

**FRANCE'S *NOUVELLES REGULATIONS ECONOMIQUES*:
USING GOVERNMENT MANDATES FOR CORPORATE
REPORTING TO PROMOTE ENVIRONMENTALLY
SUSTAINABLE ECONOMIC DEVELOPMENT**

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Abstract

Sustainable development unifies often-separate environmental, social, and economic policy issues by considering them all in terms of their long-term impact on human well-being. One way to implement this approach requires firms to expand their public financial reporting to include social and environmental impacts in an obligatory "triple bottom line." This paper examines a new law in France mandating such reporting by all publicly-traded firms. The resulting information is intended to draw firms into the network of individuals and public, private, and non-profit institutions whose interaction is expected to promote sustainable development. This approach might be applicable in the US.

I. Introduction

Especially in the United States, social policy, environmental policy, and economic policy are often treated as separate "silos" of public policy. They are handled by different sets of actors, including separate Congressional committees, executive branch departments, and lobbying interests. They also tend to be examined by different policy analysts using different vocabularies and models.

Sustainable development (SD)¹ is an evolving approach to public policy which takes a more unified, "systems" approach. SD presumes that, to maximize societal well-being, public policies and private behavior must consider:

- *all elements* of individuals' and society's well-being -- not just income but also health, environment quality, social justice, and security;
- *all impacts*, both immediate and on future generations; and
- *all actors* with power to affect these subjects -- including individuals as well as governments, business firms, and non-profit organizations.

Introduced at a conceptual level in the 1970s, in recent years the SD way of thinking has begun to be incorporated in operational public policies.² This paper

¹ The term in French is *développement durable*.

² Ward and Dubos (1972).

examines one important instance of that development -- new legal mandates in France requiring firms listed on the French stock exchange to measure their social and environmental impacts and disclose this information in their annual reports.

The paper first defines SD and discusses how it has begun to influence public policies across Europe and in France. It then describes the new French reporting requirements, embodied in Section 116 of *Les Nouvelles Regulations Economiques (NRE)* of 2001. The paper examines several key characteristics of the initiative, especially its reliance on other actors to respond to publicly-disclosed information. The final section of the paper discusses the implications of this experience for public policy in the US.

II. The SD Way of Thinking

“Our Common Future,” the landmark Brundtland Commission report in the mid-1980s, defined SD as “development seeking to meet the needs of the present generation without compromising the ability of future generations to meet their own needs.”³ The World Bank has characterized SD simply as “enhancing human well-being through time,”⁴ and the European Union (EU) has described it as a “vision of progress that links economic development, protection of the environment and social justice [to offer a] better quality of life for everyone, now and for generations to come.”⁵

One concept emphasized by these definitions is a long time perspective. This is an aspect of SD thinking whose origin in environmental analysis is particularly clear. A second key element is that human progress should be measured in terms of quality of life, a multi-faceted concept not adequately represented by income alone. This idea has long been recognized in economic development theory.⁶ However, in practice many public policies concerning economic development continue to measure success exclusively or primarily in terms of income (e.g., rising GDP per capita), and many private entities consider only the business counterparts of income (profits, financial return on investment, and changes in shareholder wealth).

A third key element of SD is implicit in these definitions. In the modern world, many different actors importantly influence the areas of human life about which SD is concerned. In the public sector, these actors include international organizations, national and local governments and, in democracies, the voting public whose preferences presumably influence them. In the market-driven sector, the major actors are business firms large and small, the managers who run them, the investors who own them, and the consumers to whose preferences these firms are presumably responding. Finally, non-profit, non-governmental institutions (NGOs) are increasingly active as independent forces in public policy debates.

³ Brundtland Commission (1987).

⁴ World Bank (2003, p. 13).

⁵ European Commission (no date).

⁶ Todaro and Smith (2003).

SD thinking sees all these actors as elements of a system -- what the French national strategy for SD refers to as “working in a network” (“*travail en réseau*”). Rather than focusing on the actions of each entity or sector separately, SD thinking emphasizes their interaction as a key process for SD influencing public policy and private behavior.⁷ For example, in describing how SD operates in international economic development, the World Bank emphasizes that firms and markets are only some of the many institutions which importantly influence social and economic outcomes. These markets promote societal well-being only when supported by other public and private institutions that promote confidence, exercise control, and establish the right incentives.⁸ In a similar vein, the French national strategy for SD emphasizes that firms and their consumers are intrinsically linked poles of the market economy. To achieve SD, this strategy argues, both sides of this relationship must arrive at a model of growth that is respectful of the environment and cognizant of the fact that resources are for the benefit of everyone.⁹

This emphasis on influencing firms’ behavior through companies’ interaction with non-business entities leads SD advocates to turn to public reporting as a key mechanism for promoting SD. Detailed information on the policies and practices of individual firms can empower actors such as governments, non-profit organizations, firms’ investors, and the voting and consuming public to monitor firms’ behavior and force them to reflect broader public interests, rather than narrow market interests alone. Reflecting the potential impact of such activities, a recent opinion poll among European corporate managers found that changes in public opinion led their list of potential problems for their organization, topping financial panic and strikes.¹⁰

Initiatives mobilizing information to influence firms’ behavior can take many forms. For example:

- Financial markets are increasingly demanding information on firms’ environmental and social performance as part of managing investment risk. For instance, implementing the recommendations of its “Turnbull Report,” the London Stock Exchange now requires all firms traded there to include in their annual reports a statement on the management of risks that are “significant to the business.” Environmental, social and reputation risks are specifically mentioned in this requirement.¹¹
- Companies are increasingly confronted by stockholders’ demands for public disclosure on social and environmental matters. In some cases, these efforts are organized by “socially responsible” investment (SRI) funds.¹² In other cases, the

⁷ Raffarin (2003, p. 3).

⁸ World Bank (2003, pp. 38-39).

⁹ Raffarin (2003, p. 3).

¹⁰ L’Expansion (2001, pp. 48-52).

¹¹ The Institute of Chartered Accountants in England & Wales (1999).

¹² Once a very small player in financial markets, SRI funds now control an estimated 5% of all funds invested in the UK and about \$3 trillion dollars in the US (Commission 2001c, p. 20).

efforts are orchestrated by NGO intermediaries who monitor firms on an ongoing basis and are experienced in maximizing the visibility of information. In one recent example, Led Harrington Investments, Inc. presented a stockholder resolution to Monsanto requiring disclosure of policies and procedures for exporting to developing countries carcinogens and pesticides not registered in the US. The resolution was supported by 13 percent of the firm's voting stock.¹³

- NGOs have often been at the forefront of efforts to change firms' behavior by focusing public attention on information adverse to a company's reputation or brands. In one example of a narrowly-focused effort, Greenpeace organized a campaign against Coca Cola products at the Sydney Olympics to protest the use of CFC-emitting soft drink refrigerators, causing Coca Cola to pledge to adopt a more environment-friendly technology at the upcoming Athens Olympics.¹⁴ An example of longer-term efforts is provided by Adbusters, a NGO which employs a media foundation, magazine and "culture jamming" campaigns targeting "environmentally irresponsible" firms. This organization works by encouraging "...folks to get mad about corporate disinformation, injustices in the global economy, and any industry that pollutes our physical or mental commons."¹⁵

III. Multi-Faceted Efforts to Promote SD in the EU and France

The EU has long emphasized quality of life issues in Europe's economic and social development and has long acknowledged the inter-relatedness of various aspects of policy (e.g., transportation and environmental quality). In recent years, the EU has moved steadily toward reflecting these themes through adoption of SD principles.

Most significantly, at the June 2001 meeting of the European Council at Gothenborg, the EU Commission presented a proposed formal strategy to interject SD thinking into all new and existing EU policies. That strategy states:¹⁶

In the long term, economic growth, social cohesion and environmental protection must go hand in hand. Sustainable development offers the European Union a positive long term vision of a society that is more prosperous and more just, and which promises a cleaner, safer, healthier environment – a society which delivers a better quality of life for us, for our children, and for our grandchildren.

Two EU actions illustrate that its commitment to SD does not remain at this rhetorical level. Instead, it is increasingly reflected in more concrete policies:

¹³ Natural Life (2003).

¹⁴ "Cold Drinks"(June 28, 2000).

¹⁵ Adbusters, <http://www.adbusters.org/home>.

¹⁶ Commission (2001a, p. 2).

- An EU Green Paper in 2001 outlined a European framework for corporate social responsibility (CSR). This document defines CSR as companies' actions to integrate social and environmental concerns in their business operations and go beyond legal compliance to invest more in human capital, the environment and relations with stakeholders.¹⁷ The document explicitly states that this definition was adopted to place firms "in line with the basic message of the SD Strategy for Europe, that in the long-term, economic growth, social cohesion and environmental protection go hand in hand."¹⁸
- In May 2001, a Recommendation¹⁹ was issued as part of the EU Financial Reporting Strategy²⁰ to improve the quality, transparency and comparability of environmental data in firms' financial reports to stakeholders. The regulation does not fully embrace SD because it does not encompass social information on a parallel basis to environmental. However, it promotes integration of environmental information into the heart of financial reporting by explicitly identifying the type of information appropriate for firms to disclose.

Throughout the period in which the EU has been undertaking these initiatives, France has been developing SD as a consistent theme of French public policy.

Currently, France is operating under its second National Strategy for SD, a policy statement which explicitly incorporates into that strategy economic development, protection of the environment, social justice, and solidarity among generations, peoples, and territories.²¹ The strategy argues that SD cannot be effectively promoted by a series of isolated projects, but must be reflected in a systemic network of efforts involving numerous disciplines and partners. Reflecting this comprehensive view, the strategy encompasses six strategic directions and 10 action programs ranging from certification and labeling to social investment, fiscal actions, and financial incentives. The programs are designed to produce measurable results to be documented in annual reports to the government.²²

¹⁷ Prior support for corporate social responsibility can be found in the European Council Summit at Nice, and in a Commission White Paper on governance in the EU (Commission, 2001d), as well as the Gothenborg documents previously discussed.

¹⁸ Commission (2001c, p. 4).

¹⁹ Commission (2001b). In the EU system, the European Commission initiates legislation by promulgating a Proposal. Proposals are transmitted to the European Parliament and the European Council for discussion, amendment and final adoption. The legislation is then the responsibility of Member States to implement through their own national laws, with the European Commission overseeing and approving that implementation. Legislation may take the form of Directives, which are mandatory for Member States to adopt, or influential but non-binding Recommendations. See http://europa.eu.int/comm/sustainable/pages/legis_en.htm

²⁰ Sutherland (2001). This document is part of an effort to harmonize accounting practices across the member states of the EU and requires publicly-traded EU companies to comply with International Accounting Standards beginning in 2005; see Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (*Official Journal L 243, 11/09/2002, pp. 0001 – 0004*).

²¹ The first strategy began in 1997 and the second in 2003. For a summary of the current strategy, see <http://www.environment.gouv.fr>.

²² Raffarin (2003, pp. 4-5). See also the web site in footnote 21.

France's commitment to SD is also in the process of being institutionalized in a Constitutional amendment enshrining in law citizens' rights and obligations concerning protection of the environment. The proposed amendment, called the Charter of the Environment, states that each citizen has "the right to live in a balanced environment, which is favorable to his health." If adopted, it will become a third pillar of the French Constitution, joining the Declaration of Human Rights of 1789 and social and economic rights enumerated in 1946. The amendment was passed by the French Council of Ministers on June 25, 2003. It will be debated by the Parliament during Fall 2003 and, if passed, be subject to a national referendum.

In addition to its obvious symbolic importance, placement of the Charter in the national Constitution would subject all French laws to review for conformity to its principles. Questions could be brought before the Constitutional Council and existing or proposed laws declared unconstitutional. Such reviews would particularly affect the national Environmental Code, which covers important aspects of energy, transportation, agriculture, and industry policy.

IV. Strategies to Promote SD in Firms

Private corporations are among the most omnipresent and powerful institutions in modern society, so efforts to turn society as a whole toward SD clearly must encompass their participation. In particular, firms must be persuaded to assume a long term time horizon, internalize costs they previously had viewed as external, operate with a global view of resources, incorporate social equity considerations in products and processes, and consider the interests of multiple stakeholders (including investors, employees, local communities, unions, NGOs and government).²³

Both in the United States and Europe, many efforts to obtain such changes in firms' behavior legally mandate firms to protect the environment or bear the costs of failing to do so -- for example, in US laws such as the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response Compensation and Liability Act, Superfund Amendment and Reauthorization Act, Toxic Substance Control Act, Atomic Energy Act, Occupational Safety and Health Act, and the Hazardous Material Transportation Act.²⁴ Other efforts appeal to firms to change their behavior voluntarily -- either because the firm has made a moral decision to "do the right

²³ For example, the Global Compact is a United Nations initiative seeking to mainstream nine principles in business activities world-wide and catalyze corporate actions in support of UN goals. "Through the power of collective action, the Global Compact seeks to advance responsible corporate citizenship so that business can be part of the solution to the challenges of globalization. In this way, the private sector -- in partnership with other social actors -- can help realize the Secretary-General's vision: a more sustainable and inclusive global economy."(Global Compact, 1999).

²⁴ In France there have been a series of such measures based on the legal principles of precaution, prevention, corrective action for damaging the environment, and the principle that the polluter pays (Viney and Kouriskly, 2000; Huglo, 2002; Cozian et al., 2002).

thing” and behave like a responsible corporate citizen²⁵ or because incorporating social and environmental considerations would be in the firm’s best operational or financial interests (“the business case”).²⁶ As Section II discussed, the SD way of thinking emphasizes an approach to changing firm behavior which differs from both these approaches. Instead of relying on either legal requirements or voluntary cooperation, it seeks changes in firms’ behavior through public release of information about a firm which empowers government agencies, consumers, investors, non-governmental organizations, and other actors to pressure that firm toward improved behavior.

To date, many initiatives implementing this information-centered approach have relied on firms’ *voluntary* release of information. For example:

- In recent years, a number of guidelines for corporate reporting have been promulgated. In terms of SD, one of the most influential is the Global Reporting Initiative (GRI), which provides suggestions for corporations’ reporting on the economic, environmental, and social dimensions of their activities, products, and services.²⁷ One analysis of corporate SD reports estimated that 60 percent of these reports were based on GRI.²⁸ However, both the corporate reporting itself and compliance with these reporting guidelines are voluntary.
- The Eco-Management and Audit Scheme, EMASII, in operation since 1995, is based on EEC Regulation No. 1836/93 and complements ISO 14001, the international environmental management standard. It encourages and assists firms to develop site-specific environmental programs and management systems and to report their efforts publicly. Once again, all efforts, including reporting, are voluntary.²⁹

²⁵ These appeals have often been embodied in voluntary codes of corporate behavior, which are moral statements without the force of law. They often focus on issues serious enough to potentially challenge firms’ “license to operate” -- for example, support for oppressive political regimes, large-scale environmental damage, or outsourcing to countries with labor conditions viewed in industrialized nations as unacceptable. Codes of ethical business conduct date from at least the beginning of the 20th Century (Farjat,1982; Kolk, 2001; Sobczac, 2002, p. 806). For a discussion of the legal value of these codes, see Delmas-Marty (1998). For a comparison of three major codes -- the Global Compact, the ILO’s Guidelines on Multinational Enterprises and Social Policy, and the OECD’s Guidelines (1999), see Aronson (no date), available at http://www.multinationalguidelines.org/csr/compare_chart.htm.

²⁶ “Business case” arguments for SD behavior are particularly well presented in a “Sustainable Business Value Matrix” available under the heading of “developing values” at <http://www.sustainability.com>. This matrix matches financial performance indicators and drivers along one axis and SD activities (such as governance, environment, accountability, human rights, workplace conditions and business partners) along the other. Clicking on a cell in the matrix causes evidence on that aspect of the business case to appear.

²⁷ Independent as of 2002, the GRI was begun in 1997 by the Coalition for Environmentally Responsible Economies (CERES). It is an official collaborating center of the United Nations Environment Program (UNEP) and the UN Global Compact.

²⁸ SustainAbility and UNEP (2002). For Other organizations and efforts, see http://www.csrwire.com/directory/companies_bycountry.mpl and <http://cei.sund.ac.uk/ethsocial/index.htm>.

²⁹ Scott (2001).

The voluntary approach to environmental reporting has been argued to have certain advantages. In particular, its flexibility allows firms to adapt to circumstances particular to individual companies, as well as to rapidly changing conditions. It unleashes the energy and creativity of firms which might be stifled in a system of required reports and closely-specified reporting formats, thereby increasing the generation of “best practices” models to be imitated by others.

On the other hand, voluntary reporting has at least three important drawbacks.

- The firms which volunteer to report are typically those with the best performance records -- those with something to brag about -- or those which selectively report only the positive aspects of their performance. Conversely, firms which are doing little, or have something to hide, are unlikely to report. Thus, the reporting system tends not to be effective in identifying problems requiring correction, including the most urgent ones.
- Flexibility in reporting formats tends to generate information which is not readily summarized or tabulated. That usually precludes developing quantitative indicators to monitor progress over time, compare firms to each other, or establish benchmarks against which individual firms’ performance can be judged.³⁰
- Voluntary reporting can sometimes generate information of low quality and limited relevance. One recent study analyzed 50 company reports under GRI selected by the authors as examples of the best reporting. The study pointed out that, even though there had been a 45% increase since 2000 in the number of pages per report, the quality of the content had plateaued, and the added pages risked impeding transparency rather than improving it. The study concluded that GRI needs to focus more on “materiality,” avoid a “carpet bombing effect,” and enhance the linkages with corporate governance and corporate brands.”³¹

In these circumstances, voluntary reporting may primarily provide firms an opportunity to “greenwash” their reputations with little change in the companies’ underlying behavior. As one observer put it in discussing one voluntary initiative, firms’ compliance “...had the taste of responsibility, the color of responsibility -- but not the responsibility. It’s just for that reason that multinationals are so keen about it.”³²

Recognition of such disadvantages has led to legal mandates for firms’ reporting in several European countries (see Table 1).³³ However, these requirements cover

³⁰Bendick (2000).

³¹SustainAbility and UNEP (2002).

³²Habbar and Guiraud (2002, p. 43).

³³ Public pensions funds are another arena in which a number of countries have mandated public reporting on environmental issues. In the last several years, the UK, Germany, Australia and Belgium have all begun to require managers of these funds to disclose how they have accounted for social, environmental and ethical considerations in the selection, conservation and liquidation of their investments. In France, since 2001, managers of public pension funds are required to consider social, environmental and ethical issues and to report their performance according to terms defined by the COB (the French counterpart to the

environmental issues much more comprehensively than social ones, thereby falling short of the full SD perspective.

Table 1. Firms’ Environmental Reporting Mandates in Selected European Countries³⁴

Country	Legal Basis	Description
Denmark	Green Accounts, 1995	About 3,000 companies with “significant” environment impacts must report to the public and to authorities.
Netherlands	Legislation since 1999	Several hundred companies must report to the public and to authorities on activities, processes and main environmental changes since the previous year.
Norway	Accounting Act <i>Regnskapsloven</i> , 1999	Health, safety and environmental information must be included in annual financial reports of all companies.
Sweden	Legislation since 1999	Environmental information must be provided in annual reports for about 20,000 Companies

V. SD Reporting under NRE Section 116

The *Nouvelles Regulations Economiques* (NRE), passed by the French Parliament in May 2001,³⁵ constitutes a broad-ranging update of French corporate law. The majority of its 144 articles addresses such topics as improving corporate governance, enhancing transparency in take over bids, and strengthening antitrust regulation. However, late in debate on the law,³⁶ Article 116, paragraph 4 was added to require disclosures on social and environmental issues in the annual reports of firms listed on the French stock exchange.³⁷ It thereby imposes the first legal requirement in any nation that firms develop and publicly report a “triple bottom line.”

Table 2 summarizes Section 116’s reporting requirements on three broad areas within SD: human resources, community involvement, and environmental impacts.

Securities and Exchange Commission) (Law no. 2001-624, July 17, 2001; Law no. 2001-152, February 9, 2001; and Law no. 2001-420, May 15, 2001).

³⁴ Adopted from Scott (2001, p. 24).

³⁵ Law number 2001-420, dated May 15, 2001.

³⁶ The proposed NRE presented to the government in March 2000 contained no SD reporting requirement. For a description of the speed with which the provision was debated and moved through committees, see Sobczak (2002).

³⁷ The exact requirement is that firms report “la manière dont elles prennent en compte les conséquences environnementales et sociales de leur activité.” Annual reports encompass both financial statements and other yearly reports.

Table 2. Elements of Reporting Required under NRE 116³⁸

Topic	Suggested Quantitative Reporting	Suggested Qualitative Reporting
Human Resources		
Employment	Total employees	--
	Hires during the year	Details on recruiting process
	Short-term employees	Analysis and rationale
	Lay-offs	Analysis and rationale
	Contract employees	Analysis and rationale
	--	Outsourcing/subcontracting
	Efforts to mitigate effects of corporate restructuring	--
Work Organization	Amount of overtime	Analysis and rationale
	Work schedules	--
	Absenteeism	Analysis and rationale
Compensation	History of pay rates	--
	Payroll taxes	--
Social benefits	--	Details
Equal opportunities	Integration of women into different posts	Details/analysis
	--	Integration of physically challenged into workforce
Health & Safety	--	Health and safety conditions
	--	Details of incidents and accidents
Training		Details
Community Involvement		
Local Impacts	--	Integration into the local community
Local Partnerships	--	Contacts with environmental NGOs, consumer groups, educational institutions and impacted populations
Work conventions	--	Extent to which ILO core labor conventions ³⁹ are followed by the firm's subsidiaries
	--	Extent to which the firm encourages its subcontractors to comply with ILO core

³⁸ Adapted from Arese (2002). These reporting requirements are set forth in regulations implementing the NRE law, promulgated in a Decree dated 20 February 2002 (Le Décret d'Application, n. 2002-221).

³⁹These conventions address, for example, freedom of association, recognition of the right to collective bargaining, abolition of child labor, abolition of forced labor, and elimination of discrimination.

		conventions
Local development in foreign countries	--	--
Environment		
Resource Consumption	Water	--
	Energy	Use of renewable energy
	--	Initiatives for energy efficiency
	Raw materials/natural resources	--
	Land use	--
Emissions	Air, water, land, odor, noise, waste	--
Impact on biodiversity	--	Programs to reduce impacts
	--	Programs to promote fauna and flora
Environmental Management	--	Audit and certification policy
	--	Compliance with environmental laws and regulations
	Expenditures	--
	--	Environmental management structures and organization
	--	Employee awareness and training programs
	--	Environmental risk management
	Provisions for environmental risks	--
	Penalties	--
	--	Integration of foreign subsidiaries within environmental management system

Some of the reporting elements listed in this table were already being collected by firms prior to enactment of NRE 116. For example, reflecting France's long-standing emphasis on workers' rights and protections, French firms have been required since 1977 to collect extensive data on their work force and their employment practices. However, until NRE 116, they were only required to incorporate this information in internal reports (*bilans sociaux*), which they could consider in internal decision-making and were required to share with employee representatives in plant-level Works Councils. Mandating that the information be incorporated in firms' annual reports makes it publicly available to all interested parties.

On other reporting elements, NRE 116 substantially expands the range of topics on which firms must address or the depth of analysis they must provide. For example, firms were already required under previous law to consider health and safety risks to their employees.⁴⁰ The new requirements impose additional responsibilities on firms to evaluate the security and safety of their workplace through analysis of their installations, machinery and production processes.

The NRE requires that, along with other corporate reports, the SD report under Section 116 be presented to the firm's Board of Directors at the annual stockholders' meeting. Prior to that meeting, the SD report must be shared with the firm's Works Council, which has the right to make comments to shareholders, as well as with the firm's auditors (*Commissaire aux Comptes*).⁴¹

The reporting requirement applies to the more than 800 firms traded in the primary market (*premier marché*) on the Paris stock exchange.

Since the NRE was passed in 2001, 2002 is the only year for which firms have been required to meet the reporting requirements under Section 116. MEDEF⁴² and PricewaterhouseCoopers tabulated selected characteristics of that first wave of reports by some of France's largest firms, those in the CAC 40⁴³ (See table 3):

Table 3. Responses in 2002 to NRE Article 116 Reporting Requirements by 36 Firms in the CAC 40⁴⁴

Description	% of Firms
Firms with separate section in annual report on NRE 116	75%
Annual report refers to a separate NRE 116 report	17
Social information is reported for:	
Holding company	10
Group-wide	69
Partial group	14
Establishments in France	7
Environmental information is reported for:	
Holding company	0
Group-wide	62

⁴⁰ Code du Travail, Article R 230.1.

⁴¹ Commissaires aux Comptes are firms roughly parallel to CPA auditing firms in the US. By law and professional ethics, they must be independent from the firms they audit. Their professional organization is under the jurisdiction of the Minister of Justice. See <http://www.cncf.fr/html/main.htm>.

⁴² MEDEF, Le Mouvement des Entreprises de France is a nonprofit organization representing more than 750,000 businesses of all sizes and industries. It is considered France's premier business organization.

⁴³ The CAC 40 are firms from the industrial, financial, consumer, construction and capital goods sectors which are the most actively traded on the Paris stock exchange (Bourse de Paris). Values of CAC 40 shares are quoted as a counterpart to the US's Dow Jones Industrial Average.

⁴⁴ Adapted from PricewaterhouseCoopers and MEDEF (2003). The 36 firms examined include 19 manufacturing firms, 11 in services, and 6 in banking/insurance. See also Ferone et al. (2001) and Igalens and Joras (2002).

Partial group	19
Establishments in France	19
Firms reporting more than 10 social indicators	64
Firms not reporting any social indicators	11
Firms reporting more than 10 environmental indicators	33
Firms not reporting any environmental indicators	25
Report is more than 10 pages in length	28
Reports mentions internal or external verification of information	11
Reports include auditor notes or other notes about verification of information	6
Reports include explanations of information collection methodology	14
Report mention strategy to improve future reporting	6

Table 3 clearly suggests that, at least for these 36 firms, companies succeeded in reporting some version of the required information. However, their responses varied considerably in form, content, length, and depth. In particular, some reports contained only qualitative analysis and no quantitative measures. Some reports documented the sources of their information, and may have subjected it to verification comparable to that applied to financial accounting information, but the majority did not.

To some extent, this variation may prove beneficial in the long run, allowing creative, energetic firms to demonstrate a high standard of reporting which other firms may later be mandated to emulate. However, other variation appears simply to reflect firms' inexperience in reporting and lack of reporting standards, given the newness of the law. Still other variation seems to reflect ambiguities in legal requirements, perhaps reflecting the haste with which the law and its regulations were drafted.⁴⁵ For example, considerable differences in interpretation arose in terms of the required boundaries for reporting -- Firms' activities within France or world-wide? Only the firm itself or also its subcontractors and suppliers? Single firms or groups of related companies?⁴⁶

VI. Relevance to the US

As a major initiative in a country on a level of economic and social development comparable to the US, the French experience in making SD central to public policy is worth monitoring for potential lessons for the US.

One focus of this monitoring should be the behavior over time of firms filing reports under NRE 116. This paper has argued that this reporting requirement is intended to promote SD through a sequence of actions and reactions. Tracking of the SD-related behavior of individual firms from year to year would provide an empirical test of the

⁴⁵See footnote 36.

⁴⁶ A "holding" is a financial corporation controlling other firms. A "groupe" is a somewhat less structured set of firms with some ties and acting together, but not controlled by a majority firm.

hypothesis that this sequence occurs. Will firms provide meaningful reports? Will other actors in the network react to the information in those reports? Will the actions of these other actors pressure firms to behave in more SD-friendly ways? Will firms change their behavior in response to those pressures? Answers to these questions would allow assessment of the effectiveness of this information-disclosure strategy.

Whatever the effects of the reporting requirements in France, extrapolating from that experience to forecast how the same approach would operate in the US involves considerable uncertainty.

Three considerations suggest that the same requirements might not travel easily across the Atlantic.

- In Europe, there is more social consensus than in the US on the appropriateness of viewing business firms as having broad social responsibilities. For example, the EU has stated:⁴⁷

Although the prime responsibility of a company is generating profits, companies can at the same time contribute to social and environmental objectives, through integrating corporate social responsibility as a strategic investment into their core business strategy, their management instruments and their operations.

While some thinkers in the US share such a vision of corporations, American thought tends to be more market-oriented and be skeptical of requirements that might distract businesses from their core roles of producing goods and services efficiently.

- In Europe, there is more emphasis than in the US on social solidarity as a value and the consequent importance in public policy of considering the interests of a broad range of stakeholders. This tradition may create a more welcoming context for the SD concept of bundling together different areas of policy, such as social and environmental issues. It is not clear that, in the US context, the same bundling would strengthen advocates currently working in each area separately.
- In Europe, there may be more of tradition than in the US of enforcing legal mandates. Especially in recent years, the US federal government has often been very un-aggressive in monitoring firms' compliance with reporting requirements and penalizing firms not complying.⁴⁸ Without enforcement, mandatory reporting

⁴⁷ Commission (2001c, p. 4).

⁴⁸ For example, Regulation S-K of the U.S. Securities and Exchange Commission (SEC) requires firms to disclose government environmental proceedings against them (Sutherland, 2002; EPA, 2001). A 1998 EPA study found that 74% of US publicly traded corporations surveyed openly violate that regulation. Yet the SEC has only enforced Regulation S-K once in 20 years (see <http://es.epa.gov/oeca/oppa/secguide.htm>). A coalition of more than 60 organizations, called the Corporate Sunshine Working Group, is currently working to enhance enforcement (see <http://www.corporatesunshine.org/>).

transforms into voluntary reporting, which, as this paper discussed earlier, is unlikely to influence firms' behavior strongly.

On the other hand, three considerations suggest that an information-disclosure approach to SD, such as NRE 116, might operate more powerfully in the US than in France:

- Many of the largest corporations in the US are multinational organizations with extensive operations in Europe.⁴⁹ Experience complying with such reporting requirements outside the US would prepare them to implement similar requirements here.
- The US has a strong tradition of non-governmental organizations as service deliverers and policy advocates in virtually all fields of public policy.⁵⁰ Thus, numerous experienced organizations already exist ready to receive information generated through reports such as under NRE 116 and mobilize it to pressure businesses for behavioral change.
- Much more than in Europe, the US has a tradition of using litigation, including large scale class actions brought by private attorneys, to advance public policy.⁵¹ If successful, such litigation changes the behavior of the firm being sued, as well as other firms who wish to avoid the financial risks of being similarly sued.

How would these considerations balance out if a reporting system like NRE 116 were established in the US? It is far too early to say. However, clearly, creative ideas for the US can be found by continuing to watch initiatives in France seeking to make SD a major theme of public policy.

⁴⁹ Egan and Bendick (2003).

⁵⁰ Bendick (1989). This characteristic of American society was remarked upon as long ago as the 1830s by Alexis De Tocqueville (De Tocqueville, 2001).

⁵¹ See, for example, Haar (1995).

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