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France's Mandatory "Triple Bottom Line" Reporting: Promoting Sustainable Development through Informational Regulation

Mary Lou Egan, Bendick and Egan Economic Consultants, Inc., DC, USA
Fabrice Mauléon, Ecole Supérieure de Commerce et Management, France
Dominique Wolff, Ecole Supérieure de Commerce et Management, France
Marc Bendick Jr, Bendick and Egan Economic Consultants, Inc., DC, USA

Abstract: To encourage sustainable behavior by firms, in 2001, France passed Article 116 of its Nouvelles Régulations Economiques (NRE), thus becoming the first country to mandate "triple bottom line" (financial, environmental and social) reporting for firms. This paper uses social network theory and firms' initial reporting behavior to predict this requirement's potential impact as an instrument of informational regulation. We conclude that, although the NRE's Article 116 is not yet ideally designed to maximize its effectiveness, the early record of this bold initiative is promising. Companies in the U.S. and other nations need to understand this French experience because it foreshadows likely changes in their own operating environments.

Keywords: Sustainability, Informational Regulation, Nouvelles Regulations Economiques

SUSTAINABLE DEVELOPMENT (SD) is a concept, a growth model and a call to action. Where once firms operated within a consensus that their role was essentially exclusively economic, public concern about the social and environmental impacts of economic growth and business activity is increasingly translating into a broader view of firms' behavior and its consequences. Environmental tragedies such as the Exxon Valdez oil spill; scientific alarm about global warming; corporate excess evidenced in corporate scandals in firms such as Enron and WorldCom; and labor abuses in firms such as Wal-Mart and Nike have coincided to move SD beyond a fringe role in public policy.

Correspondingly, the search for means of increasing firms' sustainable behavior is moving from theoretical discussions to practical questions of legislation, regulations, and guidelines (Gladwin, Kennelly & Krause, 1995; Porter & Kramer, 2006). This movement to the "next stage" is particularly notable in the European Union (EU) where SD is beginning to be explicitly adopted in EU policies and national legislations in EU states.

In France, this search has led policy makers to consider the business networks of stakeholders within which firms operate. Network theory models firms' decision-making as a process reflecting the system of relationships in which firms are embedded (Granovetter,

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1985). In this model, public release of corporate information which enhances firms' transparency increases stakeholders' influence on firms, and thus can be the operating mechanism of an approach referred to as informational regulation (IR).

A law adopted by France in 2001, Article 116 of the *Nouvelles Régulations Economiques* (NRE), explicitly applies this IR approach to SD. Several countries have voluntary or mandatory public reporting requirements covering parts of SD. However, NRE's Article 116 made France the first nation to mandate routine public disclosure by firms of a comprehensive SD "triple bottom line" covering financial, social and environmental results. This requirement is imposed on the 700 largest firms traded on the Paris stock exchange.

In this paper we analyze the extent to which these reporting requirements, operating through IR, are likely to move firms toward SD behavior. Based on network theory, prior research on firms' social and environmental reporting, and firms' reporting during the first years under the NRE, we conclude that, although this mandate is not perfect, it does enhance disclosure and dialogue in ways likely to foster SD-promoting firm behavior. This experience therefore illustrates the potential of the IR approach. It also highlights the critical role of three key pre-conditions in achieving this potential: the quantity and quality of information released; the extent of stakeholder-firm dialogue; and the leverage the institutional environment provides to stakeholders. Based on early French experience, we suggest options to strengthen these three pre-conditions and thereby enhance the impact of Article 116.

This French experience should be of interest to US policy makers and business leaders because it provides a "real world" example of government using IR to shape firms' SD behavior in a major industrialized economy. In light of the promising early experience with this approach in France, executives should anticipate such mandates increasingly to shape their operating environment in the US and other nations.

In reaching these conclusions, this paper begins by defining SD and firms' role within it. The paper then reviews theoretical and empirical research on IR to develop a framework for analyzing the likely effects of the French reporting mandate. It next describes the French law and firms' responses in its first years of implementation. Based on this experience, the paper closes with lessons for public and corporate decision-makers.

Sustainable Development Enters the Public Policy Mainstream

In 1987, the landmark "Brundtland Commission" defined SD as "a process of change in which the exploitation of resources, direction of investments, orientation of technological development, and institutional change are made consistent with future as well as present needs" (World Commission on Environment and Development, 1987: 9). In similar terms, the World Bank has defined SD as "enhancing human well-being through time" (World Bank, 2003: 13), and the European Commission has stated that "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" (European Commission, 2001a: 2).

Largely since the 1992 UN Earth Summit in Rio de Janeiro, the EU has moved to make SD a "key principle of all its policies and actions" (European Commission, 2006). In 2006, the European Council (European Commission, 2006) articulated a comprehensive strategy embracing three traditional pillars of SD -- sustainable use and protection of environmental resources; social equity and cohesion; and economic prosperity -- and an additional pillar, "the stability of democratic institutions." This fourth pillar reflects the consensus, developed since Rio, that SD requires institutions to regulate markets and support democratic decision making. SD "depends on greater transparency and opportunities to participate in social choices as well as mechanisms for scrutiny and the exercise of accountability for decision-making" (Halle, 2002: 38).

The Theory of Informational Regulation

"Fourth pillar" concepts of transparency, participation, and accountability, in turn, relate in complex ways to ongoing debates concerning the social role of business. The EU has stated (European Commission, 2001b: 4):

> 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.

This approach makes SD a societal goal to be achieved by ensuring that each private firm, guided by an internal moral compass, voluntarily "meets or exceeds its ethical, legal commercial and public expectations" (Van Marrewijk, 2004; see also Business for Social Responsibility, 2003). This traditional approach to corporate social responsibility (CSR) emphasizes the moral obligation of business leaders in guiding their firms "to make as much money as possible while conforming to the basic rules of the society, both those embodied in law and those embodied in ethical custom" (Friedman, 1970: 3).

As a nascent movement and "work in progress," SD has oscillated between this traditional CSR (European Commission, 2003a.b) and an alternative emphasizing external scrutiny of firms rather than firms' internal moral judgments (Lauriol, 2004/5). France's NRE 116 is a bold experiment in the non-traditional approach.

Social network theory provides a conceptual framework for analyzing such "external scrutiny." This theory models a firm's decision-making as a process in which the firm considers its position, interaction, connectedness and reward structure within the network of relationships in which it is embedded (Granovetter, 1985). Firms are continually influenced by pressures and opportunities within a web of stakeholders whose individual influence over the firm constantly changes. Through this complex web, even network members who do not have direct relationships with the focal firm can nevertheless indirectly influence how it behaves (Rowley, 1997; Andriof and Waddock, 2002).

"Informational regulation" (IR) is a governance structure building on these networks. IR is defined as (Kleindorfer & Orts, 1998):

> any regulation which provides to third parties information on company operations....[I]nformational disclosure opens up the traditional bilateral relationship between the regulator and regulated to include other social institutions, most importantly, economic markets and public opinion.

IR relies on information-empowered stakeholders to employ market dynamics, litigation, moral suasion, or other means to pressure firms to comply with laws and conform to societal standards of behavior.

Several rationales favor adopting an IR approach to SD (Renshaw, 2006: 662; Esty, 2004; Tietenburg & Wheeler, 1998). Some, such as IR's fostering of civic involvement and encouraging "democratization" of societal decision making, apply to virtually any topic of public concern. Others reflect SD's status as a new, rapidly changing, and as-yet largely unstructured public issue. In IR, public policy makers do not have to specify details which are not as yet known. They do not have to identify stakeholders, since when information is publicly released, entities self-identify as stakeholders by using the information to attempt to influence firms. Policy-makers do not have to establish societal standards of acceptable behavior or tailor these standards to widely-varying firms or industries, leaving firms free to invent creative solutions which might be precluded if government specified acceptable practices. On the other hand, there are questions as to whether IR is sufficiently powerful to substitute for more traditional regulatory approaches (such as emissions standards) or market-based approaches (such as tradable permits, emission charges and performance bonds) (Bui & Mayer, 2003: 707; Case, 2001).

Most empirical studies to date of IR and SD have focused on the environmental aspects of SD. These studies suggest that both mandated and voluntary environmental reporting can foment significant changes in firms' environmental impacts. For example, Gouldson (2004a, b) applied social network theory to analyze how information from pollution release and transfer registers affected social relations among regulators, industry, and other stakeholder groups. He concluded that enhanced access to information triggered greater self-confidence for local advocacy groups, increased demands for corporate accountability, promoted new forms of engagement among stakeholders, and resulted in social learning by government and industry. Reviewing multiple empirical studies of the effects of public disclosure of firms' environmental behavior, Tietenburg and Wheeler (1998:19-25) concluded that enhanced reporting has triggered reductions in corporate polluting behavior through a variety of mechanisms. For example:

- In Indonesia, publicly disclosing factories' environmental performance ratings caused pollution emissions to abate significantly, and public disclosure facilitated local solutions to pollution problems unlikely to be considered in other regulatory processes (Afsah & LaPlante, 1996).
- A 2001 survey of environmental reporting in the United Kingdom found that companies derived important benefits from enhanced stakeholder dialogue in terms of corporate reputation, internal commitment and employee awareness (Merrick & Crookshanks, 2001).
- Public disclosure in China gave firms an incentive to enhance their public image, ratings provided a practical environmental management tool, and environmental regulatory agencies were pressured to improve their own performance (Wang et al., 2002).

Both conceptually and in emerging practice, SD reporting is broader than environmental concerns alone, prominently including social impacts on employees and the communities where firms operate. As yet there is only an emerging empirical literature concerning the effects on firms of public reporting across the full range of triple bottom line activities

(Bendick, 2000; Richardson & Welker, 2001; Wright et al., 1995). This gap in information is one way the French experiment with mandatory triple bottom line reporting, which prominently includes employment and other social impacts, offers significantly new experience.

Sd Reporting Prior to France's New Law

The potential of information disclosure and firms' networks to change firms' behavior has not been ignored by government policy makers and non-governmental stakeholders as they have sought to influence firms toward SD (United Nations, 1999; O'Rourke, 2004; Zaelke et al,, 2005).

One important source of demands for information about firms' SD behavior has been the private financial sector (EUROSIF, 2006), especially new institutions such as the Dow Jones Sustainability Index (DJSI); the FTSE4Good Index, the European Union Emissions Trading Scheme, and sustainable investment funds in Asia, Europe and the US. Governments have supported these investor-driven demands by encouraging pension funds to invest in socially responsible firms. For example, since 2001, German private pension schemes have had to disclose certified ethical, environmental and social information about their investment to qualify for tax deductions, and France has created legal frameworks encouraging socially-responsible investing by private pensions and public savings schemes.[1]

Non-financial stakeholders have also turned to public disclosure to enhance firms' ethical behavior through strengthening corporate management systems, increasing transparency, and holding senior executives personally accountable (Pleon, 2005). The Enron financial scandal and the Shell Oil Corporation's Brent Spar incident have contributed to a lessening of trust in corporations to self-regulate (Coates, 2007; Enriques & Volpin, 2007). Such incidents have increasingly replaced the public's acceptance of a company's request to "trust me" with a demand that the firm "show me" (SustainAbility & UNEP, 2002).

As Table 1 documents, many major firms have responded to demands for information about their SD behavior through increased reporting. In 2003 world-wide, 1,500 to 2,000 corporate annual reports provided information about the firms' impacts on some combination of social, environmental, or other sustainability topics. This was a substantial increase from fewer than 100 reports ten years before (ACCA, 2004). Kolk et al. (2005: 5) report that, in 2005, 64% of the *Fortune* Global 250 firms issued corporate responsibility reports of some kind.

[1] For example, la loi du 19 fevrier 2001 sur l'épargne salariale; la loi de 17 juillet 2001 sur le fonds de réserve pour les retraites; and la loi d'août 2003 sur la sécurite financiére.

Table 1: Non-Financial Reporting in Corporate Annual Reports, Worldwide, 1993 and 2003

Characteristic	1993	2003
Number of reports providing non-financial information	< 100	1,500 – 2,000
Percentage of non-financial reports that were solely environmental	Nearly 100%	40%
Percentage of non financial Reports that included external verification	17%	40%
Source: Adapted from Association of Chartered Certified Accountants (ACCA). 2004. Towards transparency: Progress on global sustainability reporting. London: Certified Accountants Educational Trust.		

SD reporting is generally led by the largest, multinational firms. For example, firms' voluntary disclosure of environmental information tends to increase with the size of the firm, breadth of its ownership, membership in environmentally-sensitive industries, and exposure to fines or legal procedures related to the environment. Large, brand-dependent manufacturing firms who are "reputation sensitive" are also disproportionately likely to report on SD issues (O'Rourke, 2004: 15).

Over time, firms' disclosure has tended to move from narrowly focused reports on single topics toward addressing multiple social, environmental and economic concerns. In 2005, 68% of *Fortune* Global 250's reports were sufficiently broad to be considered sustainability reports in this sense, compared to 14% in 2002 (Kolk et al., 2005: 9). However, firms' information on social topics -- such as adherence to core labor standards, working conditions, community involvement, and philanthropy -- has generally remained "sketchy" compared to environmental topics (Kolk et al., 2005: 5).

Reporting can offer practical benefits to the firm, such as development of better internal management systems, increased internal learning through industry benchmarking, proactive minimization of future litigation liabilities, and improved stakeholder relations (O'Rourke, 2004: 9.) One survey of stakeholders who provide CSR reports concluded that firms' top reasons for CSR reporting included direct business benefits, such as maintaining an advantage over competitors (36%) or securing a "license to operate" (23%), as well as more altruistic goals such as "accepting and living social responsibility" (39%). The objective noted most often in this survey was "securing or enhancing good reputation" (49%) (Pleon, 2005, table 8).

Once firms decide to report, they must make further decisions concerning which issues to address, what information should be disclosed, and to whom the message should be targeted. Not all stakeholder groups are equally important to a firm. Firms generally consider stakeholders "internal" to the firm, such as investors, their primary audience for SD reports. "External" audiences, such as non-governmental organizations (NGOs) and academics, are less likely to be firms' main audiences (Agle et al. 1999; Pleon, 2005). Environmental managers' personal values and attitudes toward various stakeholder groups, as well as the media exposure a firm faces, importantly affect whether environmental disclosures are made and the amount and quality of disclosure (Cormier et al., 2002: 27).

In short, when a firm reports on SD, it inevitably considers public relations issues and its corporate image. The tension between protecting the firm's reputation and responding to stakeholders is central to the struggle between firms and stakeholders over issues of transparency and trust. Firms' concern for their reputations is a source of mistrust for some stakeholders, who often fear that firms will use "greenwash" to improve their reputation without actually changing their underlying behavior. It is also a pressure point which stakeholders may use to persuade firms to report (Stephan, 2002).

All these considerations enter into firms' decisions to report voluntarily in the absence of legal mandates. When they do, they enjoy the flexibility voluntary reporting typically offers, compared to government requirements which might standardize reporting topics, content, and format. Flexibility concerning what to report, when to report, and to whom (publicly or selectively), offers firms greater opportunities to manage their image and advance other strategic objectives.

Not surprising, stakeholders generally favor mandatory reporting more than do firms. In a 2005 survey, about 75% of stakeholders using CSR reports advocated mandatory SD reporting for some or all firms (Pleon, 2005). Respondents felt that mandates would obligate companies to address key SD topics, push company boards and investors to acknowledge the significance of environmental and social issues, and lead to better integration of financial and non-financial reporting. In addition, mandatory reporting would increase the proportion of firms who report. However, mandatory reporting often does not guarantee the quality of report contents (O'Rourke, 2004: 15) or that the reporting mandate will be enforced (GAO, 2004, Franco, 2001).

Governments other than France have stopped short of mandating full triple bottom line reporting, although they may combine mandatory reporting on some subjects with recommendations, standards, guidelines and other signals to encourage voluntary reporting on others. Laws vary considerably among nations in terms of the topics covered, firms required to report, data required, public access to data, reporting boundaries of the firms (e.g. whether or not subcontractors are included) and sanctions for not reporting (European Commission, 2003b; Kolk et al., 2005: 43-45). In support of a voluntary approach, policy-makers often argue that regulation is a question of balance and timing, and that voluntary reporting fosters creativity which might be stifled by required reports with closely-specified reporting formats (Monaghan et al., 2003).

France Turns to Mandatory Reporting

By the late 1990s, French firms were already facing increasing demands for information about their SD behavior. The French market for socially-responsible investments (SRI) was expanding rapidly, with unions playing a key role in the market. Between 2000 and 2002, the number of SRI investment funds tripled, to 59 funds with 1.16 billion euros in assets under management (Christensen, 2003: 46). During this period, SD-related research organizations, such as Observatoire sur la Responsabilité Sociétale des Entreprises (ORSE), Novethic, and ASPR Eurozone, were launched to facilitate greater access to non-financial information. French legislation encouraged these trends by passing a more supportive legal framework for socially-responsible investment by public and private pension funds. In addition, private industry-led efforts had resulted in several influential reports on improving corporate governance (Bouton, 2002).

Nevertheless, France in this period had a poor reputation for corporate transparency and SD disclosure. In 2002, the Commission de Opérations de Bourse (similar to the American Securities and Exchange Commission) encouraged voluntary disclosure of the environmental impacts, but in response, only about 50 of the 1,000 companies listed on the French stock exchange discussed any environmental issues in their annual reports (Dhooge, 2004: 446). Firms' reporting on social impacts was generally limited to legally-mandated *bilans sociaux,* [2] which were used mostly for internal human resource discussions with unions and did not address broad SD interests.

An opportunity to catch up and move beyond the rest of Europe in SD policies came during the update of France's commercial law in 2001. The *Nouvelles Régulations Economiques* (NRE)[3] is a broad-ranging update of French corporate law. The majority of its 144 articles address topics such as corporate governance, transparency in take-over bids, and anti-trust regulation. Article 116, paragraph 4 was added to the legislation late in parliamentary debate and without extensive discussion (Sobczac, 2002).

This article requires that the largest French firms listed on the French stock exchange report publicly in their annual reports on their financial, environmental and social activities – their "triple bottom line." Reporting was seen as means of encouraging French firms to move to a leadership position within the international movement to promote SD and thus gain a competitive advantage against their European and other competitors (Hoffman, 2003: 19). Concurrently, the authors of Article 116 sought to respond to requests by stakeholders -- especially socially responsible investment funds -- for comprehensive, transparent information about firms' social and environmental activities (EpE et al., 2004: 15).

In February, 2002, the French Council of State promulgated detailed quantitative and qualitative reporting requirements for the more than 700 French firms listed in the *premier marché* [4] of the Paris stock exchange.[5] (See Table 2.) Mandatory environmental indicators were based on the OECD's 10 environmental priorities, and suggestions were included that firms develop measures conforming to concepts articulated by the EU and the Global Reporting Initiative (GRI). Beyond that, the requirements leave considerable flexibility in reporting formats. With neither business organizations pleased ("You have gone too far") nor the unions pleased ("You have not gone far enough,") France became the first country to mandate comprehensive triple bottom line reporting for companies (Goudard, 2006: 1).

[2] A *bilan social* is a legally mandated annual report by French firms with at least 300 employees. It summarizes the characteristics of the firm's workforce (e.g. age, sex, number hired and terminated), training, remuneration and working conditions (e.g. health and safety). It is normally an internal document. However, France Telecom's *bilan social,* 2005 is available at http://www.francetelecom.com
[3] Law number 2001- 420, May 15, 2001, J.O. May 16, 2001, art. 116: 7776.
[4] The *premier marché* consists of the largest French and foreign companies, with public stockholdings of at least 25 percent of their capitalization and a capitalization value of about 800 million euros.
[5] Decree number 2002-221, Feb. 20, 2002, J.O. Feb. 21, 2002, art. 148-2: 3360.

Table 2: Corporate SD Reporting Required under France's NRE 116

Topic	Quantitative Reporting	Qualitative Reporting
Human Resources		
Employment	Total employees. Employees recruited. Lay-offs/redundancies. Term and permanent employees. Contract employees. Absenteeism.	Recruiting processes and recruiting difficulties. Analyses and rationales for recruitment, layoffs/ redundancies, term employees, and contract employees. Use of subcontracting/outsourcing.
Work hours	Length of workday. Amount of overtime. Use of full-time and part-time employees	Analysis and rationale for work hours
Corporate restructuring	Efforts to mitigate effects of corporate restructuring	--
Remuneration	History of pay rates. Payroll taxes paid.	--
Equal opportunity	Representation of women in different posts.	Details/analysis of representation of women. Integration of physically challenged into workforce
Health & Safety	--	Health and safety conditions. Details of incidents and accidents.
Social benefits	--	Social benefits.
	Training	Details.
Community Involvement		
Local Impacts	--	Integration into the local community.
Local Partnerships	--	Contacts with NGOs, consumer groups, educational institutions and impacted populations.
Work conventions	--	Extent to which firm's subsidiaries comply with ILO conventions on workers' freedom of association and collective bargaining, child labor and forced labor, and employment discrimination. Extent to which firm encourages its subcontractors to comply with these conventions.

Local development in foreign countries	--	--
Environment		
Resource Consumption	Consumption of water, energy, raw materials/natural resources; use of land	Use of renewable energy. Initiatives for energy efficiency
Emissions	Emissions of wastes into air, water, and land. Emissions of odor and noise.	--
Impact on biodiversity	--	Programs to reduce adverse effects on diversity. Programs to protect flora and fauna
Environmental Management	Expenditures on environmental management. Penalties paid on environmental violations. Provisions for environmental risks	Compliance with environmental laws and regulations. Efforts at environmental risk management. Environmental management structures and organization. Integration of foreign subsidiaries in environmental management. Employee environmental awareness and training. Environmental compliance auditing and certification.
Source: Adapted from Arese. 2002. Press release: Mandatory sustainability reporting for French corporations. March 5. Fontainbleau-Avon: Arese.		

Article 116 fit logically within broader French political efforts to develop a National Sustainable Development Strategy (Dalal-Clayton, 2005: 8-17). The first Strategy was published in 1997 and the current one in 2003.[6] The current Strategy's stated goal is to combine economic development, protection of the environment, social justice, and solidarity among generations, peoples, and territories. It emphasizes that firms and their consumers are intrinsically linked poles of the market economy, and that both sides of this relationship must adopt a model of economic growth that "is respectful of the environment and cognizant of the fact that resources are for the benefit of everyone" (Raffarin, 2003: 3). Explicitly echoing the concept of networks underlying the informational regulation approach, the Strategy states that stakeholders must "work in a network" (*travail en réseau*), since SD goals cannot be realized through isolated actions. SD can be achieved only through a "systemic network of efforts involving numerous disciplines and partners" (Raffarin, 2003: 3).

Does the NRE Effectively Implement Informational Regulation?

As described earlier, informational regulation relies on stakeholders, not the government, to influence firms through market dynamics, litigation, moral suasion, or other means.

[6] See http://www.ecologie.gouv.fr/IMG/pdf/Sndd-2.pdf .

Tietenberg (1998: 593-99) suggests four prerequisites to stakeholders' effectiveness as instruments of IR. The first, providing a mechanism to discover potential risks, is met by the NRE's mandatory reporting. The other three conditions concern whether or not stakeholders have:

- Sufficient, targeted, and reliable data;
- Opportunities for dialogue with firms; and
- Resources, institutional strength and channels to act on the information in a timely and efficient manner.

Therefore, insight into the likely effectiveness of NRE 116 can be gained by examining the extent to which these three conditions are present.

Does NRE 116 Provide Stakeholders with Sufficient, Targeted and Reliable Data?

What Data are being Reported?

As Table 3 illustrates, adherence to the law's reporting requirements was limited in the first reporting year, 2002, with fewer than half of the 700 companies covered by the mandate even providing a report. Among those that did report, only the largest firms -- the CAC40[7] -- typically reported in a meaningful way. Of the CAC40, 21 provided sufficiently detailed, precise and comprehensive information to suggest adherence to the regulations, but only four firms provided a full triple bottom line report. Firms' responses varied considerably in form, content, length, and depth, and only a few reports documented the sources of their information or subjected it to audit or verification comparable to that applied to financial information (EpE et al., 2004: 17-18). Social reporting, other than indicators that firms had already been required to provide in their *bilans sociaux*, was particularly weak (Alpha Etudes, 2003: 3).

[7] The CAC40 (Cotation Assistée en Continue) is a French stock market index based on the 40 firms with the largest market capitalizations on the Paris Stock Exchange.

Table 3: Selected Characteristics of Reporting by Firms in the CAC40 in 2002, the First Year under NRE Article 116

Characteristic	**Description**	**% of Firms**
Report Format	Section of Corporate Annual Report	75%
	Separate report	17
Organization Covered in Social Reporting	Holding company	10
	Group	69
	Partial group	14
	Establishments in France	7
Organization Covered in Environmental Reporting	Holding company	0
	Group	62
	Partial group	19
	Establishments in France	19
Length of Report	More than 10 pages	28
Social Indicators Provided	More than 10	64
	More than 20	19
	None	11
Environmental Indicators Provided	More than 10	33
	More than 20	11
	None	25
Data Credibility/Verification	Report mentions internal or external verification	11
	Report includes auditor notes	6
	Report includes explanations of information collection methodology	14
	Report discusses strategy to improve future reporting	6
Source: Adapted from PricewaterhouseCoopers & MEDEF. 2003. Prise en compte de l’article 116 de la loi NRE dans le rapport de gestion des entreprises du CAC40. Paris: MEDEF.		

Since this slow start, the number of firms reporting has steadily increased. In 2005, 85% of the CAC40 met the requirements of the law, in contrast to about 65% in 2002 (Alpha Etudes, 2006: 4). As Table 4 documents, in a broader sample of French firms that included the

CAC40 as well as selected other firms,[8] 68% of firms produced a report in 2004 covering topics other than financial, compared to 41% in 2003 (SustainAbility et al., 2005: 8).

Table 4: Evolution of Reporting, 2002 - 2004*

Type of Report	2002 Percentage of firms	2004 Percentage of firms
Traditional financial reporting only	16%	6%
Financial report plus some reference to the firm's responsibility to SD but no performance measures	20	22
Report on traditional health, safety & environment or evaluation of human resource management performance	23	4
Report on traditional health, safety & environment (HSE) issues and evaluation of human resource management performance	14	31
Reporting sustainable development topics and evaluation of HSE and HR	27	37
TOTAL	100%	100%
Source: Adapted from SustainAbility, Utopies & Le Programme des Nations Unies pour l'Environnement (PNUE). 2005, Etat du reporting sur le développement durable, version Française de l'étude global reporters. Paris: Utopies. *Based on 140 firms from the SBF120, 10 large public-sector firms, several large non-listed firms, and several small and medium sized firms which are leaders in reporting.		

The quality of the reports has also improved since the first reporting year. Using 100% as the maximum feasible score on a scale established by the Global Reporters series,[9] the 20 best French firms received an average grade of 42.2% in 2005, compared to 34.8% in 2003 (SustainAbility et al., 2005: 5). (See Table 5.) In 2000, ST Microelectronics was the only French firm whose reporting ranked among the 50 firms "best globally" (SustainAbility & UNEP, 2000). By 2005, four French firms -- Lafarge, Total, Carrefour and Veolia Environnement -- appeared among the top 50. However, even with this progress, the top 20 French firms' average reporting scores lagged about 2 to 4 years behind other international firms in the Global Reporter surveys.

[8] The sample includes 140 firms from the SBF120 (the CAC40 plus the 80 next largest firms on the Paris Stock Exchange), 10 large public-sector firms, several large non-listed firms, and several small and medium sized firms which are leaders in reporting (SustainAbility et al., 2005: 26).

[9] The Global Reporters series 2000, 2002, 2004 and 2006 are international benchmarking surveys of non-financial reporting. The methodology was developed by SustainAbility and the United Nations Environmental Programme (UNEP). See http://www.sustainability.com .

Table 5: French Firms' Average Reporting Scores Compared to Global Scores

Reporting Criteria	Average Scores of Top 20 French Firms, 2004*	Average Scores of Top 50 Global Firms, 2002*
Management quality	52%	57%
Economic performance	45	48
Social&ethical performance	40	50
Environmental performance	40	47
Accessibility & verification	40	56

Source: Adapted from SustainAbility, Utopies & Le Programme des Nations Unies pour l'Environnement (PNUE). 2005, Etat du reporting sur le développement durable, version Française de l'étude global reporters. Paris: Utopies.
*Maximum possible score is 100%.

Several French NGOs now grade and publicize individual firm's degree of adherence to the reporting law. Alpha Etude's (2003, 2005) yearly analysis of the CAC40's social reports plots each firm on a graph with axes measuring how well the firm conforms to the letter of the law (e.g. whether it covers mandatory topics) and the spirit of the law (e.g. the quality of data). Readers can easily identify which firms are "leaders" clustered in one quadrant of the graph and laggards clustered in the opposite quadrant (Alpha, 2006: 6). CFIE (2006: 4) applies a different methodology to publicly grade individual firms on their reporting transparency and data quality. CFIE also identifies which firms have made the most reporting progress and which receive high grades for both social and environmental reporting.

A major concern since the law was passed is the reliability and accuracy of firms' information. This issue has taken the form of demands for third party verification. In the spirit of a traditional audit approach, "verification" addresses issues such as the accuracy of SD data, quality of data management systems, and conformity to standards such as ISO 14001 and SA8000.

Indeed, on this subject, stakeholders have become more demanding over time and are increasingly asking that reports be "assured." Assurance goes beyond verification to address the general credibility of the report, for example, considering why certain topics and measures were chosen and whether stakeholder concerns were addressed. Since 2001, the number of SD reports worldwide providing "assurance" has increased, with about 30 percent of the *Fortune* Global 250 now issuing assurance statements (Kolk et al., 2005).

Tables 4 and 5 describe a rapid expansion and deepening in French firms' triple bottom line reporting which would certainly have been unlikely without the new reporting mandate. Nevertheless, not all firms' reports are yet meaningful, and not all stakeholders are satisfied with that progress. CFIE (2006: 29) argues that after four years of reporting, there remains a need to improve qualitative and quantitative measures, address stakeholder concerns, and increase transparency in designing reports. One critic has concisely summarized the issue by asking rhetorically whether NRE 116 reports "have the color of reporting, the taste of reporting, but are they really reporting?" (SustainAbility et al., 2005: 3). For many firms, this remains an open question.

Firms' Dialogue with Stakeholders

In informational regulation, reporting itself is only a means to an end. For changes in the behavior of firms to follow reporting, stakeholders must use reported information to engage in dialogues with the firm and other stakeholders (Rowley, 1997). The importance of this dialogue was highlighted in the French government's official evaluation of the NRE's effects in its first year (EpE et al., 2004). In this study, stakeholders' importance to CAC40 firms was measured by how often stakeholders were mentioned in the firms' reports and whether or not those stakeholders' viewpoints were discussed. All CAC40 firms mentioned their most likely stakeholders -- investors, unions and customers. However, less than one third of reports discussed anything these or other stakeholders had said in response to the reports. (See Table 6.)

Table 6: Discussion of Stakeholders' Views in SD Reports by CAC40 Firms, 2002

Stakeholder	% of Firms Referring to Stakeholder in Their Report	Number of Mentions of Specific Views from Stakeholder
Shareholders/investors	100.00%	4
Trade unions	100	1
Customers	100	1
French NGOs	77.5	3
Public authorities	55	0
Non-financial rating agencies	45	13
Suppliers	42.5	1
International NGOs	40	2
Experts	0	1
Source: Adapted from Entreprises pour l'Environnement (EpE), Entreprises et Collectivités: Partenaires pour l'Environnement (Oree) & Observatoire sur la Responsibilité Sociétale des Entreprises (ORSE). 2004. Rapport de mission remis au gouvernement: Bilan critique de l'application par les entreprises de l'article 116 de la loi NRE. Paris: ORSE		

When firms and stakeholders were surveyed about the first year's reporting efforts, clear differences of opinion emerged about the degree of influence stakeholders should have over firms' SD reporting, let alone its actual SD behavior (EpE et al., 2004). Firms typically wanted flexibility to choose indicators and control the final report. Stakeholders -- especially unions and NGOs -- typically wanted the firm's reports and performance indicators to be designed through a dialogue including stakeholders.

These differences of opinion continue to resonate. Stakeholders continue to want greater influence over reports to ensure that firms respond to their questions. They also want firms to present not just successes but also failures and to articulate their business cases for integrating SD into their business decisions. Finally, stakeholders want data to be comparable across levels of the firm and geography, with some stakeholders suggesting that firms adopt an international standard, such as GRI, to increase comparability (CFIE, 2006; Goudard & Itier, 2004).

One French firm, Lafarge, is often cited as a world-wide leader in dialogue with stakeholders (Lafarge, 2005). In 2000, Lafarge began by proposing SD topics the firm considered important to report. It then refined this list through more than 50 internal interviews, 30 external interviews, and a review of related studies. In 2003, the firm created a nine-member "stakeholder panel" representing unions, NGOs and professional organizations, with the mission of serving as "critical friends" of the company. This panel is consulted two times each year by the firm's Executive Committee. The panel's opinion letter on Lafarge's NRE 116 report is included in the report and publicly released on the firm's website (Lafarge, 2005: 48). In 2005, this opinion letter suggested changes in the report such as inclusion of new indicators, improved reporting on emissions of persistent organic pollutants, greater discussion of social and environmental issues arising from Lafarge's acquisitions in China, and development of a cement-sector specific supplement to the GRI guidelines. In addition, in 2006, Lafarge created a special advisory panel to review the firm's biodiversity strategy.

Can Stakeholders Enforce Reporting?

When information is made widely available to the general public, individuals are often not well placed to influence firms. They may have little expertise or interest on a topic or be dissuaded by the cost of trying to influence firms and other stakeholders. To overcome these barriers and provide a stronger voice in the network, individual interests are often represented by institutions such as NGOs, private sector law or consulting firms, or labor unions. Studies cited throughout the present paper themselves attest to the number of expert institutions which have emerged in France to monitor, analyze, interpret and publicize firms' SD reports. Many of these institutions have come into being since passage of the NRE.

Further strengthening the IR potential of stakeholders, government infrastructure promoting SD has also expanded since passage of the NRE. In 2005, France established its citizens' right to live in a balanced and healthy environment when Article 6 of the "*Charte de l'Environnement*" was added to the French Constitution, stating that government at all levels "must promote sustainable development." At a more pedestrian policy level, since passage of NRE 116 (Dufau & Blissig, 2005):

- The Ministry of the Environment has been restructured as the Ministry of Ecology and Sustainable Development.
- Governmental inter-ministerial committees were established, as well as a National Sustainable Development Council which includes 90 members of civil society; and
- Each ministerial Department has designated a high-level civil servant responsible for SD.

These developments enhance the pressure which public reporting places on firms by creating government audiences for firms' reports and stakeholders' responses to them.

Despite such developments, one crucial channel described by Tietenberg (1998) remains unavailable in France -- means for government or stakeholders to go beyond appealing to a firm's image, reputation, or moral beliefs to enforce the reporting mandated in Article 116 through judicial channels. Experience has shown that laws without enforcement generally have little impact (Potoski & Prakash, 2005). Without adequate enforcement, Article 116 runs the risk of being mandatory reporting in name but voluntary reporting in practice. In that circumstance, NRE 116 would not be considered a serious informational regulation approach to sustainable development.

Implications for Firms outside France

Evidence that NRE Article 116 has increased French triple bottom line reporting is clear, although evidence that enhanced reporting has effectively pressured firms to increase their SD-supportive behavior remains more limited. Nevertheless, a variety of indicators suggests that IR is working in this case: data are becoming more available and improving in quality; firms and stakeholders are increasingly engaging in dialogue; and institutions have developed to interpret firms' reports and use them to inform stakeholders and the broader public. NRE's Article 116 has importantly advanced corporate transparency in France, and "transparency is fundamentally about empowerment and trust" (GEMI/Pacific Institute, 2001: 2).

Meaningful reporting and greater transparency would be further enhanced if deficiencies in the law, widely discussed even at its inception, were corrected. An agenda for reform might include: addition of topics such as bribery, human rights and corruption; expansion of reporting to include French firms' subsidiaries, partners, and subcontractors outside France; and coverage of public-sector firms. Lack of enforcement of the reporting requirement is another important remaining deficiency.

However, concern about changes in the NRE's Article 116 should not overshadow recognition of how revolutionary and significant this reporting mandate already is. France recognized that sustainable development is moving steadily into mainstream public policy and that firms' participation in SD is essential to its success. Observing that their nation's firms were lagging and at risk of missing this important trend, the French government decided to push their firms into the competitive fray and, ideally, into the global lead. Expanded public reporting is best understood not as a narrow, technocratic managerial requirement than as a bold attempt to alter firms' fundamental consciousness.

The eventual impact of this move will echo far beyond the 700 firms currently subject to NRE's Article 116. The requirement, and the change in corporate consciousness it is intended to foment, set a precedent likely to be imitated in various ways by other nations. The message for US executives is that their firms should prepare to encounter similar demands for SD behavior, especially through demands for greater transparency.

To date, US firms have shown little responsiveness to this emerging shift in their operating environments. In 2005, almost 80 percent of the *Fortune* Global 250 firms from 21 countries issued corporate social responsibility reports. The striking exceptions to this trend were these firms in the United States (35%) and China (33%) (Kolk et al., 2005: 11). The French experience offers a wake-up call for American firms. Ignoring this development means risking falling behind the rest of the world, where firms prodded by NRE 116 are already developing SD-related strategic competitive advantages, acquiring skills from working with SD-conscious stakeholders, and competing in markets where SD is increasingly "embodied in ethical custom."

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About the Authors

Dr. Mary Lou Egan
Mary Lou Egan, principal in Bendick and Egan Economic Consultants, Inc., USA, has worked in the public and private sectors as a consultant, management analyst, university professor and researcher. Unifying her work is the theme of applying private sector solutions to public sector problems.

Dr. Fabrice Mauléon
Fabrice Mauleon is a professor of law and sustainable development at ESCEM Tours-Poitiers where he is also in charge of the International Masters of Management in Sustainable Development. He lately participated in the European project HERMES where he looked at questions of CSR among European subcontractors in the apparel sector.

Dr. Dominique Wolff
Dominique Wolff is currently a professor of economics and sustainable development at ESCEM Tours-Poitiers, France. He recently returned to ESCEM after a post doctoral research position with the Chaire Desjardins group at the University of Sherbrooke in Canada. His research interests include the economics of innovation and quality.

Dr. Marc Bendick Jr
Marc Bendick, principal in Bendick and Egan Economic Consultants, Inc., USA, is an economist specializing in employment, economic development, and the design and evaluation of public programs to enhance inclusion of individuals, businesses and communities into the economic mainstream.

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