome document states that:

"We *agree to create strong regulatory frameworks on ESG practices, including mandatory integrated reporting for large companies to be adopted by 20xx. To better align business practices with sustainable development, we will adopt regulatory frameworks that foster a dynamic and well-functioning business sector, while protecting labour rights and environmental and health standards in accordance with internationally agreed norms, including the labour standards of the International Labour Organization and key Multilateral Environmental Agreements*." (paragraph 40)

However, we regret that there is no timeline on this commitment. We believe the rules should be set by 2017, with first reporting becoming available in 2018 for all large companies followed by priority sectors for medium-sized companies.The Financing for Development (FfD) framework observes that the private sector is the main driver of economic activity in most countries, involving the operations of large and small domestic but also foreign firms.

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[1] http://www.actionaid.org/sites/files/actionaid/the_elephant_in_the_room_-_how_to_finance_our_future.pdf
[2] http://unctad.org/en/PublicationsLibrary/wir2014_en.pdf
[3] Christian Aid "what finance has worked for development in Africa" forthcoming.

The 10 April meeting aims to propose ways to create the necessary corporate transparency, including public financial country-by-country reporting and full registries of beneficial ownership, which combined with ESG reporting provide a better understanding of the integrated impact of companies on sustainable development.

Responsibility of private investors and multinational enterprises in sustainable development

Private capital, both domestic and foreign direct investments, can help foster sustainable economic growth, but it also has significant risks attached, which can create adverse consequences in terms of taxation, climate, gender inequality, access to land and natural resources as well as employment, to name a few areas of importance. These issues have largely been dealt with through voluntary business and human rights reporting and civil society monitoring, sometimes followed by actions to remedy the negative impacts. However, mandatory government-led monitoring (let alone stronger regulation per se) can be more effective. At the same time, financial transparency is critically important to limit corruption and determine a fair sharing of tax revenues from multinational firms that operate in several jurisdictions, as well as to identify the beneficial owners of investments and assets that are often shrouded in secrecy. Without extensive financial transparency, the sustainable development impact of companies will be less than it should be.

While there are several existing voluntary financial transparency and sustainable development reporting frameworks (see Annex 1), companies mainly refer to the United Nations Global Compact's 10 principles, and the voluntary Global Reporting Initiative (GRI)[4], and investor-led Principles for Responsible Investment (PRI) and have developed voluntary mechanisms under EIRIS, integrated reporting and other industry-led bodies. However a comprehensive set of principles should be agreed. With mandatory reporting on sustainable development impact, governments and private investors that take social and environmental impacts into their investment choices would be better placed to differentiate between firms that contribute towards sustainable development outcomes and those that do not. Moreover, mandatory reporting would better inform governments and help them target public incentives.

In this regard, one of the joint proposals of the Permanent Representatives of Norway and Guyana to the United Nations, as co-facilitators of the preparation for the Addis FfD conference, is highly germane. They proposed that the governments adopt the following agreement:[5]

15. "*We will implement environmental, social and governance (ESG) reporting frameworks for the private sector to contribute to transparency and accountability*."

39. We support the many initiatives to formulate and adopt principles for socially and environmentally responsible investment and business activities and invite businesses to sign on to and apply these principles. Such principles should also address business' role in preventing and fighting corruption. We welcome the work by the United Nations Conference on Trade and Development (UNCTAD), the United Nations Environment Programme (UNEP), CFS [Committee on Food Security], the Global Compact, amongst others in this regard. We also recognize that each industry faces its own opportunities and challenges in contributing most constructively to sustainable development. We therefore undertake to work with industry groups, national regulators and international accounting standard-setting bodies to identify industry-level metrics that could frame generally accepted sustainable development accounting principles, consistent with international goals and targets for sustainable development. We will work towards unifying and strengthening the various initiatives on responsible financing, identifying gaps, and strengthening the mechanisms and incentives for compliance.

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[4] http://sd.iisd.org/guest-articles/thinking-bigger-business-engagement-in-the-sdgs/
[5] http://www.un.org/esa/ffd/wp-content/uploads/2015/03/1ds-zero-draft-outcome.pdf

Objective of the 10 April meeting

What is thus far missing in the ambassadors' proposal is how to arrive at the appropriate guidelines for mandatory ESG reporting, financial transparency for more effective and fair taxation of company earnings, and anti-corruption policies (also discussed in the ambassadors' "zero draft"). The objective of the proposed session is thus to start off that discussion by proposing formulation of a protocol. In addition to the various initiatives mentioned by the ambassadors, the proposed protocol would take account of the Guiding Principles on Business and Human Rights in order to provide robust due diligence and impact measuring reporting.

Such a protocol would build upon existing frameworks – official and private, mandatory and voluntary – to work towards an UN-based standard for sustainable development reporting that covers most of the resource flows relevant to the SDGs. Proposals for "integrated reporting" were mentioned in the SDG reporting framework, but were dropped from the final report of the Open Working Group on Sustainable Development Goals.[6] While integrated reporting is an important initiative in moving beyond ESG to also integrate financial reporting, it does not have adequate financial transparency guidelines and it has not been tested yet for SDG compatibility[7]. Mandatory and government-led reporting standards are ultimately the only way to ensure comprehensive information on sustainable development impact of the private sector.

Representation of all stakeholders in drafting the protocol, not just companies themselves, would be absolutely necessary to ensure the different uses of sustainable development reporting. Therefore, it is proposed that the 10 April session discuss the advisability of the Addis Ababa FFD process setting up a Committee to agree on a set of core principles for developing sustainable development reporting that picks the best parts of existing frameworks and works towards a Protocol for Private Sector Accountability on Sustainable Development.[8]

Key themes of the meeting will be:

1. Increasing financial transparency of the private sector – useful for investors, governments and all stakeholders to know the corporate structure and ownership of the company and public county-by-country financial reporting including tax, employment impact of a company in every country where it operates.
2. Working towards a legally binding approach to private sector accountability at an international level linked to the Guiding Principles on Business and Human Rights, building on national and regional regulatory frameworks building upon the Pillar 2 (reporting) of the Ruggie Principles.
3. Considering methods of impact assessment of companies on environmental, social and governance (ESG) impact through mandatory sustainable development reporting by companies above a certain size and in priority sectors, including safe-guards needed to be applied in areas such as labour, land, water and other areas.
4. Differentiating approaches to responsibilities of private sector actors based on their size, scale, and economic and political power, which would inform regulation, given the commensurate difference in their impact, with special attention to micro, small and medium sized enterprises, co-operatives and social enterprises.

Annex 1: List of existing initiatives

[6] https://sustainabledevelopment.un.org/focussdgs.html
[7] http://ethicalperformance.com/reports/view/1025 (as an example of Integrated Reporting Kesko).
[8] http://www.christianaid.org.uk/Images/financing-people-centred-sustainable-%20development-january-2015.pdf

Instrument	Year	Aim	Mandatory or voluntary	Official/private sector initiative
OECD Principles and Guidelines to promote Sustainable Lending practices in the provision of Official Export Credits to low income countries	2008	Encourage prudent lending	Voluntary	Export credit agencies
G20 Charter on Responsible Lending (proposed by Germany)	2009	Promote responsible lending	Voluntary	Official (governmental)
WB “free-rider” policy	2006	Promote ‘prudent’ lending and borrowing	Voluntary	Official
The Equator Principles	2006	Promote responsible lending	Voluntary	Private sector
Principles for Responsible Investment (PRI), UNEP and Global Compact	2006	Promote responsible investment	Voluntary	Private sector
Collective action clauses	More common from 2003	Deal with debt crisis	Voluntary (but now standard terms in contracts)	Official and private sector
OECD 2003 Recommendation on Common Approaches on Environment and Officially Supported Export Credits	2003	Promote responsible lending	Voluntary	Export credit agencies
OECD Guidelines for multinational enterprises (latest revision)	2000 (new revision ongoing)	Promote responsible investment	Voluntary	Official initiative with participation of private sector
UN Global Compact: 10 principles	2000	Promote responsible investment	Voluntary	Private sector
World Bank social and environmental safeguards/ IFC performance standards/ EIB environmental standards	Various	Promote responsible investment	Some mandatory, others discretionary	Official project loans
UN Guiding Principles on Business and HR	2011	Addressing the risk of adverse impacts on human rights linked to business activity	Voluntary "responsibility" rather than being an “obligation”	Official initiative
FTSE4Good	2001	Ethical investment stock market index	Voluntary rating	Private sector
Integrated Reporting	2011	Integrated Reporting to be embedded into mainstream business practice in the public and private sectors.	Voluntary	Private sector
UNECE Convention on Access to Information Public Participation in Decision-making and Access to Justice in Environmental Matters	1998	Aiming to further the accountability of and transparency in decision-making and to strengthen public support for decisions on the	Voluntary	Official initiative

		environment.		
ADB anti-corruption policy	1998	ADB defines corruption as the abuse of public or private office for personal gain. (narrow definition of corruption)	Mandatory	Official
AfDB Integrity and Anti-corruption Strategy	2012 (updated)	Sanctions Commissioner under the new framework, approved by the Board of Directors of the Bank Group on the 5th of July 2012.	Mandatory	Official
ADB Social protection strategy	2001	Social protection is defined as the set of policies and programs designed to reduce poverty and vulnerability by promoting efficient labor markets, diminishing people	Voluntary	Official
IDB Gender Equality Policy and Implementation Guidelines	2010, arising from 1987 policy	Supporting the integration of women as leaders, participants, and beneficiaries in development.	Mandatory	Official
UN Women's Empowerment Principles	2010	Principles for business offering guidance on how to empower women in the workplace, marketplace and community	Voluntary	Official and private sector
ILO conventions	Several from 1930 onwards	The ILO was established by the Versailles Peace Treaty in 1919, its primary task to draft Conventions on labour standards and oversee the development of international labour law.	Voluntary / Mandatory	Official, trade unions and employer organisations

Source: EURODAD http://eurodad.org/files/const/responsible_finance.pdf and recent additions