

CSR, Sustainability, Ethics & Governance

Series Editors: Samuel O. Idowu · René Schmidpeter

Nakib Muhammad Nasrullah
Mia Mahmudur Rahim

CSR in Private Enterprises in Developing Countries

Evidences from the Ready-Made
Garments Industry in Bangladesh

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Series Editors

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Evidences from the Ready-Made Garments
Industry in Bangladesh

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Preface

This book examines and evaluates how Corporate Social Responsibility (CSR) as a business agenda is growing and becoming recognised in the private enterprises of developing countries taking the readymade garments (RMG) industry of Bangladesh as a case study.

In Bangladesh, CSR is growing in importance in corporate businesses in response to global trends. This book finds that the overall application of CSR in private enterprises in this country is emerging and progressing in an incoherent manner. This is due to certain challenges and constraints, notably the absence of multi-player activities, lack of adequate public sector interventions, and an absence of a national consensus on CSR or uniform CSR guidelines.

The position is somewhat different in the private enterprises of the Bangladesh's (RMG) industry. This sector is the largest source of this country's export earnings. The practices of labour and environment-related CSR in the form of social compliance requirements from the international buyers are growing steadily in this industry. Also there is a trend of the development of the multi-player activism for the promotion of compliance with these requirements in it. But changes seem only to be occurring in the large contracting enterprises and the enterprises of Export Processing Zones (EPZ). A huge number of small and medium scale enterprises and non-contracting enterprises remain non-participants in this trend. The reasons for this include insufficient co-ordination among stakeholders, resource constraints in factories, the absence of concrete guidelines from government and associations, lack of awareness among workers about their rights, and the absence of firm commitments from international buyers.

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Chapter 1

Introduction

1.1 CSR and Private Enterprises

Corporate Social Responsibility (CSR) generally refers to social and ethical responsibilities that corporations should perform in their business activities beyond legal requirements. The term CSR is widely recognised and accepted currently across the global corporate world as a social and ethical dimension of business. As a concept it is 'a talk of the town in corporate circles these days'.¹ Its main aim is to make the business socially responsible and thus engaging business enterprises into the processes of sustainable development.

The current notion of CSR is based on a 'stakeholder' approach. It implies that a companies' CSR application should concern their responsibilities towards different stakeholders in order to protect stakeholders' interests and fulfil their expectations. Stakeholders are those individuals who are influenced by or can influence a company's decisions and actions. They may include shareholders, investors, employees, customers, suppliers, government, and society in general. The kinds of responsibilities towards stakeholders specifically are many and varied, but all are generally categorised into main three areas: social, economic and environmental.

The current approach to CSR is a shift from the traditional philanthropic notion of CSR where a company's owners and managerial willingness was instrumental to the application of CSR in their business practice. This approach suggests that CSR as a business agenda is characterised by the combination of policies, programmes and practices integrated throughout business operations and decision-making processes. It is also a process by which businesses negotiate their roles in society.

Therefore, CSR represents a departure from a unilateral promotional process by the company and the embracing of multi-player activism. It broadly means that the focus of interest in CSR is not only on the owners and managers of the companies, but also on other stakeholders who can share and participate in the process of

¹ A. Mess and J Bohman, 'Corporate Social Responsibility Belongs with HR' (2004) 17:7 *Canadian HR Reporter* (A National Journal of Human Resource Management) 11.

promotion and practices of CSR through partnering, facilitating, advocacy, and consulting activities. This multi-player activism is seen as the current trend in CSR promotion and practices across the corporate world.

In the western and northern developed economies the governments, Multinational Enterprises (MNEs), customers, trade unions, and NGOs are concerned with CSR issues and play respective roles for its promotion and practices. Governments and corporations play their roles through the adoption of self regulatory codes of conduct, development of regional CSR frameworks, national codes of conduct and institutional mechanisms, adopting the mandatory regulations, and building up public-private partnerships. Major examples are the EU Commission's Green Paper on Promoting a European Framework for CSR, the European Multi-stakeholder Forum on CSR, the European Alliance for CSR, the US Model Business Principles, the International Code of Conduct for Canadian Business, the Corporate Code of Conduct Bill of Australia and legislations on social and environmental reporting developed in the UK, France, Germany, Denmark and the Netherlands.

NGOs, trade unions, and buyer groups play their roles through the development of CSR codes concerning labour and human rights, CSR certifying and reporting codes, formation of multi-stakeholder forums, business alliances, and lobbyists. Some prominent examples are the Ethical Trading Initiative and its code, Amnesty International's Human Rights Guidelines for Companies, certifying codes such as SA8000 and ISO 14001, Global Reporting Initiatives (GRI), the Fair Labour Association (FLA), and the Clean Cloths Campaign (CCC). The buying companies have their own codes and codes for supply chain businesses. The said codes and forums can certainly assist the development of local corporate mechanisms for addressing CSR issue as a core business agenda and also help increase awareness about CSR among the society at large.

As it is often presumed that the contemporary notion of CSR is a largely western phenomenon and the standardisation is also suited well to the western economic and societal reality, CSR activities are relatively weak in developing countries. In fact, beyond traditional philanthropy, CSR has entered into corporate practice in developing and least developed countries, particularly in the South under the influence of multinational companies and the expansion of the inflow of the foreign capital. As a result, CSR appears to be prescriptive regulations presented by the international buyers companies which are implemented through compliance with their codes of conduct. Moreover, it is often treated as non-tariff barrier for the access of products of developing countries into the global market.² Nevertheless, the buyer driven

² By non-tariff barrier is meant the trade barriers that restrict imports but are not in the usual form of tariff. There are many types of non-tariff barriers some of which may be in the form of product standards, technical regulations, conditions for marketisations of the products, occupational safety and health regulation, employment and environmental regulations. The compliance with the social requirements of importing companies cover all these types of trade-barriers. The failure in compliance causes the loss of trade contract, boycott or threat to boycott from the counterpart companies. This occurred to the shrimp product of Bangladesh in 1997.

compliance issue (also termed as market driven force) has contributed to a change in corporate attitudes as reflected in policies and practices in labour and environment related CSR aspects in the exporting countries. Corporations are developing their internal management, monitoring and auditing systems and are introducing the social dialogue method for the improvement of productivity and settlement of employment and labour disputes.

In addition, the market driven force has also been able to promote the concerns of different interest groups and stakeholders such as governments, local and international NGOs, business associations and multilateral development agencies (e.g. UNDP, IDB, World Bank Institute, DFID), and media to act as facilitators and partners for the promotion of CSR practices in the corporate sector. Furthermore it is contributing to the modification and amendment of the labour and environmental legislations of the countries. Countries such as Indonesia and Ghana have reportedly incorporated CSR issue in their company and labour laws. At the same time, retailer companies and subsidiaries of multinationals are engaging in labour, environment and community development activities. Thus multi-player activism is growing in addressing CSR in corporate sectors. As a result, countries like Singapore, Hong Kong, China, and South Korea are becoming competitive with developed countries in some aspects of CSR.³

1.2 CSR and Private Enterprises in Bangladesh

Bangladesh is a developing economy in South Asia where CSR has long been a practice in the traditional form of philanthropy. Company owners and managers motivated by religious and humanitarian spirit engaged in charitable donations, sponsored for social and community welfare programmes, assisted in building of religious and academic institutes and so on. This philanthropic attitude is still alive in the business sector, although changes are apparent in the present days in the face of globalisation, deregulation and privatisation.

Under the new market-based economic theory adopted by Bangladesh since 1990, a private sector-led rapid industrialisation policy is being pursued in order to develop the country's industrial sectors. This move for industrialisation has increased the number of different types of enterprises, attracted huge amount of foreign investments, and ultimately created a momentum in the economic growth.⁴ As a result, for the last couple of years it has played a crucial role in achieving sustainable development, alleviating widespread poverty, enhancing productivity,

³ See Wendy Chapple and Jeremy Moon, 'Corporate Social Responsibility in Asia: A Seven-Country Study of CSR Web Site Reporting' (2005) 44:4 *Business and Society* 415–441.

⁴ For example, according to Bangladesh Bank Report from 1998 to 2007 FDI inflows in Bangladesh are 46 % for infrastructural development (i.e., gas, oil, power and telecommunications); 27 % for manufacturing sectors (i.e., textile, fertilizer, cement, chemicals and pharmaceuticals); 27 % for services such as trade and commerce.

broadening the employment opportunities, increasing export earnings,⁵ and ensuring efficient use of the country's scarce resources. The prominent private sector industries are garments and textiles, frozen foods, agro based industries, leather and tanneries, pharmaceuticals, ceramics and so on. While the industrial units are making valuable contributions to this country's economy and development agendas, their social, ethical and environmental performance have become a concern for investors, buyers, consumers and the other local stakeholders.⁶

The key issues of concern for foreign buyers and investors, particularly in the garments and textile sectors and also in other export oriented companies, are workplace conditions, equal opportunity among male and female workers, human rights, child labour and environmental management. Fair wages for garments workers and their health and safety measures are also a concern for international buyers.

Like the garment sector, in the shrimp industry issues of safety and quality have remained burning concerns for EU customers since the first boycott on shrimp products in 1997. In addition to the quality and safety issues, labour issues such as working conditions, fair wages, unionisation, the safety and security of female workers, environmental damages also are grave concerns. Also, widespread corruption in the industrial sectors⁷ and environmental pollution caused by the tanneries, shrimp culture, and brickfields and other industries are presently a major concern to the society of Bangladesh.

The external concerns for social and environmental issues threaten the prospects of export products in the international market. At the same time, issues such as fair wages and wide range of discrimination cause the recurrent workers' unrest most prominently in the garment sector. Poor confidence in the quality issue of shrimp products causes the loss of their international market leading to the closure of many small and medium scale entrepreneurs in the sector. In addition, the negligence of environmental pollution management creates a negative impact on human life.

Given the situation the need for protecting the business interests in the international market and the urgency of societal benefit have led the private sectors to engage more or less in addressing CSR in their business activities. But the question is how far this trend is growing in the businesses; whether the multiplayer activities are growing as a catalyst for the promotion of CSR in keeping with global development trend of CSR; whether the companies irrespective of their size and business capacity are responding to the labour and environmental and other CSR issue in the face of pressure from international consumers and investors; how far the

⁵ For example, the export earnings during 2005–2006 are US\$ 10526 million which is 16.03 % of the GDF of that time; see Export Promotion Bureau of Bangladesh, *Bangladesh Export Statistics* (2005–2006) <http://www.epb.gov.bd/Statistics2005-06.html> 5 December 2008.

⁶ Attaur Rahman Belal, 'Stakeholders' perceptions of CSR in Bangladesh' (Paper presented at CSR in Asia Conference, Kuala Lumpur, April 2006 and at Eighth Interdisciplinary Perspective on Accounting Conference, Cardiff, July 2006) 8.

⁷ Abdul Khaleque, 'Transparency, Corporate Corruption and Anti-Corruption Commission, *The Daily Star* (Dhaka, Bangladesh), 18 July 2005 <http://www.thedailystar.net/-44k> 25 October 2008.

existing laws support the implementation of CSR; whether institutional framework is growing for this end, and what are the lacuna and challenges in addressing the market driven CSR issue. In evaluating the growing trend of CSR practices this book considers all these pertinent questions and issues with a view to providing a guideline for the improvement of the application of CSR in the private enterprises of Bangladesh.

As the private sector is considered as the engine of economic growth and it carries a greater burden of societal expectations, a better CSR situation might be a good way to take its journey ahead with a vision to continue its contribution to the nation as a whole. This study, through providing some effective guidelines, assists the private enterprises in Bangladesh in achieving both social and business goals to a considerable extent.

1.3 Methodology

The work is an analytical appreciation and critical appraisal of the current notion of CSR, its recognition, practices in the world in general and in Bangladesh in particular. It is mainly a desk based research depending on the secondary sources of information. The study covers the background knowledge of theoretical aspects of CSR, evolution of trends and practices in the business of developed and developing economies, evaluation of emerging trends and practices in the private sector of Bangladesh, and a comparison of the promotion of CSR practices in Bangladesh with its promotion in Vietnam.

In respect of background knowledge and the theoretical aspects of CSR the internet and library-based resources are pre-dominantly used that include books on CSR, internationally recognised CSR documents (i.e., intergovernmental and multi-stakeholder codes of conduct), and research articles. The library and internet resources also apply to appreciate the parameters of the promotion and practice of CSR both in the developed and developing economies and also for comparison between Bangladesh and Vietnam.

In evaluating the emerging trends and practices in the corporate world of Bangladesh the work goes for the analysis and synbook of the qualitative and quantitative data that appear in the annual reports of companies, reports of business associations in respect of CSR, and the survey study of NGOs and development agencies and thus strives to achieve the objectives of the book.

1.4 Scope

The focus of the research centres around three main issues; Corporate Social Responsibility, emerging trends and practices, and the private enterprises of Bangladesh. This division of focus implies that the whole work is all about

‘CSR’ as a business agenda, its growth in the economic world, and appreciates its increasing practice in the private enterprises of Bangladesh.

The book firstly introduces CSR as a business agenda in the light of the latest conceptual developments in association with its various dimensions and contents. It avoids deeper theoretical appreciations of CSR from the trade and economic point of view. It also covers the development of CSR standards and mechanisms by intergovernmental organisations such as ILO, OECD and UN and other multi-stakeholder forums.

Secondly, it evaluates the emerging trend of CSR practices across the global economy. It uncovers evidences and examples of development trend in both developed and developing economies. In doing this, it focuses on the developed countries’ perspective on the EU regional development, with some national developments in institutionalisation and regulations. In this context, it also focuses on the case studies of America and Japan. For the developing countries’ perspective the focus is on regions such as Latin America, Middle East, Africa, and Asia.

Thirdly, to achieve the aims of this work, the specific concentration is on assessing the emerging trend and practices of CSR as a business agenda by the local private enterprises of Bangladesh. Private enterprises mean those business organisations or companies which are owned by private individuals not by the government, or any other government approved body. The word ‘enterprises’ is interchangeably used with ‘companies’ or ‘corporations’ throughout the book. The subsidiaries of multinational corporations located in Bangladesh and other public sector companies are not subjects of the research but as an overview of the total CSR scenario in Bangladesh they may be relevant in discourse.

In the Bangladesh perspective, a general focus is on the trend of increasing CSR practices both in private service and manufacturing sector. A specific focus is on the RMG sector as it is the biggest source of export earnings and a prime concern of CSR compliance is from the part of international customers and investors. In determining trends in CSR practices in the private enterprises of Bangladesh, the book does not undertake the way of sector-based discussion (i.e., shrimp, pharmaceuticals, leather and so on) focussing on the contents of CSR with quantitative data. Instead, the determinants of the trends include the characteristics and nature of current CSR practices, trends in CSR reporting and management certification, the role of government or public sector, the role of business associations and development agencies in general, and institutional development at the national level. In the case of the RMG sector, the market-driven social compliance as supply chain CSR will be the focused issue of discussion. Therefore the multi-player activities for the promotion of social compliance and their impacts on changes in the status of compliance come up prominently.

In appreciation of status in CSR practices, labour and environmental issues are the priority in discourse. However, the social investment and community issues are also considered. In discourse on labour and environmental issues the relevant legal provisions of labour, the environment and constitutional laws are taken into account, to the extent necessary for explanation and facilitation of the analysis.

To measure the status of CSR practices in Bangladesh a comparative study is embarked upon a country from the Asia region. For this purpose, Vietnam is chosen for its economic similarity to Bangladesh in terms of its export manufacturing. The comparison is not made on the quantitative or qualitative information about CSR practices. Rather, it will be based on five lenses of experiment, namely the driving forces of CSR performance, compliance with code of conduct, public sector involvement, the role of business associations, and the development of national civil society organisations.

The study encounters some methodological limitations and shortcomings, particularly in the Bangladesh context. The problem mainly lies with the non-availability of adequate and sufficient numbers of primary or secondary research sources on the issues of CSR as it is a recent agenda of academic discussion. In addition, the web-pages of companies of Bangladesh are inadequately informative, particularly in relation to CSR related information.

1.5 Framework

For organisational purposes, the book is divided into seven chapters.

Chapter 1 introduces readers to the background of the current study on CSR highlighting briefly the position of CSR as a business agenda and explaining the research question on the emerging trend of practices of CSR in the private enterprises of Bangladesh. It focuses categorically on the aims and objectives of the study, introduces the methodology applied and determines the scope and purview of this book.

Chapter 2 sheds light on two basic factors relevant to CSR and is therefore organised in two separate sections. The first includes a definitional construct of CSR and different dimensions of CSR (i.e. aspects and contents of CSR for which the enterprises are taking responsibility).

The second section focuses on the development of CSR standards from institutional perspectives. It explains voluntary codes of conduct as a basis for the development of CSR standards such as codes developed by inter-governmental organisations such as OECD, ILO, and the UN; and codes developed by multi-stakeholder forums or organisations. The inter-governmental codes are OECD Guidelines for Multinational Enterprises, ILO Tripartite Declaration of Principles Concerning Multinational Enterprises, UN Global Compact, UN Norms on the Responsibility of the Transnational Corporations and Other Business Enterprises. The multi stakeholder codes include ISO 14001, SA 8000; the Ethical Trading Initiative Code, the Fair Labour Association (FLA) Code, the Clean Cloth Campaign (CCC), and the Global Reporting Initiative (GRI). There is also a brief focus on company or association codes.

Chapter 3 evaluates the development and trend in CSR practices, both in developed and developing countries. In so doing, the chapter is divided into two parts. The first part deals with CSR practices in developed countries and the second

part deals with CSR practices in developing countries. The focus is on how CSR practices are growing both in developed and developing countries with the support of institutional development, public sector' initiatives through regulatory approaches and organisational support. With respect to developed countries, the discussion includes an overview of the EU developed countries; the US and Japan. In respect of the EU countries the initiatives for the promotion of CSR at the regional level are analysed. At the same time, national institutional development, the growth of public private partnership and the development of regulatory approaches, particularly on social and environmental reporting, are also explained.

The second part of the study evaluates the trend of CSR practices in developing countries with a regional focus. It discusses in turn several examples such as CSR in the Middle East, CSR in Latin America, CSR in Africa, and CSR in Asia. In evaluating the CSR issues in developing countries of these regions, the study explores how CSR as a business concept is recognised by the national enterprises, and asks what are the driving factors, what the public sector's roles are and how institutional development is taking place as facilitator and catalyst in strengthening the promotion of CSR as a mainstream business concept.

Chapter 4 determines the emerging trend of CSR practices in the private enterprises in Bangladesh. In so doing the discussion begins with the background to the emergence of the current notion of CSR in corporate business practices, its main influencing and driving forces, needs and benefits. It then makes an overview of CSR promotion and practices in the private enterprises of Bangladesh. In so doing, it firstly evaluates the features of CSR practices in different kinds of private enterprises. Secondly it explains the trend of CSR management certification and external monitoring and monitoring systems in Bangladesh on the basis common codes such as SA 8000, ISO 14001 and other multi-stakeholder codes. Thirdly, it appraises and evaluates the trend of CSR reporting practices in the private enterprises. Fourthly, it looks into the role of the government and the public sector for strengthening CSR in all over private enterprises. It explains the application of existing labour, the environment and other relevant laws likely to act as enabling regulations for the development of CSR application in business activities. Fifthly, the discussion also includes the participation of different development agencies as facilitators or partners in accelerating the progression of CSR. And finally it describes the growth of civil society organisations at a national level and focuses on their roles and involvement in the CSR activities.

Chapter 5 deals with the ongoing trend of CSR practices in the RMG sector. It focuses comprehensively on the state of 'social compliance 'or labour and environment related' CSR and other CSR issues in the RMG sector of Bangladesh. It explains social compliance and its needs and importance in the present global context, and the growth of multi-player activism for the promotion of social compliance situation in the garment industries. It also explains the impact of social compliance for the development of internal enforcement mechanisms at industry level, the current scenario of social compliance situation in the factories, and constraints and challenges for the promotion of social compliance as a market driven reality after the MFA phase out.

The growth and involvement of multiplayer activities covers the role of the Bangladesh Ready Made Garments Manufacturers and Exporters Association (BGMEA) and the Bangladesh Knitwear Manufacturers and Exporter Associations (BKMEA) as owner associations and the role of the Government of Bangladesh under the Ministry of Commerce and Ministry of Labour and Employment. It also covers the role of development agencies through their partnership and facilitating activities and the role of international supply chain buyers through their participation in capacity building programmes, drafting codes of conducts and adopting policies.

In reviewing the status of social compliance some pressing employment, labour and environmental issues are addressed. Finally, the involvement of garment enterprises in social investment and philanthropic activities is briefly reviewed.

Chapter 6 makes a comparative analysis of promotional activities of CSR in Bangladesh and Vietnam. It explains the reasons for choice of Vietnam for comparison with Bangladesh. Then the comparison is made on the basis of five criteria as lenses to judge the integration, promotion and spread of CSR practices. These criteria are: (1) the main drivers of CSR; (2) the performance of labour and environment related CSR standards through compliance with relevant Codes of Conduct (CoCs); (3) the role of business associations in promoting CSR at the enterprises level; (4) the government or public sector's role in strengthening CSR practices; and (5) the institutional development and development of partnership activism to facilitate the promotion of CSR in the enterprises.

Chapter 7 evaluates and summarises the promotion of CSR practices by the private enterprises as a long term business strategy necessary for achieving social and economic goals. The study concludes with practical suggestions and recommendations in the form of policy guidelines for the promotion, adoption and integration of CSR in policies and practices of corporate business in Bangladesh.

Chapter 2

Understanding of CSR and Its Standards

2.1 Concept of CSR and Its Fundamentals

2.1.1 Definitions of CSR

In defining CSR, there is no overall agreement¹ or consensus. There is a lack of an all embracing definition.² Moreover, there is no universal definition of CSR. As a result, there remains an uncertainty about what CSR exactly is³; how it can be defined accurately or conclusively. The reason may be rooted in its interchangeable and overlapping character with other terminologies such as ‘corporate citizenship’, ‘the ethical corporation’, ‘corporate governance’, ‘corporate sustainability’, ‘social responsible investment’, and ‘corporate accountability’.⁴ The reason may also lie in the fact that the contemporary CSR agenda essentially involves the concept of

¹ Michael Hopkins ‘Corporate Social Responsibility: An Issue Paper’ (Working Paper No. 27, Policy Integration Department, World Commission on Social Dimension of Globalisation, 2004) 1 http://www.ilo.org/public/english/bureau/integration/download/publicat/4_3_285_wcsdg-wp-27-27.pdf 12 July 2007.

² M. Van Marrewijk, ‘Concept and Definitions of CSR and Corporate Sustainability: Between Agency and Communion’ (2003) 44:2-3 *Journal of Business Ethics* 95, 105.

³ Jamie Snider and others in their articles titled ‘Corporate Social Responsibility in 21st century: A View from the World’s Most Successful Firms’ said that an exact definition of CSR is elusive since beliefs and attitudes regarding its nature fluctuate with the relevant issue of the day. As such, viewpoints have varied over time and occasionally are even oppositional. See also T. Pinkston, A B Carroll, ‘A Retrospective Examination of CSR Orientations: Have They Changed?’ (1996) 15:2 *Journal of Business Ethics* 199, 207.

⁴ Australian Parliamentary Joint Committee and Financial Service, Corporate Responsibility: Managing Risks and Creating Value (Report 2006) 4; See above n 1, 1; see also Michale Bowfield and Jerdej George Frynas, ‘Setting New Agendas: Critical Perspectives on Corporate Social Responsibility in the Developing World’ (2005) 81:3 *International Affairs* 499, 501; see also Dirk Matten and Jeremy Moon, ‘Implicit’ and ‘Explicit’ CSR: A Conceptual Framework for Understanding CSR in Europe (2008) 33:2 *The Academy of Management Review* 404, 405.

stakeholders and development as an integral issue of business operation in the present context. This holistic character of CSR creates confusion about the exactness of associated issues which is well expressed in the words of Jeremy Cooper of Australian Securities and Investment:

There are some vexing terminology problems such as what a stakeholder is, what sustainability means, what triple bottom-line reporting is and what we really mean by corporate social responsibility itself. . .⁵

Another reason for the lack of an agreed definition may lie in the ever-changing and dynamic character of the concept of CSR itself and the expansion of its practices aligning with the increased demands from the society and pressing development issues. From that point of view CSR so far historically can be referred to as a sequence of three approaches, each having a different perspective in terms of definition and boundary of responsibility.⁶ They are the shareholder approach, the stakeholder approach, and the societal approach.⁷

The shareholder approach is regarded as the classical view on CSR as pioneered by Milton Friedman. For Friedman, CSR is interpreted as a means of increasing or maximising the profits of the company where the shareholders are the focal point in pursuit of profit maximisation.⁸ Social responsibility activities are not the main concern for companies; they are concerned with CSR only to the extent that it contributes to the aim and goal of the business.⁹ This view in fact is intended for the protection of the shareholders or the stockholders' economic interests. This is not consistent in full with the objects and purposes of the concept of CSR as recently construed where stakeholders' interests are a significant concern.¹⁰

According to the stakeholder approach propounded first by Freeman in 1984, the business organisations are not only responsible and accountable to their shareholders, but also take into consideration the legitimate interests of the stakeholders that can affect or is affected by the operational activities, as well as the achievement of organisational objectives.¹¹ This approach never means that the companies ignore business profits and wealth creation initiatives. Rather it strikes a balance between business profit and stakeholder interests as companies have immense influence on the lives of stakeholders.¹²

⁵ Ibid.

⁶ Marrewijk, above n 2, 95.

⁷ Ibid.

⁸ Ibid; See M. Friedman. 'The social responsibility of business is to increase its profit.' *The New York Times Magazine* (New York) 13 September 1970, 32-33, 1212-126.

⁹ Marrewijk, above n 2, 96.

¹⁰ For more information see the definitions given since 1990s by different organisations and individuals such as the Commission of the European Communities in 2001, 2002 and 2003, World Business Council for Sustainable Development in 1999 and 2000, Michael Hopkins in 1998 and 2003, Marsden in 2001, and Anderson in 2003. They converge on the point of stakeholders' interests.

¹¹ Marrewijk, above n 2, 96.

¹² James E. Post, Anne T. Lawrence and James Weber, *Business and Society* (10th ed. 2002) 59.

The societal approach¹³ is a broader view of the stakeholder approach and suggests that companies as an integral part of society should undertake responsibilities to the society as a whole. They should constructively serve the needs of the society to the satisfaction of public consent.¹⁴ In connection with the business responsibility in society David C. Korten said:

Business has become, in the last half century, the most powerful institution in the planet. The dominant institution in any society needs to take responsibility for the whole. . . Every decision that is made, every action that is taken, must be viewed in the light of that kind of responsibility.¹⁵

It is true that there is no universally agreed upon or recognised definition of CSR for the aforesaid reasons. However this does not mean that CSR lacks definition. There is a proliferation of definitions proposed at the different stages of time and in view of the different contexts and thus the understanding of the concept of CSR, its nature and objective becomes clear. In his article on 'Corporate Social Responsibility: Evolution of Definitional Construct' Carroll gave a lengthy account of evolution of the definition of the concept of CSR beginning from the 1950s to the 1990s highlighting a specific feature of each decade in terms of its development.¹⁶ He marked the 1950s as the modern era of CSR in terms of a definitional construct or its emergence, the 1960s as a time of expansion and the 1970s as a time of proliferation.¹⁷

According to Carroll, in the 1980s some additional theoretical issues were added to the concept itself including corporate social performance, stakeholder theory, and business ethics theory.¹⁸ As definitional development occurred in 1990s these alternative themes took centre stage in the manifestation of CSR.¹⁹ Thereupon all subsequent definitions of CSR were dominated by the stakeholder and societal approach, with the recognition of social, economic, and environmental issues as the basic components of responsibility. The best illustration of this is available in the definitions and views developed in the late 1990s and thereafter by the different intergovernmental, governmental and development organisations as well as some postmodern academics.²⁰ For understanding the current concept of CSR two

¹³ With early contributions of McGuire (1963), Goodpaster and Mathews (1982), and the Committee for Economic Development (1971), including Van Marrewijk (2001) and Gobbles (2002).

¹⁴ Marrewijk, above n 2, 97.

¹⁵ Ibid.

¹⁶ A. B. Carroll 'Corporate Social Responsibility: Evolution of a Definitional Construct' (September, 1999) 38: 3 *Business & Society* 268, 269.

¹⁷ Ibid 270.

¹⁸ Ibid 280.

¹⁹ Ibid 288.

²⁰ Alexander Dahlsrud, 'How Corporate Social Responsibility is Defined: An Analysis of 37 Definitions' (2008) 15: 1 *Corporate Social Responsibility and Environmental management*, 1, 8-11.

definitions are discussed below as they appear to be more comprehensive and covering the essential features of CSR. One is from Commission of the European Communities and another is from David Marsden.

The Commission of the European Communities defines CSR as a concept whereby companies integrate social and environmental concerns in their business operations and in their interactions with their stakeholders on a voluntary basis.²¹ In another definition by the Commission it is said that corporate social responsibility is essentially a concept whereby a company decides voluntarily to contribute to a better society and a cleaner environment.²² Given these definitions, CSR appears to be a managing element that starts at the company level with its performance in a socially responsible manner, where the trade-off between the companies' financial requirements and the needs of the various stakeholders are in a balance, acceptable to all parties.²³ The companies' financial requirements basically mean gaining profit and sustainability of market. The definitions also explore that CSR as a voluntary obligation extends its scope of application to social and environmental issues in company's activities and in their relations with stakeholders, where the ultimate goal is to contribute to building up a better society.

Likewise, David Marsden considers CSR as a core characteristic of a socially responsible company, not an additional option. He says:

Corporate social responsibility is about the core behaviour of companies and the responsibility for their total impact on their societies in which they operate. CSR is not an optional add-on nor is it an act of philanthropy. A socially responsible corporation is one that runs a profitable business that takes account of all the positive and negative environmental, social and economic effect it has on society²⁴.

Marsden's definition lucidly articulates the underpinning point of the companies' social responsibility concept that arises for the total impact of their activities on societies within and outside their operational territory. In his view a social responsible corporation while conducting business considers the whole spectrum of negative and positive social, economic and environmental effects of their activities on the social society. He does not recognise CSR as an act of philanthropy that serves temporal purpose of any individual of the society.

In the light of two above mentioned definitions CSR appears to be a core business agenda that companies should undertake on permanent basis in their

²¹ European Commission, *Green Paper: Promoting a European Framework for Corporate Social Responsibility* (2001) <http://www.europa.eu.int> 5 July 2007.

²² Dahlsrud, above n 20, 8.

²³ Ibid; the definition of the Commission of the European Communities mentioned in the text were made in 2001. But the later definition made in 2002 speaks broadly of CSR as it says: Corporate responsibility is about companies having responsibilities and taking actions beyond their legal obligations and economic/business aims. These wider responsibilities cover a range of areas but as frequently summed up as social and environmental-where social means society broadly defined, rather than simply social policy issues. This can be summed up as the triple bottom line approach, i.e, economic, social and environmental.

²⁴ Dahlsrud, above n 20, 9.

relations with the stakeholders. It is a shift from traditional philanthropy. The contemporary definitions also focus on the similar viewpoints about CSR. One example is that World Business Council for Sustainable Development (WBCSD) considers CSR as the continuing commitment of business intended for sustainable economic development through the improvement of quality of life of employees, their families, the local community and society at large. The definitions also reveal that CSR refers to three main dimension of responsibility: social economic and environmental.

The author of this book considers all views about CSR represented by aforementioned definitions based on stakeholder approach. Moreover, he holds that CSR represents a plethora of responsibilities that a company should adopt in their policies and perform beyond legal requirements in response to the needs and expectations of its different stakeholders and society at large.

Finally, the synthesis of the definitions stands that CSR requires a company to

- consider the social, environmental and economic impacts of its business operations; and
- be responsive to the needs and expectations of its customers, employees, investors, shareholders, and the local communities.

2.1.2 Explaining the Different Dimensions of CSR

Dimension of CSR means the areas and scope of the application of CSR as a business agenda. The dimension is determined here in terms of the component of CSR. It is all about the social, ethical and other responsibilities a company should consider in their business operations or the categories of responsibilities falling under the application of CSR. It is generally known that CSR is multi-dimensional in terms of its objectives as it involves the interests of different types of stakeholders. The benchmark principles of CSR encompassing chiefly social, economic and environmental issues are a bearing on its multi-dimensional approach. The range of the interests of the stakeholders either internal or external expands with the change of time in the face of an increase of their expectations from corporations. Nevertheless, there are different opinions and views about determining the dimensions of CSR.

The European Commission Green Paper 2001 identifies two dimensions of CSR; internal and external.²⁵ The internal dimension includes human resource management, health and safety at work, management of environmental impacts, and natural resources.²⁶ The external dimensions involve local communities, business partners, suppliers, consumers, human rights and global environment.²⁷ The internal issues

²⁵ European Commission, above n 21.

²⁶ Ibid.

²⁷ Ibid.

assumed to be those dealing with companies' internal management. Likewise, the external issues concern the external management.

In terms of dimensions of CSR, Carroll's view concerning the different components of CSR is relevant. He holds that CSR consists of four types of responsibilities. They are economic, legal, ethical, and philanthropic responsibilities.²⁸ Ethical responsibility refers to doing what is right and just, fair and non-harmful; legal responsibility means to obey the law; economic responsibility means to make the company's business profitable and philanthropic responsibility means that company should be a good citizen in the society.²⁹ Carroll's division of social responsibility covers a plethora of core issues, but not the issues that mainly developed after the mid 1990s, when sustainable development issues were integrated into the mainstream CSR agenda.

Alexandar Dahlsrud in a recent study attempts to identify the dimensions of CSR. On the basis of the analysis of 37 definitions of CSR developed in majority over the last 10 years, he identifies five dimensions of CSR.³⁰ They are the voluntary dimension, stakeholder dimension, economic dimension, social dimension and environmental dimension.³¹ However, it can be contended that the voluntariness of CSR in the majority of relevant literature has been considered as the nature of CSR. Similarly the stakeholder aspect of CSR is the current model of CSR. By dimension this book means the size and extent of the application of CSR as a company's business strategy. In this sense, they are not fully suited to the intended concept of dimension.

Nevertheless Dahlsrud's dimensions, from both theoretical and operational perspective, can be classified into two; nature-based dimensions and content and issue or content-based dimension. The voluntariness and stakeholder dimensions are nature-based ones. Economic, social and environmental dimensions are the issue-based ones. Nature-based dimensions refer to something which focuses on the inherent character and actionable value. Issue or content-based dimensions refer to the main concerns and areas of CSR and also demarcate the purview of practice. The discussion of the issue-based dimension of CSR is the basis of forth-coming analysis of the state of CSR practices of the private enterprises under this book.

Voluntariness is the basic character of the CSR agenda. Stakeholder is the latest and ongoing model of the CSR concept that, in fact, brings a fundamental change into the character of CSR and broadens the scope of action. On the other hand the main principles of CSR are designed on the basis of the economic, social and environmental agenda of a company. A company in its business strategy should take all the responsibilities, either social or ethical into its considerations when it

²⁸ A B Carroll, 'The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders' (1991) 34:4 *Business Horizons* 39, 40, 41.

²⁹ Ibid.

³⁰ Dahlsrud, above n 20.

³¹ Ibid.

operates. Therefore here the focus will be on the economic, social and environmental dimensions.

Economic, social, and environmental issues and areas are popularly recognised and distinguished as fundamental to the CSR agenda,³² because the activities and the operations of corporations mainly impact the economic and social life of the people in and outside as well as the natural and human environment. Simon Zadek states that corporate citizenship is about business taking greater account of its social and environmental as well as financial footprints.³³ The concept of sustainable development or sustainability reporting for business developed and operationalised by *Triple Bottom Line* focuses on three issues, namely, social responsibility (people), environmental responsibility (planet), and economic responsibility (profit).³⁴ So a company can be considered simultaneously in terms of responsibility variables as an economic institution, a social actor and an environmental protector.

As far as the economic dimension of CSR is concerned, a company's goal should be to contribute to economic improvement, preserving profitability and conducting its business operation. The best explanation of this can be found in Novak's seven sets of economic responsibilities. These include: (1) to satisfy the customers with goods and services of good quality and real value; (2) to earn a fair return on the funds generated by the financiers and investors; (3) to create new wealth to 'maximise social value' and help the poor for their economic emancipation and also optimise efficiency by raising wages of the employees; (4) to create new jobs; (5) to defeat envy through generating increased mobility and giving people the sense that their economic conditions can improve; (6) to multiply the economic interests of the citizens; and (7) to promote innovation.³⁵

As regards the economic responsibilities of a company's CSR agenda, Carroll emphasises consistent performance for maximising per share earnings, commitment to profitability, maintenance of strong competitive position, maintenance of high levels of operational efficiency, and retaining consistent profitability.³⁶ *Triple Bottom Line* provides 14 economic indicators including, more importantly: (1) direct and indirect economic impact on communities through spending power and geographic economic impact; (2) economic impact through business process; (3) outsourcing, knowledge, innovation, social investments in employees and

³² Antonio Argandoña, *From Ethical Responsibility to Corporate Social Responsibility* (2007) IESE Business School, University of Navarra http://www.stthmoas.edu/cathstudies/cst/conferences/thegood_company/final_papers/Argandoña_per_cent_20final_per_cent20pape.pdf 24 August 2004.

³³ Simon Zadek, *The Civil Corporation: The New Economy of Corporate Citizenship* (1st ed. 2001) 7.

³⁴ The Concept of Triple Bottom Line was developed by J Elkington in his book 'Cannibals with Forks: Triple Bottom Line of 21st Century Business in 1997.'

³⁵ G P Lantons, 'The Boundaries of Strategic Corporate Social Responsibility' (2001) 18: 7 *Journal of Consumer Marketing* 595, 597.

³⁶ Carroll, above n 28, 39-41.

consumers; and (4) taxes, tax incentives, wages, pensions and other benefits paid to employees.³⁷

The social dimension of the CSR agenda is the key factor in setting up the relationships between the business and society. Its basic objective is that corporations should work for building up a better society and therefore, integrate social concerns in their business operations and consider the full scope of their impacts on communities.³⁸ The application of the issues covered under this may result in bringing up a better working and business environment in and outside of a company and assure its good citizenship in the society.

A company as a social actor, being itself a part of the human community, should pay its attention to serving the purpose of the internal and external human communities. It should realise and accordingly respond to their needs, expectations, rights, and demands for the wellbeing of their social life. The internal human community includes owners, managers, and employees. The social responsibility concept as developed internationally explains basically the needs of the employees as internal community.³⁹ External communities mean the local community in which the corporations operate, and also the other stakeholders. From a practical point of view, social issues mainly concern the local community who are impacted in many ways by the companies' activities in their social life. The local community also expects companies' assistance in improving its quality of life.

In the light of the above discussions the social contents of a company's CSR agenda cover a range of issues that may be divided into three clusters: (1) labour rights and practices; (2) human rights; and (3) other social issues. Labour rights and practices include all core labour standards and working conditions as recognised by the ILO Tripartite Declaration concerning Multinational Enterprises and Social Policy and all other ILO Conventions and Recommendations. The core labour rights include the freedom of association, the right of collective bargaining, prohibition of forced and compulsory labour; abolition of child labour, and a guarantee of acceptable working conditions.⁴⁰ Working conditions include a maximum number of hours per week, a weekly rest period, limits to work by young persons, minimum wages, minimum workplace safety and health standards, elimination of employment discrimination, and equal opportunities.⁴¹ The right to work meaning

³⁷ Australian Government Corporations and Market Advisory Committee Report 'Corporate Social Responsibility (2006) 71.

³⁸ Dahlsrud, above n 20, 4.

³⁹ See the International Instruments dealing with corporations' responsibilities such as the OECD Guidelines for Multinationals, ILO Tripartite Declaration, the UN Global Compact and so on.

⁴⁰ See ILO, *Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy* (1977, revised 2000) <http://www.ilo.org/public/english/employment> 4 September 2007.

⁴¹ Ibid; see also Social Accountability International, *Social Accountability 8000* (1998) <http://www.ceppa.org> 4 September 2007. SA (8000) is designed to describe the labour standards in the developing countries, and Global Reporting Initiatives Guidelines concerning labour practices and decent work.

protection against unjustified dismissals and technical and vocational guidance and training can be considered the right of employees.⁴²

As far as human rights are concerned, the respect for protection and compliance with international human rights standards in the jurisdiction of companies' operations are the paramount concern of corporate social behaviour. The UN Global Compact urges business enterprises to support and respect internationally proclaimed human rights within 'their sphere of influence'.⁴³ The phrase (as quoted from the preamble of the UN Global Compact) 'within their sphere of influence' indicates the inclusion of a wide range of operational activities of the enterprises in relation to employment, product, and business etc. and those are linked to the individuals and people who are either in or outside corporations such as employers, suppliers, buyers, and consumers. It also proclaims that a company must ensure that they are not complicit in human rights abuse.⁴⁴

Against the said backdrop, corporations have responsibilities for the promotion and protection of all relevant civil, political, economic, social and cultural rights of those who are within 'their sphere of influence'. These can be enumerated as fundamental labour rights, the right to life of the employees, suppliers and customers, the right to hold opinions, freedom of expression, thought, conscience and religion, the right to family life, right to privacy, minority rights to culture, religious practices. The development-oriented rights are also included such as the right to education, health, adequate and fair distribution of food, clothing, housing, social security, and the enjoyment of the technological development.⁴⁵

The above discussion about the labour and human rights aspects of social dimension reflects that the labour and human rights issues are overlapping, mutually supportive and inclusive of each other. Moreover, all other assessment or performance tools and reporting methods such as Social Accountability 8000 and Global Reporting Initiatives show a significant amount of mirroring between labour and human rights issues.

Another aspect of social dimension is corporate social investments and philanthropic activities in communities. It includes poverty alleviation programmes, sponsoring social and cultural activities of the local communities, establishment of academic institutions, funding for basic education, training and other sensitisation programmes, organising skill and capacity building programmes, founding hospitals, medical units and arrangement of other health care services, funding for alleviating and curing epidemics such as HIV and cancer, undertaking

⁴² The right to work as mentioned in the *Triple Bottom Line* though, does not fall within the purview of core labour rights, but as these are concerned with employees' labour issues, can be considered as labour rights.

⁴³ United Nations, *Global Compact* (2000, revised in 2004) <http://www.unglobalcompact.org> 4 September 2007.

⁴⁴ Ibid.

⁴⁵ See 'Triple Bottom Line of Sustainable Development' Amnesty International's Guidelines for Companies, Social Accountability 8000, Global Reporting Initiative Guidelines (GRI).

natural disaster management programmes, development partnership programmes with governments and NGOs investment for greengage, and fresh water supply.

In addition, participation in community programmes, provision of employment opportunities, engagement in social security management, and involvement of the local people in the decision-making of the corporation are all considered as part of the social dimension of CSR. The said aspect of corporate responsibility is intended to remove 'the social welfare deficiency' and enhance and improve the community's quality of life.⁴⁶

The last content-based dimension of CSR is the environment, which is the most significant concern of business enterprises across the world today. The operational activities of corporations have immense impact on living and non-living natural resources, including ecosystems, land, air and water. All major international instruments providing normative standards of CSR introduce corporate responsibilities for environmental protection. For example, the UN Global Compact among its ten principles on the whole, dedicates three as primary responsibilities of the corporations. They are 'adopting a precautionary approach to environmental challenges',⁴⁷ 'undertaking initiatives to promote greater environmental responsibility',⁴⁸ and 'encouraging the development and diffusion of environmental friendly technology'.⁴⁹

Similarly, ICC Business Charter for Sustainable Development introduces 16 principles for environmental management covering, 'inter alia', the establishment of environmental management on the basis of priority, integrating management systems, the efficient use of energy and materials, sustainable use of renewable resources, minimisation of adverse environmental impact and waste generation, and the safe and responsible disposal of residual waste, adopting precautionary approach, development emergency preparedness plans, and so on.⁵⁰

OECD Guidelines for Multinational Enterprises in association with other corporate responsibilities provides some principles for environmental protection. They focus mainly on the assessment and consideration by enterprises of foreseeable environmental and environment related health consequences of their activities and their impact on indigenous natural resources, and assessment of health risks of products as well as from the generation, transport, and disposal of waste.⁵¹ In addition, the enterprises should undertake appropriate measures in their operations for the minimisation of the risk of accidents and damage to health and the environment and co-operate in mitigating adverse effects.⁵²

⁴⁶ Carroll, above n 28, 39-41.

⁴⁷ United Nations, *Global Compact*, above n 43.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ International Chamber of Commerce, *Business Charter for Sustainable Development* (1991) http://www.iccwbo.org/home/environment_energy/charter.asp 4 September 2007.

⁵¹ See Organisation for Economic Co-operation and Development (OECD) *Guidelines for Multinational Enterprises* (2000), <http://www.oecd.org> 4 September 2007.

⁵² Ibid.

The international normative standards of CSR developed so far are comprised mostly of social, economic, and environmental issues. In setting standards greater attention and consideration is paid to labour rights and industrial relations, human rights, environmental protection, combating bribery, protection of consumer interests, ensuring quality of products, and other responsibilities concerning the market place. The social investments, community relations and the philanthropic issues are mainly based on companies' discretion and developed through practices in order to be a 'good citizen of the society'.

It is noteworthy to say that in attaining the objective of this book the focus remains confined to some fundamental aspects of the above mentioned content based dimension of CSR and they are mostly in relation to labour and industrial relations, human rights, environmental protection, and philanthropic issues.

To sum up the discussion on the definition of CSR, although there is no universally agreed definition of CSR at a global level, the concept of CSR has been settled and recognised as a long term business strategy balancing corporate rights with obligations towards stakeholders which is ever-growing in nature. It requires a company to consider the social, environmental and economic impacts of its business operations. In addition, it suggests a company to address the needs and expectations of each kind of stakeholder.

As far as dimensions are concerned, the CSR agenda involves economic, social and environmental responsibilities as the activities of corporations' impacts greatly on these three areas. The majority of the international standards focus on labour, human rights, environment and consumer protection related issues as the core contents of CSR. The social investment, community relations, stakeholder engagement and philanthropic activities also fall within the purview of companies' responsibility based on the companies' discretion developed by the individual self-regulatory guidelines.

2.2 Development of CSR Standards: Institutional Approaches

2.2.1 Voluntary or Self Regulation as a Basis for the Development of CSR Standards

Voluntary regulation contributes to the development of CSR standards across the world. As CSR deals with companies' social and ethical responsibilities, direct regulatory initiatives are often absent in the application of CSR. At a national level, there are significant barriers to regulating companies to ensure that they manage their social and environmental impacts properly. Direct regulation or prescriptive legislation often leads to tokenistic responses and can quickly become an inaccurate reflection of society's concerns, lagging behind public opinion. Likewise at the international level, due to inadequate global governance and discrepancies in social

and environmental issues, no law-making treaty is yet concluded where company is directly subject to regulation in respect of its activities having social, economic and environmental impacts. This situation leads to reliance on and proliferation of self-regulatory actions related to CSR as manifested in different voluntary multi-stakeholders codes and international regulating standards setting initiatives by the ILO, the OECD and the UN for providing guidelines of corporate behaviour in relation to workers' rights, human rights, ethical business, and the environment.

2.2.2 Different Forms of Voluntary Codes of CSR

There are different forms of voluntary codes developed so far to promote CSR standards. They can be classified as follows:

- Company, trade association, and model codes of conduct;
- Multi-stakeholder codes; and
- Intergovernmental codes.

All these codes of conduct have contributed to the promotion of CSR standards. But among them multi-stakeholder and intergovernmental codes give rise to a structural basis for the promotion of CSR standards and their application. Therefore the following discussion has greater focus on multi-stakeholder and intergovernmental initiatives.

2.2.2.1 Company, Trade Association and Model Codes of Conduct

Company codes of conduct are adopted by companies independently or unilaterally. The codes are the main self-regulatory instruments addressing their social, environmental, human rights and economic externalities. Company codes are largely concentrated on sectors where brand reputation and export orientation are important. Codes addressing labour issues usually tend to be connected with the garment, footwear, sporting goods, toy and retail sectors while those related to environmental aspects are likely to be found in chemical, forestry, oil and mining.⁵³ Sources suggest that the world's larger multinational companies have taken the lead in adopting such codes as a means of responsible sourcing⁵⁴ and alternative means

⁵³ United Nations Research Institute for Social Development, Corporate Social Responsibility and Business Regulations: How should Transnational Corporations be regulated to minimize malpractice and improve their social, environmental and human rights record in developing countries? (2004) <http://www.unrisd.org> 24 October 2007.

⁵⁴ Hu Xiaoyong, *Corporate Codes of Conduct and Labour Related Corporate Social Responsibility: Analysing the Self Regulatory Mechanisms of Multinational Enterprises and Their Impacts to Developing Countries* (2006) The Japan Institute for Labour Policy and Training <http://www.jil.go.jp/profile/documents/Hu-pdf> 27 October 2007.

of regulation.⁵⁵ There are different motivations identified for the adoption of self-regulatory codes such as: (1) it is an alternative to regulation; (2) it is an answer to social pressure; (3) it is a way of achieving social licenses meaning social recognition⁵⁶; (4) it is a sign of corporate social responsiveness; and (5) it is a behavioural process.

Trade association codes are adopted by a group of firms in a particular industry in a unilateral manner. Examples are the British Toy and Hobby Association Code, the US Chemical Manufacturers' Associations' Responsible Care Programme, and the International Chamber of Commerce's Business Charter for Sustainable Development, or by the association of developing countries' firms for example, the Bangladesh Garments Manufacturers and Exporters Association (BGMEA) Code and the Kenya Flower Council Code.⁵⁷ The association codes, like company codes, focus on labour issues, working conditions in the core enterprises, development and sustainability concerns such as poverty, deforestation and pollution, as well as the rights and responsibilities of suppliers.⁵⁸

The model codes are basically intended to provide a benchmark of what a particular organisation considers or regards as good practice in terms of codes of conduct.⁵⁹ These codes are not designed to be applied in the practice of a particular company. Instead, they are left to the desire or will of companies to follow. They are, for instance, the European Parliament's Code of Conduct on CSR, ICFTU's basic Code of Conduct, and European Parliament's Code of Conduct on CSR covering labour practice, and Amnesty International's Guidelines for Companies.

2.2.2.2 The Multi-Stakeholder Codes

In recent years corporate self-regulation has been addressed through multi-stakeholder initiatives including standard setting and the promotion of dialogue, reporting, monitoring, auditing and certification related to social, environmental

⁵⁵ Levis Julian, 'Adoption of Corporate Social Responsibility Codes by Multinational Companies' (2006) 17:1 *Journals of Asian Economics* 50, 51.

⁵⁶ The adoption of self-regulatory code of conduct on CSR helps a company achieve social licence. Because, the social actors through protests, use of media and boycotts license (to do business) the company that over comply. Meeting the requirements of social licence can be made through compliance with CSR and the existence of a CSR code gives an evidence on their compliance.

⁵⁷ Jenkins Rhys, *Corporate Codes of Conduct: Self-Regulation in a Global Economy* (2001) United Nations Research Institute for Social Development <http://www.unrisd.org> 25 October 2007.

⁵⁸ Peter Utting, *Corporate Social Responsibility and Business Regulations: How Should Transnational Corporations be Regulated to Minimize Malpractice and Improve their Social, Environmental and Human Rights Record in Developing Countries?* (2004) United Nation Research Institute for Social Development <http://www.unrished.org> 24 October 2007.

⁵⁹ Rhys, above n 57.

and human rights issues.⁶⁰ Multi-stakeholder initiatives in designing such codes involve companies, trade union organisations, and other worker's organisations, labour and human rights NGOs, relevant government departments, and academics. But the NGOs and companies' roles are evidently prominent.

There is a diversity of ways by which the multi-stakeholder initiatives intend to improve corporate social and environmental policy and performance. Some of them stress on certification or monitoring of policies and management systems; some are concerned with processes as well as certifying actual performance and impacts; others reflect on voluntary reporting and 'best practice learning'. Some prominent examples of multi-stakeholder initiatives are the following:

- Certification Schemes: ISO 14001 (environmental management standards), the Fair Labour Association (FLA) and Social Accountability International's (SAI) SA8000 (labour standard);
- Global Reporting Initiatives, Ethical Trading Initiative and AA1000;
- Standard setting and monitoring schemes associated with anti-sweatshop initiatives: Clean Clothes Campaign (CCC), the Workers Rights Consortium (WRC), and Worldwide Responsible Apparel Production WRAP); and
- Initiatives that emphasise stakeholders and learning about good practice, such as the United Nations Global Compact (this will be discussed under the head of intergovernmental initiatives).

Multi-stakeholder initiatives have played an important role in the promotion of both substantive and procedural standards of CSR. The early focus on working conditions in the industry levels has been complemented by an exclusive attention to labour rights. Procedural aspects as improved by these initiatives involve the introduction of external independent monitoring instead of companies' internal monitoring systems in order that changes in companies' performance can be measured well.

Multi-stakeholder initiatives give rise to the scaling up of standards and a slight hardening of the soft voluntarism that featured in the early experience of CSR based on corporate self-regulation.⁶¹ Some multi-stakeholder initiatives appear to be more effective in practice than others in connection with different regulatory functions. In this respect it is notable that O'Rourke has placed non-governmental systems of labour regulation on a spectrum, 'from purely 'privatised' regulation to more 'collaborative regulation' to more 'specialised regulation'.⁶²

Moreover, multi-stakeholder initiatives can be seen as effective and important elements in the new institutionalism and the move for good governance that are the

⁶⁰ Ibid.

⁶¹ Peter Utting, *Rethinking Business Regulation: From Self-Regulation to Social Control* (2005) United Nations Research Institute for Social Development <http://www.unrished.org> 24 October 2007.

⁶² Dara O'Rourke, 'Outsourcing Regulation: Analysing Non-governmental Systems of Labour Standards and Monitoring' (2003)33:1 *The Policy Studies Journal* 1, 10.

core features of the Washington consensus.⁶³ This consensus widely recognises the institutional need to control and minimise perverse social, environmental and development effects of open markets, economic liberalisation and corporate globalisation.⁶⁴

The distinctive feature of multi-stakeholder initiatives is that under different institutional forms, they have contributed to the development of a number of codes on particular CSR issues and therewith the monitoring and verification procedures. ISO 14001 under its institutional framework provides a set of guideline for improving the environment management and certification system. SA8000 provides international workplace standards and monitoring process with the objective of helping companies develop and manage social accountability systems.⁶⁵ FLA under 'Workplace Code of Conduct and Principle for Monitoring' has developed internal and independent monitoring procedures to promote labour standards in the workplace in the USA and worldwide apparel industries. Similarly, CCC has adopted a code of conduct with a view to improving working conditions in the global garment industries including sportswear.⁶⁶ The Global Reporting Initiative has provided a framework for reporting on the basis of triple bottom lines which refers to companies' social, economic and environmental impacts. In recent development, the Global Reporting Initiative known as G3 has provided for disclosure of management approaches in relation to those aspects.⁶⁷ In addition, under the auspices of the United Nations Global Compact, learning and networking processes have been developed for the promotion of CSR practices on the basis of ten principles declared by the Compact.

It is noteworthy that the major contribution of the multi-stakeholder codes is that they have developed standards and their management and thereby CSR though voluntary, took the form of quasi-binding responsibility. They have developed

⁶³ The term Washington Consensus was initially coined by in 1989 by John Williamson to describe a set of ten specific economic policy prescriptions that he considered to constitute a "standard" reform package promoted for crises-wrecked developing countries by Washington DC based institutions such as the international Monetary Fund, World Bank and the US treasury Department. The phrase Washington Consensus is today a very popular and often pilloried term in debates about trade and development. It is often seen as synonymous with 'neoliberalism' and 'globalisation'.

⁶⁴ Utting, above n 61.

⁶⁵ European Commission Directorate General for Employment and Social Affairs, *ABC of the Main Instruments of Corporate Social Responsibility* (2004) http://europa.eu.int/comm/employment_social/soc_dial/csr_index.htm 30 September 2009.

⁶⁶ Hu Xiaoyong, 'Corporate Codes of Conduct and Labour Related Corporate Social Responsibility: Analysing the Self-Regulatory Mechanisms of Multinational Enterprises and Their Impacts to Developing Countries' (2006) The Japan Institute for Labour Policy and Training (2006) <http://www.jil.go.jp/profile/documents/Hu-pdf> 27 October 2009.

⁶⁷ It is noteworthy that the reporting on the basis of triple bottom line under Global Reporting Initiative first developed in 2002 and in 2006 it was focusing the disclosure of the management approach of company's economic social and environmental aspects.

monitoring and verification mechanisms and their institutional application in the global supply chains that help promote ethical business. The labour, human and environmental standards incorporated by these codes are based on different inter-governmental codes.

2.2.2.3 The Intergovernmental Codes

The three major intergovernmental organisations, the OECD, the ILO, and the UN have adopted in recent years declarations and guidelines consisting of the general norms of CSR applicable globally and covering the major contents. These include the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declarations for Multinational Enterprises, the UN Global Compact, and the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights. These four instruments provide guidelines for corporate behaviour and regulating framework for MNEs and their employment practices. In addition, the UN Environment Programme Finance Initiative (1992 restructured in 2003) and the UN Principles for Responsible Investment (2006) also provide norms for financial institutes and companies respectively for meeting the requirement of certain environmental, social, and ethical standards.

The distinctive features of these instruments (except the Global Compact) appear to be:

1. that these intergovernmental codes provide a body of standards that can form a basis for defining and verifying accepted corporate conduct and practices related to CSR, and can be applicable to all types of corporations, either multinational or home grown private enterprises;
2. that these codes present a co-regulatory approach such as in the case of the ILO where the implementation and norms setting responsibilities are proposed to be shared by the national governments, corporations, and workers' representatives; and
3. that they (OECD and UN Norms) introduce a corporate accountability agenda or international regulation system to hold corporations to account, rather than urging companies to improve standards, or report voluntarily.

Accordingly the following discussion focuses on the contents of the standards set by these codes, their applicability, and implementation mechanisms to regulate the corporate social behaviour.

The OECD Guidelines for Multinational Enterprises

The Guidelines for Multinational Enterprises are part of the OECD Declaration on Investment and Multinational Enterprises that is intended for protecting and

promoting foreign direct investment.⁶⁸ The Guidelines were first adopted in 1977, and subsequently amended several times.⁶⁹ Finally in June 27, 2000, the OECD issued its revised Guidelines after lengthy negotiations with the member countries and consultation with numerous NGOs.⁷⁰

The revised Guidelines represent a comprehensive CSR code for multinationals by providing non-binding principles and standards for responsible business conduct with the aim of promoting economic, environmental and social progress. The current text of Guidelines, therefore, is relatively detailed, covering 38–54 specific corporate responsibility issues.⁷¹ The revision was important since the use of the Guidelines is specially needed in host countries, where relevant legal norms and policies are often lacking or ineffective in enforcing basic human rights and other standards.

The Contents of Standards

The Guidelines provide voluntary principles for responsible business conduct in various fields such as employment and industrial relations, environmental protection, combating bribery and protection of consumer interests. They are as follows:

Employment and industrial relations: Employment and industrial relations include the right of employees to be represented by trade unions and other bonafide representatives; the abolition of child labour; the elimination of all forms of forced labour; the prohibition of discrimination against employees; the provision of the necessary facilities for an employee representative for the development of effective collective agreement; the promotion of co-operation between enterprises, employees and their representatives on matters of mutual concern; and undertaking adequate steps to ensure occupational health and safety in their operation.⁷²

Environmental protection: The environmental responsibilities as recommended by the Guidelines emphasise that enterprises should take into account ‘the need to protect the environment, public health and safety and generally conduct their activities in a manner contributing to the wider goal of sustainable development’.⁷³

⁶⁸ OECD Guidelines for Multinational Enterprises, above n 51.

⁶⁹ The OECD Guidelines were amended in 1979, 1987 and in 1991.

⁷⁰ Lea Hanakova, ‘Accountability of Transnational Corporations under International Standards’ (LL.M Book, University of Georgia School of Law, 2005) http://digitalcommons.law.uga.edu/stu_llm/17 18 May 2007.

⁷¹ Business for Social Responsibility (BSR) Report (November 2000) <http://www.bsr.org> 16 October 2009. The current text was enriched with the entirety of social responsibilities after a revision. The revision added a number of issues to the main text including an extension of labour rights, a direct referral to human rights assigning the multinational responsibilities, and a reference to their responsibility to the supply chain (i.e., business partners, suppliers and sub-contractors). More importantly the applicability guidelines cover extraterritorial activities of TNCs.

⁷² The recommendations made by the Guidelines to implement these rights express all four fundamental principles and rights at work which are set by ILO Declaration in 1998.

⁷³ The OECD Guidelines for Multinational Enterprises, above n 51.

The Guidelines also suggest means of implementation, such as establishing and maintaining an appropriate system of environmental management, providing the public and employees with adequate and timely information on the environment, health and safety impacts of their activities, and providing adequate education and training to employees in environmental, health and safety matters.⁷⁴

Prohibition of bribery and the protection of consumer interests: The Guidelines set forth the principles relating to the prohibition of bribery and the protection of consumer interests. In regard to bribery enterprises are encouraged to abstain or refrain from paying any portion of a contract payment to public officials or the employees of business partners or to their relatives.⁷⁵ They are also encouraged to ensure appropriate remuneration to and legitimate service of their agents, enhance transparency, and promote knowledge and awareness of and compliance with companies' anti-bribery policies.⁷⁶ In addition, to eliminate bribery, the company should adopt management control systems and avoid illegal contributions to candidates for public office or political parties.⁷⁷

As far as the protection of consumer interests is concerned, enterprises should adopt fair business, marketing and advertising practices and should take 'all reasonable steps' to ensure the safety and quality of their products and services.⁷⁸ 'All reasonable steps' means meeting 'all agreed or legally required standards for consumer health and safety including health warnings and product safety and information levels'. It also means providing accurate and clear information about safe use, maintenance, storage and disposal of products. They should provide consumers with clear dispute resolution procedures.⁷⁹

The Applicability of the Guidelines

It is clear that the Guidelines adopted by the OECD in the form of recommendations of the governments of adhering member and non-member states are intended for the multinational enterprises operating in and from the adhering countries. The Guidelines are applicable to all entities within multinational enterprises, whether parents or subsidiaries. In the performance of responsibilities the different entities of multinationals extend their co-operation and assistance to one another. Although the nomenclature of the Guidelines specifies its application to multinationals, they

⁷⁴ Ibid; The text of the environmental issues in the Guidelines is the reflection of the principles and objective as introduced by Rio Declaration of Environment and Development and Agenda 21 (within the framework of the Rio-Declaration. Agenda 21 outlines the main issues regarding sustainable development and identifies key threats and challenges to achieving desired goals.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ibid; The principles relating to combating bribery reflects the contents of the OECD Convention of Combating Bribery of Foreign Public officials which came into force on 15 February 1999.

⁷⁸ Ibid.

⁷⁹ Ibid.

are also relevant for domestic enterprises.⁸⁰ However, the Guidelines do not expect from the small and medium-sized enterprises the same degree of performance as from larger businesses.⁸¹

Implementation Mechanism

The implementation procedures of the OECD Guidelines depend on the activities of the National Contact Point (NCP) of each adhering country of the OECD. Each adhering country will set up a NCP at its government office with a responsibility to encourage the observance of Guidelines in the national context and ensure that they are known and understood by the business community and by other interested parties.⁸² The NCP conducts, surveys, guides, makes enquiries, and discusses issues concerned with the Guidelines and assist in resolving any potential problems.⁸³ The NCP also extends its assistance in resolving specific complaints. Any person may seek assistance or raise a complaint to the NCP in relation to the violation of the Guidelines. The NCP is expected to perform its duty in a visible, accessible transparent and accountable manner. The NCP reports on its activities annually.⁸⁴

The ILO Tripartite Declaration of Principles Concerning Multinational Enterprises

In 1977 the ILO Governing Body issued a Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy which is regarded voluntary regulation of corporate behaviour.⁸⁵ By the adoption of this Declaration the ILO first set a code of conduct on labour standards for the multinationals. This Declaration articulates all the issues pertaining to labour rights and their protection contained in the different conventions of the ILO. In 2000 this Declaration was revised to incorporate the ILO Declaration on Fundamental Principles and Rights at Work that embody (a) the freedom of association and right to collective bargaining; (b) the elimination of forced and compulsory labour; (c) the abolition of child labour; and (d) the elimination of discrimination in the workplace.⁸⁶ Out of concern

⁸⁰ Section 1.4 of the OECD Guidelines says “the Guidelines are not aimed at introducing differences of treatment between multinational and domestic enterprises; they reflect good practice for all. Accordingly, multinational and domestic enterprises are subject to same expectations in respect to their conduct wherever the Guidelines are relevant to both.”

⁸¹ OECD Guidelines, above n 51, Sect. 1.5.

⁸² Ibid part 2.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Phillip H. Rudloph, ‘The Tripartite Declaration of Principles Concerning Multinational Enterprises’ in Rammon Mullerat (ed), *Corporate Social Responsibility: The Corporate Governance of the 21st Century* (2005) 217.

⁸⁶ Ibid.

for core labour rights, including employment policy, job security, and health and safety issues, the Declaration calls upon governments, employers, labour unions, and TNCs to work towards the realisation of economic and social development. It calls for formulating appropriate national laws and policies and recommends that the principles be implemented by all concerned parties.

The Contents of the Standards

The Tripartite Declaration provides a set of policy guidelines and recommendations to both the ILO member states' governments and multinational enterprises in regard to the implementation of labour rights and other employment issues which have already been established by the different conventions.

Labour rights: The labour rights as reaffirmed by the text include freedom of association, the right to organise, the right to collective bargaining in all matters of industrial relations, provision of favourable wage rates, benefits and working conditions and maintenance of high standard of occupational safety and health.⁸⁷

Employment: The employment issues relate to the expansion of opportunities for stable and secure employment within the host country, promoting training and retraining initiatives as well as the promotion of workers in all occupational categories.⁸⁸ Multinational enterprises, while operating in developing countries, should endeavour to increase employment opportunities and standards, taking into account the employment policies and objectives of the governments as well as security of employment and long term development of the enterprises.⁸⁹

Human rights: The Declaration also makes a special reference to human rights urging all the concerned parties to respect the Universal Declaration of Human Rights and the corresponding International Covenants on Human Rights.⁹⁰ The Declaration calls on member states to ratify ILO Conventions 87, 98, 111, 122, 138, and 182 and to apply their principles, along with the recommendations 111, 119, 122, 146, and 190.⁹¹

The Applicability of the Declaration

The ILO Tripartite Declaration provides guidelines in relation to labour and employment issues applicable to governments, employers and workers' organisations and multinational enterprises. The text itself states that 'the principles set out in this Declaration are commended to the governments, the employers' and the workers organisations of home and host countries and to the multinational

⁸⁷ ILO Tripartite Declaration, above n 40.

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Rudloph, above n 85, 218.

⁹¹ Hanakova, above n 70.

enterprises themselves.⁹² It further states that these principles are intended to guide the governments, the employers' and workers organisations and multinational enterprises in taking such measures and actions and adopting such social policies, including those based on the principles laid down in the Constitution and the relevant Conventions and recommendations of ILO, as would further social progress.⁹³

There is a fundamental difference between other ILO Conventions and the Declaration as updated in 2000. In other ILO Conventions the ratifying states are the sole subject of the focus on labour rights and employment related issues. As the Declaration is the outcome of a joint effort from governments, employers and workers organisations, the multinationals including all these three groups are the subjects of the principles. The responsibilities of both governments and multinationals are with respect to the relevant issues throughout the text. The responsibilities of governments as outlined appear more persuasive and co-operative in nature while enterprises are recommended directly to undertake implementation and compliance measures. It is apparently understood that the principles, in respect of labour and employment issues, are only addressed to multinational enterprises and therefore they are expected to implement them in their conducts. However, the principles of this Declaration also apply to the domestic enterprises (as the OECD Declarations for Multinational Enterprises do). This is evident in the following text of the Declaration:

The principles laid down in this Declaration do not aim at introducing or maintaining inequalities of treatment between multinational and national enterprises. They reflect good practice for all. Multinational and national enterprises, wherever the principles of this Declaration are relevant to both, should be subject to the same expectations in respect of their conduct in general and their social practices in particular.⁹⁴

Implementation Mechanism

The Declaration does not provide any specific mechanism or monitoring process to implement the recommended principles. It presents a co-regulatory approach or tri-party participation such as government, workers and the enterprises in implementing the principles. However, the ILO has established a bureaucratic system to implement the Declaration which includes investigations carried out by the ILO secretariat and a subsequent report presented to the Board of Directors of the concerned company. In order to maintain industrial relations it proposes to undertake some steps to resolve any dispute, with the joint intervention of enterprises and representatives and organisations of the workers.⁹⁵

⁹² ILO Tripartite Declaration, above n 40.

⁹³ Ibid; this statement provides co-regulatory approach for handling corporate social activities.

⁹⁴ Ibid.

⁹⁵ Ibid.

The United Nations

The UN Global Compact

The Global Compact is an agreement between the United Nations and world business community that came into being on the basis of UN Secretary-General Kofi Annan's speech delivered in 1999 at the World Economic Forum at Davos, Switzerland and was implemented in July 2000.⁹⁶ Initially, the Global Compact was a set of nine principles of good corporate citizenship comprising human rights, labour standards and the environment. Then it was revised in 2004 with the addition of one more principle regarding bribery and corruption.⁹⁷ The Global Compact urges the business community to 'enact and embrace its principles in the said areas.'⁹⁸

The Global Compact principles are divided into four areas; human rights, labour standards, the environment, and bribery and compensation. It incorporates altogether ten principles. The principles are by nature substantive. Two of them ask companies to protect and respect human rights as proclaimed internationally.⁹⁹ Four principles emphasise fundamental labour standards including the freedom of association and effective recognition of the right to collective bargaining, and elimination of all kinds of forced and compulsory labour, and elimination of discrimination in respect of employment and occupation.¹⁰⁰ Three principles are devoted to environmental issues. Under these principles, companies are encouraged to support precautionary approach to environmental challenges, undertake initiatives to promote greater environmental responsibility, and develop environment friendly technologies.¹⁰¹ Here the second principle 'to promote greater environmental responsibility' seems to be vague and lacks the nature of substantive principles. The last principle says that businesses should work against all forms of corruption including extortion and bribery.¹⁰²

The principles encompassed by the Compact are based on the Universal Declaration of Human Rights (1948), the ILO's Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977) and the Rio Declaration for Environment and Sustainable Development (1992) which the companies are expected to adopt and integrate in the areas of their business.¹⁰³

⁹⁶ Hans Corell, 'The Global Compact' in Ramon Mulert (ed.) *Corporate Social Responsibility: the Corporate Governance of 21st Century* (2005) 235.

⁹⁷ Ibid.

⁹⁸ United Nations, *Global Compact* (2000, revised in 2004) <http://www.unglobalcompact.org> 04 September 2007.

⁹⁹ Principles 1 and 2 of the UN Global Compact.

¹⁰⁰ Principles 3, 4, 5, and 6 of the UN Global Compact.

¹⁰¹ Principles 7, 8, and 9 of the UN Global Compact.

¹⁰² Principle 10 of the UN Global Compact (revised in 2004).

¹⁰³ Lisa Whitehouse, 'Corporate Social Responsibility, Corporate Citizenship and the Global Compact: A New Approach to Regulating Corporate Social Power' (2003)3:3 *Global Social Policy* 299, 307.

The Global Compact presents an integrated approach towards international business. Its importance mainly relates to its provision of ‘a global framework to promote sustainable growth and good corporate citizenship through committed and creative corporate leadership’.¹⁰⁴ Not only that, it also attempts to detail its principles in a way that informs corporate activity on a global scale.¹⁰⁵ In the opinion of Hans Corell, the Compact attempts to achieve two kinds of goals that are complementary.¹⁰⁶ The first is to make the Compact and its principles part of the internal strategy and operations of a business.¹⁰⁷ The second is to engage the stakeholders and facilitate cooperation among them in order to resolve common problems.¹⁰⁸

Four mechanisms have been developed to achieve these goals within the organisational forum of Global Compact; dialogue, learning, local networks and project partnerships. The business is encouraged to hold dialogues and networking, learning and project partnership among governments, civil society, and labour. The Compact proposes to hold dialogues to obtain mutual understanding and joint efforts among businesses, labour and non-governmental organisations in resolving the key challenges of globalisation.

The UN Global Compact principles do not seem to be a full structured regulatory instrument of corporate responsibility, as it lacks the monitoring or enforcement mechanism that would ensure corporate compliance with the principles. It is instead a facilitating forum to advance global corporate social responsibility and to work for a sustainable future. It engages the private sectors to directly work with the UN, in partnership with ILO and NGOs, to identify and promote good corporate practices based on universal principles. It is viewed as a new type of partnership at a global level among the UN member states, MNCs, the ILO and NGOs to promote good corporate citizenship.¹⁰⁹ As a global platform, the Compact aims to make the business sector a strategic partner for development as it appears to have brought together business, labour and civil society to search for solutions to contemporary challenges.¹¹⁰

Since its inception the Global Compact has received a satisfactory number of responses from companies of the developed and developing world.¹¹¹ A growing number of companies are applying its principles in reviewing corporate strategies

¹⁰⁴ Global Compact Office, *The Global Compact: Corporate Leadership in the World Economy*, (2001) New York, United Nations.

¹⁰⁵ Ibid.

¹⁰⁶ Corell, above n 96, 235.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Hevina Dashwood, ‘Corporate Social Responsibility and the Evolution of International Norms’ in John J. Kirten and Michael Trebilcock (ed.) *Hard Choices, Soft Law: Voluntary Standards in Global Trade, Environment and Social Governance* (2004) 189.

¹¹⁰ George Kell, *The UN Global Compact: Concept, Achievements, Future* (2002) United Nations <http://www.unglobalcompact.org> 20 September 2007.

¹¹¹ Dashwood, above n 109, 353.

and adjusting day to day operations, and have established networking with the Compact head office. Participation includes both large scale MNCs and SMEs. According to a Global Compact database report in 2003, 19 % of approximately 1,200 signatories are SMEs.¹¹²

Some critics highlight the vagueness of the Global Compact as it lacks proper monitoring and enforcement procedures, expressing their impression that companies' participation in the Global Compact is tokenistic or opportunistic. It is said that 'many corporations would like nothing better than to wrap themselves in the flag of the United Nations in order to "blue wash" their public image, while at the same time avoiding significant changes to their behaviour'.¹¹³ Likewise it has been viewed that the companies' participation in the Global Compact is only "reputation management".¹¹⁴ The decision by the UN to adopt a 'facilitative approach rather than enforcement' has lead to the more cynical accusations that the Global Compact offers companies a 'free ride'.¹¹⁵

Despite the criticisms referred to, the fact remains that to an extent, the initiative launched with the Global Compact undoubtedly reflects the new prominence of CSR on the international agenda. The development of the Global Compact like the OECD and ILO Tripartite Declarations has intensified the sense of urgency about CSR in some subsequent international forums and conferences.¹¹⁶ For example, CSR was a prominent issue at the Kananaskis G8 Summit in 2002 and the World Summit on Sustainable Development in Johannesburg.

The UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights

With the massive expansion of corporate business practice in the last few decades the impact of business activities on the international community became an increasingly concern of the UN. In response to this concern, it began to pay greater attention to the impact of corporate operations, particularly on human rights. Since the 1970s until 2000 many attempts were taken by the UN to set human

¹¹² United Nations Industrial Development Organisation (UNIDO), *Survey of Small and Medium Enterprises in the Global Compact* (2004) <http://www.unido.org/file-storage/download/?filepercent5fid=22104> 21 September 2007.

¹¹³ S. Prakash Sethi, *Setting Global Standards, Guidelines for Creating Codes for Multinational Corporations* (1st 2003) p.; Lea Hanakova, *Accountability of Transnational Corporations under International Standards* (LL.M theses, University of Georgia School of Law, 2005) 40 http://digitalcommons.law.uga.edu/stu_llm/17 10 September 2007.

¹¹⁴ Whitehouse, above n 103, 310.

¹¹⁵ Ibid; Corporate Europe Observatory, *Global Compact Give TNCs a Free PR Ride* (2000), Amsterdam: Corporate Europe Observatory <http://www.unglobalcompact.org> 10 September 2007.

¹¹⁶ Dashwood, above n 109, 353.

rights standards, but each unfortunately failed.¹¹⁷ Finally on 13 August 2003, the working group of UN Sub-Commission on the Promotion and Protection of Human Rights¹¹⁸ produced a Draft Norms on the Responsibilities of TNCs and other Business Enterprises with Regard to Human Rights and a commentary on the draft.¹¹⁹ The Norms were subsequently considered at the annual meeting of the then United Nations Commission on Human Rights (presently UN Human Rights Council).

The Norms are considered as a landmark step in representing a significant instrument at the international level which imposes a wide range of accountability on businesses. The Norms are an attempt to put the business under the obligation of the protection of human rights and provides guidance to companies that what human rights obligations they should fulfil. Professor John Ruggie, the Special Representative to the UN Secretary General (2005) maintains that the obligations of corporations should and can supplement, not replace the state obligation and, the original responsibility for the protection of human rights lie with the state.¹²⁰ According to his view, the Norms do not have status of international human right law.

The Content of the Norms

The Norms encompass and restate a wide range of human rights, labour, humanitarian, environmental, consumer protection and anti-corruption issues. Though other issues are covered, human rights are prominent. It is argued that the Norms set out in the text appear to be more comprehensive and more focused on human rights than any internationally recognised legal or voluntary corporate codes of conduct have drawn up by the ILO, the OECD, the European Parliament, the UN Global Compact, trade groups, individual companies, unions, NGOs or others.¹²¹

Before describing the substantive standards relating to human rights, the text in its first paragraph clarifies the general obligations of states, TNCs and other enterprises in promoting and securing human rights. It establishes that the primary

¹¹⁷ Jakob Ragnwaldh and Paola Konopik, 'The UN Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with Regard to Human Rights', in Ramon Mullerat (ed.) *Corporate Social Responsibility: The Corporate Governance of 21st Century* (2005) 251, 252.

¹¹⁸ The Sub-Committee is the main subsidiary body of the United Nations Council on Human Rights, and is composed of 26 human rights experts acting in their personal capacity.

¹¹⁹ United Nations High Commission on Human Rights, Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (2003) [http://www.unchr.ch/huridoca.nsf/\(Symbol\)/E.CN.4.Sub.2.2003.12.Rev](http://www.unchr.ch/huridoca.nsf/(Symbol)/E.CN.4.Sub.2.2003.12.Rev) 4 September 2007.

¹²⁰ UN Secretariat, *The Interim Report of Secretary –General Special Representative*, (2006) <http://www.business-humanrights.org/Documents/SRSG-Report> 3 June 2009.

¹²¹ Weissbrodt David and Muria Kruger, 'Norms on Responsibility of Transnational Corporations and Other Business with Regard to Human Rights' (2003) 97:4 *The American Journal of International Law* 901,904.

responsibility for the promotion and protection of human rights is left with states, including their responsibility to ensure whether TNCs and other business enterprises are duly respectful of human rights.¹²² The obligations imposed on enterprises under these Norms at no stage reduce the obligations of states.¹²³

The TNCs and other business enterprises are responsible for promoting and respecting human rights within ‘the respective spheres of their influence’.¹²⁴ The responsibilities as reflected by the Norms can be enumerated as the right to equal opportunity and non-discrimination treatment; the right to security of persons; the right of works including safe and healthy working environment and the right to collective bargaining; respect for national sovereignty and human rights,¹²⁵ and consumer and environmental protection.¹²⁶ With respect to all of these issues, the Norms to a large extent refer to existing international principles, additionally specifying some basic methods for implementation.¹²⁷

Implementation Mechanism

The text describes three means of implementing the Norms. The first is adoption, dissemination and the application of internal rules of operation in compliance with the Norms. The second is a periodical report on the implementation of the Norms to all stakeholders and to the United Nations. The third is monitoring by the United Nations and other International or national mechanisms.

Each transnational corporation or other business enterprise shall adopt, disseminate and implement rules of operation in compliance with the Norms.¹²⁸ Corporations are required to ‘apply and incorporate these Norms in their contracts and other arrangements’ with all individuals party to them such as contractors, subcontractors, suppliers, licensees, distributors and all other natural or legal persons.¹²⁹ The commentary on the Norms states that companies must attempt to influence the human rights of all their business partners and in the case of a persistent breach of the Norms the company must conclude the business contract.¹³⁰

¹²² UN Norms above n 119; see also Caroline Hillemanns ‘UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights’ (2003) 4:10, *German Law Journal* 1,4. <http://www.germanlawjournal.com/article.php?id=330>. 15 October 2007.

¹²³ Ibid.

¹²⁴ Ibid.

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Ibid.

Companies are required to place a periodically report on their implementation of the Norms to all stakeholders as well as to the United Nations.¹³¹ Reporting is a better way of strengthening the compliance rate with human rights obligation as incorporated in the Norms.

As for monitoring, it is stated that companies shall be subject to periodic monitoring and verification by the United Nations, or other national and international mechanisms already in existence or to be formed in the future for the purpose of application of the Norms.¹³²

The Applicability of the Norms

Throughout the text, the Norms impose compliance with human rights and other associated principles on both transnational corporations and other business enterprises. It generally indicates that all business, whether domestic or international should comply with the norms in their activities.

The text of the Norms defines both transnational and ‘other business enterprises’. The definition of transnational as cited in the Norms is clear as meaning an international business entity as it refers to ‘an economic entity operating in more than one country or a cluster of economic entities operating in two or more countries whatever their legal form, whether in their home country or country of activity, and whether taken individually or collectively.’¹³³

On the other hand the definition of ‘other business enterprises’ as cited in the Norms does not clearly mean absolute domestic enterprises.¹³⁴ The phrase ‘other business entities’ may include any business regardless of the international or domestic nature of its activities, including a transnational corporation; and a corporate, partnership or other legal form used to establish the business entity.¹³⁵ In addition, it has been said that ‘Norms are presumed to apply, as a matter of practice, if the business enterprise has any relation with a transnational corporation, the impact of its activity is not entirely local, or the activities involve violation of the right to security.’¹³⁶ In the light of the ‘presumption of the application’ it is not entirely clear which business is falling under the scope of the term ‘other business enterprises’. It creates an ambiguity of what exactly is indicated by this, although Amnesty International interprets by the term as ‘encompassing purely domestic enterprises’.¹³⁷

¹³¹ Ibid; see also Heenan Blaikie, ‘Corporate Social Responsibility and Codes of Conduct: The Privatisation of International Labour Law’ (Paper presented at Canadian Council on International Law Conference 15 October 2004) 13.

¹³² Ibid.

¹³³ Ibid.

¹³⁴ Rangwaldh and Paola Konopik, above n 117, 253.

¹³⁵ UN Norms, above n 119.

¹³⁶ Ibid.

¹³⁷ Rangwaldh and Konopik, above n 117.

Professor David Weissbrodt's clarification as to the application of the Norms to other business enterprises' includes three kinds of other business entities beyond multinationals.¹³⁸ Firstly, businesses engage in activities related to international commerce through import or export, even though they do not have any foreign subsidiaries.¹³⁹ Secondly, the other businesses operating locally are connected with international commerce and transnational corporations through supply chains.¹⁴⁰ And thirdly, influential businesses that are active in local or national markets and have a significant impact on the enjoyment of human rights.¹⁴¹

To resolve this issue the best way is to follow the guideline as available in the Draft UN Code of Conduct on Transnational Corporations and likewise, in the OECD Guidelines and ILO Tripartite Declarations for multinationals. It has been stated in the UN Draft Code that this code is not intended to introduce differences between domestic and international enterprises but wherever the provisions are relevant to both, transnational corporations and domestic enterprises should be subject to the same expectations in regard to their conduct.¹⁴² Similar ideas and provisions are contained in the OECD Guidelines and the ILO Tripartite Declaration.¹⁴³ Both these international corporate codes, though apparently drafted for multinationals, may be applied in both transnational and domestic enterprises as mentioned before. So the term 'other business enterprises', however defined, is logically understood to cover all kinds of domestic enterprises irrespective of their size of operations and these fall within the scope of application of the Norms.

Moreover the basic principles as set out in the Norms are so crucial that they should be respected by all kinds of businesses.¹⁴⁴ The general observation is that all kinds of businesses in the era of economic globalisation are essentially in competition in the global markets to some degree.¹⁴⁵ In this situation, making a distinction between the standards that should apply to transnational and those that should apply to smaller domestic corporations appears to be difficult.¹⁴⁶ In truth, in the current era of globalisation, where foreign investments are largely increasing in domestic enterprises, it is difficult to determine a company wholly of national or international status because of a diversity of structures and forms of ownership and functional scope. So the conditions assigned for 'other business enterprises' in the paragraph 21 of the Norms does not give rise the scope that smaller domestic corporations are not required to comply with human rights standards in their operations.

¹³⁸ Weissbrodt and Kruger, above n 121, 909.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² UN Norms, above n 119.

¹⁴³ OECD Guidelines for Multinational Enterprises, part-1, Para 4; ILO Tripartite Declaration, Para. 11.

¹⁴⁴ Hillemanns, above n 122.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

The Norms also apply to all businesses in their supply chains. The text states:

Each transnational corporation or other business enterprise shall apply and incorporate these Norms in their contract or other arrangement and dealings with contractors, subcontractors, suppliers, licensees, distributors, or natural or other legal persons that enter into any agreement with transnational corporations and other business enterprise in order to ensure respect for and implementation of the Norms.¹⁴⁷

2.3 Conclusion

The above discussion reflects that the three major regulatory initiatives have given mainly a structural basis to the globally recognised CSR standards. They are company, association and NGO model codes, multi-stakeholder codes, and intergovernmental codes. As CSR is a voluntary responsibility issue, each has tried to develop the standards in its own way. Nevertheless, the common issues are in place in all the codes of conduct reflecting the current stakeholder model of corporate behaviour.

The company and associations codes lack coherency as they have been developed unilaterally and in an individual way. These codes are often of limited scope. In the case of multinational corporations, the codes usually focus on working conditions in core enterprises and development concerns that have a high profile in the richer industrialised countries while issues such as labour rights, rights and responsibilities of suppliers and home based workers and independent monitoring receive less attention.¹⁴⁸

Notwithstanding the limitations of the codes, they have so far generated benefits for various stakeholders and broadened the concept of corporate responsibility in relation to environmental management, workplace conditions and company-community relations.¹⁴⁹ At least it can be said that the existence of the corporate codes and association codes are clear recognition of CSR as an extended corporate governance issue. Also, with the focus on advertisement as a requirement, the codes have awakened consumer interest in how goods are produced in addition to the question of price.

Multi-stakeholder codes are the result of stakeholders' reactions, pro-actions and concern for corporate activities, societal demands and market regulation. These codes are on specific issues and cover internal and external monitoring processes. Through the development of management mechanism they have given a quasi-binding nature in the application of CSR. In addition, they have made an effort to bring into decision-making a broader range of participants, promoting a social movement which puts pressure on companies to implement their external responsibilities. At the same time they have created positive impacts on governmental enforcement of the law, respect for individual human beings, and in working

¹⁴⁷ The UN Norms, above n 119.

¹⁴⁸ Utting, above n 61.

¹⁴⁹ Ibid.

conditions in multinationals, home based enterprises and in supply chains. But critics find some major differences in the extent to which they integrate trade unions and local-level monitoring and verification organisations in developing countries and more importantly in the southern actors.¹⁵⁰

The intergovernmental codes such as the OECD and the ILO Declarations, and the UN Norms have contributed to the development of general norms of corporate social behaviour that are all-pervading and provided a regulating framework for MNEs and their employment mechanism. The basic contents of these codes are almost similar and in a sense they are full structured codes. The standards set by these instruments focus on labour and human rights, the environment, consumer protection, accountability, business conduct, community involvement, and corporate governance. Specifically, the OECD Guidelines focus on a wider range of issues such as employment and industrial relations, the environment, combating bribery, and protecting consumer interests. The ILO Tripartite Declaration represents the previous conventions adopted on different issues of labour and employment. In this sense, it can be considered as a composite international labour code. The UN Global Compact is not a full structured corporate code; rather some recommendations intended to promote social responsibility practices through global networking. The UN Norms, although particularised with human rights, cover the major issues generally pertaining to companies' social behaviour.

It is noticeable that CSR norms tie labour and human rights together. The rights which are recognised as labour rights in these codes are incorporated into all of the international human rights instruments.

The implementation mechanisms provided by these codes are soft in nature and differ from each other. The OECD suggests the establishment of an NCP in the member states as an implementation mechanism, while the ILO undertakes a co-regulatory approach through tri-party involvement such as government, employers and representatives of the workers.

There are some basic differences between multi-stakeholder and intergovernmental codes. Intergovernmental codes provide principles regulating the social behaviour of the MNCs as well as national companies. Intergovernmental codes are based on more substantive and less procedural principles of corporate regulation, while multi-stakeholder codes include substantive principles and procedures for investigation, monitoring and reporting issues. The intergovernmental codes are full structured, covering all issues of corporate social responsibility, where multi-stakeholders are adopted on specific issues. But in application, the multi-stakeholder codes are more pronounced. The international development institutions, NGOs and multinational private auditing companies as the drivers of CSR across the world measure the promotional activities of CSR mainly in the light of multi-stakeholder codes.

Finally it may be said that all of the above codes of conduct have been developed institutionally in order to promote international standards to shape a recognised and acceptable CSR structure as a long term business strategy of any company.

¹⁵⁰ Ibid; Xiaoyong, above n 54.

Chapter 3

Trends in CSR Practices in Developed and Developing Countries

3.1 Trends in CSR Practices in Developed Countries

Increasingly, companies around the world are integrating CSR as a business strategy into their policies and practices. There are many factors at play augmenting the increased awareness of CSR. From the absolute business point of view, the need to protect brand image and reputation of business act as a driving force for companies to apply CSR. At the international level, the various NGOs, multi-stakeholder forums, and intergovernmental CSR initiatives through adopting voluntary codes of conduct and other partnership and networking activities appear to be instrumental in establishing and promoting CSR as an integral part of corporate business. At the national level, corporations are adopting CSR as a policy-matter of the business in response to the rising demands of different stakeholders' interests, competition for access into global markets, and importantly satisfying the social needs.

It is said that in terms of practice and promotion the current model of CSR as a business agenda is still emerging as its content and dimension continue to expand on the basis of varying socio-economic-political contexts. Nevertheless, in terms of increasing adoption and integration of the CSR agenda, the companies of developed industrialised countries are more advanced and further ahead of those of developing countries. One of reasons for this is that CSR as a concept was launched in northern and western developed economies and carried out there with the support of MNEs, governments, civil society organisations, trade unions and more sophisticated market situations. In addition, strong public institutions and the good governance in the state mechanism of developed countries have helped to shape CSR structure in a better way. Alongside the logistic availability, strong communication system and the conscious pro-CSR stakeholder activities, self-motivated attitudes of business organisations have contributed to the rise of the trend. In this context, developing countries and corporations therein are lagging behind to a considerable extent.

Although CSR is well positioned in companies' business practices in developed countries by virtue of strong state crafts, well organised corporate structure, adequate legislative developments, logistic availability, government partnership and institutional support, CSR practices and its promotion appear to be less homogenous throughout. For example, in the UK, France and Denmark, CSR operates under liberal, regulatory and partnership-based model and in the US CSR is traditional and self-regulatory.

The following section will review the promotion of CSR in some developed countries for instance, some EU countries, the US and Japan with the application of different lenses of measurement of development such as institutional development, the development of legislation or a regulatory framework, public sector policies and activities, company level performance and so on. Instead of discussing them together, they are examined separately as the development of CSR practices is not homogenous in these countries.

3.1.1 CSR in Developed Countries in Europe

The promotion of CSR in the developed countries of Europe is characterised by regional and national level initiatives. The regional regulations and supports are a distinctive character of the growth of CSR as business phenomenon in the developed economies of Europe which is absent in the rest of the world. In context of regional initiatives, the EU Commission and the EU Parliament have played their respective roles through the adoption of a manifesto, a code of conduct, different resolutions, and organising summits. The most remarkable features of the national level attempts are the promotion of public-private partnerships and adoption of CSR regulation. A brief overview of these initiatives follows.

3.1.1.1 Initiatives Undertaken by the European Commission

Manifesto of Enterprises Against Social Exclusion

This manifesto was launched jointly by the then president of the European Commission and the corporate sector in 1995. It was the first voluntary initiative where companies expressed their willingness to prevent and fight against social exclusion and enhance and display their commitment to social responsibility.¹

¹ See Council of Bars and Law Societies of Europe, *Corporate Social Responsibility and the Role of the Legal Profession: A Guide for European Lawyers advising on Corporate Social Responsibility Issues* (Update No. 1, April 2005) <http://www.ccbe.org> 29 September 2007; see also European Commission, Green Paper: Promoting a European Framework for Corporate Social Responsibility (2001) <http://www.europa.eu.int> 5 July 2007.

It is still used by a large number of enterprises, national business organisations and governments.²

The EU Lisbon Summit of March 2000

This Summit was a ground breaking initiative on the part of European Governments where CSR was placed at the top of the EU political agenda.³ In the Summit meeting, the EU leaders integrated CSR into the strategic goals of the EU in order to achieve the position of 'the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with better jobs and greater social cohesion'.⁴ The EU governments for the first time made a special appeal to the companies to act from a 'corporate sense of social responsibility regarding best practices on lifelong learning, work organization, equal opportunities and social inclusion and sustainable development'⁵ and thus help in achieving the strategic goal of becoming the most competitive economy in the world by 2010.

The EU Commission's 'Green Paper' on Promoting a European Framework for CSR 2001

The Green Paper published in 2000 is one of the most remarkable contributions of the European Council. It focuses on the European framework for CSR and is considered as an intergovernmental/regional CSR regulation applicable across the European countries. Its fundamental objective is to foster the role of the EU in developing a framework for the promotion of CSR and the creation of partnerships among stakeholders, where all actors have role to play.

The Green Paper reflects the Commission's view about the concept of CSR in the EU context. Therefore it sets out a clarification of the basic concept of CSR as an integral part of business; different dimensions of CSR such as internal dimensions (e.g., issues relating to employees, investing in human capital, health and safety, management of environmental impacts and natural resources); and external dimensions (e.g., issues relating to local communities, business partners, suppliers, consumers, human rights, and global environmental concerns).

² Jonathon Lux, Sune Skadegard Thorsen and Annemarie Meisling, 'European Initiatives' in Ramon Mullerat (ed.) *Corporate Social Responsibility: The Corporate Governance of the 21st Century*, (2005) 283.

³ Ibid.

⁴ Council of Bars and Law Societies of Europe, above n 1.

⁵ European Council Conclusions, Article 39 http://www.europa.eu.int/comm/off/index_en.htm 29 September 2007.

The Green Paper does not refer to new principles in respect of labour, human rights and other stakeholder relations issues and discourages the companies from developing individual codes for themselves. Instead, it encourages the use of the international standards (such as UDHR, the ILO Tripartite Declarations for Multinationals, and the OECD Guidelines) so as to make it possible for companies to speak in one voice on all CSR issues.⁶

By drafting such a paper the Commission's goal was to complement and add value to existing CSR activities by 'providing an overall European framework, aiming at quality and coherence of CSR practices, through developing broad principles, approaches and tools, and promoting best practice and innovative ideas'.⁷ The paper was intended to encourage companies to adopt a triple bottom-line business approach, whereby social, environmental and economic considerations are taken together into corporate account.⁸

The Green Paper was well received. More than 250 organisations, businesses and other number of institutions have already accepted and endorsed the 'Green Paper' and reached a consensus on CSR practice.⁹

3.1.1.2 Initiatives Taken by European Parliament

Apart from the European Commission initiatives already mentioned the European Parliament has also played an important role in promoting CSR practices among European countries. The best illustration of this is the adoption of a code of conduct with reference to the activities of transnational corporations operating in developing countries. The code is titled 'European Code of Conduct Regarding the Activities of Transnational Corporations Operating in Developing Countries'. This code is intended as a regulating instrument for the treatment of European multinationals in the developing countries alongside other international codes of conduct. With the adoption of this code, the EU Parliament became the first institutional player to engage in the development of CSR.

The parliament first adopted the code in 1998 along with a report covering the activities of TNCs operative in the third world. It also called for taking one step further than the Commission through establishing a European framework for setting up a legal basis for companies' operation worldwide.¹⁰ The main focus of the code was on human rights abuses in the developing world. In adopting such a code the

⁶ Lux, Thorsen and Meisling, above n 2, 283.

⁷ Ibid; see European Commission, *Green Paper: Promoting a European Framework for Corporate Social Responsibility* (2001) <http://www.europa.eu.int> 5 July 2007.

⁸ Brian Burkett, John Criag and Matias Link, Corporate 'Social Responsibility and Codes of Conduct: The Privatisation of International Law' (A Paper presented at Canadian Council on International Law Conference, 15 October 2004) http://www.lexpert.ca/labour/files/CSR_per cent20Final_per cent 20 Paper- CCILPdf 6 October 2008.

⁹ Lux, Thorsen and Meisling, above n 2, 283.

¹⁰ Ibid.

European Parliament has been criticised for double standards as it looks to be avoidance from acknowledging human rights violations in developed economies.¹¹

In addition to a code of conduct, the parliament adopted a resolution in 2002 for the promotion and effective implementation of CSR across the EU countries. The resolution firstly called for new legislation to require companies for triple bottom-line reporting annually on their social and environmental performance and also to establish a legal jurisdiction about European companies' abuses in developing countries.¹² Secondly, it suggested undertaking steps for the effective implementation of CSR issues. They are as follows:

- a. the creation of a multi-stakeholder forum to oversee the business and trade union policies, such as the European Multi-stakeholder Forum on CSR;
- b. setting up a European social label to endorse products taking into account human and trade union rights;
- c. emphasising the social and environmental impact of companies in the dialogue between employers and trade unions; and
- d. mobilising the European Union's trade and development programmes to tackle and control abuses by companies in developing countries.¹³

The EU Parliament took another resolution in 2007 in order to set up a European Alliance for Corporate Social Responsibility in partnership with several business networks.¹⁴

In addition to the work of the EU Commission and Parliament, in February 2003 the Council of the EU passed a resolution with a call to all member states to promote CSR at the national level, to continue to promote dialogue with social partners, to promote the transparency of CSR practices, to exchange information and experience, and to integrate CSR into national policies and into their own management.¹⁵

3.1.1.3 Institutional Development: Public-Private Partnership at the National Level

As seen above, there are plenty of intergovernmental initiatives to promote CSR at the EU institutional level. Institutional development also has taken place at the nation level through initiatives of the respective governments, from multi-

¹¹ Ibid.

¹² European Parliament, *Resolution on the Commission Green Paper on Promoting a European Framework for Corporate Social Responsibility* (2002) [http://www.europarl.europa.eu/](http://www.europarl.europa.eu/15%20September%202007) 15 September 2007.

¹³ Ibid.

¹⁴ European Parliament resolution of 13 March 2007 on corporate social responsibility: a new partnership (2006/2133(INI)) <http://www.europarl.europa.eu/sides/getDoc.do?Type=TA&Reference=p6-TA-2007-0062&language=EN> 30 September 2007.

¹⁵ Council of the Bars and Law Societies of European Union, above n 1.

stakeholder groups or national NGOs. This institutional development in Europe is based on public-private partnership for the promotion of CSR. In this respect, the more advanced countries are Denmark, France, Germany, Norway, and the UK.

In 1994, the Danish Minister of Social Affairs initiated the 'Our Common Concern Campaign' with a view to putting CSR onto the agenda of Danish business.¹⁶ This campaign led to the establishment of the Copenhagen Centre and the development of a social index.¹⁷ Its objective is to create labour markets by promoting voluntary partnership amongst business, government and civil society.¹⁸

The France Study Centre for CSR was established in 2000 by business partners for the study and promoting corporate social responsibility and socially responsible investment in France and other countries.¹⁹ This is in fact done by the Ministry of Social Affairs which plays the principal role in stimulating social dialogue in France in the matters of employment, vocational training, the combat against social exclusion, and health and pensions.²⁰

As part of the public sector initiative, it is notable that in Germany CSR policy is presently considered the responsibility of the Ministry of Economics and Labour. The Ministry is assigned to promote CSR, increase transparency, and define public support initiatives as it is thought that responsible action will act as an essential element of renewed development.

In addition, in Germany there are some organisations actively working for the promotion of CSR in and outside the federal territory such as the Multi-stakeholder Round Table on Codes of Conduct, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), and Bertelsmann Stiftung.²¹

In Norway, the Norwegian Global Compact is a consultative body established by the government on human rights and Norway's economic involvement in foreign countries.²² Its participants include employers and employees' associations, NGOs and business enterprises. It seeks to promote increased dialogue, information sharing, and mutual understanding among the human rights community, the private sector, and Norwegian authorities in order to make a nexus between business and human rights.²³

¹⁶ Lux, Thorsen, and Meisling, above n 2, 279–292.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid 293.

²⁰ Francesco Perrini, Stefano Pogutz and Antonio Tencati, 'Developing Corporate Social Responsibility: A European Perspective' (1st ed. 2006) 34, 35.

²¹ GTZ is a federal corporation founded in 1975 under private law that assumes responsibility for the ecological, social, cultural, and political environment as a responsibility it shares with its partner organisations. Bertelsmann is one of the leading foundations of Germany that is dedicated to serving the common good. It has a CSR project focusing on the contribution a company can make to resolve the societal questions by enhancing awareness for corporate engagement, building up management competency, and initiating new societal partnerships.

²² Lux, Thorsen, and Meisling, above n 2, 295.

²³ Ibid.

In Sweden, the Swedish Partnership for Global Responsibility was initiated by a group of Swedish ministers in 2002 with the objective of promoting constructive cooperation between government, the business sector, and other sectors of society. As the partnership was launched, the Swedish Ministries in an open letter requested companies to endorse and publicly support the OECD Guidelines and the UN Global Compact. Through this partnership activity the government extends its best possible support to the businesses which are interested in global responsibility.²⁴

In the UK the International Business Leaders Forum (IBLF), Business in the Community (BITC)-Business Impact, Ethical Trading Initiative (ETI) are the most prominent among the institutions working for the promotion of CSR practices at home and abroad as well as for the development of companies' social management standards.²⁵

It is in the UK where for the first time in the world CSR as a business agenda gained official recognition as a public policy strategy when in 2002 the immediate past Prime Minister Tony Blair appointed a minister for CSR within the Ministry of Trade and Industry.²⁶ The main goal of this initiative was to provide a strategic focus and leadership on CSR among the UK government departments. The responsibilities attributed to this post include the dissemination of CSR knowledge, the promotion of consensus regarding British and international codes and practices, and the definition and dissemination of a framework for social and environmental reporting and labelling.²⁷

3.1.1.4 Legislative Measures on CSR Reporting: National CSR Regulation

Despite the formal understanding of CSR as a voluntary action, in the European countries, mandatory social and environmental reporting has began to increase recently. Some industrialised countries have already passed legislations on social and environmental reporting. For instance, Belgium, Germany, Great Britain and Sweden passed in the year 2001–2002 legislations requiring pension institutions to

²⁴ Ibid.

²⁵ IBLF (formerly Prince of Wales Business Leaders Forum) is working more than 30 countries with a view to promoting responsible business for the benefit of business and society and helping attain social, economic and environmentally sustainable development. BITC is a unique movement of over 800 UK's largest corporations that are committed to improving their positive impact on society. ETI is a UK-based alliance of companies, trade unions and NGOs whose goal is to promote the use of widely endorsed set of standards in relation to the working conditions in global supply and production chain.

²⁶ Lux, Thorsen, and Meisling, above n 2, 295.

²⁷ Perrini, Pogutz and Tencati, above n 20, 35; See Jamie Snider, Ronald Paul Hill, Daine Martin, 'Corporate Social Responsibility in the 21st Century: A View from the World Most Successful Firms' (2003) 48: 3 *Journal of Business Ethics* 175, 176.

report or declare whether and how they integrate social and environmental issues into their investment decisions.²⁸

In Belgium companies and the subsidiaries of foreign corporations operating there have been since 1996 under obligation to produce a report on their social performance over a 3 year period. It was in 2002 that the Social Label Law was enacted and came into effect as stimulating socially responsible production, offering companies the possibility of obtaining a label that certifies their products. The jurisdiction of the law did not include the organisation of the companies that comply with eight fundamental ILO conventions.²⁹

In Denmark under the legislation (amended in July 1995) on mandatory public environmental reporting about 1,000 Danish companies have been under obligation to keep and publicise environmental accounts.³⁰ Denmark is the first country in the world to introduce law on mandatory public environmental reporting. A further development occurred about mandatory CSR reporting in recent times. In December, 2008, a law was adopted in Denmark requiring the 1,100 larger companies in the country to report on their corporate responsibility efforts. The law made it mandatory for publicly listed companies, state-owned companies and institutional investors to include information in their annual final financial reports.³¹

In France the parliament in 2001 passed the New Economic Regulations Law requiring listed companies to disclose their impact on social and environmental issues in companies' annual reports and accounts.³² The law on *public pension reserve fund* adopted in July 2001 requires the disclosure of social, environmental

²⁸ See Karin Buhmann, 'Corporate Social Responsibility: what role for law? Some aspects of law and CSR' (2006) 6:2 *Corporate Governance* 180,189; see also Lux, Thorsen and Meisling, above n 2, 294. For more information, in Belgium the Occupational Pension Law of 13th March 2003 requires pension fund managers to disclose in their annual reports to what extent they take into account ethical, social and environmental criteria in their investment policies. The UK Pension Disclosure Regulation requires that trustee of occupational pension fund s disclose in the statement of the investment principles, first the extent, to which social., environmental and ethical considerations are taken into account in their investment strategies, secondly, their policy in relation their rights, including voting rights. In Germany, since 2001 certified private and occupational pension schemes are required to report whether they take into account ethical, ecological and social aspects in their investment policies.

²⁹ ILO eight fundamental conventions include Freedom of Association and Protection of the Right to Organise Convention (87) 1948, Right to Organise and Collective Bargaining Convention (98) 1949, Forced Labour Convention (29) 1929, Abolition of Forced Labour Convention (105) 1957, Equal Remuneration Convention (29) 1951, Discrimination (Employment and Occupation) Convention (111)1958, Minimum Age Convention (138) 1973, and Worst Form of Child labour Convention (182) 1999.

³⁰ Ibid; see also Jorgensen, Tine Herreborg and Holgaard Jette Egelund, 'Environmental Reporting: Experience from Denmark' (Working Paper [6] Department of Development and Planning, Aalborg University, 2004) 6 <http://www.plan.aau.dk/tms/publikationer/workingpaper62004.pdf> 07 April 2008.

³¹ UN Global Compact, *News and Events* (2008) http://www.unglobalcompact.org/newsevents/news_archives/2008_12_17.html 29 May 2009.

³² Perrini, Pogutz and Tencati, above n 20, 39.

and ethical issues used for investment. Another initiative was made by the Law on Social Modernisation in 2002. This law is designed to encourage employers to look beyond academic excellence and recognise the skills, knowledge, and experience people develop by working in different contexts, including voluntary social works.³³

In the Netherlands under a statutory scheme formed by an extension of the *Environmental Management Act* in April 1997 and Environmental Reporting Decree effective from 1999, certain categories of the industries (currently about 250) are required to produce two environmental reports, one to the public and another to the authorities.³⁴

In Norway, the 1999 Accounting Act requires all companies to include environmental information in their annual financial reports and simultaneously the Norwegian Environmental Department has developed its own standard for environmental reporting.³⁵

In the UK the Corporate Responsibility Bill was introduced in 2003 demanding all UK registered and other UK based companies to present and publish reports on environmental, social, economic and financial affairs.³⁶ The UK's landmark *Companies Act of 2006* has introduced specific reporting requirements on environmental and social issues.³⁷ It is considered a comprehensive guideline with potential implications for a variety of CSR actors. It makes a crucial triumvirate of directors' duties, business risk management and corporate reporting more explicitly long term, relational, and stakeholder sensitive in their structure, content, and implementation.³⁸ It provides for directors' duty to act in good to promote the success of the company must have regard for the impact of the company's operations on the community and environment.³⁹ Some corporate lawyers still finds uncertainty as to what form the company's regard for the non-shareholder interests and therefore, the law does not bring about any change into reporting requirement.⁴⁰

³³ Ariane Antal, Andre Sobczak, 'Corporate Social Responsibility in France: A Mix of National Traditions and International Influences' (2007) 46:1 *Business & Society* 9, 15.

³⁴ Eva Hoffmann, *Environmental Reporting and Sustainable Reporting in Europe: An Overview of Mandatory Reporting Schemes in the Netherlands and France* (2003) Intern at IGES Kansai Research Centre <http://www.iges.or.jp/en/phase2/be/pdf/report7pdf> 07 April 2008.

³⁵ Alessia Di Pascale, *The EU Voluntary Approach to Corporate Social Responsibility in Comparison with Regulatory Initiatives across the World* (2007) Fondazione Eni Enrico Mattei <http://www.feem.it/Feem/Pub/Publications/CSRpapers/default.htm> 8 April 2008.

³⁶ Lux, Thorsen, and Meisling, above n 2, 296–297.

³⁷ Pascale, above n 35.

³⁸ Bryan Horrigan, '21st Century Corporate Social Responsibility Trends—An Emerging Corporate Body of Law And Regulation on Corporate Responsibility, Governance and Sustainability' (2007) 4:1 *Macquarie University Journal of Business Law* 85,104.

³⁹ Justin Nolan, 'Corporate responsibility in Australia: rhetoric or reality' (2007) 12:2 *UNSW Research Series* 73,84.

⁴⁰ Ibid.

The above mentioned states have adopted legislative or administrative frameworks mandating the disclosure of corporate ethical, social and environmental considerations, it is observed that regulatory tools are rather different from case to case. France and Belgium have introduced a comprehensive set of rules on these issues, while Norway, the UK, Germany, and Denmark have introduced a limited number of provisions. It is also observed that among the states which have introduced a legal framework, the approach to regulation and the legal force of the concerned provisions are not same. Moreover, a double approach has been chosen in some countries including France, the UK, Belgium, Germany, Denmark, and Norway. This means that binding regulations co-exist with soft law mechanisms in the said countries.⁴¹

In the light of above discussion it is apparent that in the European countries public support for and regulatory approaches to CSR are more focused and influential. In the words of Matten and Moon, this is implicit pattern of CSR that refers to a country's formal and informal institution through which corporations' responsibility for society's interests are agreed and assigned to corporations.⁴²

3.1.2 CSR in the US

The US is highly 'corporatised society' as a large number of corporations over the last century have emerged there with significant public and private ownership. The corporations dominate Americans' personal and business lives. As a result, collective business behaviour has always been the integral part of the nation's legacy, culture, structure and behaviour. Hence the American citizens expect their corporations to 'behave better, to act in the social interest and to be well, a good citizen'.⁴³

In fact, the growth of the present concept of CSR in the US was initially marked by regulation and driven by responsible business operations rather than by community investment. In the aftermath of the great industrial boom in the late 1960s and early 1970s four big regulatory agencies were established at the sponsorship of the US government. This contributed much to the base line structure of responsible business operations. The agencies are the Occupational Safety and Health Administration (OSHA), Equal Employment Opportunity Commission (EEOC), Consumer Product Safety Commission (CPSC), and the Environmental Protection

⁴¹ Pascale, above n 35.

⁴² Dirk Matten, Jeremy Moon, 'Implicit' and 'Explicit' CSR: A Conceptual Framework for Understanding CSR in Europe' in A Habish, et al (eds.), *CSR Across Europe* (2004) 5; see also Dirk Matten, Jeremy Moon, ' Implicit ' and 'Explicit' CSR: A Conceptual framework for understanding CSR in Europe (2008) 33:2 *The Academy of Management Review* 404, 405.

⁴³ Bradley Googins, *The Journey towards Corporate Citizenship in the United States* (2002) 5:2 *Journal of Corporate Citizenship* 85, 91.

Agency (EPA).⁴⁴ These agencies made a continued effort to maintain standards for responsible corporate business practices that eventually turned into thresholds for CSR behaviour concerning the daily operations of the business. The more famous contributions of this process are the development of some industry-specific and sector-wise regulation such as in pollution control, working conditions and consumer protection.⁴⁵

However the focus for CSR in the US is driven by the context in which minimal legislative control on business is preferable. As a result, corporations are required to apply their internal policy to police themselves and external communication as an evidence for the demonstration of their social responsibility. Companies rely on their preference for corporate self-governance rather than on legislation which is an ecological factor affecting the conception of CSR in the US.⁴⁶ The CSR agenda as an American phenomenon is traditionally based on self help and participation and the nature of entrepreneurship is thereupon based on maximising the freedom of participants in social activities.

In addition to the existence of legislative and numerous self-regulatory mechanisms, in 1996 the Clinton Administration after extensive consultations with business enterprises, labour leaders and members of non-governmental organisation community adopted a US Model Business Principles as a set of voluntary guidelines for companies. This document is built on the basis of the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the OECD Guidelines for Multinational Enterprises.⁴⁷

Compared to the EU countries, the development of an institutional framework as a guideline for companies' CSR integration is seen poor in the US. The strong guidance provided by the European Union at the regional level may be deemed to be a basis of encouragement for the development of institutional frameworks to enhance CSR implementation. This situation is absent in the US. Nevertheless a few organisations formed and sponsored by multi-stakeholder groups are serving this purpose. The most notable are the Centre for Corporate Ethics (CCE), a division of the Institute for Global Ethics and the Fair Labour Association (FLA). Both organisations are active in implementing CSR in and around the US. The CCE is focused on serving the ethical culture needs of businesses in and outside the

⁴⁴ Roberto Gutierrez and Audra Jones, *'Effects of Corporate Social Responsibility in Latin American Communities: A Comparison of Experiences'* (2005) Social Science Research Network <http://papers.ssrn.com/> 25 April 2008.

⁴⁵ For example, the regulations and legislations are the Community Reinvestment Act in Banking Sectors, for waste control Federal Water Pollution Control Act and the Clean Air Act Amendments of 1977, for the workplace the Occupational Safety and Health Act of 1970, the Equal Employment Opportunity Act of 1972, for consumer protection the Consumer Product Safety, for control over Corruption the Foreign Corrupt practices Act, and the Public Company Accounting Reform and Investor Protection Act.

⁴⁶ Gutierrez and Jones, above n 44.

⁴⁷ See United States Department of Commerce, *US Model Business principles* (1995) http://www.state.gov/www/global/human_rights/business_principles.html 1 October 2007.

US. The functions of FLA addresses labour rights standards in the US and world-wide apparel industries.

Although the US is generally recognised as the birth place of CSR, it is not the public sector but the corporate sector which has provided the driving force, particularly the transnationals. Plenty of variations are found in public sector activities between the states. Nevertheless, there are some federal activities (e.g., that fall into four categories of roles endorsing, facilitating, partnering or mandating) which complement the US business's global corporate responsibility efforts. These are, for example, (1) the Department of State's Award for Corporate Excellence through which the government endorses CSR by providing awards to companies; and (2) a Department of Commerce programme which facilitates CSR by providing training on corporate stewardship.⁴⁸ Some organs of the government provide partnership with corporations on specific projects related to their core mission.⁴⁹

As indicated above that CSR tends to be initiated in American society by corporations and the continued effort of MNEs promotes CSR on a wider scale. The US companies, both national and multinationals have a long established background in CSR since the end of the nineteenth century which later in the 1980s intensified as the 'war for talent',⁵⁰ with the emergence of the stakeholder model of CSR. Companies have extended a whole range of support and services for employees, their families and the wider society including childcare centres, assistance with elderly parents, company-owned schools and stores which is termed as 'welfare capitalism'.⁵¹ The growing tendency has been intensified following the widespread move of privatisation of the public sectors which reduces the role of government and establishes the companies' strong leadership in the some critical areas such as the community, economic development, education and child care within the US.⁵²

A distinguishing feature of the CSR practices of US companies is their involvement in socially responsible investing (SRI). Socially responsible investing has evolved in recent years as a very dynamic and growing part of the US financial services industry. Social responsible investing in the US can be defined as the process of integrating personal values and social concerns into investment

⁴⁸ United States Government Accountability Office (Report to Congressional requesters), *Numerous Federal Activities Complement U.S. Business's Global Corporate Social Responsibility Efforts* (2005) <http://www.gao.gov/fraudnet/fraudnet.htm> 24 April 2008.

⁴⁹ For example, the US Agency for International Development (USAID) provided partnership with one US Company working in post-war Angola to reconstruct the country's business sector and workforce. Other agencies such as the Overseas Private Investment Corporation mandate CSR by requiring companies to fulfil the CSR related objectives to obtain their services.

⁵⁰ Bradley Googins, 'The Journey towards Corporate Citizenship in the United States: Leader or Laggard?' (2002) 5: 4 *Journal of Corporate Citizenship* 85, 92.

⁵¹ Ibid.

⁵² Ibid.

decision-making.⁵³ This is a very important tool for promoting corporate social responsibility. This investing activity reportedly finds its modern roots in the 1960s and has grown dramatically up to the present day.⁵⁴

In general, CSR in the US has been largely an outside-in model, focused on contributing to the community, and addressing environmental and supply chain issues outside the US. The idea of employees as key stakeholders, has received a great deal of rhetorical support, which has not been well integrated into the CSR model, either conceptually or in practice. Compared to CSR practices in the EU countries, CSR by the corporations in the US are internally driven based on self-driven policies, programmes and strategies of the corporations as termed by Matton and Moon ‘explicit pattern of CSR.’⁵⁵

3.1.3 CSR in Japan

Following the US and the Europe, Japan seems to have become more aware of the importance of CSR. In March 2003, for instance, the Japan Association of Corporate Executive published a report on CSR that exhibited almost the same level of awareness about the need for CSR practices among Japanese companies as that found in a worldwide survey by the World Economic Forum.⁵⁶

The conceptual introduction of CSR in Japan was made presumably in the post war reconstruction period with the adoption of the resolution ‘Awareness and Practice of the Social Responsibility of Business’.⁵⁷ The resolution was influenced by the work of Howard R. Bowen titled ‘Social Responsibility of the Business’ which was published in the US in 1953.⁵⁸ The resolution states that businesses should not simply pursue corporate profit, but must seek harmony between the economy and society, combining factors of production and services, and that social

⁵³ Steve Schueth, ‘Socially Responsible Investing in the United States’ (2003) 43:3 *Journal of Business Ethics* 189,194.

⁵⁴ Ibid; the amount of investment increased largely in 1980s to African Black people as millions of people, churches, universities, cities and states underscored this investment strategy to press the white government of South Africa to abstain from racist system of apartheid. SRI investment was involved in the wake of Bhopal, Chernobyl and Exxon Valdez incidents and presently in combating global warming and ozone depletion. By and large, environmental issues have come to the forefront of the companies’ agendas involved in socially responsible investing.

⁵⁵ Matton and Moon, above n 42, 5.

⁵⁶ Arif Zaman, *Made in Japan: Converging Trends in Corporate Responsibility and Corporate Governance* Report of Research Findings (July 2003) The Royal Institute of International Affairs <http://www.riia.org/sustainabledevelopment> 3 October 2007.

⁵⁷ M. Kawamura, The Evolution of Corporate Social Responsibility in Japan (Part 1)—Parallels with the History of Corporate Reform (2004) NLI Research Institute, Tokyo <http://www.nli-research.co.jp> 21 December 2008.

⁵⁸ Ibid.

responsibility is a better way to pursue this goal.⁵⁹ Since the adoption of the resolution, CSR has been in progress in the Japanese' corporate world in phases.

However, it is said that CSR practice can be traced in Japan back to the activities of the Japanese company Mitsubishi which launched its business in the beginning of twentieth century.⁶⁰ The three famous corporate principles in Japanese language 'Shoki Hoko' (corporate responsibility to the society) 'Shoji Komei' (integrity and fairness), and 'Retsugya Boeki' (international understanding through trade) were adopted by the company and others.⁶¹ This was uncommon in the early twentieth century. Furthermore, in terms of the recent development of CSR among the companies based on earlier ethical principles, Mitsubishi Corporation played a pioneering role.⁶² In the process of the recent development of CSR practices in Japan the famous Japanese multinationals, apex business association such as the Chamber of Commerce and Industry, public sectors and the influence of other intergovernmental organisations and their codes play active roles.

At present, CSR is a very topical and rising issue of concern among companies, government and academics in Japan. Most of the leading companies are involved in the adoption of CSR principles and their practice. They include Sony, Ricoh, Fuji Xerox, Asahi Beer, IBM Japan, NEC and Panasonic.⁶³ All of these corporations maintain a separate CSR department or task force and have already developed a respective code of conduct in the light of internationally recognised CSR standards to be applicable both in and outside of Japan.⁶⁴

In the augmentation of CSR practice the Japan Business Federation's (*NipponKeidannren*) role is notable. To promote ethical behaviour it adopted first in 1991 a 'Charter of Corporate Behaviour' which has been revised three times since then in keeping with global business demand and to more suitably address the needs of society. Lastly, it was revised in 2004 to consist of ten

⁵⁹ Ibid.

⁶⁰ For instance, in a branch managers' conference of the Mitsubishi company in 1920, the founder of the company Yataro Iwasaki said to the managers: If others try to compete with you by unfair means, fight them with fairness. If others try to trick you, face them with honesty. If they try to use nepotism and influence to get the better of you, treat them with kindness and conscientiousness.

⁶¹ James Brumm, 'The Japanese Perspective' in Ramon Mullert (ed.) *Corporate Social Responsibility: The Corporate Governance of 21st Century* (2005) 337, 341.

⁶² It is noted that Mitsubishi established a Global Environmental Issues Committee in 1989, and then an environment department in 1990, formulated standards of conduct in 1992, adopted an Environmental Charter in 1996, constituted a Code of Conduct in 2000 and formed a CSR Task Force in 2003. Even in 2000, it reinterpreted its basic three principles. Three principles were reinterpreted thus: 'Corporate Responsibility to Society' means 'striving to enrich society both materially and spiritually'; 'Integrity and Fairness' mean maintaining principles of transparency and openness, conducting business with integrity and fairness; 'International Understanding through Trade' means the expansion of business, based on an all encompassing global perspective.

⁶³ Ibid 342.

⁶⁴ Ibid.

principles encouraging the companies to conduct their activities in a socially responsible manner.⁶⁵ The Federation also has a working group to tackle CSR issues.

In parallel with the initiatives of the private sector, the government undertook some efforts to achieve CSR under different ministries such as the Cabinet Office, the Ministry of Agriculture, Forestry and Fisheries, the Ministry of Health, Labour and Welfare, and the Ministry of Environment. The Cabinet Office issued the 'Corporate Code of Conduct' in 2002 to build up consumer confidence in businesses and set guidelines to promote the establishment and implementation of corporate codes of conduct.⁶⁶ In sequel to this the Ministry of Agriculture, Forestry and Fisheries established a study group to promote transparent relations between consumers and producers in 2004. It proposed the promotion of corporate management with an emphasis on social responsibility related to food safety and security.⁶⁷ The Ministry of Health, Labour and Welfare established the Research Council on CSR in Labour and suggested that consideration should be given to employees on the basis of changes in their social conditions.⁶⁸ The Ministry of Environment in 2005 also established a Research Council on Social Responsibility and proposed an ideal model for a sustainable environment and economy.⁶⁹

The public sector has also developed some partnership activities for the development of CSR. The Ministry of Economy, Trade and Industry in collaboration with the Japanese Standards Association has launched a working group to develop CSR standards in Japan. This group is now working to give their views to international organisation such as the ISO. In Japan the government, Japanese Business Federation and the eight companies including Sony, Richo, Fuji Xerox, Ashai Beer, IBM Japan, NEC, Mitsubishi, and Panasonic are working hand in hand to promote CSR. Lastly, in 2004 they released a joint report on CSR agenda in Japan.⁷⁰

Beyond the institutional development both at the government and corporations level, Japan as a developed economy from Asia has been an active participant in different intergovernmental initiatives for the promotion of corporate social behaviour towards stakeholders. It has already endorsed the OECD Declaration and is one of the 30 member countries of it. Hence National Contact Point (NCP) has already been set up in Japan within its Ministry of Foreign Affairs to monitor

⁶⁵ The principles include provision of socially beneficial goods and services in a safe and responsible manner; promotion of fair, transparent, free competition and sound trade; active and fair disclosure of corporate information; promotion of safe and comfortable workplace; positive involvement in environmental issues; not contacting with organisation involved in violation law and accepted standards of responsible social behaviour; observance of laws and regulations to company's overseas activities; management's attention to the voice of stakeholders internally and externally; and management's investigation into the cause for accident and to prevent recurrence.

⁶⁶ Asian Productivity Organisation (APO), Policies to Promote Corporate Social Responsibility (Report of APO Top Management Forum, 2006) <http://www.apo-tokyo.org> 21 December 2008.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Brumm, above n 61, 45.

the implementation and efficacy of the guidelines and to promote awareness of them. In addition, Caux Principles for Business was issued and sponsored by Caux Roundtable in 1994 comprised of senior business leaders from Europe, Japan and North America.⁷¹ These Cuax Principles include a set of seven general principles available for business decision-making on CSR.⁷²

In the backdrop of private sector initiatives and public sector involvement through institutional frameworks, the CSR application in the Japanese corporations has gained maturity in recent years. The practice of CSR principles, social and environmental reporting, and Social Responsibility Investment illustrate its competitive status with other developed countries in the world. A survey conducted by the Japan Productivity Centre for Socio-Economic Development (JPC-SED) in 2005 reveals that almost 80 % of Japanese listed companies are already implementing CSR activities.⁷³ As regards CSR reporting, in fiscal year 2004, Japan is the country with the highest number of companies (66 companies) that published their reports on the basis of the Global Reporting Initiative (GRI).⁷⁴ According to KPMG International Survey Report 2005, 80 % of Japanese national companies published their social responsibility reports.⁷⁵ Likewise 83 % of Japanese multinationals published their corporate responsibility report.⁷⁶ Japanese national companies were on the top among the list of developed countries. KMPG survey report in 2008 also shows that reporting levels at their highest in the UK and Japan.⁷⁷

At the end, it can be said that CSR as a business agenda in Japan is well-embraced by the Japanese companies with satisfactory public-private efforts. The noteworthy efforts are the partnership-based initiatives between apex business associations and the public sector organs which are rarely available even in the northern developed countries.

⁷¹ Djordjija Petkoski, *Corporate Social Responsibility Diamond- Main Elements of CSR* (2005) World Bank Institute <http://www.worldbank.org/wbi/governance/corporatics.htm> 3 October 2007.

⁷² The Cuax Principles are the responsibility of business toward stakeholder, the economic and social impact of business, business behaviour beyond the letter of law, respects for rules, support for multilateral trade, respect for the environment; and avoidance of illicit operations; see The Caux Round Table: Principles for Business (1994). <http://institutte.jesdialogue.org/fileadmin/bizcourse/Caux.pdf> 22 December 2008.

⁷³ See Asian Productivity Organisation, above n 66.

⁷⁴ Kanji Tanimoto & Kenji Suzuki, 'Corporate Social Responsibility in Japan: Analyzing the Participating Companies in Global Reporting Initiative' (Working Paper 208, European Institute of Japanese Studies, March 2005) 4.

⁷⁵ KPMG International Survey of Corporate Responsibility Reporting (2005) University Van Amsterdam <http://www.kpmg.com> 3 October 2007.

⁷⁶ Ibid.

⁷⁷ KPMG International, *KPMG International Survey of Corporate Responsibility Reporting 2008* http://us.kpmg.com/RutUS_pwd/Documents/8/Corporate_sustainability=Report_US_Final.pdf 29 May 2009.

3.2 Trends in CSR Practices in Developing Countries

CSR in developing countries is growing in importance, although it is not a high priority in most of them. There may be differing reasons for this on the basis of the countries' own perspectives. As CSR is not mandatory, the performance of it depends upon a company's sense of values or commitment to the society beyond mere profit motives. In addition, it is not only a company's self-regulated voluntary initiative which is necessary. A good CSR climate requires a co-regulatory effort between companies and government and other civil society organisations. As the government is assumed to be a key driver of CSR in a respective country, it can play a proactive role in facilitating CSR integration into the corporate sector through mandating, facilitating, partnering and incentivising. The said situations are poorly available in almost all of developing countries.

Michael Hopkins identifies two main reasons for the slower uptake of CSR in developing countries. Firstly, CSR in developing countries is yet to be recognised as a development agenda as in his opinion, development refers to 'increased economic growth, more direct foreign investment, less debt, more employment, increased levels of basic needs, improved environment, less poverty and more recently, better governance, transparency and reduced terrorism.'⁷⁸ Secondly, the companies of developing countries are still more focused on philanthropy.⁷⁹ He adds further factors such as the lack of democracy, a poor or controlled press, and weak institutional mechanisms pressing the large scale companies to adopt CSR.⁸⁰

Despite all these limitations, the reality is that CSR activities are increasing at the level of public policy in the local companies. It is admitted that the state of CSR practices is changing and gaining ground in the local companies of developing countries under the influence of globalisation as well as in consequence of growing pressure from consumers, foreign investors, buyers and market competitiveness. The multilateral organisations, MNEs, and NGOs also play a large role through supervision, partnership and advocacy programmes. The large local companies are becoming more concerned about CSR issue for their survival in global business.

Some countries are advancing remarkably through the development of institutional frameworks and public sector policies. They are, for example, companies of Brazil, Argentina, Mexico, Poland, Slovenia, Hungary, South Africa, India, China, and Malaysia. Jeremy Baskin in his analytical study on the companies of four regions; Asia, Latin America, Africa and Central and Eastern Europe, concludes that CSR in developing countries especially in South Africa, Brazil, India and parts of Eastern Europe is more developed than is generally assumed. He adds the point that sometimes in respect to certain issues of CSR, they are found to be much better than the countries of developed economies.⁸¹

⁷⁸ Michael Hopekins, *Corporate Social Responsibility and International Development: Is Business the Solution?* (1st ed, 2007) 174.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid.

The following discussion reviews the current status of CSR in developing countries. In so doing, the discussion concentrates on region-based analysis of the Middle East, Africa, Latin America and Asia. The major issues considered in the discussion are the driving factors and the characteristics of CSR practices, institutional development for that end, public sector interventions, the roles of multilateral and intergovernmental organisations, and legislative developments mandating or enabling CSR practices.

3.2.1 *CSR in the Middle East*

In the Middle-East CSR is a relatively new trend which is just evolving.⁸² The mindset of business leaders in the Middle East has already begun to change from a focus on traditional charitable activities in the form of *Zakat*⁸³ and other religious donations to adopting a long term holistic approach to a CSR agenda. It is expressed in a statement ‘CSR is about more than charity, it is not just about giving money to the community. It is about being responsible citizens in terms of the environment, business ethics and community development’.⁸⁴

In the Middle East corporate responsibility is gradually becoming a crucial issue of debate and discussion among local companies and civil societies. The changes are credited to the role of multinationals such as Cisco, Harry Winston, the Mansur Manufacturing and Distribution Group, and the Equate Pharmaceutical Company. Likewise, the UNDP and other UN Global Compact networks are providing advocacy and knowledge-based support to foster better understanding of the means for businesses and organisations to interact and engage with the local community.⁸⁵

⁸² AME Info-the ultimate Middle East business resource, *CSR at Cisco targets human capital* (2006) <http://www.ameinfo.com/85370.html> 5 October 2007.

⁸³ Zakat is an Arabic word literally meaning purification and growth. As an Islamic principle Zakat is the amount of money that every adult, mentally stable Muslim person, male and female has to pay to support specific categories of people, particularly the poor and needy person. It is an obligatory act for every financially able person on the basis of his or her property and wealth at the end of the year calculated barring the essentials. The objective of Zakat in Islam is to provide assistance for the economic wellbeing of the poor and needy Muslims; See for details <http://www.islamicity.com/mosque/Zakat> 09 December 2008.

⁸⁴ Ibid.

⁸⁵ AME Info-the ultimate Middle East business resource, ‘*The Kingdom of Saudi Arabia will host the first Corporate Social Responsibility Forum in the capital city of Riyadh next May*’ (Press Release of the Conference, May 8 2006) <http://www.ameinfo.com/85370.html> 6 October 2007. In the first Corporate Social Responsibility Forum Conference held in Riyadh, the Conference Chairman Hisam Nazar said that the support of United Nation Development Programme (UNDP) represents a valuable strategic endorsement that solidifies the forums’ objective of increasing awareness and understanding the responsibility every organisation has to society it operates in.

The factors which are leading to the growing acceptance of CSR in the Middle East countries are many. According to a report⁸⁶ prepared in 2005 by the New Jordanian Research Centre (URJC) on strengthening CSR in the business of the region, CSR in the region is generally driven by rational choices of business or political choice rather than by societies' expectation or pressure from below.⁸⁷ The driving forces are enumerated as follows⁸⁸:

1. The need and urgency to improve the investment climate; better governance, voluntary disclosure, transparency, accepting the rule of law and so on;
2. Increased international and local competition out of trade liberalisation;
3. Concern for efficiency and productivity;
4. International business relations;
5. Government;
6. International campaigns, programmes, projects such as the Global Compact, World Bank-IFC, and UNDP programmes;
7. Consumer preference in developed countries; and
8. Islamic tradition of philanthropy.

The report gives an account of CSR practices in the region. It reflects the methods of CSR application by the companies and other developments in regards of the promotion of CSR. Some fundamental characteristics are described below⁸⁹:

1. Subsidiaries of the multinational companies have their own corporate code and policies and they go by those codes and policies. They also provide funds for the NGOs engaged in the promotion of CSR;
2. Philanthropic activities relate largely to supporting education, health-care and other shortcomings in the social welfare;
3. Business associations and business funded civil society organisations are playing a proactive role in promoting the concept of CSR;
4. A tendency is growing among the government of the region to adopt new laws and regulations relating to labour and the environment in order to comply with international agreements or standards;
5. Supplier companies to foreign retailers are compelled to comply with international or sector based code of conduct;
6. The majority of the local companies do not fund CSR oriented NGOs.
7. The societies of these countries are not so concerned about companies' ethical and legal behaviour; and

⁸⁶ This report is solely based on the Middle East, where some North African countries. From Middle East the report includes Egypt, Jordan, Lebanon, United Arab Emirates.

⁸⁷ Ararat Melsa, *Corporate Social Responsibility: Across Middle East and North Africa* (Draft -1st April 2006) Sabanchi University, Corporate Governance Forum <http://www.subancuniv.edu> 6 October 2007.

⁸⁸ Ibid.

⁸⁹ Ibid.

8. There is an absence of a free investigative press and also a restriction on the freedom of association and speech.

The report shows philanthropic activities as a prominent aspect of CSR in the region. The reason may be that the Middle East is comprised of predominantly Muslim countries. Muslims are traditionally influenced by the religious culture of *Zakat and Sadaka*,⁹⁰ and other kinds of donations that are believed to be sacred acts.

A study on CSR in Saudi Arabia shows that the companies there perform CSR from three main perspectives.⁹¹ One is as the part of Islamic values and culture. Two, CSR is linked to donations, charity and supporting benevolent causes. And three, CSR is linked to paying attention to development needs. However, the present experience of Saudi companies shows that they, although still trapped in a charity mindset, are making effort to address other urgent needs such as creating employment opportunities for young generations and also meeting the skill gaps for a diversified economy.⁹²

It may be argued that Islamic traditional philanthropic activities such as *Zakat*, *Sadaka* and other pious charitable activities cannot be covered by the definition of philanthropy as a part of CSR. The philanthropy in CSR as defined by Carroll is driven by humanistic motives without any distinction among its subject (Chap. 2). It aims to improve the social welfare by eliminating the cause of human sufferings. It should be clearly separated from charity like *Zakat*, *Sadaka* and so on where poverty is accepted as a normal condition. Moreover, the above mentioned survey shows that Muslims do not give *Zakat and Sadaka* to non-Muslims. It is purely a group collectivism prevailing in that region.

It is almost said to be a common character of companies' approach to CSR in the Middle East that all core labour rights are not a priority. A country-based study of Lebanon shows that most companies perform their social responsibility towards their employees by providing additional health care, scholarships, or career assistance.⁹³ In Saudi companies, the employment issues concern mainly providing job opportunities to all segments of society, creating work opportunities and equal opportunities.⁹⁴ Environmental issues, community relations, and customers' interest are yet to be integrated into companies' CSR practices with due importance.⁹⁵

⁹⁰ *Sadaka* literally means alms or charity given to the poor and paupers. It is used to denote Zakat as clarified in above n. 83. See for example, The Holy Quran 9: 60.

⁹¹ Tareq Emtairah, Al Ashaikh and Al-Badr Abdulmohsen, *Saudi Companies & Social Responsibility: Challenges and ways forward*, A Study by Tamkeen Development and management Consulting, Saudi Arabia (February 2007) The International Institute for Industrial Environmental Economics, Sweden <http://www.socialfunds.com/news/release.cgi?sfArticleId=7959> 7 October 2007.

⁹² Ibid.

⁹³ Khalil Gebera, *Corporate Social Responsibility in Lebanon* (2005) Lebanese Transparency Association <http://www.transparency-lebanon.org> 6 October 2007.

⁹⁴ Emtairah, Al Ashaikh and Abdulmohsen, above n 91.

⁹⁵ Ibid.

In terms of responding to global partnership activities the companies of the Middle East countries lag behind. A study in 2004 shows that among 2,236 participants in the UN Global Compact only 42 companies are from the Arab region which is statistically estimated as 2 % of the total number.⁹⁶

It is true that CSR issues are in focus among the companies of the Middle East countries such as Saudi Arabia, Kuwait, Qatar, and the United Arab Emirates, but it is still unstructured in many cases, less strategic, and more philanthropy centric. Moreover, issues such as stakeholder dialogue, accountability and transparency which are integral and inherent contents of CSR are not considered seriously.⁹⁷

3.2.2 CSR in Latin America

CSR is often dubbed as a north-centric issue as its origin, norms and implementation mechanisms, in the eyes of the critics have emerged with the influence of northern states' business communities, consumers, buyers and moreover governments. Nevertheless 'there is a huge gap between Canada and the US and the rest of Americas. . . as deep as this gap is, a similar gap exists between the most advanced developing countries and the rest'.⁹⁸ To illustrate this gap the American countries are divided into the following four categories in terms of CSR practices⁹⁹:

- Running (Canada and the US);
- Catching-up (the most developed Latin American countries such as Brazil, Argentina, Mexico, Chili, and Uruguay);
- Walking (the rest of South America), and
- Stalled (Central America and the Caribbean).

There are three systems of CSR prevalent in Latin American countries; the national system, international system, and home country system.¹⁰⁰ The national system includes domestic actors such as the firm, the state, local business and industries, civil society organisations, local independent NGOs, and academic institutions.¹⁰¹ The international system refers to foreign actors such as foreign firms, foreign governments, and private foundations from developed countries, international NGOs and multilateral organisations.¹⁰² And the home country

⁹⁶ Ibid.

⁹⁷ Hopkins, above n 78, 175.

⁹⁸ Paul Alexander Haslam, *The Corporate Social Responsibility System in Latin America and the Caribbean, Policy Paper* (March 2004), Canadian Foundation for the Americas <http://www.focal.ca> 7 October 2007.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Ibid.

system is applicable when the local firm has links to foreign or multinational enterprises.¹⁰³

In Latin America there have been some big players at the national, regional and multinational levels for the promotion of CSR. As the adhering members of the OECD Mexico, Argentina, Brazil and Chilli have already undertaken a pledge to establish National Contact Points (NCPs) for the enforcement of the OECD Guidelines for Multinational Enterprises at the national level.¹⁰⁴ NCPs are involved in promotional activities which include organising conferences, publishing new promotional materials, working with NGOs, and organising information sessions and links with the government department.¹⁰⁵

At the multilateral level the World Bank and UNDP are working to promote CSR in the Latin American countries. For instance, the World Bank has created a set of learning materials and an interactive web forum that acts as an 'information clearing house' for companies keen on learning about CSR or adopting CSR practices.¹⁰⁶ Similarly, UNDP and UN volunteers are actively devoted to promoting ten principles of the UN Global Compact by encouraging companies to adhere to them.

The regulation of corporate operations is less common in Latin America, for the strengthening of CSR activities, particularly outside of the Mexican and Mercouser markets, where the US and European foreign direct investments have influenced some requirements.¹⁰⁷ The governments have little to promote regulatory standards for business. It is, in part, because of weaker formal organisations of workers such as trade unions, or worker social groups such as women or ethnic populations which have largely influenced labour and business practices in the twentieth century. However, there are some cases where Latin American corporations have influenced government regulation in order to enhance the impact of CSR activities. For instance, in the aftermath of the disastrous flood in Mexico in 1900 the continuous endeavour of corporations prompted the government to ratify the 'Community Investment' tax permanently into the state law.¹⁰⁸

As regards the activities of civil society organisations for the promotion of CSR, a good number of organisations and institutes are working at national levels which are created by businesses to promote the concept in the region. The organisations are different by nature such as academic, foundation networking. They are inter alia IDEA (*Instituto por el Desarrollo Empresarial de Argentina*), *Grupo de Fundaciones Argentina Foro Ecumenico Social* and Alinazas from Argentina, *Instituto Ethos*

¹⁰³ Ibid.

¹⁰⁴ Ibid.

¹⁰⁵ Paul Alexander Halsum, *Surplus Values: the Americas at Crossroad in the Corporate Social Responsibility Debate* Policy Paper (March 2003), Canadian Foundation for Americas <http://www.focal.ca> 7 October 2007.

¹⁰⁶ Ibid.

¹⁰⁷ Gutierrez and Jones, above n 44.

¹⁰⁸ Ibid.

and Grupo de Institutos Fundacoese Empresas based in Brazil, Forum Empresa and Vincular, National catholic University of Valparaíso in Chile, Accion Empesarial in Chile in 1999 *Iniciativa enEmprendimientos Socilas* at the Universidad de Los Andes in Columbia; Centro Mexicanpara la filantropia, and Red Puentes RSE in Mexico.¹⁰⁹ These organisations like the organisations of developed countries undertake a diversity of activities such as surveys of companies' CSR practices, publication of guidelines for CSR integration, promoting best practices for good corporate citizenship, building networks among civil society organisations engaged in CSR promotion and organising and attending conferences and workshops.

Compared to the development of institutional frameworks across the Latin American countries as described above, the real picture of CSR performance of the companies is not all satisfactory. A web-based study of Halsam, among top companies in 2003 in relation to the adoption of CSR codes, publication, and CSR activities shows that the majority companies have no CSR code and their activities are run by foundations.¹¹⁰ According to the study, Brazilian companies are at the top in terms of overall performance.¹¹¹ The companies' activities are mostly focused on the support of cultural and sporting events, social development, education, health and the environment. It is noteworthy that the consumer demand for CSR in Latin America is not high, except in Mexico because of its deeper integration with the North American business practices.¹¹²

Most worrying matter in Latin America is that there is little evidence that the governments' promotion of CSR guidelines and the adoption of codes of conduct by corporations have contributed to changing company behaviour for the better and improving the social and environmental impact of foreign investment.¹¹³ In addition, government involvement and promotion is relatively weak as CSR is not integrated into the whole of governmental policy except in a few of the most industrialised countries as indicated before. Likewise, the lack of strong private sector activity and public awareness, and the lack of consumer awareness lead to an uneven picture of CSR integration by businesses across the region. However, the picture of advanced industrialised countries is satisfactory.

Nevertheless, it can be said in conclusion that the role of multilateral organisations such as the OECD, IDB, OAS, UNDP, international agencies, and private foundations through financial support and advocacy programmes are creating a suitable climate for the development of CSR across the region. At the same

¹⁰⁹ Halsam, 'The Corporate Social Responsibility System in Latin America and the Caribbean' above n 94; see also, Felipe Aguero 'The Promotion of Corporate Social Responsibility in Latin America' in Cynthia Sanborn and Felipe Portocarrero (eds.) *Philanthropy and Social Change in Latin America* (2005) 103–136.

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² Ibid.

¹¹³ Ibid.

time the institutional developments in the most advanced economies of Latin America might contribute to the augmentation of the whole process.

3.2.3 CSR in Africa

Africa is a vast continent consisting of many countries, most of which are faced with various challenges. The challenges are widespread poverty, growing inequality between rich and poor, deficiency in health care and education, widespread HIV/AIDS and poor governance standards. In view of this, Tagbo Agbazu¹¹⁴ said:

The African continent faces unique sustainable development challenges, requiring a corporate citizenship agenda that differs from Northern approaches. In responding effectively, business needs to root citizenship practice in African realities, and identify the drivers for responsible growth and competitiveness that will harness local-level benefits.¹¹⁵

Therefore CSR in the African context must have a wider meaning than mere charitable cheque writing by corporations operating in Africa. CSR has been in action in African countries for a long time. The original Sullivan Principles were drafted in 1977 by Reverend Leon H. Sullivan to encourage US companies operating in the apartheid era of South Africa to behave with their African employees as they behaved with their own employees.¹¹⁶ These principles incorporated fundamental labour rights including development of training programmes, promotion of non-whites to managerial positions and improvement of the quality of employees' lives outside the work place.¹¹⁷ Later an amendment of these principles took place to prescribe fair wages, to require the recognition of black trade unions and to encourage South African companies to follow equal rights principles.¹¹⁸

These principles were widely accepted and within 5 years of its adoption (between 1977 and 1982) the number of the companies increased from 12 to almost 150.¹¹⁹ During this period, the executives of the corporations in South Africa made an example of different kinds of social investments in the lives of black South Africans by offering scholarships, employing the blacks as supervisors and the

¹¹⁴ Tagbo Agbazue is the former Programme Manager, Africa Corporate Sustainable Forum.

¹¹⁵ Agbazu, Tagbo, *The African Connection: Driving responsible growth on the continent*, Feature Article (2005) Africa Corporate Sustainability Forum <http://www.aiccafrica.org/africapercent20corporateper cent20 sustainability per cent20forum1htm> 7 October 2007.

¹¹⁶ Philip H. Rudolph 'The Global Sullivan Principles of Corporate Social Responsibility' in Ramon Mullert (ed.) *Corporate Social Responsibility: The Corporate Governance of the 21st Century* (2005) 221.

¹¹⁷ Mzamop Mangaliso, 'South Africa: Social Responsibility and Sullivan Principles' (Nov. 1997) 28:2 *Journal of Black Studies* 219, 228.

¹¹⁸ See Rudolph, above n 116, 221.

¹¹⁹ Ibid 222.

managers of the companies, and providing funding for health, education and housing projects.¹²⁰ It created a web for subsequent CSR practices by home-grown African companies.

In recent years multinational enterprises operating in Africa are playing a very crucial role in promoting CSR in African countries as they are facing growing public scrutiny.¹²¹ The supply chain pressure from northern-based multinational enterprises has prompted the growing numbers of African enterprises to implement voluntary social and environmental initiatives.¹²² There are also many locally generated initiatives undertaken by the African enterprises to respond to the principles of the UN Global Compact in the areas of labour, human rights and the environment.¹²³ For example, multinationals' support in 2000 for African labour led to the establishment of African-Union Forum, a forum of trade union organisations.¹²⁴ Other initiatives include the adoption of workplace codes of conduct, supply chain audits, social and environmental certification and labelling.¹²⁵

As HIV/AIDS is reportedly the most acute challenge of African life, a growing number of African enterprises are responding to this challenge. In South Africa, Eskom, Anglo Coal, and other national enterprises are undertaking investigative measures of HIV in the work place and wider community.¹²⁶ In addition, such organisations are promoting HIV/AIDS education and awareness and implementing non-discriminating policies for the protection of the workers and their families who are affected by HIV/AIDS.¹²⁷ They are also introducing support programmes to care for workers and their families who are affected by HIV/AIDS. Similarly in Botswana, various companies are working jointly with the Botswana Business Council on HIV/AIDS to motivate and encourage the local community to take appropriate action on this fundamental issue related to human rights and social development.¹²⁸

South African companies rate higher than those of other African countries in the promotion of CSR. In 2002, Johannesburg Stock Exchange, for the first time as an exchange required all listed companies to comply with a code of conduct that

¹²⁰ Ibid.

¹²¹ David F. Murphy, *African Enterprises and The Global Compact: Adding Value through Human Relationship* (2001) New Academy of Business in association with the African Institute of Corporate Citizenship http://www.unglobalcompact.org/NewsAndEvents?articles_and_papers/african_enterprises_and_gc_html 8 October 2007; See David F. Murphy, *Towards Global Compact Agenda for African Enterprises* (2002) United Nations Global Compact <http://www.unglobalcompact.org> 8 October 2007.

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Ibid.

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ Ibid.

¹²⁸ Ibid.

stipulates disclosure of non-financial information in the form of 'integrated sustainable reporting'.¹²⁹ A sustainability report published by KPMG on the top 100 companies of South Africa from 1998 to 2003 shows a gradual increase in the rate of CSR reporting on environment, health and safety (including HIV/AIDS), social/community invest, code of ethics/code of conduct, human capital development and other sustainability issues.¹³⁰ The socially responsible investment (SRI) trend in South Africa is said to be well documented. Since 1992, South Africa has introduced more than 20 SRI funds at national level which investigates companies' social, ethical and environmental performance.¹³¹

As far as legislative reform is concerned, since the democratic process of governance has been in practice in South Africa, a number of enactments are passed that might be considered as encompassing a legal framework in relation to CC or CSR related issues, although there is no evidence that government has explicitly legislated them for CSR. The enactments concern socio-economic development (such as the Reconstruction and Development Fund, 1994, and the Broad-based Black Economic Empowerment Act, 2003), environment, health and safety (such as the *Mine Health and Safety Act, 1996* and the *National Water Act, 1998*), and labour, governance and ethics (such as *Employment Equity Act, 1998*; *Skills Development Act, 1998*; *Promotion of Access to Information Act, 2000*; *Promotion of Equality and Prevention of Unfair Discrimination Act, 2000*; *Combating of Corrupt Activities Act, 2004*).

In addition to South Africa, in some North African countries such as Egypt and Morocco CSR is becoming increasingly accepted by the business enterprises. Reports prepared on corporate social responsibility in the Middle East and North Africa reflect that a need to improve the investment climate, coping with international and national competition in relation to efficiency and productivity, maintenance of international business relations, and the need to comply with international standards are basically acting as driving factors for the integration of CSR in the companies of Morocco and Egypt.¹³²

Similarly in Mozambique, Kenya, Zambia, Senegal, and Swaziland CSR practice is gradually emerging. In Mozambique, although CSR exists in an early phase as a business concept, it is mainly influenced by the activities of transnational corporations doing business in the country.¹³³ In addition, awareness is being

¹²⁹ Dara O' Rourke, *Opportunities and Obstacles for Corporate Social Responsibility Reporting in Developing Countries* (2004) World Bank Group http://www.ifc.org/ifcext/economics.nsf/Content/CSR_Research 25 May 2009.

¹³⁰ Wayne Visser, 'Corporate Citizenship in South Africa: A Review of Progress since Democracy' (Summer 2005) 18: 4 *Journal of Corporate Citizenship* 29, 35.

It is noted in African companies environmental reporting (in annual financial reports) scaled from 48 % in 1998 to 68 % in 2005, health and safety issues from 52 % in 2001 to 81 % in 2003, sustainability issues from 57 to 85 %.

¹³¹ Ibid 36.

¹³² Melsa, above n 87.

¹³³ Ibid.

triggered by other global dynamics, for example, increasing communication activities by the UN as well as other multilateral and bilateral donors.¹³⁴ A noteworthy matter in relation to public sector role for CSR is that although there is no specific legislation or regulation for CSR, Mozambique undertook a big step towards promoting and incentivising CSR related issues by passing a law that allows tax exemptions for companies donating money to social and cultural initiatives.¹³⁵

Some organisations have recently developed at regional level to promote CSR practices in order to meet the growing challenges in Africa. The most famous of them are the African Institute for Corporate Citizenship (AICC) and New Partnership for Africa's Development (NEPAD). The core AICC programmes include the Africa Corporate Responsibility Forum and the Centre for Sustainability Investing.¹³⁶ NEPAD is a development framework that emphasises partnership at different levels. The two key objectives of NEPAD are its commitment to democracy and good political governance, and to good economic and corporate governance involving CSR issues.¹³⁷

As stated earlier, African countries are beset with numerous challenges and therefore, CSR practices are not equal among them. However CSR is accepted as a business trend and is gaining prominence more or less. The CSR agenda is being reviewed in each respective country's context beyond any foreign-based agenda. Therefore the prime concerns regarding CSR application are linked with more localised issues such as poverty alleviation, the eradication of HIV/AIDS, and the safety and security of mining workers. The African Business Summit held annually since 2002 ascribes importance to localised CSR issues to move away from the assumption than 'one size fits all'.¹³⁸

¹³⁴ Ibid.

¹³⁵ Ibid.

¹³⁶ African Institute of Corporate Citizenship (AICC) <http://www.aiccafrica.org/FrameSet/Mainframe.htm> 9 October 2007. The Africa Corporate Sustainability Forum is a multi-stakeholder platform providing an opportunity for business to discuss and action corporate sustainability policy and practice in Africa. The Centre for Sustainable Investing aims to drive sustainability, corporate governance, value propositions and innovations in the African financial sectors. Report COM provides a platform for research, engagement and knowledge exchange on sustainability reporting, accountability and assurance.

¹³⁷ Reinier Lock, 'Africa's Unique Challenge: Linking Economic Growth, Infrastructure Reforms and Corporate Responsibilities' in Rammon Mullerat (ed.) *Corporate Social Responsibility: The Corporate Governance of the 21st Century* (1st 2005), 321–329.

¹³⁸ Mumo Kivuiti Ulfadhili Trust (kenya), Kavwanaga Yambayamba The partnership Forum (Zambia) and Tom Fox IIED (UK), 'How can Corporate Social Responsibility Deliver in Africa? Insights from Kenya and Zambia' (A Report published by the International Institute for Environment and Development Number 3, July 2005) <http://www.iied.org/cred> 9 October 2007.

3.2.4 CSR in Asia

In the current era of globalisation the integration of CSR in the mainstream business operations in Asian countries has occupied a certain degree of prominence. Particularly, it has been boosted by the corporatist model of growth over the last 2 decades in Japan, Korea, Malaysia, Taiwan, Singapore, and Hong Kong and China.¹³⁹ During this period, CSR has spread from the board room to the supply chain, from corporate headquarters to subsidiaries, from the business model to operation applications, from the assembly line to frontline clients, and from the rights of humans to the rights of the environment.¹⁴⁰ In the emergence and spread of CSR in Asian business the ongoing globalisation process of development has been assumed to be one of the key factors. Globalisation in Asia is developed by the increased activity of western companies. Due to their increased operations either in export or production, the local companies have been engaged in CSR practices for their business reputation as a good citizen.¹⁴¹

In addition, there may be other factors encouraging the rise of CSR practices in the region. These may be global pressure from western consumers and buyers, and strong external investors' interest in corporate governance and SRI, competition in efficiency and productivity in order to attain access into global market including the gradual increase of expectations of insider community, and by and large, the need for sustainable development.¹⁴²

Some driving factors which are associated with the new development of CSR in Western Europe and North America are also available in some parts of Asia. They are, inter alia, the growth of Asian consumer expectations of socially responsible business, and business watchdogs, like ethical investment groups or NGOs, which are very much active in monitoring and reporting on the behaviour of the MNCs in Asia. It may be said that the presence of democracy in state governance and hence the wider recognition of freedom of the press and electronic media in almost all Asian countries are also playing a vital role as the key drivers for the promotion of CSR in the region.

CSR in Asian countries (Japan is excepted as it is considered to be a developed country in Asia) is concentrated on addressing many social and economic development issues such as human rights, political rights, labour and employee rights, occupational health and safety, and women rights issues both at the firm level and the national level of operations and governance.¹⁴³ However it is argued that CSR

¹³⁹ Joaquin L. Gonzalez, 'Is There Room for Social Responsibility in Asia's Business and Economic Turn Around?' (August 2005) V: 2 *Asia Pacific Perspectives* (An Electronic Journal) 1. <http://www.pacificrim.usfca.edu/research/perspectives> 11 October 2007.

¹⁴⁰ Ibid.

¹⁴¹ Wendy Chapple and Jeremy Moon, 'Corporate Social Responsibility in Asia: A Seven-Country Study of CSR Web.Site Reporting Re (2005) 44: 2 *Business Society*, 415,420.

¹⁴² Hopekins, above n 78, 175.

¹⁴³ Ibid.

practices vary largely from each other and this variation is not explained by development but by factors in the respective business systems.

A web-based study conducted by Chaplet and Moon in 2005 presents the state of CSR practices of seven Asian countries: India, South Korea, Thailand, Singapore, Malaysia, the Philippines and Indonesia. In this study the variation in CSR trend has been shown with the application of both quantitative and qualitative indicators in five aspects. These are the penetration of CSR among companies of each country; the extent of CSR reporting within these companies; the waves of CSR reflected in national profiles; the CSR issues underpinning, and the modes of CSR developed in the above said countries.¹⁴⁴ In respect of CSR reporting of companies the overall situation is relatively low; however the companies of India and South Korea are well positioned. It is argued that they are proportionately greater in number than UK based CSR reporting companies.¹⁴⁵

The study also establishes that the CSR interventions by the local companies and MNCs did not increase comparable to their growth.¹⁴⁶ It is assumed that the dominant CSR agenda largely reflects the concerns of the stakeholder-based high income countries and remain alienated from the stakeholders living in developing countries because the local stakeholders in the developing countries, owing to their low consciousness about CSR are not underscored by the corporations.

Asian countries' performance in some issues of CSR such as labour and human rights, bribery, and corruption is commonly poor. These issues are not emphasised as they are in western democratic countries. A comparative study between Europe, North America and Asia, where companies of Thailand, Malaysia, Korea, Japan, Singapore and Hong Kong are surveyed, shows there is less commitment to guaranteeing freedom of association, promoting staff development, vocational education and ensuring a fair wage.¹⁴⁷ In the three areas of labour standards, inspection of suppliers and a code of ethics including bribery and corruption, the companies are found to have policies.¹⁴⁸ However, non-compliance with the labour laws and other CSR related issues are a big problem in some South East Asian countries, although some countries such as China, Indonesia and Thailand have strict labour laws.¹⁴⁹

In Southeast Asian countries particularly in Thailand the rapid spread of HIV/AIDS has emerged as a grave concern and the need of help from companies has become crucial. HIV/AIDS impacts society and impedes economic growth. Therefore, the Thai Ministry of Labour in collaboration with non-governmental organisations (NGOs) and the Thai Business Coalition on AIDS is launching

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

¹⁴⁶ Chapple and Moon, above n 141, 418.

¹⁴⁷ Richard Welford, 'Corporate Social Responsibility in Europe, North America and Asia: 2004 Survey Results' (Spring 2005) 1: 17 *Journal of Corporate Citizenship* 33, 40.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

workplace AIDS prevention and management projects.¹⁵⁰ The projects receive financial support from the UN and inspire corporations to integrate AIDS programmes into their social responsibility.¹⁵¹

Apart from the initiatives at the corporate level for the promotion of CSR, in Asian developing countries organisations have evolved in recent years at the national level. The key objective of these organisations is to provide partnership for social development at the community level. They are, inter alia, *Yayasan Kusuma Buana* (YKB) in Indonesia; the Population and Community Development Association (PDA) in Thailand; Singapore Telecom in Singapore; the Bangladesh Freedom Foundation and Centre for CSR in Bangladesh; the Centre for the Advancement of Philanthropy, the Ahmadabad Community Foundation in India, the *Samparaddan* Indian Centre for Philanthropy in India; the *Kakabala* Development Foundation of Negros Occidental in Philippines and so on.¹⁵² In China the Council for Better Corporate Citizenship (CBCC) in association with the China Enterprise Confederation, and the Committee of Corporate Citizenship, monitors the struggle for primacy among organisations promoting CSR.¹⁵³

At the regional level in Asia, the different multilateral organisations, development agencies and external auditing companies are active in extending co-operation through partnership activities, and financial, technological and knowledge-based supports to assist the home grown companies integrate CSR into their mainstream business activities and promote reporting tendencies. The ILO under the organisation of their country-based offices, is working on the basis of their tri-party agreements (e.g., between the ILO, government and enterprises) to enforce the conventions on fundamental labour rights. Among the development agencies, the UNDP, World Bank, and German-based organisation GTZ are prominent in their work providing partnership with business associations, governments, various state agencies, and private sectors to promote human resource development and other sustainable development activities.

Public sector initiatives can be an important driving force in strengthening CSR in any economic climate. In developing countries the government level policy-making activities, regulatory and other supporting initiatives vary from country to country and are often minimal. In the Asian countries a varying picture in terms of public sector regulatory initiatives is available. Except in Indonesia CSR related issues or companies' social obligations do not have any specific legal recognition. In Indonesia, the present amended company law (40 of 2007) introduces provision

¹⁵⁰ Shizuo Fudaka, 'Corporate Social Responsibility in Asia: Bridging the Gap between Expectation and Practice' A Report from the Leader of the CBCC Dialogue Delegation on CSR to Southeast Asia, (2005) < <http://www.keidanren.or.jp/cbcc/english/report/200509observations.pdf> 11 October 2007.

¹⁵¹ Ibid.

¹⁵² Gonzalez, above n 139.

¹⁵³ Ibid.

making CSR mandatory for all limited liability companies.¹⁵⁴ However, in some countries, there have been a good number of laws that may complement or fulfil the elements and requirements of CSR such as corporate governance, employee rights, occupational safety and health, and environmental degradation.¹⁵⁵

Similarly in Thailand, alongside the legislative initiative for labour issues as cited before, the passage of the *Tambon Administration Organisation (TAO) Act of 1994*, the New Thai Constitution of 1997 and the National Decentralisation Act of 1999 are evidenced as landmark public sector efforts to enhance power sharing among public, private and civil society sectors and increase community-business partnership.¹⁵⁶ In Vietnam, the Vietnam Agenda 21 can be viewed as formulating a sustainability strategy in a broader way, but still may be termed as a cross-cutting subject.¹⁵⁷ In Malaysia, the Bursa Malaysia's CSR framework provides a set of guidelines for Malaysian public listed companies to help them in the practice of CSR. This framework focuses on four areas within the CSR practice such as the environment, the community, the workplace, and the market place. It has been accepted by the Government of Malaysia as articulated in the prime minister's budget speeches in 2006 and 2007 including a directive for public limited companies to disclose their CSR activities.¹⁵⁸

The public sector involvement in CSR implementation through strategic partnership with companies and business associations and also incentivising programmes are more or less apparent in this region. Public sector activities are somewhat mature in some places and at the nascent stage in others. In China the government is increasingly active in creating partnership and raising awareness. The Ministry of Labour, the Ministry of Commerce and Industry, and the Chinese Enterprise Confederation jointly have formed a committee to investigate the development of CSR in China.¹⁵⁹ In India, the development of public policy for CSR is still in its infancy and in this respect, the Ministries and National Foundation for Corporate Governance are playing a vital role.¹⁶⁰ As an incentivising programme,

¹⁵⁴ The article 74 of new Company law of Indonesia reads:

- A limited liability company is obliged to conduct corporate social and environmental responsibility;
- Corporate social and environmental responsibility is an obligation for limited liability company which is budgeted and calculated as cost or expense for limited liability company;
- A limited liability company that does not carry out the said obligation shall be sanctioned according to regulation.

¹⁵⁵ For example, China, Malaysia, Thailand, Singapore, India, Bangladesh.

¹⁵⁶ Wolfgang Frank, *Partnership for Successful CSR Activities in Thailand: The Nike Village Development Project* (2004) Population and Community Development Association (PDA) <http://www.pda.or.th/eng/csr.asp> 26 April 2008.

¹⁵⁷ GTZ, *The CSR Navigator: Public Policies in Africa, the Americas, Asia and Europe* (2006) <http://www.gtz.de/csr> 26 October 2008.

¹⁵⁸ See Stephen Frost PhD, *Comparative Overview of CSR in Asia: Issues and Challenges* (2008) CSR Asia, Hong Kong <http://www.csr-asia.com> 26 April 2008.

¹⁵⁹ Frank, above n 156.

¹⁶⁰ GTZ, above n 157.

the Taiwan Environmental Protection Administration (EPA) has been running since 1992 an annual Green Business Award as recognition of the organisations contributing to environmental protection.¹⁶¹

An observation of Asian countries overall reveals an almost weak and immature picture of public cooperation in the development of CSR activities similar to many other developing economies across the world. This may be attributed to a lack of coordination among the public sectors' relevant institutes or organs, and also between the public and private sectors, weak governance mechanisms, lack of proper enforcement of existing relevant laws, and an absence of value-based commitment to promoting social obligations from the ruling part and so on.

Indian subcontinent is a bigger part of Asia including India, Bangladesh, Nepal, Sri Lanka where the traditional approach of business interventions regarding social development is of a special significance to the development thinkers, particularly in regards to transforming the nature of business' social engagement from its historical form of philanthropy to modern day CSR.¹⁶² The conventional business approach to social development in the form of philanthropy and charity is still influential rather than a threat to responsible behaviour towards society.¹⁶³ But in response to the present global trend, particularly following the MFA phase out, the supply chain 'social compliance' issue has become a vital driving factor for raising concern about the performance of international labour and environmental standards.

In Bangladesh, discretionary philanthropic activities and pressure from international retailers through the supply chain influence corporate behaviour. In recent years, in response to the demand of counterpart retailer companies the adoption and integration of CSR is gaining currency with the development of multi-player interests which will be detailed in the following chapters.

3.3 Conclusion

The common features of CSR practices in developed countries as reflected by the above discussion are institutionalisation, development of CSR related regulations, public sector interventions and co-ordinations, development of companies' self-regulatory mechanisms and self-interest driven policies and programmes, increase of multi-stakeholder initiatives, and the growth of strong civil society associations and strong consumer consciousness.

Nevertheless there is heterogeneity in the character of practices in developed countries. In the EU countries the national regulations, institutionalisation and

¹⁶¹ Ibid.

¹⁶² Mahila Shahjahan and Muhammad Ryhan Sharif (eds.) *Missing Links: Corporate Social Responsibility and Basic Education* (2006) 58.

¹⁶³ Ibid.

public sector interventions are active in the promotion of CSR practices, while in the US companies' self-regulatory approaches are more emphasised and legislative control is minimal as the government seeks to maximise companies' freedom of participation in social activities.

The uniqueness of the CSR movement in the European developed countries is their being advantaged with regional support and regulation. The EU Commission's 'Green Paper' and the EU Parliament's 'Code of Conduct' are ground-breaking initiatives which have brought about a phenomenal change in the conceptual development of CSR and provided a framework for the promotion and implementation of CSR at regional level. Another remarkable effort to promote CSR in the EU countries is the growth of strong public private-partnership and the development of regulatory approaches at the national level.

In developed countries the brand image and business reputation within the internal society are considered to be prime concern of corporations in their CSR application as the internal consumer and other stakeholder groups are educated and hence more conscious about CSR issues. However, there is a common criticism that advanced economies often move their more dirty industries to other parts of the world which have less stringent environmental and social standards.

In the context of the development of CSR in developing countries and their application by home grown companies, a common comment is that CSR here is mostly externally driven, structured and guided. In another words, the practice and proliferation of CSR activities in the developing economy can be characterised so far as a top-down approach. The reason attributed to this is market competitiveness or the question of survival in the global market. The companies of developing countries, in the face of pressure from the international counterpart supply chain companies who are instructed by the consumers groups of their home countries come under obligation to comply with their codes of conduct or set principles on social and ethical issues. As a result, the interests of the external stakeholders and their expectations are in many cases seen to be more protected vis-à-vis the stakeholders in the developing countries as they, instead being the active subject in shaping CSR agenda, are considered the object.¹⁶⁴

This top-down approach, though criticised for sometimes acting as a non-tariff barrier or being politically motivated, is admittedly a driving force for the promotion of the application of CSR in the corporate sectors of developing countries. For example, the abolition of child labour, ensuring labour rights, and quality of products are taken into prime concerns of the manufacturers of the South,¹⁶⁵ only because of demand and pressure from external buyers and consumers.

¹⁶⁴ Jacylyn Y. J. SHI, 'Corporate Social Responsibility for Developing –Country Enterprises—Lost Warin Pertaining Global Competitiveness' (Paper presented at the CCA's Second International Conference 'Globalisation and the Good Corporation' June 26–28, 2007) 1, 11.

¹⁶⁵ Different authors of CSR have classified the division between developed and developing countries as Southern and Northern countries such as Jacylyn Y. J. Shai, Simon Zadek's work referred in chapter two at foot note 39, and Michael E. Nielsen's work referred in chapter two at footnote 9.

The complaint companies usually tend to get licenses of operation in the Northern market or hope to attract larger and more stable contracts.

In addition, other factors active in the promotion of CSR across developing countries are the initiatives of intergovernmental organisations, development agencies, national and international NGOs, external auditing companies and so on. The initiatives include sponsorship or funding programmes, provision of partnership, supplying technological support and expertise, coordinating, auditing, and inspection. These activities are helping create a better climate enabling corporations to integrate social and environmental issues into their mainstream business agenda. The promotion of labour rights through tripartite agreements as coordinated by the country offices of the ILO, and the promotion of sustainable development issues by the UNDP/Global Compact, and the World Bank have been good evidence of this.

Therefore, despite many types of restraints, CSR is developing at varying rates and gaining stages of maturity in developing countries, where some countries from different regions and continents are in a good position such as Brazil, Argentina, Mexico, Poland, Slovenia, and Hungary from Latin America, South Africa from Africa, Egypt, and Morocco from the Middle East, and Hong Kong,¹⁶⁶ Singapore, Korea, Malaysia, India from Asia. Some indicators of CSR in some developing countries are said to be comparable with those of developed countries in terms of the promotion and practice.¹⁶⁷ But an overall comparison between the developed and developing countries in the context of the promotion of CSR is an imbalanced one as there exists between these two plenty of inequalities, disparities and gaps as to regulatory measures, culture and value, knowledge, information and language, technology, consumer and other stakeholders awareness, economic development and so on.

Although it is admitted that CSR is gradually evolving and taking shape in the business practice of developing countries, in many cases the growth is slow and in a sporadic way, rather than in an homogeneous or harmonious manner. The main problems that can be identified, among others, are the absence of stakeholder engagement, minimal public sector support and co-ordination among the actors, maladministration and weak control over the private sectors as well as international buyers and investors. Therefore, a better coordination on the part of the governments through formal and informal institutions can enhance the development of CSR and shape future CSR activities in a more homogenous manner.

¹⁶⁶ Hong Kong and Singapore were placed in the top 20 of Responsible Competitiveness Index 2007 from British non-profit, Accountability, and Brazilian Business School, Fundacao Dom Cabral.

¹⁶⁷ See Chapple and Moon, above n 141, 415–420.

Chapter 4

CSR Practices in the Private Enterprises of Bangladesh

4.1 Introduction

This chapter deals with the adoption and integration of the current stakeholder model of CSR into the business of the private enterprises of Bangladesh in general. In so doing the chapter focuses on the background to the emergence of CSR in Bangladesh, its needs for application in the private enterprises, different dimensions and features of CSR practices, the state of CSR management certification and reporting, the state of government or public sector roles and legal arrangements, the involvement of business associations and development agencies, and the growth of institutions at the national level for the promotion of CSR. This is followed in the next chapter by an analysis of CSR practices, specifically in the Ready Made Garment (RMG) Sector as it represents the biggest export earner and means of economic development.

4.2 Background to the Emergence of CSR Practices and Its Driving Factors

CSR has long been a practice in the businesses of Bangladesh, in the form of traditional philanthropic activities, as in the case of other South Asian countries.¹ These philanthropic activities include donations to various charitable organisations, the poor and needy, religious and academic institutions, and hospitals, or for the purpose of temporary causalities.² History says that during the British-India and

¹ M. Aminullah Miyan, 'Dynamics of Corporate Social Responsibility: Bangladesh Context' (A Conference Paper presented at International Centre for Economic Policy and Analysis and Department of Applied Economic of Cochin University of Science and Technology, India, September 2006) 7.

² Ibid.

Pakistan regimes the large private corporations such as *Kumudini*, *Yaggeshari*, *Ispahani*, *Adamji*, and *Daud* were involved in a number of social and philanthropic activities carried out under foundations and trusteeship programmes such as building up houses for employees, schools, colleges, hospitals, mosques and other sponsorship activities of a religious and cultural nature.³ Although the current notion of CSR is a recent phenomenon in global business, these long-established activities show the emergence of the sense and spirit of CSR indigenously in the large corporate houses in pre-independent Bangladesh.

It cannot be pinpointed when and how the current stakeholder notion of CSR entered the corporate sector of Bangladesh. It presumably entered into the businesses of Bangladesh in the 1990s.⁴ The necessity for the integration of this form of CSR was first felt by the export-oriented private corporations, namely, Ready-Made Garment (RMG) industries and shrimp product and processing companies in Bangladesh. Following the 1992 US Harkin's Bill⁵ the RMG sector encountered the threat of boycott of their products from the US and EU buyers and consumers on the allegation of child labour employment in the industries. It was the first driving factor for the RMG to comply with international social standards, including the abolition of child labour, and the foreign buyers set a guideline for the RMG industries to ensure the standards.⁶

In 1995 as a result of consumer protest on child labour issue a Memorandum of Understanding (MoU) was signed between the Bangladesh Garments Manufacturers and Export Association (BGMEA), the ILO, and UNICEF Bangladesh for the elimination of child labour and placement of workers in a school programme.⁷

Since then pressure has been consistent on the garment sector from the buyers in response to consumers of the EU, and US demands for compliance with their social codes of conduct applied in the supply chain in relation to labour, human rights and environmental management. This is popularly known as 'social compliance' in the corporate business sector in Bangladesh. The necessity for social compliance hardened after the end of the Multi-fibre Arrangement (MFA) in the beginning of 1995. It ultimately influenced the concerns of business associations and the public sector towards the promotion of social compliance activities, and encouraged the promotion of partnership activities between garment sectors and development agencies.

³ Ibid.

⁴ Ibid.

⁵ Harkin's Bill (*The Child Labour Deterrence Act 1993*) was presented in the US Senate by Senator Tom Harkin. Harkin's Bill proposes a ban on imports to the United States from countries that use child labour at any stage of production of these commodities. Bangladesh had been the focus of much discussion, where the issue was the participation of child labour in the export garment industry.

⁶ Miyan, above n 1, 7.

⁷ Nielsen Michael E., 'The Politics of Corporate Social Responsibility and Child Labour in Bangladesh Garment Industry' (2005) 81:3 *International Affaires* 559.

CSR requirements as driven by international counterpart companies in response to consumers' demand and socially responsible investors (SRI) are not only confined to the RMG industries. They have also evolved beyond this in other industrial sectors. The industrial sectors immediately affected by this trend are the leather and footwear, toy, electronics, agribusiness, and pharmaceutical sectors, and importantly shrimp sector. The shrimp sector experienced a temporary ban in 1997 on the question of health and hygienic standards. The ban was lifted with their commitment to the application of HACCP.⁸ Today the shrimp sectors like other frozen foods sectors are under obligation to comply with HACCP⁹ and the Bio-terrorism Act¹⁰ of the US in response to the demand of US buyers and also to comply with EU regulations.

In view of the above two external pressures as directed to the major foreign exchange earning sources, one can easily assume that it is foreign market accessibility, rather than internal societal demand, which is the key driver of CSR integration into the business activities of the manufacturing corporations in Bangladesh.

However, the application of CSR is also a growing trend in the service-oriented private sector where the CSR activities are discretionary and value-based in nature, not driven by any external forces. In the service sector the social and community development programmes are mostly addressed. This trend is vibrantly visible and strategically adopted in private banking, insurance, and mobile telephone companies. The driving factors for the promotion of CSR intervention are assumed to be the desire to gain a good position and create a reputation in the local money market, fulfilling social expectations, following the guidance of international investors, and coping with international business trends.

The subsidiaries of the multinationals operating in Bangladesh have a long background of CSR practice in pursuance of the guidelines of the parent companies.

⁸ Mustafizur Rahman, 'EU Ban on Shrimp Imports from Bangladesh: A Case Study on Market Access Problems Faced by LDCs (Paper presented at Standards and Trade Workshop, Geneva, Switzerland, 16-17 May 2002) 3 http://www.unctad.org/trade_env/meeting.asp?MeetingID=37 4 October 2008; See also Jane All house, et al., *International Trade and Seafood Safety* (2007) Economic Research Service/USDA <http://www.ers.usda.gov/publication/aers28/aers28.pdf//page+115> 23 November 2008.

⁹ HACCP stands for Hazard Analysis Critical Point. It is a systematic preventive approach to food safety that addresses physical, chemical, and biological hazards as means of prevention rather than finished product inspection. HACCP is used in the food industry to identify potential food safety hazards. The enforcement mechanism includes HACCP certification, monitoring, and verification of the daily work.

¹⁰ The full title of the Act is the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. This Act directs the Secretary of health and Human Services to take steps to protect the public from threatened or actual terrorist attack the US food supply. This Act states laws, including others for the protection of safety and security of food and drug supply in the US., among others, for To carry out the provisions of this US food and Drug Administration (FDA) adopted a regulation applied to all suppliers in the US to register with FDA and comply with all provisions of the Act that also implicate the sourcing countries' products.

One of the factors of their CSR practice is that they remain under pressure from international lobby groups to improve social practices in developing countries.¹¹ It is argued that their practices are externally influenced where the indigenous and internal issues are absent to an extent.¹²

With such pressure and scrutiny from foreign buyers and investors, the new concerns and expectations from citizens and local customers are playing a proactive role in influencing CSR practices in corporations. Their increased concerns about environmental damage caused by economic activities, and the transparency of business operations brought about by the media and the international and local communication technologies are contributing to a change of attitude in corporations towards the integration of CSR principles into the mainstream business operations.

The growing trend of CSR practice in Bangladesh may be credited to some other forces. They include the impact of globalisation on the national economy, the expansion of international business to developing countries, pressure from international agencies such as the ILO, the OECD, the World Bank and UN organisations, people's general awareness, and the emergence of pressure groups in developing countries with links to their counterparts in developed countries.¹³ Simultaneously, the local domestic pressures to make the business organisations socially and ethically responsible are continually on the rise.

4.3 The Need for CSR Practices in the Private Enterprises

CSR is a major concern for the private enterprises in Bangladesh as it has become an important business phenomenon in Bangladesh after the rapid privatisation of industries as a consequence of market–economy theory since 1990. In Bangladesh, at present, the private enterprises dominate the corporate sector. They are the main catalysts for economic growth and development. Therefore the application of CSR in the business activities of the private enterprises is increasing in prominence day by day. The need and urgency for the application of CSR in the context of the private enterprises can be explained from three major perspectives; external, internal, and sustainable development.

¹¹ Ataur Rahman Belal and David Owen, 'The Views of Corporate Managers on the Current State of and Future Prospects for Social Reporting in Bangladesh: An Engagement Based Study' (2007) 20:3 *Accounting, Auditing and Accountability Journal* 472,478.

¹² Ibid.

¹³ Ibid.

4.3.1 Need for CSR Practices from External Perspective

From the external perspective, CSR is required to meet the extra challenges or demands coming from foreign buyers, investors, and consumers. It is true that the private enterprises such as garments and textiles, frozen foods, agro-based industry, leather and tanneries, pharmaceuticals and ceramics are contributing largely to the national economy. But their activities concerning social, ethical and environmental issues are concerns for external stakeholders and are the subject of scrutiny for the access of industrial products into the international market. In Bangladesh the concerns of the external stakeholders act as the powerful driving force for the application of CSR in the enterprises as a permanent business agenda. Therefore, CSR practices in the enterprises of Bangladesh, for the most part are considered an externally driven issue.

The key issues of concern for external stakeholders such as buyers, consumers and investors are child labour, workplace conditions, fair wages, human rights and environmental management. The recent treatment by the US and other western buyers of the garment, shrimp and leather products give a lesson that the CSR practices are a crucial factor ensuring global market access. On 4 October, 2007, a hearing was held by the United States Trade Representative (USTR) on a petition lodged by American Federation of Labour and Congress of Industrial Organisation (AFL-CIO) alleging non-compliance with labour rights in the garment and frozen food industries of Bangladesh.¹⁴ The AFL-CIO brought four allegations in the petition including the violation of domestic and internationally recognised workers' rights in the Export Processing Zones (EPZs) in Bangladesh, the violation of domestic labour laws and internationally recognised labour standards in the RMG industries, similar violations in shrimp and fish processing industries, and repressive and violent actions taken by the government security forces against trade unionists, workers, and labour rights groups.¹⁵ It is also noted that USTR on 13 July, 2004 was about to recommend the withdrawal of preferential trade privileges from Bangladesh on its failure to enforce freedom of association in the EPZs.¹⁶

In view of all these events it can be assumed that the adoption and implementation of social, environmental and safety standards are the basis for the survival of the garments and frozen fish sectors in the US and other foreign markets. Non-compliance with the said CSR issues can be viewed as a non-tariff barrier for access into the international market. Hence, CSR application is crucial for the

¹⁴ See, 'Ministry of Fisheries and Live Stock of Government of the Peoples' Republic of Bangladesh, A handout answering allegations in the petition (manually collected).

¹⁵ See for details <http://www.BangladeshNews.com.bd> 14 December 2007.

¹⁶ See US Department of State, *USTR Considers Withdrawing Bangladesh's Trade Preference* (13 April 2004, updated 30 July 2008) <http://www.america.gov/st/washfile-english/2004/April> 14 December 2008.

expansion of businesses of the private sector through occupying and retaining a positive image in the foreign market and thus for the benefit of national economy.

4.3.2 Need for CSR Practices from Internal Perspective

As for the internal perspective on CSR, companies' economic activities impact the lives of the employees who are the engine of the business product. The success or loss of the business in many cases largely depends upon the employees; their skilled and intelligent performance. The improvement of the living standard of employees and their families is one of the fundamental goals of CSR. In Bangladesh the private enterprises are the major employment-providing sectors where a significant number of employees are less educated and poor. Through the application of CSR the private enterprises in Bangladesh can bring a long term positive social and economic change in the lives of employees and their families and thus contribute to the whole development agenda of Bangladesh. For the improvement of the living standard of the workers, the foremost concern is ensuring adequate wages and their regular payment the absence of which causes the recurrent workers' agitation in the industries in Bangladesh.

The safety and security issues of employees in the industries of Bangladesh have emerged recently as a grave concern of both foreign and local communities which might hinder the organisational and societal legitimacy of companies. Since 1990 the collapse of factory buildings and catastrophic fires have claimed a large number of lives of the across different industries causing a bad impression about workplace conditions and the arrangement of security measures.¹⁷ More importantly, the massive fire in Dhaka on 11 April 2005 has cemented the adverse opinion of commentators on working conditions in the factories of Bangladesh.¹⁸

The increase of industrial corruption and moral degradation in respect of quality of production and consumer rights has reached such an unexpected level that local consumers have begun to shun the business community and its activities.¹⁹ They often choose foreign products over similar locally produced items. Thus the corruption and dishonesty in respect to product safety is hindering the expansion of businesses both in the local and foreign market.

All theses above mentioned internal issues relating to employers' and companies' business have become concerns of some internal forces such as local social actors—press and electronic media, civil society organisations. The companies are always under their pressure for changes in respect of workers living standard, workplace safety and security, and company's business ethics in terms of

¹⁷ Belal and Owen, above n 11, 477.

¹⁸ S. Forest, 'Garment Factory Collapses in Bangladesh' *CSR Asia Weekly*, (Union Way Commercial Centre, Hong Kong) 15 April 2005, 12-13 <http://www.csr-asia.com> 15 October 2007.

¹⁹ Ibid.

quality product. The application of CSR by the companies can pave the way for future changes in the said respects.

4.3.3 *The Need for CSR from the Sustainable Development Perspective*

The sustainable development perspective takes the control of industrial pollution into account. Industrial pollution is an increasing threat for the society of Bangladesh where the worse contributors are the private industries like tanneries, brickfields, shrimp cultivation and processing plants, tobacco industries, and textile dying industries. The unplanned and uncontrolled growth of small and medium scale enterprises and their negligent chemical and organic effluent treatment are mostly responsible for environmental pollution. Urban areas are the worst affected by industrial waste. One remarkable example is that the tanneries in the densely populated areas of the capital city Dhaka are seriously polluting nearby communities and rivers on a daily basis with industrial waste.²⁰ The river *Buriganga* flowing by Dhaka has become a 'toxic dump' for the surrounding industries.²¹

According to a report recently published in a national daily newspaper, the government has blacklisted almost 500 large, medium and small scale industries which are identified as the most pollutant industries in Dhaka city and around, including *Gajipur*, *Narayangan* and *Norsingdi* in the local district areas.²² A government report reveals that the industrial wastes of these enterprises have caused pollution of the surrounding rivers resulting in the breakout of different of epidemics, insufficient drinking water, the death of river fishes, a scarcity of cattle grass and damage of plant diversity.²³

In the above backdrop and for environmental sustainability throughout the country, it has become inevitable that the private enterprises adopt voluntary regulations for environmental management whether they operate in urban or rural

²⁰ Ibid.

²¹ Ibid; it is reported that the huge quantities of liquid waste from *Hazaribag* tanneries go to the river *Buriganga* every day. This has been a common practice for last 3 decades. Annual consumption of different chemicals in the tannery industry include 3,500 tons of sodium sulphide, 3,400 tons of calcium oxide, 6,000 tons of chromium sulphate, 723 tons of ammonium chloride, 350 tons of dye-stuff and other chemicals including fungicide, sodium chloride etc in small quantities. See Moinul Islam Sharif and Khandaker Mainuddin, *Country Case Study on Environmental Requirements for leather and Footwear Export from Bangladesh* (2003) Bangladesh Centre for Advanced Studies <http://www.bcas.net> 30 November 2008.

²² Ashis Saikat, 'Five hundred industries are identified as causing pollution' *Prothom Alo* (Dhaka, Bangladesh), 2 September 2007 <http://www.prothom-alo.com/index.news.details.php?nid=MTAxNTI> 15 October 2007.

²³ Ibid.

areas. ‘The concept of corporate social responsibility goes beyond the focusing on compliance, responding to external scrutiny or simply minimising negative impacts, there by engaging the private sectors in a more proactive way to actively search out and pursue ways to promote social development.’²⁴ Where the social development agenda involves multiple items such as the eradication of poverty and illiteracy, achieving environmental sustainability, and improving human health and sanitation, the private enterprises individually or collectively can play a vital role through their social development initiatives. The application of CSR in the private enterprises, as the dominant economic sector is a rational demand to meet the need for micro and macro level progress with the ultimate objective of a stable and poverty free society.

4.4 A Review of Current CSR Promotion and Practices in the Private Enterprises

The discussion here centres on the characteristics of ongoing CSR practices in the private enterprises of Bangladesh, the trends in CSR certification and reporting, the roles of the government and development agencies and the growth of the civil society organisation for the promotion of CSR practices. It also covers the obstacles to the promotion of CSR practices in the private enterprises.

4.4.1 Trends in CSR Practices in the Private Enterprises

As indicated earlier, CSR has already entered into the business practice of the private enterprises in Bangladesh. But it is difficult to measure the current CSR practices in Bangladesh with the application of the three major dimensions of CSR: economic, social and environmental (Chap. 2). The task does not lend itself well to empirical research which investigates the information on the basis of specific dimensions or indicators. This research is based on existing materials sourcing the CSR practices in the enterprises of Bangladesh. On the basis of the review of existing materials some characteristics of CSR practices emerge and these are discussed below.

²⁴ Khalid Malik (UNDP Resident Representative), ‘A Speech at Global Corporate Social Responsibility Forum’ UNDP China (26 January 2007) <http://www.undp.org.cn/modules.php?op=modload&name=News&files+article&catid...> 15 October 2007.

4.4.1.1 Common Dimensions of CSR Practices in the Private Enterprises

The common and main dimensions of CSR practices in the private sector including the subsidiaries of multinationals operating in Bangladesh are donations and rehabilitative programmes for people affected by natural disasters, contributions to education and the health sector, sponsorship for cultural development, employment creation, women empowerment, protection of the natural environment and infrastructural development.

Donations and financial assistance for the victims of the natural disaster such as floods and cyclones are a commonly offered by philanthropic individuals as well as the corporate sector in Bangladesh. The subsidiaries of multinationals, private manufacturing, banking and other service sectors, be they large, small or medium participate in the rehabilitative programmes. Formerly the aid programmes were one to one contact system, which means pure philanthropy. Today the donations and other rehabilitative programmes are conducted in more systematic way and sometimes with intervention of the relevant government department and therefore they do not seem to be almost like traditional philanthropy. The traditional philanthropy differs from the modern concept of CSR as CSR is a part of company's management policies taken on long term basis while traditional philanthropy is a temporary action that depends on the whims of a company.²⁵

Contribution to education by the private enterprises is also a long standing practice in Bangladesh. Since the pre-independence era, companies have contributed to the promotion of primary and higher secondary and religious education. The enterprises contribute by establishing academic institutions, providing scholarships and stipends to the children of workers and impoverished people of the locality, granting financial assistance for research and facilitating academic activities. History reveals that the enterprises of pre-independent Bangladesh, particularly the big corporate houses such as Isphani and Amamji, had established public schools and colleges which are still in operation even after the closure of their businesses.²⁶ At present, in comparison with the manufacturing sector, the private service sector, particularly the banking sector is playing a leading role for the spread of education.²⁷

²⁵ See Michael Hopekins, *Corporate Social Responsibility and International Development: Is Business the Solution?* (1st ed, 2007) 115.

²⁶ The examples are Adamji Nagar School and College in Narayanganj, Adamji Cantonment High School and College in Dhaka (established by Gul Muhammad Adamjee), Isphani Public School and College in Chittagong.

²⁷ Among the private banks Dautch- Bangla Bank (DBL), Islamic Bank and Bank Asia's CSR programmes involve the establishment of academic institutions and contributions to infrastructural development of schools, colleges and universities, and the provision of scholarships. For example, the DBL donation for establishing a social science research centre in the University of Dhaka, Bangladesh; and Islamic Bank Foundation's establishment of Islamic Bank International School and College in Dhaka, the capital city of Bangladesh. Likewise, Islamic Bank, Bangladesh, in the

Also of interest is the contribution of corporations to the promotion of health sector. This contribution includes establishing hospitals, medical centres, programmes for creating awareness of different endemics and fatal diseases, and the distribution of free medicines. In this context, the establishment of Islamia Eye Hospital by the Isphani Group of Industries in the pre-independence era was pioneering. In recent times the establishment of four medical centres in the four industrial divisions by the Bangladesh Garments Manufacturers and Exporter Associations (BGMEA), Medical Hospital of Squire Pharmaceuticals, and Islami Bank Hospital are some prominent examples of the corporations' involvement in the development of human health. Apart from health care and medical services, the pharmaceutical industries, and private banking sector are playing vital roles for the promotion of health education and skilled health services as well.²⁸

In regards to cultural development meaning different kinds of musical, artistic and other performing activities the corporate sector is becoming increasingly involved, particularly, the subsidiaries of multinationals. In recent years they have displayed interest in promoting the indigenous culture and sponsoring different national music and debate competitions.

Employment creation is another vital area for economic development where the private sector of Bangladesh is playing an important role. The subsidiaries of the multinationals, the joint-ventured telephone companies, and the manufacturing and banking sectors are creating job opportunities for unemployed educated youths. They provide internships and casual basis contract jobs to develop skill for university graduates. In the creation of employment for rural poor women the RMG and shrimp farming and processing industries are playing a major role.²⁹

In addition to the provision of employment opportunity, the RMG sector also organises activities for women empowerment and youth skills development. The BGMEA Institute of Fashion and Technology under its Sweater Manufacturing Training Centre organises training for the retrenched garment workers who are mostly women.

The initiative for protecting the natural environment through green plantation is a very noticeable activity in the multinational tobacco companies in Bangladesh. British American Tobacco has undertaken a programme for the country's afforestation drive by planting trees along roadsides, canal banks and farmers'

final approval of industrial project considers whether the proposed project has already obtained environmental clearance from the Department of Environment of Bangladesh. In addition, the bank in its investment in the dying and printing industry encourages the enterprises to set up Effluent Treatment Plant (ETP) for industrial waste management.

²⁸ For example, Islamic Bank has established the Islamic Medical College, Nursing Institute, and Islamic Bank Health Technology Institute; see Islamic Bank Limited, Annual Report (2006) 65.

²⁹ The garment industries' employment number as per FY 2006-2007 is 2.2 million among which 85% are women and the annual growth rate of the workers are about 10%. (source: BGMEA annual bulletin 2007); According to a statistics in 2002 the direct labour force employed in the shrimp sector is over a half a million; see for details Bob Pokrant and Peter Reeves, 'Work and labour in Bangladesh Brakish-water shrimp export sector' (2003) 26:3 *Journal South Asian Studies* 359,362.

landholdings.³⁰ Some banks have city beatification programme and have introduced some stringent environmental conditions for the financing of industrial projects.³¹

It is pertinent to say that the common dimensions which are more often seen in the list of companies' CSR practices are treated as discretionary responsibilities as per the definitions of Carroll.³² These discretionary issues generally get more importance than legal or quasi-legal ones such as labour, human rights, environment and ethical issues.

4.4.1.2 CSR Practiced as a More Buyer-Driven Business Agenda³³

For the private enterprises of Bangladesh, generally there are four major ways to get access to the global market: First, as producers selling into final markets on an arms-length basis; second, as group of producers; third, as suppliers of global supply chains where the global buyers coordinate the production networks; and finally, as part of transnational corporation driven vertically integrated network. All most all the companies of this sector are in the global market through the global supply chain.

Global supply chain is a quasi-hierarchical relationship between buyers and producers, in which the two parties are not joined by ownership but engage in a long-term relationship. In this relationship one of the parties tends to be dominant

³⁰ A most noticeable environmental protection activity is drawn up from country's largest afforestation programme by British-American Tobacco. It distributes annually more than 3.5 million saplings. In the last 2 decades it has distributed and planted more than 42.5 million saplings. Most of these are located in the tobacco growing areas of Kushtia, Rangpur, Mankigonj and Chittagong including the developing areas of Lama and Alikadam in the Chittagong Hill Tracts. In recognition of this, the company received the Prime Ministers' award for their contribution to the country's total afforestation programme.

³¹ For example, Dutch-Bangla Bank in its financing for industrial establishments considers whether the project complies with the environmental standards. As part of the project financing activities the bank introduced a guideline demanding assessment of environmental and social impact of the project to ensure that its operation would be eco-friendly. Likewise, Islamic Bank, Bangladesh in the final approval of industrial project considers whether the proposed project has already obtained environmental clearance from the Department of Environment of Bangladesh. In addition, the bank in its investment in the dying and printing industry encourages the enterprises to set up ETP. See Islamic Bangladesh Limited, *Annual Report* (2006) 65.

³² Carroll's definition of CSR includes four responsibilities of CSR namely, economic (must do), legal (have to), ethical (should do), and discretionary (might do). Discretionary responsibility refers to philanthropic and welfare activities. For details, see A.B. Carroll, 'The Pyramid of Corporate Social Responsibility: Towards the Moral Management of Organisational Stakeholders' (1991) 34:4 *Business Horizons* 39, 40, 41.

³³ The core of this discussion has been published in two referred journals. For details, see Rahim, Mia Mahmudur, and Pornchai Wisuttisak. 'Corporate Social Responsibility-Oriented Compliances and SMEs Access to Global Market: Evidence from Bangladesh' (2013) 14:1 *Journal of Asia-Pacific Business* 58-83; Rahim, Mia Mahmudur, and Shawkat Alam 'Convergence of Corporate Social Responsibility and Corporate Governance in Weak Economies: The case of Bangladesh' (2013) 14:1 *Journal of Business Ethics*.

and assumes the role of governor. Generally the dominant parties in this relationship are the buyers that define who is incorporated in the chain and what standards they have to meet. Global supply chain includes two types of supply chains: buyer-driven chains and producer-driven chains. Buyer-driven chains are characteristic of labor intensive industries such as the footwear, clothing, and toys industries in developing countries. This chain can connect the bottom line suppliers with the global customers and the multinational companies as the global buyers. Strong competitive edge in this chain can increase Bangladeshi RMG company's growth and productivity especially in the era of increased globalization and market liberalization.³⁴ The share of international business through this chain is remarkable and business through this mode can help these companies be developed as larger enterprises that earn foreign exchange directly.³⁵

In the buyer-driven global supply chain, global buyers tend to ensure that social audit practices are implemented within their supply chains. A survey found that among the most common three criteria upon which a global buyer selects its suppliers from the RMG industry of Bangladesh, two are related with the suppliers' performance in product quality and expertise in managing the negative impact of business operation on society and environment.³⁶ At this point, therefore, to remain as a global supplier or to be a global supplier, potential enterprises have to have (a) desire to make their business strategies aligned to the 'codes' of buying company, (b) a satisfactory level of environment and product quality management, and (c) appropriate accreditation from credible audit organization.³⁷ Another survey on the global buyers' demand of social accountability practices showed that 60 % of companies were asked by global buyers about their safety policies and practices, 43 % were asked about their environmental policies, and 17 % of were asked about social issues.³⁸

In buyer-driven global supply chains, RMG supplying companies have very little latitude to avoid or alter the demands of a social audit practice. Rather, they have to demonstrate that they are able to implement standardized social audit practices if they wish to widen their business scope, especially in those "sectors where consumer concerns and brand sensitivity have driven the development of

³⁴ Kaplinsky, R., and Morris, M. 'A handbook for value chain research' (2001). Ottawa, Canada: International Development Research Centre; United Nations Industrial Development Organization. 'Integrating SMEs in global value chains: Towards partnership for development' (2001) Vienna, Austria.

³⁵ Luetkenhorst, W. 'Corporate social responsibility and the development agenda: The case for actively involving small and medium enterprises' (2004) 39 *Inter-economics*, 157–166.

³⁶ Bellesi, F., Lehrer, D. and Tal, A. 'Comparative advantage: The impact of ISO 14001 environmental certification on exports' (2005) 39: 7 *Environmental Science & Technology*, 1943–1953.

³⁷ Mollenkopf, D., Stolze, H., Tate, W. L., & Ueltschy, M. 'Green, lean, and global supply chains' (2010) 40:1 *International Journal of Physical Distribution & Logistics Management* 14–41.

³⁸ Article 13. 'SMEs and the supply chain' Retrieved from http://www.article13.com/A13_Content_List.asp?strAction=GetPublication&PNID=567 17 November 2003.

formalized standards and monitoring mechanisms”.³⁹ Their failure to satisfy buyers denoted audit requirements affect almost every party in supply chain management. For example, if a supplying company bypass the non financial requirements demanded by its buyers, the objectives of the development of accountability in social issues in the supplying companies fall short.⁴⁰ This failure could also affect the buyers in the supply chain by potentially sparking an image crisis⁴¹ or creating other public relation issues or legal problems.⁴² In circumstances like this, where the supplying companies are simply unable to implement the required social audit standards,⁴³ buyers may place their orders to different companies⁴⁴ or they may even elect to build their own manufacturing plants instead of keeping locally owned companies as suppliers in their supply chains.⁴⁵ At this point, global buyers have ample leverage over their suppliers because the number of Bangladeshi RMG companies trying to be suppliers is enormous. For example, only 30 retailers/buyers control 98 % of all apparel sales in the United States, whereas the proportion of domestically made apparel in the United States is dropping.⁴⁶ In contrast, the number of apparel producing companies is increasing rapidly in developing countries. Bangladeshi RMG enterprises have increased from 30 companies in 1980 to 4,825 in 2009.⁴⁷

The CSR practices in the private manufacturing enterprises are apparently more buyer-driven, less value based and self-motivated. This means that the manufacturing enterprises in Bangladesh address CSR, particularly in labour and environmental issues, under the pressure of the international counterpart buyer companies. They seem to be less influenced by the need for business ethics, social

³⁹ Forstater, M., MacGillivray, A., & Raynard, P. Responsible trade and market access: Opportunities or obstacles for SMEs in developing countries? (Vienna, Austria: United Nations Industrial Development Organization 2006) 51.

⁴⁰ Ibid.

⁴¹ Lahdesmaki, M. ‘When ethics matters - interpreting the ethical discourse of small nature-based entrepreneurs’ (2005) 61:1 *Journal of Business Ethics* 55–68.

⁴² Forstater above n 370; Organization for Economic Cooperation and Development. ‘Performing environmental regulation in OECD countries’ (Paris 1997).

⁴³ Forstater, above n 39.

⁴⁴ Ibid.

⁴⁵ Deegan, C., & Gordon, B. ‘A study of environmental disclosure practices of Australian corporations’ (1996). 26:3 *Accounting and Business Research* 187-199; Jackie, J. ‘Forces behind restructuring in United States apparel retailing and its effect on the United States apparel industry’ (1995) *Industry, Trade and Technology Review*, 23-27; Raphael Kaplinsky and Jeff Readman, ‘Integrating SMEs in Global Value Chain: Towards Partnership for Development’ (Report No v.01-85393-August 2001-1000, United Nations Industrial Development Organization, 2001)2.

⁴⁶ United Nations Development Program. ‘International trade in textiles and clothing and development policy options: After the full employment of the WTO Agreement on Textile and Clothing (ATC) on 1 January 2005. Colombo, Sri Lanka.

⁴⁷ Bangladesh Garments Manufacturers and Exporters Association. Comparative statement on export of RMG and total export of Bangladesh. Retrieved from <http://www.bgmea.com.bd/home/pages/TradeInformation> 12 August 2011.

responsibility and morality for the benefit of all stakeholders. Therefore, an uneven situation prevails in the status of CSR performance among the enterprises. The sectors which are under the strongest scrutiny of international buyers are more concerned than others about the implementation of social standards in order to retain their international market. Self-initiated activities for the promotion of social issues are rarely seen.

For example, the RMG sector first became the subject of scrutiny for its social standards and is still under pressure from the buyers for that end as the biggest exporting sector. As a result, the concern for the implementation of labour and environmental standards is more a feature of the RMG industries. Even the owners' associations of this sector (the BGMEA and the BKMEA) and the government are concerned about the promotion of social standards. Nevertheless, there are also differences among the large companies and SMEs in the performance of social standards as all the companies are not equally under the pressure of foreign buyers. Chapter discusses more about CSR practices in this sector. The following section highlights the nexus of CSR and the shrimp and leather goods processing enterprises access to the global market. A detailed discussion on the trend and impact of global buyers denoted CSR practices in the RMG industry is in the next chapter.

4.4.1.3 CSR in Shrimp Processing Enterprises and Their Global Market Access

The shrimp sector is also affected by pressure from the EU and US buyers for the quality control of products. The shrimp enterprises apply the globally recognised HACCP system to meet the said requirement of the buyers. The application of HACCP is the basis for achieving approval from the European Commission for exporting shrimp in the member states. Apart from quality control issues (i.e. food safety and security) the US and EU buyers are also concerned about the violation of human rights, particularly women rights and the abuse of child labour, and environmental degradation caused by the shrimp farming and processing plants.⁴⁸ This had impact negatively on the SMEs of this sector and revealed the weakness of the manufacturers of export quality products.

The impact of CSR related standardization on the shrimp producing and processing SMEs' scope of access to the global market can be traced back to the European Commission's ban on shrimp import from this country in 1997. The ban was imposed on the ground that exports of this commodity from this country's shrimp culture and processing industry where most of its members are SMEs did not meet the stringent provisions of EC's HACCP (Hazard Analysis Critical Control Point) regulation. At this stage the ban remained effective for 6 months

⁴⁸ Bob Pokrant and Peter Reeves, 'Work and Labour in the Bangladesh Brackish Water Shrimp Export Sector' (2003) 26:3 *Journal of South Asian Studies* 359, 362-364.

and this caused a serious injury to this sector's small-sized enterprises: at this time their export to EU that alone accounted more than 52 % of the total export market of this industry became zero.⁴⁹ Cato and Santos (1998) made an in-depth study of the negative impact of this ban and revealed that during this ban this country's SMEs in shrimp industry lost about US\$65.1 m⁵⁰; this was evident in short term losses; the medium to long term losses stemming from loss of the sector's momentum, market diversions, erosion in price offered to exporters were much than this cost.

Shrimp is one of the major export products from this country and its significance for this country's export is that it constitutes more than 70 % of primary products. After the RMG sector, it is the most export-earning sector. The SMEs of this sector engages more than two million people in upstream and downstream activities—in harvesting, culture processing, exporting and other ancillary activities.⁵¹ In 1998, this industry had 86 enterprises of which 51(of which a good number of firms micro-sized enterprises) were engaged in processing frozen shrimp.⁵² At that time, this sector covered an area of 130 hundred thousand hectares.⁵³ To this sector, the importance of the EU market is high and hence any disruption in the access to this market is bound to have severe and important implications on the micro to small-sized enterprises, and negative multiplier impact for the national economy.

The ban originated from a concern related with standards for health safeguards, quality control, infrastructure and hygiene in the processing units, and due to the lack of trust in the efficiency of controlling measures and agencies for controlling standards in export oriented shrimp culture and processing. The source of these concerns is the international standards specified by Codex Alimentarius Commission provisions¹³, the individual buyer specifications and the regulatory requirements of the importing countries. In the EU region, buyers/retailers are under legal obligation to ensure that their imported goods are produced maintaining a certain standard. However, maintaining all these standards from a least developed country's perspective is difficult especially for the SMEs who have a chronic shortage of necessary arrangements to maintain these standards. For the SMEs of

⁴⁹ Cato, C. J., and CA Lima Dos Santos. 'European Union 1997 Seafood-safety Ban: The Economic Impact on Bangladesh Shrimp Processing' (1998) 13 *Marine Resource Economics* 215-227; Fahmida Khatun, 'Fish Trade Liberalization in Bangladesh: Implications of SPS Measures and Ecolabelling for the Export-oriented Shrimp Sector' in *Policy Research—Implications of Liberalization of Fish Trade for Developing Countries. Support Unit for International Fisheries and Aquatic Research (SIFAR)*, FAO (2004).

⁵⁰ Cato, C. J., and CA Lima Dos Santos. 'European Union 1997 Seafood-safety Ban: The Economic Impact on Bangladesh Shrimp Processing' (1998) 13 *Marine Resource Economics* 215-227.

⁵¹ Fahmida Khatun, 'Fish Trade Liberalization in Bangladesh: Implications of SPS Measures and Ecolabelling for the Export-oriented Shrimp Sector' in *Policy Research—Implications of Liberalization of Fish Trade for Developing Countries. Support Unit for International Fisheries and Aquatic Research (SIFAR)*, FAO (2004).

⁵² Cato and Santos, above n 49.

⁵³ Mustafizur Rahman, "EU Ban on Shrimp Imports from Bangladesh: A Case Study on Market Access Problems Faced by the LDCs" (2001) *CUTS*, Jaipur.

this sector in this country, problems with quality compliance arise even at the stage of handling raw shrimp: due to the shortage of necessary equipments, funds and training, the micro to small-sized enterprises cannot always maintain standards in harvesting, sorting by size and colour, removal of heads and peeling in a hygienic condition. For the small-sized enterprises, due to the lack of funds, machineries and infrastructure they cannot always arrange high quality water, ice, suitable transportation etc.; these shortages seriously constrain their ability to pursue modern sanitary practices.

After the debacle in 1997 in this sector, the government of this country and shrimp entrepreneurs made substantial investment to ensure HACCP compliance. They arranged special credit programs and sought assistance to the international standardization agencies to upgrade the facilities, equipments and training to the staffs and workers for achieving acceptable sanitary and technical standards.⁵⁴ As a result, this sector got some big enterprises with sufficient funds, expensive equipments, fishing boats, quality control measures and adequately trained staffs. At the cost of US\$2.4 m in each year, the governmental agencies gradually upgraded its facilities to assist the enterprises of this sector to upgrade processing to match HACCP requirements and to implement quality control measures.⁵⁵ With the assistance of FAO, the Department of Fishery (DoF) of this country is now able to monitor on a continuous basis to ensure HACCP compliances in production process. Evidently, this sector has been able to recover from its initial setback due to the ban and has begun to pick up.

However, the number of SME as direct supplier of shrimp to the global market has not been increased. During the EU ban, on an average 27 employees per plant lost their jobs and after the modernization phase, only 11 plants got approval to export to EU.⁵⁶ In her benchmark study on the nexus of livelihood and shrimp industry of this country, Khatun (2004) reported that 78 enterprises/factories could not withstand the shock of this ban and had to stop their operation.⁵⁷ This means that the SMEs in the sector were not able to increase their ability to meet the threshold of international standards. Again, the survey conducted in the middle of 1998 revealed that the steps for the modernization of this sector mostly helped to develop some big enterprises.⁵⁸ From this time, the trend of creating developed and equipped shrimp processing units in this country started and the same time the

⁵⁴ Mustafizur Rahman, "EU Ban on Shrimp Imports from Bangladesh: A Case Study on Market Access Problems Faced by the LDCs" (2001) *CUTS*, Jaipur.

⁵⁵ Ibid.

⁵⁶ Cato, C. J., and CA Lima Dos Santos. 'European Union 1997 Seafood-safety Ban: The Economic Impact on Bangladesh Shrimp Processing' (1998) 13 *Marine Resource Economics* 215-227.

⁵⁷ Fahmida Khatun, 'Fish Trade Liberalization in Bangladesh: Implications of SPS Measures and Ecolabelling for the Export-oriented Shrimp Sector' in *Policy Research—Implications of Liberalization of Fish Trade for Developing Countries. Support Unit for International Fisheries and Aquatic Research (SIFAR)*, FAO (2004).

⁵⁸ Cato and Santos, above n 49.

scope of SMEs access as direct supplier of shrimp started to squeeze: some of the big enterprises have been able to equip themselves to maintain international standards and therefore they are getting most of the buying orders from global buyers/retailers; many micro to small-sized enterprises of this sector have lost their jobs and the small to medium-sized enterprises have degraded as they are the contractor for segmented components of shrimp culture and processing of big enterprises who are the main supplier to the global buyers/retailers/brands.

In this regard, a very recent report published in a leading daily newspaper of Bangladesh would be an appropriate mention (Hassan, 2011).⁵⁹ It mentions that a chunk of shrimp processed to export in EU is waiting as the producing enterprises are not getting clearance from the local authority of the DoF. These producers are some SMEs and are claiming that the authority is doing dillydallies in providing accreditation of standards to get illegal incentives while the authority for such accreditation claims that the producing enterprises of this bulk of processed shrimp has failed to provide detailed records to trace the origin of this product. The local authority claims that the producers of this bulk do not have required ability to meet the standards for EU and therefore they are avoiding providing necessary information and testing reports; local DoF claims that it should be rigid in this regard to save this industry from another disaster it experienced in 1997. The contradictory claims made in this case exposed that the SMEs of this sector are not in a good position to export as first-tier supplier. On the one hand, meeting the standard denoted by the buyers/retailers is a vital issue to get access to the global market and on the other hand, it is hard for the SMEs to respond to questionnaires, traceability and audit requirements and to afford to bear the additional cost involved in the implementation of stringent standards.⁵⁹

4.4.1.4 CSR in Leather Goods and Processing Enterprise and Their Access to Global Market

Like the international buyers and retailers of the shrimp processing industry of Bangladesh, buyers and retailers of the leather goods processing industry are increasingly becoming more contingent to the international standards; their CSR related demand has already signalled for a massive reformation in this sector which might put its enterprises' global market access in a vulnerable situation as evident after the modernization in the shrimp sector in 1997.

The leather-processing industry is one of the oldest industries of this country. It is mainly located on the bank of Buriganga—one of the main rivers and the heart of the capital city of this country. Bangladesh has more than 200 leather goods and processing enterprises, and at least 178 of them are within 50 acres of land on this bank.⁶⁰ They process hides into finished leather using acids and chromium and

⁵⁹ Khaton, above n 57.

⁶⁰ Satadal Sarkar, 'When Will the Waste Flow in the Buriganga Stop?', *The Prothom Alo* (Dhaka), 10 November 2010.

produce roughly 20 m square meters of leather and leather goods in a year. This has accounted for an average of 1.5 % of the total exports of this country during the last 3 years.⁶¹

An important feature of this industry is the fact that it is the main water polluter in this country. None of the companies within this industry has an effluent plant and most of their 30,000 workers work in chemical-filled environments without the required protective equipment. It is notoriously the most significant water polluter in Bangladesh: the leather industry alone pollutes 26 % of the total river water of Bangladesh.⁶² People living near these tanneries are 'exposed to higher morbidity and mortality compared to people living 2–3 km away.'⁶³ A recent report shows that the leather goods and processing plants of different companies (particularly on the bank of the Buriganga) have dumped approximately 3,000 ton of liquid waste in the Buriganga. In effect, they have turned this river into a toxic dump by indiscriminately discharging their waste into it.⁶⁴

Bangladesh has more than 200 tanneries, of which 178 are situated on the bank of Buriganga. Out of the 178 tanneries, 158 are red-listed by the Department of Environment⁶⁵ as none of these have any kind of effluent plant, which has virtually turned the Buriganga River into a pool of septic water.⁶⁶ This situation has been getting considerable coverage by the national and international media and hence, the buyers/retailers/brands that buy leather goods and finished leather from this industry is likely to be more stringent in environmental and workplace conditions of their suppliers. In these circumstances, the government has decided to relocate these enterprises to a 200 acres industrial zone near the capital city. Bangladesh Small and Cottage Industries Corporation (BSCIC) developed this zone for these enterprises at the cost of US\$65 m and have nearly finalized the process for establishing a central effluent plant for this zone at the cost of US\$59.72 m. In 2003, the High Court Division finally provided a guideline, which is mandatory for

⁶¹ Product-Wise and Region-Wise exports, the Ministry of Commerce of the Government of Bangladesh, <http://www.epb.gov.bd/?NoParameter&theme=default&Script=exporttrend#Region> at 14 February 2011.

⁶² Mohammad Golam Rasul, Faisal Islam and Mohammad Masud Kamal Khan, 'Environmental Pollution, Generated from Process industries in Bangladesh' (2006) 28(1) *International Journal of Environment and Pollution* 144.

⁶³ A K Enamul Haque, *Human Health and Human Welfare Costs of Environmental Pollution from the Tanning Industry in Dhaka—An Environmental Impact Study* (North South University, 1997) in Moinul Islam Sharif and Khandaker Mainuddin, 'Country Case Study on Environmental Requirements for Leather and Footwear Export from Bangladesh' (Bangladesh Centre for Advanced Studies, 2003) 10.

⁶⁴ Sharif and Mainuddin, above 9; for details and the source of this information, see Sarkar, above n 42.

⁶⁵ Moinul Islam Sharif and Khandaker Mainuddin, 'Country Case Study on Environmental Requirements for Leather and Footwear Export from Bangladesh' (Bangladesh Centre for Advanced Studies, 2003) 10.

⁶⁶ Anisur Rahman Khan, 'Tanneries Relocation Move Hits Roadblock', *The Independent* (Dhaka), 21 July 2010.

all residents of the country according to the constitution of Bangladesh, to facilitate this replacement.

Some of the enterprises of this sector has realized the necessity of maintaining an international standard and have heavily invested to rearrange their product process standards. In this regard the SMEs are lagging behind—thereby becoming the sub-contractors of the big enterprises who are more able to comply with the global buyer/retailers/brands denoted CSR related standards. In the reformation/modernization (which is eminent), how the vulnerabilities of the SMEs in accession of global market as first-tier supplier could be minimized is an important issue that needs to be addressed now, considering what happened in 1997 in the shrimp industry.

To sum up, in this country SMEs are significant in number and they contribute greatly in employment but they are less successful as global suppliers. Their lack of competitiveness in relation to standardized CSR practices is an important reason for this unfortunate situation. The reasons behind their inability to fulfil CSR requirements are many—SMEs are not always adequately aware of all the requirements that the practice of CSR entails, for instance, and most of the time they are simply unable to maintain the specific CSR-related guidelines denoted by their buyers. They are not competent to work within long, complex and multi-layered global chains where the multiplicity of standards is confusing; they are not comfortable to work in a morass of acronyms of several standardization initiatives.

CSR oriented demands are one of the main concerns of buyers and is treated as a precondition for the access of this country's enterprises into global market. As a result, CSR implementation gradually gets priority into the accountability practice in the industries of this country. For instance the Government of Bangladesh and the Bangladesh Frozen Food Association do not have any other role in place apart from ensuring quality control of the products.⁶⁷ The Business Promotion Council of Bangladesh, CATALYST (a multinational private company) and the Bangladesh Shrimp and Fish Foundation have also undertaken different initiatives for the formulation of a code of conduct for fish processing industries covering all aspects of CSR, including labour rights.⁶⁸

The labour and environmental management situation is still unsatisfactory in the leather goods and processing industry of this country.⁶⁹ Despite its positive impact in the economy, a study reveals that except for a few large scale companies most of the small and medium scale companies are less concerned about child labour,

⁶⁷ The information is based on the manual of Bangladesh Frozen Foods Exporter Association which is manually collected by the author.

⁶⁸ See Ministry of Fisheries and Livestock, Government of the People's Republic of Bangladesh, *A Handout on the reply of the petition lodged in USTR by AFL-CIO* (2007).

⁶⁹ Moinul Islam Sharif and Khandoker Mainuddin, *Country Case Study on Environmental Requirements for Leather and Footwear Export from Bangladesh* (2003) Bangladesh Centre for Advanced Studies <http://www.bcas.net> 20 October 2008; Zehadul Karim, *Baseline Survey on Child Labour Situation in Leather Tannery Industry in Dhaka District* (2005) International Labour Office <http://www.ilo.org/publns> 20 October 2008.

occupational accidents, the status of health and safety facilities, use of personal protective equipment, welfare facilities, wages, working and leave, social security, and the status of freedom of association and collective bargaining.⁷⁰ In addition, the leather and tanneries sector is also identified as the major pollution creator in the localities where they operate.⁷¹ The responsibility for dealing with these labour and environmental issues is not highly undertaken by the leather manufacturers, owners' association, workers' organisations, or the government. The reason is assumed to be the non-existence of any imposed requirement from the global supply chain, as is the case with the RMG and shrimp sector.⁷² However it is argued that the CSR requirements of international buyers, in response to consumer demand and socially responsible investors have also affected businesses beyond the RMG sector.⁷³

4.4.1.5 The Gap Between Companies' CSR Policies and Practices

The committed practice of CSR depends largely on its integration into companies' policies. The current CSR model especially requires its development and introduction into the policies of companies. In recent years this policy level development has become prominent among the private enterprises of Bangladesh. Most companies have a mission and vision statement articulating their commitment towards society which is very encouraging.⁷⁴ But in one study it is shown that Bangladeshi companies appear stronger on policy than on practices.⁷⁵ Around two-thirds of the companies have policies on sustainable development, corporate governance, human rights, and international labour standards, but measures ensuring their implementation such as the development of internal monitoring, inspection, auditing and reporting system seem to be less robust.⁷⁶ It may be said that mere surface level development has occurred in these corporations. The lack of sufficient

⁷⁰ Bangladesh Institute of Labour Studies (BILS), 'Occupational Health, Safety and Environment: Status in the Tannery Industry' (2003) A research monograph (manually collected).

⁷¹ Ibid.

⁷² It is for information that Japan is the largest footwear importer from Bangladesh, followed by the UK, then Italy and France.

⁷³ Wilhem Elfring, Sabine Kittel and Patrick Neyts, *Report on Special Focus Areas: Business Enabling Environment Corporate Social Responsibility Trade* (2006) LCG-PSD, Bangladesh http://www.icgbangladesh.org/PSD/reports/PSDper_cent20donor_per_cent20ma_pping_per_cent202006_per_cent20part_per_cent20tw0_per_cent2011_November_2008.

⁷⁴ In a study in 2002 it is shown that 71.1 % of the corporate entities in Bangladesh have mission and vision statement; see the Centre for Policy dialogue, *Corporate Social Responsibility Practices in Bangladesh: Results from Benchmark Study* (Occasional Paper 18, 2002) <http://www.cpd.bangladesh.org> 11 November 2008.

⁷⁵ Ritu Kumer, et al, *Understanding and Encouraging Corporate Social Responsibility in South Asia Update 3- Bangladesh* (2003) Teri Europe <http://www.teriin.org> 11 November 2008; see also CPD.

⁷⁶ Ibid.

preparation and logistic support, managerial reluctance or ignorance, stakeholders' ignorance, and above all a weak corporate governance system are responsible for the inconsistencies between policies and practices.

These inconsistencies are also present in the subsidiaries of multinationals operating in Bangladesh. It is true that the multinationals present in Bangladesh is more advanced in their work for CSR because of the many advantages they have in terms of incentives and tax rebates. They seem to have enough logistic support, strong policies, and management necessary for the implementation of CSR. Nevertheless, in recent past the incidents of environmental disaster and damage caused by Occidental and the Asia Energy evidenced their grave irresponsibility to the society of Bangladesh.⁷⁷ It is also argued that multinational companies in Bangladesh lag behind in terms of their social contribution with their economic returns. Similarly, the international buying companies, whose prescription for labour and environment related issues are followed by local companies, are found to lack CSR application in their procurement and contract negotiations.⁷⁸

4.4.1.6 Mixed Perceptions About the Current Notion of CSR

The current CSR agenda is a north-centric concept, taken or borrowed by the corporations in developing countries from a utilitarian approach. The businesses of developing countries, to ensure their market accessibility and protect their brand image for external customers, adopt CSR as a compliance issue prescribed by others, where there is less scope of indigenous choice. CSR as a compliance issue is something which is not received with full understanding, but thrust upon local businesses by the international counterpart companies. On the other hand, traditional philanthropy as a long standing business practice still influences the business minds. As a result many business entrepreneurs, particularly the family-based ones, find the notion of CSR as a holistic business approach difficult to grasp. They often equate CSR with traditional philanthropy or perceive CSR as aiding the needy people and other philanthropic activities for social development. This creates a mixed approach to the practice of CSR among the business society.

A recent empirical study on CSR in Bangladesh shows that 81 % respondents claim to practice CSR, where 19 % of them have strategic CSR, among the

⁷⁷ See Salim Mahmud, 'Magurchara Blowout in Bangladesh: Environmental and Human Rights Issues' (2003) 1:1 *Oil, Gas and Energy Law Intelligence* <http://www.gasandoil.com/ogel> 29 august 2008;

Asia Energy is a UK-based coal mine company that was compelled to end up its contract of pit mining with Bangladesh in aftermath of sever community protest at the cost of loss of several human lives. The allegation was about open pit mining that was likely to cause serious environmental impacts on the locality and expected to displace at least 50,000 people. But at the event of conclusion of agreement, the company didn't disclose what would be the environmental losses.

⁷⁸ See, Reed Consulting (Bangladesh), *Corporate Social Responsibility: An Awareness Guide for Companies Operating in Bangladesh* (2007) 15.

practising business 52 % perceive CSR as abiding compliance, and 25 % of them equate it with the traditional form of social contribution including charity and philanthropy.⁷⁹ Those who perceive it as abiding compliance emphasise compliance with the codes of conducts placed by the international buyers based on labour and environment-related social standards. Therefore, pro-poor approach of CSR remains absent in their activity. The others generally favour philanthropic activities in addressing CSR, focusing less on labour, human rights and environmental issues. This situation leads to discrepancies between the policies and practices of the private enterprises. The responsible factor for this situation is the lack of adequate and proper knowledge about the current notion of CSR and the absence of any concrete CSR guideline for businesses at the national level.

4.5 The Trend of CSR Management Certification and External Monitoring and Auditing

The trend towards obtaining voluntary CSR management certification and allowing external monitoring and auditing recently emerged in the private manufacturing sector of Bangladesh. CSR management certification acts as the evidence of the adoption of CSR standards in the policies and procedures of a company's management. The certification is mainly based on SA 8000 and different ISO standards, particularly ISO 9000, and 14001. ISO 9000 and 14001 provide management standards for the quality of products and the environment respectively. SA 8000 provides a standard for assessing labour conditions in global manufacturing operations. It also encompasses environmental management issues. The objective of monitoring and certification is to draw up a universal code of practice in labour conditions, quality and environmental management issues in order to convince the consumers in developed countries that the goods they are buying are produced in accordance with a recognised set of standards.

In Bangladesh a number of multinational companies and agencies work as certifying agents and hence are engaged in monitoring and auditing programmes on the basis of said standards in both public and private manufacturing industries. The companies and agencies are inter alia Moody International, Bureau Veritas (Bangladesh) Private Limited, SAI Global Bangladesh, and URS Bangladesh Limited. These also provide technical and expert assistance for the improvement of labour and environmental conditions in the industries and organise training and awareness-building programmes on ISO standards.

Apart from SA 8000 and ISO certification there are also some multi-stakeholder codes of conducts which offer certification for manufacturing companies (Chap. 2). These are the Ethical Trading Initiative (ETI), Fair Labour Association (FLA), Fair

⁷⁹ Mahila Shajahan and Muhammad Ryhan Sharif (eds.), *Missing Links: Corporate Social Responsibility and Basic Education in Bangladesh* (2006) 69.

Wear Foundation (FWF), and Worldwide Responsible Apparel Production (WRAP). The tendency of obtaining certification of the compliance with these multistakeholder codes is increasing in the manufacturing companies so as to gain access into international markets. The tendency is more pronounced in the garment manufacturing industries. It is noted the codes of FWF and WRAP apply exclusively for the maintenance of labour and social standards in the garment sector across the world.

It can be admitted that the certification process contributes to the surface level development for the implementation of CSR. It may give a competitive edge to national companies in the global market as the companies are likely to adopt it solely for driving economic interest and benefit. But it is also argued that certification standards and codes are developed out of western experience and therefore in many cases the corporate structure in Bangladesh fails to meet the requirements of the standards. In addition, the verification and inspection processes are regulated by international personnel who have inadequate knowledge of the local context.⁸⁰ This means that the verifiers are not aware of the restraints and impediments the local companies encounter in attempting compliance with the codes. A major loophole of this system is that as the monitoring and auditing reports are intended for the international consumer groups, they carry no weight for the local stakeholders and it does not enable the local public sector to promote the implementation of the codes.

It is notable that due to the social compliance issue of global supply chain, the local manufacturing companies in Bangladesh prefer to comply with codes of conducts of the counterpart international companies rather than with the above mentioned common codes. The suppliers can show their compliance performance through their 'social audit' report. Global buyers also prefer their supplier get social audit reports from reliable auditing firms. Hence the issues in social audit practice become an important agenda for both the buyers and suppliers in the developing countries. Private enterprises involved in global market as suppliers of multinational brands in Bangladesh are not exception to this situation.

4.5.1 Social Audit Practice

Social audit is comparatively a new area of auditing. The rise of this audit type is closely related with the development of CSR phenomenon of the past few years. Carroll and Beiler (1975) defined social audits as an attempt to measure, monitor

⁸⁰ Ataur Rahman Belal, Stakeholders' Perceptions of CSR in Bangladesh (Paper presented at the CSR in Asia Conference, Kuala, Lumpur, April 2006 and at the Eighth Interdisciplinary Perspective on Accounting [IPA 2006] Conference, Cardiff, July 2006) 24.

and evaluate the organisation's non-financial performance with respect to its social policies and objectives.⁸¹ The National Association of Accountants states:

The identification, measurement, monitoring and reporting of the social and economic effects of an institution on society. . . It is intended for both internal managerial and external accountability purposes, and is an outgrowth of changing values that have led society to redefine the notion of a corporation's social responsibility.⁸²

Social audit is a tool designed to verify the social accountability performance of companies; it is used within the wider framework of those CSR initiatives focusing on verification of the information related with this performance. It can be conducted by internal or external audit teams and might be undertaken voluntarily, or as a required part of a supply agreement. They can be undertaken with the aim of establishing whether an organisation is complying with its own (or other recognised) principles and standards.⁸³ It is closely connected with social accounts, social disclosures and assurance practices. It is argued that 'if done well and situated within a stakeholder based institution, this audit system can assist democratic process. Consistent with this argument,⁸⁴ argues that social audits are used to assess performance in relation to society's requirements and expectations. In a similar way, Owen et al. (2000) define social audit as the process by which an organisation determines its impacts on society and measures and reports the same to the wider community.⁸⁵

Social auditing systems have much to contribute either to pose a severe threat to or play a role in defending self-regulations of enterprises. It can be conducted by internal or external audit teams and might be undertaken voluntarily, or as a required part of a supply agreement. They can be undertaken with the aim of establishing whether an organisation is complying with its own (or other recognised) principles and standards.⁸⁶ They are a tool by which an organisation can plan, manage and measure social responsibility activities and monitor both internal and external consequences of these activities. The American Accounting Association's (AAA) Committee on Accounting for Corporate Social Performance included six issues as the main component of social audit⁸⁷; those are:

⁸¹ Carroll, Archie B., and George W. Beiler. 'Landmarks in the Evolution of the Social Audit' (1975) *Academy of Management Journal* 18:3, 589-599.

⁸² Batra, G. S. 'Dynamics of Social Auditing in Corporate Enterprises: A Study of the Indian Corporate Sector' (1996) *Managerial Auditing Journal* 11:2, 36-45.

⁸³ Rob Gray. 'Thirty Years of Social Accounting, Reporting and Auditing: What (if anything) Have We Learnt?' (2001) *Business Ethics: A European Review* 10:1, 9-15.

⁸⁴ Elkington, J. *Cannibals with forks: the triple bottom line of sustainable development* (1997).

⁸⁵ Owen, David L., Tracey A. Swift, Christopher Humphrey, and Mary Bowerman. 'The New Social Audits: Accountability, Managerial Capture or the Agenda of Social Champions?' (2000) *European Accounting Review* 9:1, 81-98.

⁸⁶ Rob Gray, 'Current Developments and Trends in Social and Environmental Auditing, Reporting and Attestation: A Review and Comment' (2000) *International Journal of Auditing* 4:3, 247-268.

⁸⁷ G.S above n 82,36-45.

- assessing the impact of corporate social responsibility programmes;
- human resource accounting;
- measurement of selected social costs;
- measuring the full impact of an entity on society;
- social reporting;
- accounting for public (governmental) programmes.

Social audit has developed a complex and multidimensional organizational phenomenon that could be defined as the extent to which and the way in which a global business enterprise can pragmatically respond to its consumers and to its society.⁸⁸ At the global supply chain management level, the impact of this rise mostly reflects the global companies' supplier selection and management strategies. Particularly in buyer-driven global supply chains, global companies tend to ensure that their suppliers incorporate social issues in their audit practice, as these assure them to secure their long-term profit, brand image, and high-standard managerial efficiencies. Although they have developed different strategies to respond to their social needs, they are keen on shifting these responsibilities to their suppliers to whom these responsibilities become compliances; the suppliers must then take measures to audit their social practice performance. In these chains, suppliers have very little scope to avoid or alter the requirement of social audit. Rather, they have to guarantee that they are able to implement these compliances and demonstrate this through the audit reports done by internal and external auditors. There is no exception in the case of Bangladesh RMG companies' access to global market. Further discussion on this audit practice is in Chap. 5, with particular emphasis to the Bangladesh RMG industry.

4.5.2 *The Trend of Corporate Social Reporting*

The Corporate Social Reporting refers the statements or accompanying notes made in the annual reports of a company on its social performance. It may be made separately from a company's annual report or included within it. The publication of annual reports is a means of providing a company's business and other associated information to the shareholders and stakeholders. It is considered a mechanism for discharging accountability and promoting transparency in business, but is often used as a reputation building tool,⁸⁹ in the companies of developed economies.

⁸⁸ McBarnet, Doreen J., Aurora Voiculescu, and Tom Campbell, eds. *The new corporate accountability: Corporate social responsibility and the law*. Cambridge: Cambridge University Press, 2007; Craig Deegan and Muhammad Azizul Islam, *Social Audits: Creating Real Change or Simply Sustaining 'Business As Usual'?* Paper presented in 2012 AFAANZ conference, 1-3 July, Melbourne, Australia.

⁸⁹ Ataur Rahman Belal and S Cooper, Absence of Corporate Social Reporting (CSR) in Bangladesh: A Research Note (paper presented at 5th APIRA Conference, Auckland, 8-10 April, 2007) 9.

CSR Reporting is a widely recognised practice in developed economies which proves a company's engagement in CSR application. Several European countries, namely, England, France, Belgium, and Norway have already made social or environmental reporting mandatory for companies through legislative enactments (Chap. 3).⁹⁰ CSR is performed by the companies voluntarily, but the disclosure of social performance information is a legal obligation upon them. In the Asian countries, Indonesia has recently amended its Company Law with the prescription CSR performance and mandatory social disclosure or reporting on the public limited companies.⁹¹ In Bangladesh, neither formal nor informal regulation requires companies to disclose,⁹² but the need for social disclosure is being perceived by the local companies as a positive one⁹³ and thus the practice is increasing in the home grown private companies.

The empirical studies done in very recent times on social or environmental reporting reveal that the rate of CSR reporting is still low in both the manufacturing and service-oriented companies, but it is gradually increasing.⁹⁴ One study surveyed 75 companies in 2005 based on 11 CSR indicators such as sustainable development, business ethics, human rights, legal compliance, corporate governance, stakeholders' dialogue, fair employment, health and safety, labour standards, community relations, and environmental responsibilities. It shows that out of 75 companies 65.33 % disclose on at least one of the above mentioned items and the highest disclosed issue is the environment.⁹⁵ In another study in 2006 with the sample of 107 companies on the basis of 60 social and environmental indicators⁹⁶ it is shown that 56 % of the companies disclose information about

⁹⁰ See for details Francesco Perrini, *Developing Corporate Social Responsibility: A European Perspective* (1st ed.2006) 34, 35.

⁹¹ See, *Limited Liability Companies Act*, 2007, Indonesia, Article 70.

⁹² However, it may be noted that there is one mandatory requirement concerning environmental disclosure and that is disclosure of expenditure on energy. Under Schedule-X1, and part –II of the Companies Act 1994 and under Schedule, Part-II of the Securities and Exchange Rules, 1987, the total amount spent on the use of energy is to be shown in notes in the financial statements under a separate heading of expenditure. See Probal Dutta and Sudipta Bose, 'Corporate Social and Environmental Reporting on Corporate Website: An Exploratory Study on Listed Companies of Bangladesh' (2007) 35:4 *The Cost and Management* 31, 37.

⁹³ Belal and Owen, above n 11, 486.

⁹⁴ It is argued that service-oriented companies are a little ahead of consumer goods products companies in terms of social disclosure or reporting.

⁹⁵ Dewan Mahbub Hossain, Amirus Salat, Al-Amin, 'Voluntary Disclosure on Corporate Social Responsibility: A Study on the Annual Repots of Bangladeshi Companies' (2005) 47:20 *Bangladesh Accountant* 28, 32.

⁹⁶ The social and environmental indicators include information about environmental impacts, employees community and others, energy use and conservation, and products safety and security.

1–5 items, 36.10 % companies disclose information about 6–10 items, and no company discloses over 20 items of the disclosure index.⁹⁷ The study concludes that on average 8.33 % of companies of Bangladesh publish their social and environmental information in their annual reports.⁹⁸ It may be established from the results of the above two studies done in consecutive years (if taken together) that the reporting tendency is growing, although not on a wide scale and still the non-disclosure rate remains generally high.

There may be many reasons for the non-disclosure or partial disclosure on the part of the companies. The basic reasons are thought to be the lack of a sense of corporate citizenship, reluctance to be transparent to the stakeholders, fear of bad publicity, concealing poor performance on sensitive issues such as labour and human rights, the voluntary character of reporting, the lack of interest from internal stakeholders in corporate reporting, tax-avoidance, and above all the absence of legal obligation for reporting. A study has identified some reasons for the overall reluctance for social disclosure, especially on the human rights, the poverty alleviation and labour issues.⁹⁹ They are the lack of legal requirements, the lack of resources, the lack of awareness or knowledge, poor performance, and fear of bad publicity.¹⁰⁰ The fear of bad publicity seems to be a big cause for the avoidance of social disclosure as it may result in the loss of the business in the international market.

Thus the level and kinds of reporting varies among sectors. In the manufacturing sectors, many are not willing to disclose on social sensitive issues such as human rights and other core labour rights as they apprehend thereby a negative impact on the company's core business. On the other hand, the annual reports of service provider companies prominently contain their involvement in the social and community development activities such as poverty alleviation, education, empowerment, health and safety and social charitable activities. This may be in order to create a good impression in the local money market.

A common character of the reports is that they are not clearly focused on the benchmark CSR issues and therefore these kinds of disclosures are not useful to stakeholders,¹⁰¹ or indeed the researchers and academics. In addition, the contents appear mostly in a qualified manner, quantitative figures are hard to find on any specific CSR issue.¹⁰² So the stakeholders remain confused about their financial involvement in social investment. The reasons behind the inconsistencies are

⁹⁷ M Hossain, K Islam and J Andrew, Corporate Social and Environmental Disclosure in Developing Countries: Evidence from Bangladesh (Paper presented at the Asia Pacific Conference on International Accounting Issues, Hawaii, October 2006) <http://ro.uow.edu.au/commpapers/179> 17 December 2008.

⁹⁸ Ibid 10.

⁹⁹ Belal and Cooper, above n 89.

¹⁰⁰ Ibid.

¹⁰¹ Hossain, Salat and Al-Amin, above n 95, 32.

¹⁰² Ibid.

assumed to be the absence of any mandatory reporting provision and companies' ignorance or neglect of internationally recognised reporting models such as GRI and SA 8000. However it is true that the companies of Bangladesh, particularly the small and medium scale ones can are incapable of following the model in full.

In the light of the above discussion it can be said that for the promotion and spread of a reporting culture among the manufacturing sectors the Security and Exchange Commission in Bangladesh can encourage companies to add a report on their CSR related activities and design a guideline for social reporting in pursuance with the minimum international standard.

4.5.3 Government or Public Sector Role for the Promotion of CSR

The government is considered to be the powerful stakeholder as well as the driver of CSR across the world. Therefore, the active participation of the government in the promotion of CSR activities may bring about substantial change in this context. In the EU countries the government or public sector's role through institutional development and leadership, and the development of regulatory frameworks have brought CSR to a mature position. One remarkable example is that in the UK for the last 20 years dramatic changes have occurred in the social role of British business such that CSR has grown prominent and more explicit.¹⁰³ Both conservative and labour governments of recent years have contributed to the changes by encouraging CSR through ministerial leadership, stimulating new and existing business associations, subsidising CSR activities and organisations, and the development of soft and hard regulations.¹⁰⁴ In the context of developing countries where the corporate sector is largely dominated by the SMEs, the government or public sector's role as the navigator of CSR is considered to be crucial. This is because most of the enterprises there encounter different types of technical restraints in connection with the performance of social responsibilities and as a result become unable to tackle manifold market-driven challenges and risks.

The government in strengthening CSR can play four main types of roles as identified in a study of the World Bank. They are mandating, facilitating, partnering, and endorsing.¹⁰⁵ In the following the activities of the Government of Bangladesh will be assessed in the said four contexts.

¹⁰³ Jeremy Moon, *Government as a Driver of Corporate Social Responsibility* (2004) International Centre for Corporate Social Responsibility, Nottingham University <http://www.nottingham.ac.uk/business/ICCSR> 17 December 2008.

¹⁰⁴ Ibid.

¹⁰⁵ Tom Fox, Halina Ward and Bruch Howard, *Public Sector Roles in Strengthening Corporate Social Responsibility: A Baseline Study* (October 2002) World Bank <http://www.worldbank.org> 22 July 2008; see also Halina Fox, *Public Sector Roles in Strengthening Corporate Social Responsibility: Taking Stock* (January 2004) The World Bank <http://www.worldbank.org> 22 July 2008.

4.5.3.1 The Mandating Role of the Government

The mandating role of the government refers to setting the minimum standard for business CSR performance within the legal framework. It includes the enactment of command and controlling laws, by laws, regulations, sanction, and penalties in relation to the control of different aspects of business investment and operations.¹⁰⁶

In Bangladesh, there is no command and control legislation specifically intended for any corporate sector for their social and environmental improvement. Similarly, no legislation is in place to set policy for voluntary action or mandatory CSR reporting or for implementing guidelines. The existing company law of Bangladesh¹⁰⁷ does not require public limited companies to be accountable for CSR reporting.

4.5.3.2 The Facilitating Role of the Government

The government takes a facilitating role when it undertakes different programmes and initiatives under public sector agencies to enable or incentivise companies to be engaged in addressing CSR in their business activities. The facilitating role of the government or public sector includes a range of activities such as providing incentives, developing non-binding guidance and codes for application in the market place, setting overall policy frameworks to guide business investment in CSR, providing tax incentives, funding research, information collation and dissemination, training or awareness raising, facilitating the process of stakeholder dialogue, and publicity and praise.¹⁰⁸ Under this role, the government or public sector plays a catalytic, secondary or supporting role.¹⁰⁹

In fact, for the promotion of CSR, facilitating activities of the government have not yet widely developed in the truest sense in any of Bangladesh's industries. The RMG is the main industrial sector in which the government is playing a facilitating role for the promotion of social compliance under its Ministry of Commerce and Ministry of Labour and Employment by establishing a Social Compliance Forum (SCF) and Crises Management Committee respectively. These will be detailed in the Chap. 5. Other than in the RMG sector, there are some activities carried out by the government which are facilitative, such as the establishment of the Bangladesh Shrimp Foundation and the establishment of Bangladesh Standards and Testing Institution.

In 2003 under the Agro Based Industries and Technology Development Project (ADTP) the Government of Bangladesh established the Bangladesh Shrimp

¹⁰⁶ Ibid.

¹⁰⁷ *The Company Act 1994 of Bangladesh* contains no provision in relation to performance of CSR on the part of companies.

¹⁰⁸ Fox, Ward and Howard, above n 105.

¹⁰⁹ Ibid.

Foundation to facilitate dialogue among the shrimp industries representatives in regard to trade and the Shrimp Seal of Quality Programme (SSOQ).¹¹⁰ SSOQ did not continue after 2006. At present the Shrimp Foundation is self-funded, conducting its activities in relation to social and environmental advancement, education and dialogue programmes in the shrimp industries.¹¹¹ This foundation, although established under a government project, had no representative of the relevant ministry on its board.¹¹²

The Bangladesh Standards and Testing Institution is established under an Ordinance passed in 1985 to act for the standardisation of services and products, promotion of quality assurance activities, and rendering testing facilities for services and products to government, private industries, organisations and the business community.¹¹³ The institution has undertaken some initiatives to create awareness among different bodies and entrepreneurs for the adoption of ISO standards of CSR management.¹¹⁴

The government does not offer any sort of incentive for CSR compliant companies. Even the existing tax law does not offer any tax exemptions on the ground of a company's social responsibility investment, although there are other exemption incentives.¹¹⁵ In a recent statement the finance advisor of the caretaker government disclosed that government is considering making social grants (by and large, the grants of CSR activities) tax-free.¹¹⁶ The government has not yet set any national policy for strategic CSR practice by the business sectors, although such a proposal has been made at times from different stakeholder groups.¹¹⁷

¹¹⁰ SSOQ was a temporary experimental programme launched by ADTP for the sustainability of the Bangladesh shrimp industry that included certification programme, farm management and quality control of shrimp meaning buyer and supplier oriented programmes. It covered the issues like environment and human rights, ethical business practices, food safety and traceability, disease and poor farming practices.

¹¹¹ See for details Abeo Anderson, et al., *The Shrimp Seal of Quality Programme: Bangladesh* (2005) AABM Consulting Group www.atc.consulting.biz/files/SSOQ_Presentation_Final.ppt 25 June 2008.

¹¹² Ibid.

¹¹³ See The Bangladesh Standards and Testing Institution Ordinance 37 of 1985.

¹¹⁴ For example, ISO 9000 and 14000.

¹¹⁵ Until 1992, it was provided by the Income Tax Ordinance, 1984, that any sum paid by an assessee as a donation to any educational institute recognised or run by the government would get a tax exemption. But, the Finance Act 1992 repealed this provision.

¹¹⁶ Bdnews24.com, (A News Agency), *Govt. weighs tax-free CSR* (Wednesday June 25, 2008) <http://bdnews24.com/arh/eh/am/ad/1829hours> 25 June 2008.

¹¹⁷ The proposal was made in a series of round table dialogues on 'CSR Practices and Challenges in Bangladesh' in April 2008 organised by the CSR Centre of Bangladesh Enterprise Institute.

4.5.3.3 The Partnering Role of the Government

The partnering role of the public sector generally refers to combining public resources with those of business and other actors to leverage complementary skills and resources to tackle issues within the CSR agenda, whether as participants, convenors, or facilitators.¹¹⁸ The partnership process is a crucial one in promoting change in CSR activity. This can be done by sharing skills, inputs and resources.

The trend of public-private partnership for the promotion of CSR activities has not yet grown in Bangladesh. The country has not yet seen the public sector and enterprises or public sector and NGOs are jointly working for the promotion of social standards in labour, the environment, and other ethical issues in the industries. However, some evidence is available in this respect, mostly in the RMG and Textile sectors. One example is that the Bangladesh Labour Welfare Foundation Act 2006 where the Ministry of Labour and Employment heads the board of directors of the foundation established for the welfare activities of the RMG workers. The government also shares the funding of the foundation with the garments owners. Evidence is the undertaking of Skill and Quality Development Programme (SQDP) by the Ministry of Commerce in collaboration of SEDF and BGMEA. The programme is intended for imparting training on several disciplines, more importantly, social compliance issues and occupational safety.¹¹⁹ Similarly, in the textile sector, the programme Support to Primary Textile Sector (SPTS), at the sponsor of Ministry of Textile and Jute, is introduced to impart training to the workers, supervisors, managers and executives in several areas such as productivity, quality, international marketing, social accountability, labour standards, safety standards, factory conditions, health care, and bargaining rights.¹²⁰

4.5.3.4 The Endorsing Role of the Government

The endorsing role of the government for CSR mainly refers to political support and recognition of the CSR performance of the companies. It may be through political support for particular kinds of CSR practice in the marketplace, endorsing specific award schemes for individual performance, endorsing specific non-governmental metrics, indicators, guidelines and standards, and involving leadership companies in the public policy arena.¹²¹

¹¹⁸ Fox, Ward and Howard, above n 105.

¹¹⁹ SQDP also includes imparting training on productivity management, quality management, merchandising management, inventory management, marketing, and banking port and customs procedure.

¹²⁰ ILO, RMG Industry, Post MFA Regime and Decent Work: The Bangladesh perspective (2005).

¹²¹ Fox, Ward and Howard, above n 105.

The government or public sector activities in Bangladesh do not precisely reflect the endorsing role for the promotion of CSR as it is defined by the World Bank. The common trend of the Government of Bangladesh is to provide political support to businesses mostly in the form of statements and speeches.¹²² It also encourages and endorses the activities of the development agencies, multilateral organisations, NGOs, and national organisations for their initiatives and endeavours for the promotion of CSR activities in the corporations. One remarkable example is its participation in the 'PROGRESS' (a joint project of the Bangladesh Ministry of Commerce and the German Ministry for Economic Cooperation and Development through GTZ) for the enhancement of excellence of RMG in labour and environmental issues.¹²³ Another example is that under the patronage of the government, Standard Chartered Bank sponsors the CSR award in Bangladesh to encourage the business community to practice CSR.¹²⁴

On the basis of the review of different categories of the government or public sector's roles for the promotion of CSR it is evident that the Government of Bangladesh has not yet undertaken any organisational initiative for the enhancement of CSR practices in the corporate sector on the whole. However it has undertaken some monitoring programmes under SCF for the promotion of labour and environmental conditions in the RMG. As the RMG is the biggest source of export earnings, the government's exclusive concern for the RMG industry seems to be more market strategic. The government could undertake initiatives to bring about change into labour, working conditions, and environmental management of other export manufacturing sectors such as shrimp farming and plants, and leather and tanneries through promoting CSR. In fact, in Bangladesh CSR among the public sector remains a matter of surface level discussion.

4.5.4 The National Legal Framework and CSR

It is already known that there is no mandating or prescriptive legislation in Bangladesh to bring companies social and ethical performance into the legal framework. Nevertheless, there are some existing laws the implementation of which can serve the objective of CSR and enable a situation for companies to perform CSR. However, these laws are not explicitly legislated for CSR. These laws include inter

¹²² For instance, the Finance Advisor of Care Take Government, Mirza Azizul Islam on 2 April, 2008 at the launch of Business Directory of the International Chamber of Commerce, Bangladesh, appealed to the businesses to be socially responsible. He added that 'profit maximization is a basic motive of trading, but social responsibility must not be forgotten'. See, 'Be Socially Responsible, Mirza Aziz tells industry' *The Daily Star* (Dhaka, Bangladesh) 3 April, 2008, Star Business Report <http://www.thedailystar.net/story.php?nid=30489> 30 October 2008.

¹²³ PROGRESS stands for promotion of social, environmental and production standards in the Ready Made Garment Sector.

¹²⁴ Shajahan and Sharif, above n 79, 80.

alia the *Bangladesh Labour Act 2006*¹²⁵; the *Bangladesh Environment Conservation Act 1995*, the *Environmental Preservation Policy 1997*; and the *Bangladesh Labour Welfare Foundation Act 2006*. A brief analysis of each of them will be made in the following.

4.5.4.1 The Bangladesh Labour Act 2006

The present Labour Act reflects its conformity to most of the ILO labour standards as a consequence of the influence of the global market trend. It articulates the majority of labour related CSR norms including regulation of employment of young persons (child labour), specification of maternity welfare facilities, occupational health and safety standards in the workplace and compensation arrangements for injuries caused by industrial accidents, employment conditions such as working hours and leave, minimum wages, economic safety nets such as a mandatory provident fund and other welfare benefits such as a participation fund and a welfare fund, the prohibition of forced labour, right to formation of association and collective bargaining, and the provision of the formation of a participatory committee for the enhancement of productivity and social dialogue between employers and employees. It is observed that the contents of the Labour Act indicate that the drafting committees of this Act considered the concept of social responsibility in the enactment of labour rights and their benefits even if they were unfamiliar with the terminology.¹²⁶

It is noted that the application of existing labour law appears to be sufficient to facilitate compliance with the global supply chain's codes of conduct. According to a study of GTZ in Bangladesh the newly revised labour law covers 85 % of the total requirements of the general codes of conducts applicable in the supply chain business such as SA8000, Base Code of ETI, FLA, FWF, Business Council Compliance Initiative (BSCI), WRAP, and the Joint Initiative on Corporate Accountability and Worker's Rights.¹²⁷ It is viewed if this law is complied with in full, the suppliers will be only a few steps away from international standards.

¹²⁵ *The Bangladesh Labour Act 2006* was passed by the parliament on 11 October 2006 repealing (by section 353) 25 previous laws enacted during the British and Pakistan regimes, the most prominent of which are *The Minimum Wage Ordinance, 1961*, *The Apprenticeship Ordinance, 1962*, *The Factories Act, 1965*, *The Shops and Establishment Act, 1965*, *The Employment of Labour (Standing Orders) Act, 1965*, and *the Industrial Relations Ordinance, 1969*. There are still 25 valid laws dealing with.

¹²⁶ See Reed Consulting (Bangladesh) Limited, *The Business Case for Corporate Social Responsibility* (Fact Sheet 2, 2007) (The fact sheet is manually collected).

¹²⁷ See Amena Chowdhury and Hanna Denecke, 'A Comparative analysis between the Bangladesh Labour Law 2006 and Seven General Codes of Conduct' (Working Paper no.6, Bangladesh German Development Cooperation-GTZ, 2007) <http://www.gtz.de> or <http://www.gtz-progress.org> 30 October 2008.

To improve compliance monitoring and other enforcement procedures are in place under this law including the appointment of one Chief of Inspector of Factories with 46 inspectors.¹²⁸ The chief inspector office is the key regulatory body to monitor or supervise the industries' compliance with the labour laws. But in practice the number of the inspectors throughout the country is not sufficient to handle monitoring responsibilities properly for around 23,000 industries and also there is a lack of arrangements for information technology to that end. Therefore, the regulatory body should be strengthened with required number of manpower and also the application of modern technology for monitoring and reporting of the industries' compliance with the labour laws and the preservation of the reports. In addition, establishing a labour commission separately could be a better way for the improvement of the situation.

4.5.4.2 The Bangladesh Environment Conservation Act 1995 and Environment Preservation Policy 1997

The Bangladesh Environment Conservation Act 1995 is dedicated to the conservation of the environment and improvement of the environmental standards, and control and mitigation of environmental pollution. *The 1997 Environment Conservation Rules* (ECR) was adopted in line with the 1995 Act to provide additional guidance for specific components of the Act.

The Act imposes some obligations upon the industry that are indirectly meant for waste management. Under section 12 it requires industrial units or projects to obtain an 'Environmental Clearance Certificate' from the Director of General (DG) of the Department of Environment (DoE).¹²⁹ The procedures for granting a certificate requires, inter alia, providing information about waste discharge arrangements, a lay out plan for establishing an Effluent Treatment Plant (ETP) Environmental Management Plant (EMP), a Pollution Effect Abatement Plant, and an Environment Impact Assessment (EIA) outline. These requirements for obtaining certificates create a pro-CSR approach in discharging responsibility for industrial pollution management as well as retain the validity of the certificate.¹³⁰ The certificate procedures, if maintained strictly, in time it can provide a better means of controlling of industrial pollution, but the problem is with the implementation mechanism. The Environmental Clearance Certificate is usually issued

¹²⁸ *The Bangladesh Labour Act 2006* (Bangladesh), section 318.

¹²⁹ Section 12 of *the Bangladesh Environment Conservation Act, 1995* states that no industrial unit or project shall be established or undertaken without obtaining, in the manner prescribed by the rules, an Environmental Clearance Certificate from the Director General of the Department of the Environment. It is noted that the Department of Environment is empowered by this Act to enforce it.

¹³⁰ The validity of Environmental Clearance shall be 3 years for the green category and 1 year for other categories from the date of issue; see Clause 8 of the *Environment Conservation Rules 1997*.

without adequate verification and no effective inspection is made regularly. As a result, it is viewed that the certification remains simply part of paper work.¹³¹

In addition to certification obligation, the Act imposes reporting obligation on the industry, if discharge of any pollutant occurs or is likely to occur in excess of the prescribed limit as detailed in Schedules 2–11 of the ECR1997 due to any unforeseen circumstances or accident. The DG as per report will take remedial measures where industry will render all assistances and cooperation.

It is noted that there is no specific criteria for the location of industrial plants in the *Environment Conservation Act* and *ECR'97*. However, there are some general guidelines, such as: (1) no industry should be located in residential area; (2) industrial units should be located as far away from densely populated areas or if possible in a designated industrial area; and (3) the industry should not be located in an 'ecologically critical area' declared by the DoE. Furthermore, the Act suggests the establishment of industry in non- residential areas and also away from densely populated areas.¹³²

In the said backdrop, it is plausible to say that compliance with the existing environmental legislations may be enough for industrial waste management to a reasonable extent in conformity to the objectives of international environmental standards although the international environmental norms are not categorically pronounced in the legislations.

4.5.4.3 Bangladesh Labour Welfare Foundation Act 2006

Bangladesh Labour Welfare Foundation Act 2006 can be considered as an enabling Act for companies' engagement in CSR activities where there is scope for public-private partnership. Under this Act a 12 member board of directors, with the Ministry of Labour and Employment, runs the foundation with an objective to improve the social and economic life standards of the workers.¹³³ The main source of funding is the garments industry owners and government grants.

In conclusion, Carroll's definition of CSR can be reiterated where compliance with the relevant domestic laws is considered as one of the basic components of CSR. These laws otherwise may provide a foundation for CSR practices in labour, environment and workers' welfare issues.

¹³¹ Wolfgang Wiegel, et al., *Compliance with Environmental Regulations in the Textile Industry* (Final Report) (2008) ECORYS ICS Consortium <http://www.ecorys.com> 24 December 2008.

¹³² *The Bangladesh Environment Preservation Act*, above n 89.

¹³³ The objectives of the said Act include (a) ensuring welfare of the workers and their families; (b) implementation of different welfare projects for the benefits of the workers and their families; (c) providing financial assistance to the workers who are physically handicapped; (d) assistance to workers for treatment; (e) assistance to the families of any deceased worker; and (f) paying stipends to the children of the workers and insurance premium from the fund.

4.5.5 The Role of Business Associations for the Promotion of CSR

The role of business associations is considered as an important factor for the development of CSR practices in the corporate businesses. As the associations are usually composed of the owners of the industries for the protection of their business interests both in local and international market, their motivational change, attempts and initiatives can bring about substantial change in the promotion of CSR. In the process of development of CSR the participation of the business associations is active across the developed economies. The business associations work for that purpose in collaboration with the public sector, development agencies, trade unions, and multi-stakeholder forums. In developing countries this trend is recently growing under the pressure of the global supply chain's social requirements such as BGMEA and BKMEA in Bangladesh, Vietnam Leather and Footwear Association (LEFASO), and the Vietnam Textile and Apparel Association (Chaps. 5 and 6).

In Bangladesh Apex business organisation Bangladesh Chamber of Commerce does not play any role for the promotion of CSR in the enterprises. Dhaka Chamber of Commerce and Industry (DCCI) has recently formed a Corporate Social Responsibility Standing Committee 2008 to deal with all matters, issues, and problems related to CSR and its implication especially on export-oriented business in Bangladesh.¹³⁴ Its operational activities include creating awareness through meetings, seminars, roundtable discussion, and press conferences; preparing schemes and activities under the corporate responsibility of the Chamber; and helping ethical business practices where congenial labour-employer relationship would be driving force for competitive edge.

The owners associations of the RMG sector, BGMEA and BKMEA are actively involved in the promotion of labour and environmental standards in the industries and play a much more proactive role in terms of their CSR policies and practices (it will be detailed in Chap. 5). The BKMEA and BGMEA are also the members of London based multi-stakeholder forum for Bangladesh. These two organisations also engage in community development CSR activities. Other prominent business organisations such as the Bangladesh Frozen Food Exporters Association, Bangladesh Tanneries Associations, and Bangladesh Association of Pharmaceutical Industries are not directly involved in the promotion of labour, environment and other CSR activities in the enterprises. However, it is noted that the Bangladesh Frozen Food Association participated in collaborative programme to guide the shrimp industry in careful adherence not only to food safety rules but also to environmental, social and labour rules at all stages of shrimp industry.

¹³⁴ See The Dhaka Chamber of Commerce and Industry, Minutes of Corporate Social Responsibility Standing Committee 2008 (Manually collected).

4.5.6 The Role of International Agencies for Strengthening CSR in the Private Enterprises

At present, in Bangladesh there are some development agencies and donor organisations which are working for the development of SMEs, improving their productivity skill and capacity, for the improvement of labour, workplace and environmental conditions of the private industries. In this respect the international organisations are found to be more concerned about the RMG sector; the most famous being GTZ and SEDF which are discussed in the Chap. 5. In the current portfolio of PSD (Private Sector Development) of UNDP and GTZ, CSR funding on 'social compliance' is intended for the RMG industry and focuses on gathering information and policing standards.¹³⁵ Other than RMG, the activities of international organisations seem to be meagre for the promotion of CSR activities. Among the development agencies ADB and UNIDO have given financial assistance to mitigate the environmental problems of the *Hazaribag* area of Dhaka city and for the promotion of leather and leather production.

4.5.7 The Growth of National Institutes and NGOs for the Promotion of CSR in Bangladesh

At national level, some institutes and NGOs are in action for promoting CSR practices in the enterprises through partnership, research, advocacy and awareness raising programmes. They are inter alia the Centre for CSR of Bangladesh Enterprise Institute, Bangladesh Centre for Advanced Studies and Bangladesh partnership Forum. These national non-profit institutes are playing a role for the promotion of CSR knowledge and practices among the business community and other stakeholders.

4.5.7.1 Bangladesh Enterprise Institute: CSR Centre

The Bangladesh Enterprise Institute established in September 2007 a CSR centre to facilitate, expand and encourage CSR practice in the private sector. This centre provides a structured and institutional framework for sustained CSR advocacy in Bangladesh. The aims and planned activities of the centre broadly include;

¹³⁵ Wilhelm Elfring, Sabine Kittel and Patrick Neyts, Report on Special Focus areas: Business Enabling Environment, Corporate Social Responsibility, Trade (LCG-PSD Donner Mapping 2006) LCG-PSD, Bangladesh http://www.lcgbangladesh.org/PSD/reports/PSD_per_cent20mapping_per_cent202006_per_cent20part_per_cent20two_per_cent20 23 November 2008.

- formulation of voluntary principles and standards for industries that are both economically viable and operationally feasible,
- raising CSR awareness amongst CSR stakeholders;
- facilitating stakeholders to become champions of CSR;
- providing strategic, structured and systematic tools for CSR practice and adoption;
- developing systems and applications to evaluate, implement and monitor CSR for profit maximisation at the firm level; and
- facilitating exchange of knowledge, views, and concerns to bridge the knowledge gap and strengthen CSR understanding; and building a storehouse of CSR knowledge and good practices for dissemination.¹³⁶

As part of its activities it organises a roundtable dialogue series and partnership projects with multinational private companies and agencies. Round Table is a monthly programme that serves as a platform for the exchanges of views, hears the perspective of key stakeholders, and raises awareness on CSR practices and implementation challenges in Bangladesh.¹³⁷ The centre has joined the 'Environmentally and Socially Responsible Business' (ERSB) campaign programme in Bangladesh led by KATALYST, a multinational private company. Under this programme a partnership has been launched to create a National CSR Forum and adopt a national CSR strategy.

It is noted that the Bangladesh Enterprises Institute acted on behalf of Global Compact Networking until it was established in Bangladesh to introduce the Global Compact principles to key business. The CSR centre acted as platform for the promotion of the principles of the Global Compact.

4.5.7.2 Bangladesh Centre for Advanced Studies (BCAS)

The Bangladesh Centre for Advanced Studies is an independent, non-profit, non-government, policy, research, and implementation institute working on sustainable development (SD) at local, national, regional and global levels. Corporate Social Responsibility is one of the major areas of BCAS at present and therefore it is operating several projects under two working segments: Social Compliance and Environmental Compliance. The aim is to improve social and environmental compliance, production efficiency and quality to ensure sustainable business practices.

Since 2000 the Social Compliance Project has been in operation in collaboration with German NGO 3p and BGMEA to promote ethical business in the garment and textile sectors in Bangladesh. It provides organisational assistance to compete with global market through improving working conditions, health and safety and

¹³⁶ CSR Centre, Brochure on Corporate Social Responsibility (2007) (manually collected).

¹³⁷ It is for information the CSR centre has so far organised 20 round tables dialogues attracting more than 400 participants.

environmental standards to ensure more productivity and the better quality of products. It provides social compliance performing monitoring services in the industries.

The Environmental Compliance Project of BCAS has been in operation since 1999 and plays a role in addressing key aspects of the environmental management in industrial sector through research and monitoring service. The research under this project demonstrates that industries can improve their business purposes through improving environmental performance. So for better environmental performance it provides an environmental performance monitoring service.¹³⁸

4.5.7.3 Bangladesh Partnership Forum

The Bangladesh Partnership Forum is also a recently launched forum by a group of organisations and individuals with a belief that partnering can play a contributory role to bring about a positive change leading to sustainable development. The initiative for developing the partnering skills was led by IBLF, in support of KATALYST and Care Bangladesh. This forum seeks to connect corporate sector with the public and non-governmental sectors to create mutually beneficial social, economic and development programmes.

In addition to the above mentioned three organisations some foreign institutes are also engaged in CSR research, advocacy and campaigning programmes among which Reed Consulting (Bangladesh) Ltd and Bangladesh Freedom Foundation (representative of out-going Ford Foundation) are mentionable. The worth mentioning achievement of the institutional development at local private level is the increase of stakeholders' awareness about CSR and their engagement in shaping future CSR in Bangladesh.

4.6 Obstacles to the Promotion of CSR in the Business Practice of the Private Enterprises in Bangladesh

It is true that CSR is achieving recognition in the private enterprises of Bangladesh as a means of business sustainability and promoting societal benefit. But there are many restraints and hindrances in the promotion of CSR practices across the private sector businesses. The authors on CSR in the context of Bangladesh have identified so far some problems which appear to be common from developing and less

¹³⁸ The purpose of a monitoring service is to promote a best practices framework that includes cost saving, waste management, training, and documentation. Cost saving suggests the adoption of clean technology options, a waste management focus on ETP design, ETP operation and management and flow segregation. The training includes training on choosing and managing an Effluent Treatment Plant (ETP), training on Health and Safety and Environment (HSE), training on Environmental Impact Assessment., and training on Environmental Efficiency and Cost Savings.

developing countries' perspective. Some authors pointed out that the factors responsible for rampant violation of CSR in the factories in respect of labour, human rights and environmental issues are lack of enforcement of labour laws and regulations, weak unions, the absence of consumer right groups and high levels of corruption within regulatory bodies.¹³⁹ In addition, due to the lack of effective corporate governance, the absence of an effective state intervention in the public interest, and inadequacy of expertise the private enterprises feel less constrained to behave in the public interest and in conformity with CSR.¹⁴⁰

Conceding the above mentioned factors it can also be added that there are some other factors which act as a hindrance for CSR application in the private enterprises of Bangladesh. The factors may be described as follows:

1. The concept of CSR is comparatively new to the business community in a country like Bangladesh and as a result, its purpose, and the needs and benefits are still unclear to the business community, local stakeholders, and even the public sector.
2. The business community are not yet accustomed properly to CSR culture as it has grown out of a developed economy and democracy.
3. The business community lack motivation towards societal development beyond the economic goals of their business.
4. There is no policy guideline from the public sector to adopt CSR in business.
5. There is lack of public-private partnership and public incentives for addressing CSR in business.
6. Above all, there is an absence of multi-stakeholders' participation and coordination for the promotion of CSR in the business of private enterprises.

4.7 Conclusion

From the above discussion on the development of CSR practices in the private enterprises of Bangladesh in general some conclusions can be drawn up. Firstly, the corporations either, manufacturing or service oriented are involved in some common practices of CSR. They are mostly community welfare and development related. The service oriented private enterprises are mostly involved in community development activities.

Secondly, as CSR practice is more externally driven, less self-initiated particularly in respect to labour and environmental issues, local stakeholders' pressure (from workers, customers and government) is minimal and therefore the enterprises' concerns always remain to follow the prescription of foreign stakeholders. Thus

¹³⁹ Miyan, above n 1, 9–11; see also Probir Mondol, CSR-Corporate Social Responsibility: The Context And Cases of Bangladesh (2007) IUBT, Bangladesh <http://www.researchsea.com/html.php/id...> 30 October 2007.

¹⁴⁰ Ibid.

many local issues remain ignored and the buyers' demands are prioritised. In addition, due to inequalities in pressure performance in regard to labour and environmental issues is growing unevenly and incoherently.

Thirdly, due to the variation in perception about CSR and the lack of any national guideline or strategy the practice is growing heterogeneously in different private enterprises.

Fourthly, the trend of achieving labour and environment related CSR management certification in the companies is growing. Many international certifying companies are assigned with the certifying process through auditing and monitoring. This process is contributing to the motivational change for CSR promotion, in case of Bangladesh it contributes more to the surface development of CSR.

Fifthly, the trend of social disclosure or CSR reporting is growing slow as the corporations lack knowledge about its importance for business transparency. In addition, lack of guidance from the public sector, and the absence of regulatory approach are also considered to be responsible for this situation.

Sixthly, the role of public sector for strengthening CSR practices is generally minimal. However, it has a facilitating role for the promotion of social compliance issues in the RMG sector. Similarly the role of development agencies through partnership or funding is more available in the RMG sector. They are not equally represented in other exporting sectors such as shrimp products and medicine.

Finally it can be said that the necessity for the application of the current notion of CSR is gaining currency in Bangladesh, and the private enterprises are also progressing slowly. The major factor for the promotion of CSR at present is the growth of multiplayer concerns and their participation in CSR activities which is almost absent in the private enterprises except in the RMG sector.

Chapter 5

CSR Practices in the RMG sector of Bangladesh

5.1 Introduction

In respect of evaluating CSR practices in the RMG sector the focus remains on addressing three issues of CSR: (a) labour rights and workplace conditions; (b) environmental management, and (c) involvement in social and community development and philanthropic activities. The labour and workplace, and environment related CSR are very burning issues in the whole RMG sector. These issues of CSR are practised in the RMG sector in the form of ‘social compliance’ and therefore in the following discussion the term ‘social compliance’ is prominently used. The main drivers of this practice are the international stakeholders meaning the buyers, customers and investors. Upon the pressure of international market demand the whole RMG sector is more concerned with the application of labour, workplace and environment-related CSR issues to protect its business in the foreign market, as it is the biggest source of export earnings at 76 % of the total.¹

The said pressure has increased after the phase-out of Multi-fibre Arrangement since 1995 which has attracted the concerns of others such as associations, government and development agencies to this issue.² Thus multiplayer activities have grown centring on the promotion of ‘social compliance’. In addition, as RMG is the biggest private manufacturing and labour intensive sector, the practice of social compliance can create a positive impact on the total socio-economic conditions of Bangladesh. Viewed from this perspective, social compliance issue forms the prominent part of the discussion to follow. Along with this other social and community activities of RMG sector are reviewed briefly herewith.

¹ ILO, Promoting Fair Globalisation in Textiles and Clothing in the Post-MFA Environment (2005) http://www.ilo.org/wcmsp5/groups/public/ed_dialogue/...sector/documents 13 November 2008. This rate was also retained in 2006–2007; See also Asian Tiger Capital Partners, Bangladesh Growth, Investment, Opportunity (2008) <http://www.at-capital.com> 20 October 2008.

² Ibid.

5.2 The Meaning of Social Compliance: Labour and Environment-Related CSR

‘Social compliance’ generally means compliance with agreed, stipulated or generally accepted social norms. It is the observation of certain recognised social standards incorporated in the conventions. Here in the RMG sector, it is understood by compliance with the self-regulatory codes of conduct of international buyer companies as a requirement of contract, although not legal. It is the code that incorporates minimum labour standards and occupational safety measures and environmental management. Minimum labour standards involve wages, working hours, over time, safety, job security, the right to form trade unions and social security. It also ensures non-violation of human rights. Environmental management involves norms relating to energy use, resource consumption, recycling, reduction, and disposal of wastage. Social compliance generates various benefits for the workers such as bonus, cash incentives, working conditions, maternity leave, and medical facilities.

The social norms relating to labour and environment incorporated in the buyers’ codes are driven from intergovernmental instruments regulating the social behaviour and conduct of corporations such as OECD Guideline for Multinationals, ILO Tripartite Declarations for Multinationals. The codes of conducts also follow multi-stakeholder codes such as SA 8000, the Based Code of ETI, FLA, and WRAP in designing the norms and procedures. In view of this, social compliance can be designated here in book as labour and environment related CSR.

Nevertheless confusion or questions may arise as to how compliance with the buyers’ codes is a substitute for CSR in relevant issues. This is because CSR by definition is a voluntary commitment of business to the society in respect of social, economic and environmental issues, and voluntariness remains apparently absent in the compliance situation. The word ‘compliance’ connotes ‘no option’. In addition, social compliance often in practice looks like prescriptive regulation where buyers play a social compliance law-maker and a social compliance policeman. The failure to fulfil the compliance requirements leads either to non-contract or cancellation of contract.

It is true that in social compliance the spirit and commitment of CSR as a more value based approach remains absent. But social compliance covers much labour and environment-related internationally recognised CSR standards. Through ‘social compliance’ CSR principles in the relevant areas can be implemented and ensured. Furthermore, it is true CSR is not a legal requirement, but through the development of multi-stakeholder’s codes in the face of market globalisation, the labour and environmental issues have attained quasi-binding approach which is enforced under the pressure from the stakeholders who offer either boycott or compliance with code of conduct (Chap. 2).

In this context, the view of Reed Consulting³ which is working for CSR promotion in Bangladesh is noteworthy. It holds that though CSR as a holistic

³ A UK-based consulting company working in Bangladesh for research on CSR.

approach goes beyond social compliance, social compliance is a mainstream component of CSR. This is because it includes regulating or prohibiting child labour, health and safety in the factory, working hours, discrimination, disciplinary practices, remuneration, freedom of association, the right of collective bargaining and security of employment, and also environmental management.⁴ It also includes human resource and product quality, education and health care, and overall good management of a company.⁵ In fact ‘social compliance’ is supply chain CSR where norms are set by the importer companies for their supplier companies, agencies, contractors.

5.3 The Need for Social Compliance/CSR in the RMG Sector

As noted earlier, social compliance covers the components of mainstream CSR in respect of labour and environmental standards. Meeting social compliance requirement undoubtedly draws the same benefits as expected from CSR in the business. Under the prevalent situation in the RMG sector the compliance issue is very important from social, economic and business perspectives. They are identified below:

1. As the compliance issue is grown in the face of market demand, better compliance is needed for the RMG sector to create the sustainable competitiveness of business in the global market.
2. There are wide-ranging allegations in the global market against the RMG sector, for example, wages are low, working hours are long, payments are irregular, overtime bills are not met, sexual harassment exists, freedom is curtailed, and forced labour is practiced. So the performance of compliance issues would act as a defensive strategy for business and help avoid trade sanction exemplified by the incident of threat of boycott on products on the ground of child labour exploitation back in 1994 (Chap. 4).
3. Failure in compliance leads to the decrease of sale orders that may result in the closure of the industries impacting lives of the huge number of employees as well as the national economy.
4. Compliance with social standards however imposed by the international retailer companies helps fulfil the expectations of employees, improve the workers’ and employers’ relationship and curtail the recurrent unrest in the garment factories of Bangladesh.

⁴ See Reed Consulting (Bangladesh) Ltd., Corporate Social Responsibility: An Awareness Guide for Companies Operating in Bangladesh (2008) <<http://www.reed-bangladesh.org>> 20 October 2008.

⁵ Ibid.

5. If through the compliance the RMG business becomes able to sustain and win global competition, it can pave the way for more new business opportunities and broaden the scope of employment opportunity. At the same time, it may be able to attract and retain quality investors and business partners.
6. Although there is controversy that the compliance issue looks like a temporary requirement between contracting parties unlike CSR, meeting the requirements of social compliance can bring about a change in the corporate culture, enhance its societal interaction, and business image and reputation at national and international levels.

Advocates of CSR related practices in export oriented manufacturers believe that the corporate governance that holds the principles of CSR offer opportunities to business enterprises for greater market access, cost savings, productivity and innovation, as well as broader social benefits such as education and community development. The impact of the convergence of CSR and business strategies has mostly been reflected through the development of 'self-regulation' regime in business environment as it has been an increasingly important part of business regulation. At the individual business enterprise level, the notion of corporate self-regulation usually enshrines either through its own code of conduct or through its incorporation of any multi-stake holder initiative/guideline prepared by any other social or commercial organization.

The codes are the main self-regulatory instruments for business enterprises; business enterprises address the social, environmental and human rights and economic externalities through their codes. Hence, these codes are largely focused on the sectors where brand reputation and export orientation are vital. Codes related with the labour issues usually incline with the footwear, garment, sporting goods, toy and retail sectors while those related to environmental aspects are likely to be noticed in oil, chemical, forestry and mining.⁶ Sources suggest that the world's larger multinational business enterprises/buyers have taken the lead in adopting such codes which can hold the ethos of this convergence and can be an alternative means of regulation.

The impact of the convergence of CSR and business strategies further extends and relates with the development of 'standardization regime'. Global enterprises depend on this regime to ensure that their suppliers are fulfilling or are able to fulfil CSR practices following a set of international standards commonly known as multi-stake holder codes. These codes help the diverged CSR practices to be bundled into some 'generic management systems standards' (Gawel & Probe, 2006). In this development, the impact of the convergence of CSR and business strategies the macro level plays an important role; it drives business enterprises to create commercial value of the multi-stakeholder codes.

⁶ Utting, Peter. "Rethinking business regulation." *From Self-Regulation to Social Control*, UNRISD (2005).

5.3.1 SMEs in the RMG Sector and their Scope to Access Global Market

The nexus between buyer-driven global supply chains and CSR related accreditation of transnational standardization authorities demands that all the manufacturers of Bangladesh RMG industry are able to fulfil CSR oriented compliances if they wish to widen their business scope in those sectors where consumer concerns and brand sensitivity have driven the development of formalized standards and monitoring mechanisms.⁷ The impact of this demand on the small-sized manufacturing enterprises (SMEs)⁸ of this industry is noteworthy in the sense that this demand has negatively impact on small and medium sized RMG manufacturers. In these days, if this type of manufacturers of this labour intensive country wants to get access into global market as first-tier suppliers, they have to be efficient in fulfilling CSR related demands of global buyers, brands and retailers. Without being efficient in these, it would be hard for the SMEs in general to extend their scope of doing business as global suppliers in the buyer-driven global supply chains.

Although a few SMEs of this industry are able to supply good-quality products to the global buyers, they are lagging behind into becoming the first-tier supplier. One of the main reasons for this is related with their inefficiency in fulfilling global buyers denoted CSR related compliances. The reasons for this inefficiency are many—they are seldom aware of all the requirements that the practice of CSR entails, for instance, and most of the time they are simply unable to maintain the specific CSR-related guidelines denoted by their buyers.⁹ They are not competent to work within long, complex and multi-layered global chains. It becomes harder for them when they also have to deal with a wide range of standards. As a consequence, though the SMEs are significant in number and they contribute greatly in employing the manpower of this country, they are less successful as first-tier global suppliers.

CSR related compliance to the global suppliers in weak economies in general, as some critics believe, make space for protectionism by the back door and results in inappropriate cultural standards or unreasonable bureaucratic monitoring demands

⁷ Maya Forstater, Alex MacGillivray and Peter Raynard, 'Responsible trade and market access: Opportunities or obstacles for SMEs in developing countries?' (V.06-53285-July 2006–600, United Nations Industrial Development Organization, 2006)78.

⁸ There is no official statistic regarding the human casualties in these yards. Figures of these casualties are dependent on the regular local media release which is compiled by the local NGOs. According to these sources, 500 people died during the last 15 years or 200 during the last 5 years which in both cases amounted to roughly 1,000 to 1,200 over the last 3 decades, assuming that the annual loss of life of ship-breaking workers is more or less the same in each year. However, these figures do not cover the death of workers who die as a result of chronic diseases due to exposure to toxic substance.

⁹ Wilfred Luetkenhorst, 'Corporate Social Responsibility and the Development Agenda: Should SMEs Care?' (Working Paper No13, United Nations Industrial Development Organization, 2004) 3.

on SMEs.¹⁰ For most of the business enterprises in weak economies, the complex CSR practices are not always easy to follow. These practices can be very demanding¹¹ for them, who are often less well-equipped to manage them than the large enterprises are. Consequently, most of the small-sized business enterprises are generally at a disadvantage when competing for access to the global market as suppliers through buyer-driven chains.¹² This is not an exception to the Bangladeshi RMG related SMEs. In buyer-driven global supply chains, they have very little latitude to avoid or alter the demands of CSR. Rather, they have to demonstrate that they are able to implement standardized CSR practices if they wish to widen their business scope, especially in those 'sectors where consumer concerns and brand sensitivity have driven the development of formalized standards and monitoring mechanisms'.¹³

Although RMG related SMEs are increasing in numbers in this country, their share in this country's export earning as direct supplier into the global market for RMG is not increasing. In most cases they are serving as the sub-contractors of big manufacturing enterprises. There are many reasons behind the incapability of SMEs to become the first-tier supplier in the global supply chain. Demand of global buyers' denoted CSR related compliances to them is vital amongst those reasons; this demand put them in a vulnerable position when they are at the footstep of global supply chain. The following section delves deeply into this issue.

SMEs failure to satisfy buyers denoted CSR requirements impact on almost every party in supply chain management. For example, if SMEs bypass the CSR practices demanded by their buyers, the objectives of CSR falls short.¹⁴ This failure could also affect the buyers in the supply chain by potentially sparking off an image crisis¹⁵ or creating other public relation issues or legal problems.¹⁶ In circumstances like this, where the SMEs are simply unable to implement the required CSR

¹⁰ Forstater, Mac Gillivery and Rynard, above n 7.

¹¹ Moinul islam Sharif and Khandaker Mainuddin, 'Country Case Study on Environmental Requirements for Leather and Footwear Export from Bangladesh' (Bangladesh Centre for Advanced Studies, 2003).

¹² United Nations Industrial Development Organization and the Global Compact, 'Sustainable Supply Chain' (Report No V.05-86161-August 2005-1,500, The United Nations Global Compact, United Nations Industrial Development Organization, 2005)17.

¹³ Forstater, Mac Gillivery and Raynard, above n 7.

¹⁴ Ibid.

¹⁵ W Luetkenhorst, 'Private Sector Development: The Support Programmes of the Small and Medium Enterprises Branch' (Working Paper No 15, United Nations Industrial Development Organization, 2005) 8.

¹⁶ Ethical Trading Initiative, *ETI Annual Review 2006-7: Ethical Trade Measuring Up?* (2008)25; Organization for Economic Cooperation and Development, *Performing Environmental Regulation in OECD Countries* (1997).

standards,¹⁷ many buyers may select large enterprises only as their suppliers¹⁸ or they may even elect to build their own manufacturing plants instead of keeping SMEs as suppliers in their supply chains at all.¹⁹ At this point, global buyers have the strategic leverage with ample flexibility on their suppliers since the number of suppliers is enormous and are increasing rapidly. For example, only 29 biggest retailers/buyers are controlling 98 % of all United States' apparel sales while the proportion of domestically made United States' apparels is dropping.²⁰ On the contrary, the numbers of apparel producers/suppliers are increasing everyday in Bangladesh. For instance, there is a meteoric rise in its ready-made garments (RMG) enterprises: it has increased from 30 enterprises in 1980 to 4825 in 2009.²¹ Nowadays there are many other LDCs whose main export good is RMG. Thus, competition amongst RMG manufacturers to become global suppliers is acute and therefore, global buyers are in a superior position when they are selecting and rejecting their suppliers in their supply chains. In this situation, in any of the two possible steps the buyers can take as mentioned above, can incise entrepreneurial prospect of SMEs through buyer-driven global supply chains.²²

To illustrate this situation, the approach of Gap Plc, a leading global buyer/retailer in RGM sector of the world, in selecting its suppliers/manufacturers would be an appropriate mention here. This renowned garments retailer brand does direct sourcing to factories through their buying office in Bangladesh. This buyer tends to create a rapport with several manufacturers and usually does not swap its buying orders amongst different suppliers.²³ Hence, from the beginning of selecting suppliers, this buyer emphasizes on the standard and future abilities of the potential

¹⁷ Forstater, MacGillivray and Raynard, above n 10, 4.

¹⁸ Ibid.

¹⁹ For details- Deegan C and Gordon B, 'A study of environmental disclosure practices of Australian corporations' (1996) 26(3) *Accounting and Business Research* 187; Jones Jackie, 'Forces behind restructuring in United States apparel retailing and its effect on the United States apparel industry' (1995) *Industry, Trade and Technology Review* 23; Scheffer Michiel, *The Changing Map of European Textiles: Production and Sourcing Strategies of Textile and Clothing Firms* (1994); Raphael Kaplinsky and Jeff Readman, 'Integrating SMEs in Global Value Chain: Towards Partnership for Development' (Report No v.01-85393-August 2001-1000, United Nations Industrial Development Organization, 2001)52.

²⁰ Ibid; UNDP, 'International Trade in Textiles and Clothing and Development Policy Options: After the Full Employment of the WTO Agreement on Textile and Clothing (ATC) on 1 January 2005' (United Nations Development Program, 2005) in Md. Ghulam Hussain, 'Compliance in RMG Industry of Bangladesh' in *Social compliance and decent work: the Bangladesh perspective: papers and proceedings of the National Tripartite Meeting on social compliance in the RMG sector* (2007) 1, 14.

²¹ Bangladesh Garment Manufacturers and Exporters Association, *BGMEA at a glance* <http://www.bgmea.com.bd/home/pages/aboutus> at 24 January 2011.

²² United Nations Industrial Development Organization and the Global Compact, 'Sustainable Supply Chain' (Report No V.05-86161-August 2005-1,500, The United Nations Global Compact, United Nations Industrial Development Organization, 2005).

²³ Karmojibi Nari, 'Subcontracting Chain in the Garment Sector of Bangladesh and State of Labour Standards' (Women Working Worldwide, 2004)41.

suppliers. It requires its potential suppliers' ability to follow its specific code of conducts which requires the suppliers to follow the basic labour laws, occupational health and safety standards, and integrity in business operations involved in making its products.

Since it does not want to change its suppliers and since punishing a non-compliant supplier is costly, this buyer emphasizes on rigorous assessment of its suppliers' compliance management performances for at least three times a year. Therefore while a medium sized RMG enterprise cannot ensure, for instance, that it changes towel in the wash room in every hour or does not employ its workers for more than 60 hours in week or provides 500 cubic feet for each worker while working, it becomes impossible for it to become a supplier of Gap.²⁴

Big manufacturing enterprises are generally competent to meet these demands. For example, to satisfy the buyer Marks and Spencer, Arvind Mills Ltd. a denim supplier based in Ahmedabad in India invested US\$16 million to set a new pollution control device. A New Delhi-based pharmaceutical Ranbaxy Laboratories upgraded all its manufacturing sites as its buyer Hoechst wanted its suppliers as the 'zero discharge' sites. In most of the cases, SMEs in general do not have required abilities to respond to global buyers requirements like the big enterprises. It is hard for manufacturing SMEs of this country, for instance, to change their physical, technological and managerial arrangements to have supply orders from different buyers. It is not only for their lack of liquid capital but also for their lack of CSR knowledge, motivation and technical assistance.

Global brands, buyers and retailers' demand of CSR practices entails certain consequences for SMEs of this country. Firstly, in an effort to save their existing business set-ups and enhance their capacity to increase their business opportunities, most of the SMEs are either trying to meet or bypass standardized CSR-related requirements in different ways.²⁵ There are several reasons why these SMEs would attempt to bypass the demands of CSR, including the potentially high cost and complications of attaining standard certification. It is reported that sometimes SMEs need to pay US\$5000 for completing an audit irrespective of plant size. In addition, they might have to face factory inspections up to 40 times a month by auditors from different buyers. Moreover, they have to face more pressure than the bigger enterprises in meeting the additional costs in the form of increased wages and other benefits as they mostly depends upon subcontracting and mostly situated

²⁴ Muhammad Azizul Islam and Craig Deegan, 'Motivations for an organisation within a developing country to report social responsibility information: Evidence from Bangladesh' (2008) 21 (6) *Accounting, Auditing & Accountability Journal* 850,862; Karmojibi Nari, 'Subcontracting Chain in the Garment Sector of Bangladesh and State of Labour Standards' (Women Working Worldwide, 2004).

²⁵ J Lepoutre and A Heene, 'Investigating the impact of firm size on small business social responsibility: a critical review' (2006) 67(3) *Journal of business ethics* 257; R Luken and R Stares, 'Small business responsibility in developing countries: a threat or an opportunity?' (2005) 14(1) *Business Strategy and the Environment* 38.

at rented buildings.²⁶ To meet different compliances for different buyers, they need to rearrange their existing setup. Their frequent changes incur 40 % more cost and time. Buyers usually do not cover the cost. SMEs are not as capable as the larger enterprises to supply this cost quickly and ultimately this cost is generally offset by cutting workers' wages. This situation ends in fall of production quality, rise of labour agitation and rigorous assessment of SMEs compliance management.

Secondly, most of the SMEs of this country are giving up their business potentials through buyer-driven global supply chains²⁷ and bound to concentrate only on subcontracting. The examples provided below explicate these situations.

Subcontracting is a predominant practice in the RMG industry of Bangladesh; in this subcontracting chain, SMEs has a major role at various stages of garments manufacturing. Manufacturing enterprises of this sector are divided into four major types according to their way of integrating into the subcontracting chain in this sector, those are: (1) only subcontract out; (2) only subcontract in; (3) both subcontract out and in; and (4) neither subcontract out nor subcontract in. Subcontract out manufactures are those that deal with buyers and their representatives (buying houses) directly and place orders to smaller manufacturers. In this contractual relationship, the primary enterprise is responsible for the product quality while the subcontracting enterprise is mainly liable to finish the liability in time. Mostly the large enterprises subcontract out the production of low-end goods to 'maximize the use of highly skilled labour that is required for their high-end products'.²⁸ Subcontracting within manufacturers depends mainly on the ability of using cheaper labour and hence small-sized manufacturers are in a better position to have subcontracts for low-end products as they usually have better access to cheap labour. Unlike the subcontract out manufacturers, subcontract in manufacturers do not have any direct contact with the buyers or buying houses; they take orders from large manufacturers only. Neither subcontract in nor subcontract out manufacturers are those who has the capacity to deliver the orders to the buyers without taking any assistance from other manufacturers. A study conducted by the Centre for Policy Dialogue with the assistance of Greater Access to Trade Expansion in 2006 shows that 14.6 % of the total RMG manufacturers of their investigated samples (selected on random basis) only subcontract out; 12.2 % only subcontract in; 14.6 % both subcontract in and subcontract out, and 58.5 % neither subcontract in nor subcontract out. This study also reveals that all of the manufacturers involved in subcontract in are of small and medium-sized enterprises.

²⁶ Md. Ghulam Hussain, 'Compliance in RMG Industry of Banglades' in *Social compliance and decent work: the Bangladesh perspective: papers and proceedings of the National Tripartite Meeting on social compliance in the RMG sector* (2007) 1, 40.

²⁷ Organization for Economic Cooperation and Development, *Performing Environmental Regulation in OECD Countries* (1997).

²⁸ Famida Khatun et al., *Gender and Trade Liberalization in Bangladesh: The Case of Ready-made Garments* (2007) USAID.

The proportion of subcontracting in this sector is declining: in 1991–1995 the average amount of subcontracting out from each enterprise was worth US\$0.13 million, in 1996–2000 this amount was US\$0.233 million, in 2001–2003 it was US\$0.280 million, in 2004 it became US\$0.120 million and in 2005 it reached to only US\$0.112 million. While subcontracting is decreasing, the practice of direct method to get supply order from the retailers/brands is increasing. Khatun et al (2007) found that amongst the RMG enterprises situated out of the export processing zone, 18.6 % gets orders through direct contact with the retailer/brand in 2000–2003, it was 54.3 % cent in 2004 and 56.2 % in 2005. This trend reflects that in terms of trading in this sector, the role of buying houses is decreasing. It could be argued that when the total export rate is sharply rising and the share of this export is mostly accounted by the ‘neither subcontracting out nor subcontracting in’ type manufacturers, the declining trend of subcontracting resembles the squeezing of this sector SMEs’ scope of direct business with the global buyers/retailers/brands. This trend also reflects the growing practice of the major retailers/brands to ensure CSR related compliance wherever the sourcing is taking place. Due to this practice at the buyers’ end, the entrepreneurs of this sector are consolidating and expanding operations, rather than subcontracting them. Moreover, the increase of direct contact method for getting supply orders is putting SMEs in a vulnerable situation as they have less expertise, personnel and networks to compete the ‘order procurement teams’ of large enterprises.

To sum up, in the RMG sector of Bangladesh, SMEs’ scope to access global market as first-tier supplier in the buyer-driven global supply chain is decreasing. In this regard one other instance can be mentioned here. In 2004 only 19 % RMG export was made by 1,737 enterprises whose production capacity was less than 5,000 dozens/month.²⁹ At that time there were 2,387 exporting RMG enterprises in this country and the top 650 of these enterprises exported 81 % of the total export of this sector.³⁰ The average capacity of these enterprises was 5,000–10,000 dozens/month. During this time nearly 1,300 enterprises of which most are small-sized were closed.³¹ Almost all SMEs of this sector work either on a cut-and-make basis or as sub-contractor for larger enterprises. For this situation, there are many reasons among which their incompetence in fulfilling buyers’ denoted CSR related compliance is a vital one.

²⁹ The World Bank, ‘End of MFA Quotas: Key Issues and Strategic Options for Bangladesh Ready Made Garment Industry’ (The World Bank, 2005)12. A study of the Ministry of Commerce of Bangladesh has divided these enterprises into four groups. At the first group, in 2001, there were 15 enterprises and all of these large enterprises had at least 220 manufacturing units. For details, see Ministry of Commerce, ‘Readymade Garment Sector in Bangladesh: Background Information for a Strategy Study’ (Ministry of Commerce, 2001).

³⁰ Mohammad Mohiuddin, ‘Bangladesh as an Emerging Tiger in Apparel Market: Challenges and Strategies’ (2008) 3(2) *Journal of business and economics*, 5.

³¹ Mohammad Ali Rashid, ‘Rise of Ready-made Garments Industry in Bangladesh: entrepreneurial Ingenuity or public policy’ (World Bank BIDS, 2006)12.

5.4 The Promotion of Social Compliance and Multi-Player Activism

In a country like Bangladesh international buyers are the strong stakeholders for export-oriented manufacturing sectors. Their demands and expectations always get top priority in the activities of the companies. The prime consideration for this is business sustainability in the international market that has in many ways implications for the growth of a strong economic base of the country. The ‘social compliance’ requirements in the garment sector of Bangladesh are viewed from that perspective. In this regard a comment is noteworthy that ‘the social responsibility activity is guided by buyers. From toilet requirements to child labour elimination, all sorts of social activities are now done by us under the influence of buyers’.³²

The question of business sustainability in the international market of RMG products and the question of national economy prompted a multiplayer move for the promotion of social compliance or labour and environment related CSR issues in the garment enterprises. Thus a partnership between stakeholders has been built up in the process of promotion, which is the key demand of the stakeholder approach of CSR. The major actors are:

1. Business Associations (BGMEA and BKMEA);
2. Ministries and Departments;
3. Buyers;
4. Intergovernmental organisations and development agencies; and
5. Producers/Industries

5.4.1 The Role of BGMEA³³ for the Promotion of Social Compliance in the RMG Sector

The activities carried out by BGMEA can be categorised into two: (1) promotional activities for social compliance or CSR issues in the member units, and (2) direct involvement in CSR performance in relation to the social investments for the

³² See Azizul Islam and Craig Deegan, *Managerial Perception of Social Reporting: An Analysis of the Bangladesh Clothing Industry* (A conference paper presented at European Accounting Association Conference, Portugal, April 2007).

³³ BGMEA is the apex organisation of the garment factories owners that represents manufacturers and exporters in the global marketing. It is mainly dedicated to establishing and promoting contracts with foreign buyers, business and trade associations, organisations and chambers to develop the export base of garments. It also plays a role as a lobby group to protect the interest of the sector and as a promoter of the trade negotiations in the international market, with global trade bodies such as the WTO, and relevant UN agencies like ILO and UNCTAD.

welfare of employees as well as for other community members. The promotional initiatives undertaken BGMEA include,³⁴ inter alia,

1. child labour elimination programme;
2. BGMEA-ILO partnership project on improving labour relations and working conditions in Bangladesh Garment Industries;
3. establishment of Compliance Cell (recognised as the watchdog of CSR);
4. preparation of code of conduct for garment industry;
5. undertaking awareness and capacity building programme;
6. establishment of a Safety Department;
7. promotion of environmental management; and
8. constitution of conciliation-cum –arbitration committee.

The involvement of BGMEA in other CSR programmes as an active player covers initiatives such as health care activities and the establishment of hospitals, the introduction of group insurance for the garment workers, a BGMEA-UNFPA-GOB project for reproductive health education service, a programme for manpower development and employment, a programme for establishing a garment industrial park or garment village. BGMEA's promotional activities are explained more fully below:

5.4.1.1 Child Labour Elimination Programme from the RMG Units: A Collaborative Programme

In order to eliminate child labour from the garment sector the BGMEA so far has signed two Memorandums of Understanding (MoU) with the ILO and UNICEF. The first MoU entitled “The placement of child workers in school programmes and the elimination of child labour” was signed on 4 July 1995, with the assistance of the government and the then US Mission in Bangladesh.³⁵ The first MoU aimed at eliminating under-age children from the garment sector, through education and the granting of a stipend, until they attain the age of 14 years. With this remarkable initiative BGMEA set up a worldwide replicable model by eliminating an estimated 10,546 child labours from the garment factories with the active support of David N. Merrill, the then US Ambassador in Dhaka.³⁶ A project started, under this MoU, with the aim of progressively phasing out child labour in more than 2,500 factories which are members of the association. The project components included a joint

³⁴ See Bangladesh Garment Manufacturers and Export Association (BGMEA), *The BGMEA & RMG Sector of Bangladesh: 24 Years of Endless Efforts towards Social Sector Development* (2007) <http://bgmea.bd/index.php?option=com.content&task=view&...> 4 June 2008; See also BGMEA and BKMEA, *A Study on the Knit Garment Subsector of Bangladesh* (2005) http://www.ilo.org/dyn/declaries/DECLARATIONWEB.DOWNLOAD_BLAB?Var=DocumentID=3446 13 November 2008.

³⁵ Michael E. Nielsen ‘The Politics of Corporate Social Responsibility and Child Labour in the Bangladesh Garment Industry’ (2005) 81:3 *International Affaires* 559.

³⁶ BGMEA, above n 34.

survey by the BGMEA, the ILO and UNICEF to identify the child labour; social rehabilitation; skill training programme; payment of stipend; and the Earn and Learn Programme.³⁷ BGMEA signed the second MoU with the ILO and UNICEF on 16 June 2000 with an objective to provide a 1 year extension of an ongoing project aimed at monitoring activities to keep garment factories free of child labour, to organise education programmes for all the children and to set up a broad-based programme to eliminate child labour in the long run. The most fundamental target of this memorandum was to conduct monitoring to keep the factories fully free from child labour. A joint monitoring activity was carried out by the ILO, the Government of Bangladesh (GOB), and BGMEA. This project was completely successful as BGMEA claims that for long time all member units are child labour free.³⁸

5.4.1.2 BGMEA-ILO Partnership Project

With buyers' demands for social standards of proper health and safety conditions including ensuring labour and wages standards as well as maintaining the achievement of the first and second MoU, the BGMEA signed another agreement with ILO titled "A Partnership Approach to Improving Labour Relations and Working Conditions in the Bangladesh Garment factory". It was a 3 year project which started on 1 March 2002 and ended officially on 28 February 2005.³⁹ The objective of BGMEA for such an agreement with the ILO was to assist all sized enterprises in

³⁷ Cornell University, *The Effective Abolition of Child Labour: International Labour Organisation* (2004) <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1000&context=child> 14 July 2008; see also Ing. Rijk van Haarlem, 'The BGMEA/ILO/UNICEF Child Labour Project in the Garment Industry, Bangladesh (Lessons Learned)' (A presentation during the symposium "Child Labour & the Globalizing Economy: Lessons from Asia/Pacific Countries", Stanford University, California, February 7–9, 2001) 1, 2. A joint survey conducted from 28 August to 25 November 1995 identified 10,546 child labour in the garment sector. The social rehabilitation is divided into two parts: non-formal education and income maintenance in the form of a monthly stipend. Non-formal education was the responsibility of UNICEF, which was assigned to two NGOs BRAC (Bangladesh Rural Advancement Committee) and GSS (Mass Help Organisation) to handle this activity. They established schools in which the ex-garment workers receive non-formal education. The skills training programme is funded by UNICEF; 9,500 children were enrolled in 336 special schools run by BRAC and GSS. This training programme is imparted to the children by two reputable local NGOs; Underprivileged Children's Educational Programme (UCEP) and Surovi (a local NGO involved in projects for the elimination of child labour). The Skills training includes, inter alia, tailoring and embroidery, garments machine maintenance, garment manufacturing, wool knitting, auto-electricity and electronics. In 2001 statistics showed that 828 students enrolled in the training programme and 680 graduated. Of those students 537 found jobs. Under 'payment of stipends programmes' each retrenched child worker under 14 years of age is given a stipend of TK 300. The monthly payment of stipends is borne by the BGMEA and ILO. The BGMEA launched the "Earn and Learn Programme" from 4 July 1998, with an initial enrolment of students over 14 years old. The aim was to act in a socially responsible manner and to express its firm commitment to implementing the original MoU in the fullest sense.

³⁸ BGMEA, above n 34.

³⁹ For information, in this project, financial involvement of BGMEA was \$ 600,000 and the ILO contributed 1.5 million with assistance from the US Department of Labour.

improving their social compliance with labour standards. The joint initiative included mainly child labour elimination; improvement of employment relation; improvement of working conditions and welfare; and improvement of workers' health and safety. This joint initiative although it can be considered as an active initiative in the development of compliance in the RMG sector, covered only 5 % of the total existing factories and might not have had a substantial impact on the rest of the factories.

5.4.1.3 BGMEA Compliance Cell: The Watchdog of CSR

BGMEA in 2003 established a Compliance Cell in order to help the factories become compliant and also to sustain the activities of the above mentioned child labour project. This initiative was launched to monitor and address compliance related issues amongst the member units based on SA8000⁴⁰ in order to face the new challenges of economic liberalisation and globalisation.

The activities of the Compliance Cell like the BGMEA-ILO partnership project, also concern monitoring or auditing in five main broader areas, better known as Workplace Improvement Project (WIP). The areas are:

- Employment,
- Working conditions and welfare facilities,
- Occupational safety and health,
- Industrial relations and social dialogue, and
- Management systems (Human Resource, Quality and Productivity)

This programme is based on monitoring, inspection and data collection which is carried out by the BGMEAs officials trained on ILO labour standards and the requirements of the buyers' codes of conduct.

5.4.1.4 The Preparation of a Code of Conduct

In compliance issues, the RMG companies generally follow the guidelines of the contracting buyer groups as the brand buying companies have their own codes of conduct. But the multiplicity of such guidelines and the lack of harmonisation in their norms and procedures raise some difficulties and confusion for the companies in their practice. Due to the multiplicity of codes the factories find it difficult to comply, particularly in the event that they work with more than one buyer. On the other hand the subcontracting companies which are not in direct contract with any buyer group do not feel the urgency of compliance as there is ultimately no pressure on them from the buyers. Such a growing situation prompted the BGMEA to feel the necessity for a consolidated code of conduct for all RMG units to comply with

⁴⁰ BGMEA, above n 34.

irrespective of buyer pressure. BGMEA with the assistance of GTZ drafted a code of conduct incorporating internationally recognised ILO principles in labour and employment issues.⁴¹ It may be mentioned that BGMEA has also undertaken an initiative to draft a code for audit.⁴²

5.4.1.5 Awareness and Capacity Building Programme

BGMEA has undertaken numerous awareness-raising programmes as part of their activities for the promotion of CSR. For the purpose of awareness raising and capacity building for the application of CSR issues, BGMEA organises training programmes for BGMEA core officials, factory owners and other top level management as well as workers focusing on social and environmental compliance, productivity improvement, including occupational health and safety (OHC).⁴³ Generally the programmes are conducted in collaboration with intergovernmental organisations such as the ILO, international development organisations, certifying companies, and NGOs.⁴⁴

A number of training programmes have been organised so far by the BGMEA in collaboration with the ILO, SEDF, GTZ, and Business Social Compliance Initiative (BSCI), which were meant for the core officials.⁴⁵ They include a training programme on labour relations and working conditions in the garment factories; national and international laws regarding the core labour standards; occupational safety and health; a buyer's compliance/code of conduct; personal management and industrial management; a productivity improvement programme (PIP); certification training by Business Social Compliance Initiative (BSCI); training on social and environmental standards provided by SEBA.

⁴¹ The employment conditions are prohibition of discrimination, forced labour, harassment and abuse, child labour and appointment related issues. The working conditions include wages and hours, special protection for women and children, health, safety and hygiene. Industrial relation includes formation of trade association, joining the association of workers' own choice and so on. It is noteworthy that the code is not in application by the RMG industries as it is still with the Ministry of Labour and Employment awaiting final approval. For information, after first drafting in 2005 it was submitted to the ILO for endorsement. After receiving the ILO's approval it was submitted to the Ministry of Labour and Employment to be placed before Tripartite Consultative Committee (TCC) and also for final approval. When the new Labour Code came into force in 2006, it returned back to BGMEA for further review. BGMEA has reportedly completed the review and again submitted to the Ministry of Labour and Employment for final endorsement.

⁴² BGMEA above n 34.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

5.4.1.6 The Establishment of a Safety Department

BGMEA has constituted a safety department to ensure workplace safety for the workers as well as the management personal of its member units. It organises training programmes for the workers and management staff, monitors the safety arrangements and its proper implementation as per law⁴⁶ in the member factories, and undertakes follow up programmes to build up sustained awareness among the incumbents.⁴⁷

5.4.1.7 The Promotion of Environmental Management

A key component of BGMEA's CSR compliance initiatives is to create awareness on the importance of integration between environment and development by providing cleaner production methods. For this end, BGMEA always provides advocacy services to make aware of the member units for improving the environment at their workplace and neighbour areas. BGMEA has already set up an environment cell to monitor the industries environmental management issues including environmental clearance certificate for the Department of Environment of Bangladesh. Under this cell a crash programme is going on in collaboration with SEDF.

5.4.1.8 The Formation of Conciliation-Cum-Arbitration Committee

BGMEA has undertaken some major issues for the settlement of industrial disputes. The initiatives include setting up a Labour Cell comprising of two standing committees: standing committee on labour, education, and welfare; standing committee on labour arbitration. Under this cell a BGMEA Conciliation-Cum-Arbitration Committee (CAC) has been established with equal representation from BGMEA and RMG registered trade unions.⁴⁸ In addition, BGMEA has formed another Bilateral Committee with equal representation from owner organisations and trade unions to settle the collective industrial labour disputes.

⁴⁶ See for details, *The Bangladesh Labour Act*, 2006, Bangladesh, sections 61–78.

⁴⁷ BGMEA has organised 461 batches of training courses numbering 21,796 staff and workers of 1,286 factories from Dhaka and Chittagong region for the period from 27 December 1997 to November 2007.

⁴⁸ CAC was working following the terms of former Industrial Relations Ordinance (IRO) 1969 substituted by Labour Code 2006 and Arbitration Act. CAC has since its formation on 26 April 1998 has resolved 1827 cases out of 2237 and 18923 workers have received Tk. 20,70,388.00/- only up to 19 August 2007.

5.4.1.9 BGMEA's Engagement in Other CSR Programmes

Apart from taking initiatives for the improvement of social and environmental compliance situations in the garment industries, the organisation itself has undertaken some CSR programmes for their employees and the community at large. These programmes include the establishment of medical centres in the main industrial districts for the garments workers, partnership programmes with NGOs on raising awareness on HIV/AIDS among the workers, introduction of group insurance policies for the workers and staff, the introduction of stipends for children of the poor workers and notably some man power development and empowerment programme.⁴⁹ BGMEA conducts a project for training up people from *Monga* affected area in the northern districts of Bangladesh.⁵⁰ The objective of the project was to eliminate poverty and provide employment to vulnerable groups of people.

In addition, BGMEA Institute of Fashion and Technology (BIFT),⁵¹ under its Sweater Manufacturing Training Centre (BSMTC), organises monthly training programmes on sweater knitting for retrenched workers in collaboration with the European Commission. Retrenched workers include those who due to closure of factories have become unemployed or jobless.⁵²

In the light of above description of BGMEA's activities it is apparent that it is playing a significant role for creating a better social compliant situation in the garment industries. This significance may be considered from three perspectives: (1) it can help create a 'level playing field' for compliance irrespective of the size and business extent of the corporations; (2) it can create overall motivation to the social compliance in the garment factories; and (2) it can help remove the factory level constraints for compliance.

As far as social compliance is concerned, the remarkable progress is the elimination of child labour from the garment sector and satisfactory improvement in safety programme for fire evacuation and escape. The BGMEA's CSR programmes for workers poverty alleviation and empowerment through training programme are at the nascent stages and require more effective endeavours to achieve the goals. The commitment of the owners of the factories of this industry is indeed a critical issue to ascertain. This could be the issue that is heavily related with the gap

⁴⁹ BGMEA, above n 34.

⁵⁰ 'Monga' is a colloquial word used in the northern districts of Bangladesh such as *Kurigram*, *Rangpur*, *Nilfamary* and *Gaibandha* to mean cyclical phenomenon of poverty and hunger affecting the people who are heavily dependent on agriculture caused by negative weather conditions; drought, cold spells or floods.

⁵¹ BIFT was established by BGMEA in 1999 in order to keep up with the latest fashion trends, and to secure a competitive position in the global market. It became affiliated with National University Bangladesh in 2001.

⁵² According to a statistics from March 2007 to September 2007, seven batches numbering 821 were trained up and later they were placed in different garment factories.

amongst BGMEA's activities and the chronic labour unrest in this industry. The recent labour turmoil in this industry could be an appropriate issue to mention here.

As it has been mentioned earlier, this industry includes both formal and informal groups, and the ownership in this industry is highly concentrated. Other than a few factories in the export-processing zones, almost all of these factories are locally owned and situated in the capital city Dhaka, in the port city Chittagong or in the industrial city Narayanganj. The comparatively lower labour cost is the main reason for the double-digit rates of expansion of this industry from year to year. Currently this industry employs 4.7 million workers, of which 78 % are female (BGMEA).

The recent labour turmoil in this industry is not new. In 2006, this industry experienced a similar outburst of workers of the present type. A report of a government enquiry committee revealed that the unrest was due to (a) the absence of a suitable working environment in RMG factories, (b) the violations of minimum wage and financial benefit provisions by the factory owners, (c) irregular payments to the workers, (d) factory owners' dillydally tactics in paying compensation to injured workers and family members of workers who died while working in the factory and (e) the indecent behaviour of the management to the workers. These conditions can be traced back in the findings of a benchmark field survey-based study in 2002. This survey revealed that 57.1 % of the employees that took part in this survey did not receive a minimum wage fixed by the government, 40 % of them commented that the wages for overtime were less than the regular wage and 11 % of them commented that they did not get any extra payment for working more than 8 h.⁵³ These circumstances were echoed by the respondents from the civil society groups: 90 % of them noted that the factory "owners have a long tradition of engaging the employees in work for extra hours under a very exploitative condition where the workers are underpaid in working hours and unpaid in the extra hours".⁵⁴ To hide these irregularities, this group of respondents further added that the employers often do not provide any formal appointment letter to the workers. Regarding unionism, this study found that most of the employees thought that they could lose their job or be physically assaulted if they joined in trade union activities.⁵⁵

Considering these circumstances, the government enquiry committee suggested that the legal provisions (related with job security, regular payment of wages, revision and implementation of the minimum wages and workers health and safety at the factory premises) be updated and made unambiguous.⁵⁶ An ILO commissioned survey echoed the broader perspective of these suggestions. This

⁵³ MJH Javed and Kazi Mahmudur Rahman, 'Corporate Responsibility in Bangladesh: Where Do We Stand' (The Centre for Policy Dialogue, 2003) 5.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Md. Ghulam Hussain, 'Compliance in RMG Industry of Bangladesh' in *Social compliance and decent work: the Bangladesh perspective: papers and proceedings of the National Tripartite Meeting on social compliance in the RMG sector* (2007) 1.

survey concluded that the laws and regulatory provisions should also contribute to improve the institutional capacity of the labour unions and owners associations to “deliver effective membership services and more transparent and responsible actions by the union leadership”.⁵⁷ The unrest and associated violence at that time also indicated that the workers of this industry needed to become organized and practice systematic bargaining. Moreover, it indicated that the regulatory agencies should insist that the factory owners help workers obtain systematic collective bargaining agents.

The Bangladesh Labour Act 2006 (the Code) has covered some drawbacks of the earlier labour laws related with this industry.⁵⁸ For instance, in the Factory Act 1961, there was no clear mention of appointment letters or identification cards for workers. Before this Code, only the Newspaper Employees (Conditions of Services) Act 1974 and the Road Transport Workers Ordinance of 1983 had this provision. This Code requires that employers provide this letter and card to all of their workers.

Though the Code’s range and effectiveness have increased, its lack of suitable implementation mechanisms and the RMG enterprise owners’ failure to develop it further have repeatedly made it a disappointment. At this point, the disaster in the Spectrum Factory is worthy of mention. On April 11, 2005, the Spectrum/Shahriyar Sweater Factory collapsed, killing 64 workers and injuring at least 80 workers, of which 54 were seriously wounded.⁵⁹ The provisions mentioned in the Workmen’s Compensation Act 1923, the Factory Act 1965 and the Factory Rules 1979 had been repealed by the new set of legal provisions, and, hence, it was expected that the family members of the deceased and injured workers would not suffer as it were under the repealed laws to receive their compensation. However, unfortunately, many of them are still waiting for their compensation.⁶⁰ On the one hand, the owners of these factories “display . . . utter negligence to those without whom [they] could not have earned crores of taka”.⁶¹ On the other hand, the ratio of workers killed while they are working in factory premises is increasing. Between the time of

⁵⁷ Ibid.

⁵⁸ The Bangladesh Labour Act 2006 is considered as a complete legislation on core labour issues in this country. Hence it is commonly called as the Bangladesh Labour Code or ‘the Code’. Before the enactment of this Code in 2006, there were about 44 labour laws, dealing with four broad categories of labour issues: (a) wages and employment; (b) trade union and industrial disputes; (c) working environment and occupational health and (d) labor administration and industrial relations. This Code has repealed all most all of these laws and consolidated the matters of all these four groups of issues within its ambit.

⁵⁹ New Steps, *Workers’ Rights and Working Conditions in the Export-oriented Garment Sector in Bangladesh: A Review* (2006) http://www.newsteps.info/workers_rights.php at 26 March 2011.

⁶⁰ Ibid.

⁶¹ Islam, Soma, ‘Spectrum Sweater Factory Collapse: Rights of Garment Workers, Legal Impediments and Possible Solutions’ (2005) (2) *Labour* 10.

the Spectrum disaster and 2010, at least 172 workers have been killed.⁶² Termination of workers without paying them their legal entitlements and shutting down factories without following the prescribed rules are still prevalent in this industry.

Fixing the lower wage limit for RMG workers is always contentious. So far, the Minimum Wage Board has increased the minimum wages of Bangladeshi RMG workers three times. In 1994, the minimum wage for this sector was \$13.29 per month, according to the Minimum Wage Ordinance 1994.⁶³ Twelve years later, in June 2006, this was raised to \$23.74.⁶⁴ In both cases, outraged workers protested against these wage limits that they considered too low to ensure even their basic survival. At the peak of inflation during 2008, there was a proposal to give them rations at a subsidised rate, but this is yet to be implemented. They were also promised better working conditions and day care centres for the mothers at the factory premises, but the owners did not execute this promise. Moreover, the owners of RMG factories have continuously shown their negative attitude toward trade unionism, and they have not shown respect for the political rights mentioned in the Code. The governmental agencies are not efficient in implementing this issue either. Recently, the present labour and expatriate minister of this country mentioned, "Trade unionism was never allowed to take root in Bangladesh due to the negative attitude of factory and mill owners".⁶⁵ At the same time, a writ petition⁶⁶ filed by Bangladesh Legal Aid and Services Trust (BLAST) along with a different human rights organization challenged the inaction of the Government and its failure to establish labour tribunals and labour appellate tribunals in Export Processing Zones (EPZs) under Sections 55 and 59 of the EPZ Workers Association and Industrial Relations Act, 2004. While the trade unions are not legally allowed in the EPZs, the failure of the government to ensure an effective forum for settling labour disputes is, in fact, a denial of access to justice of the workers in these zones.

By the beginning of 2009, this sector began to bounce back from the effects of the global recession in 2008; it fetched more than \$12.35 billion in 2008–2009,

⁶² New Steps, *Workers' Rights and Working Conditions in the Export-oriented Garment Sector in Bangladesh: A Review* (2006) http://www.newsteps.info/workers_rights.php at 26 March 2011.

⁶³ Pratima Paul Majumder and Anwara Begum, 'The Gender Impact of Growth of Export Oriented Manufacturing in Bangladesh: case study: ready-made garment industry Bangladesh' (Bangladesh Institute of Development Studies, 2000)37; In 1994 while a Bangladeshi worker was paid only \$0.11 for each unit of shirts, an Indian and Pakistani worker were paid \$0.26 and \$0.43 accordingly. For details, see SC Zohir, *Intra-household Relations and Social Dynamics among Garment Workers in Dhaka City* (2000).

⁶⁴ 'Announce minimum wage by July 27', *Financial Express* (Dhaka), 5 July 2010.

⁶⁵ Shahiduzzaman Khan, 'Trade unionism and minimum wages issue in apparel industry', *The Financial Express* (Dhaka), 4 July 2010.

⁶⁶ **BLAST and another vs. Bangladesh and others (Writ Petition No. 6448 of 2008)**. The court has directed the government to show cause for their failure to give effect to Sections 55 and 59 of the EPZ Workers Association and Industrial Relations Act, 2004 and to establish a Labour Tribunal and Labour Appellate Tribunal in the EPZ by way of gazette notification. This petition is still pending.

dwarfing the flow of remittance that amounted to \$10 billion in 2008.⁶⁷ However, the working conditions in the factories have not developed as they ought to have: when the export of RMG was \$31.57 million in 1983–1984 (BGMEA),⁶⁸ workers were seen having their lunch on the roof of the factory with crows lurking behind. Even now, this unfortunate scenario is common at the RMG factories in Dhaka and Chittagong.⁶⁹

At the beginning of 2010, the workers demanded a rise in their wages, and the government eagerly acknowledged this demand. Action Aid calculated it at about \$150, the labour union demanded at least \$75 and the owners association fiercely resisted this demand. The owners offered only \$40. They argued that because of the high bank interest rates, soaring yarn prices and low cutting and making charges, they were not in a position to offer more than \$40 for an entry-level worker. They even blamed low-skilled and inefficient workers for the increase in production cost. This concurrent situation, indeed, exemplified the low credibility of the owners of RMG factories. Their rigidity brings up the comparison amongst the wages and skills of the competing nations in this sector. It was revealed that while a Bangladeshi RMG worker received \$0.12, his or her counterpart in Sri Lanka, Pakistan, India and Vietnam received \$0.44, \$0.56, \$0.51 and \$0.40 respectively in 2009.⁷⁰ Besides suitable wages from employers, Bangladeshi workers do not receive any extra facilities from either the government or the factory owners. In Vietnam, workers are given cheap travel and a housing allowance from the government. In China, the wages of workers automatically rise at a rate of 10 % each year.

In these situations, the whole process of settling the minimum wage has lingered, and the rigidity of owners has been seriously criticised. As an example of their rigidity, Professor Asif Nazrul made the following comment in a discussion session organised by the Bangladesh Garment Manufacturing and Exporters Association to consider issues in minimum wage settlement in 2010:

BGMEA even highlights the positive effects in economies due to their female workers' consumption of toiletries but does not bring the wage scenario and its comparison with the other industrial sector in a discussion on the issues of RMG workers' minimum wage settlement.

⁶⁷ Comparative Statement On Export Of Rmg And Total Export Of Bangladesh, by the Bangladesh Garment Manufacturer and Exporters Association. For a comprehensive data on RMG export, visit <http://www.bgmea.com.bd/home/pages/TradeInformation> at 13 January 2011.

⁶⁸ Comparative Statement On Export Of Rmg And Total Export Of Bangladesh, by the Bangladesh Garment Manufacturer and Exporters Association. For a comprehensive data on RMG export, visit <http://www.bgmea.com.bd/home/pages/TradeInformation> at 13 January 2011.

⁶⁹ A study revealed that a compliant RMG enterprise generates more turnover than a non-compliant enterprise out of the same investment in a same period of time. For details, Lal Mohan Baral, 'Comparative Study of Compliant & Non-Compliant RMG Factories in Bangladesh' 10(2) *International Journal of Engineering and Technology* 129, available at <http://www.ijens.org/108602-7272%20IJET-IJENS.pdf> 4 January 2011.

⁷⁰ Monjur Ahmed, 'Message to Walmart: Low wages hampers the credibility of the top RMG exporting country', *The Prothom Alo* (Dhaka), 21 July 2010.

In the same discussion session, a prominent journalist opined, “We have to build trust between workers and the owners. We have set up a lot of factories over the last 30 years, but could not develop a workforce”.⁷¹ Owners of RMG factories were blamed for not creating an environment where the workers could develop a sense of belonging.⁷² Shyamol Dutta, another prominent journalist, pointed out the failure of the owners to understand the psychology of the workers and asked them to bring confidence to the workers.⁷³ On the other hand, ignoring the urge to settle a standard minimum wage for the workers, the then president of BGMEA alleged the following:

[O]rganized groups of outsiders had been responsible for carrying out the recent attacks on the RMG units... We have identified the trouble mongers and the list containing their names is lying with the authorities. What is needed now is action on the part of the government.⁷⁴

In this backdrop, at the end of July 2010, the minimum wage at the entry level was fixed at \$43.07: \$27.57 in basic pay, \$11.03 in housing allowance and \$2.76 in medical allowance. The apprentice-level wage was fixed at \$34.47, which was \$16.54. This new wage structure came into effect on November 1, 2010. This minimum wage is the lowest minimum wage when compared with that of five other industrial sectors of this country. This wage limit is the lowest in the world. Along with this extremely low wage level, dire working conditions have caused the recent unrest in this industry: according to the Alternative Movement for Resource and Freedom Society, 72 incidents of this unrest took place in the first 6 months of 2010, which has caused the injuries of at least 988 workers and the arrests of 45 RMG workers.⁷⁵ This unrest has further increased, as it has been found that one-fourth of RMG factories are not complying with this mandatory standard of pay.⁷⁶

This labour agitation has received extensive negative media coverage in the world. Though it is perhaps premature to draw conclusions regarding this situation, one could make the observation that such a disaster could have been avoided if an ethos of CSR in corporate governance had really existed. The owners/directors of these enterprises mostly consider the immediate profit and do not consider moral or ethical issues at the forefront of their corporate management. Islam and Deegan

⁷¹ Khandaker Muniruzzaman, Acting Editor, the Daily Sangbad.

⁷² Habibur Rahman Milon, Advisory Editor, the Daily Ittefaq. He has made this statement in a meeting organized by the Bangladesh Garment Manufacturers and Exports Association to discuss the then situation in the RMG sector. For details of this discussion, see ‘Call for amicable settlement of RMG wage dispute’, *The Daily Star* (Dhaka), 5 July 2010.

⁷³ Editor, the daily Vorer Kagoj, a national daily news paper. For the news on this discussion session, visit <http://www.prothom-alo.com/detail/date/2010-07-15/news/78680> at 15 July 2010.

⁷⁴ ‘RMG workers’ minimum wage fixation: BGMEA wants a balance between need, affordability’, *The Financial Express* (Dhaka), 15 July 2010.

⁷⁵ Clean Clothes Campaign, *Bangladesh: Factory workers are entitled to realistic living wage* (29 July 2010) at 11 January 2011.

⁷⁶ Ibid.

(2008) have described this attitude by placing a notice⁷⁷ circulated to the members of BGMEA mentioning that they should not use child labour in their factories due to the “potentially negative economic effects of being identified as using child labour, and the impacts this had on the survival of the industry.”⁷⁸ They could also have highlighted the fact that children are not meant to work for pay at the factory level, but they did not think of the issue from this perspective.

BGMEA’s activities should be more oriented to their social responsibilities and effective for bringing sustainable welfare for its workforce and environment. Its activities should be above the benchmark so that the labour welfare situations at the factory level of this industry could be a lesson for other manufacturing sectors in Bangladesh. To be particular, its activities related with the introduction of a monitoring system, inspection, organising awareness-raising programmes and partnership with the development agencies should be under the regular scrutiny and development programs.

5.4.2 *The Role of BKMEA⁷⁹ for the Promotion of Social Compliance in the Knitwear Sector*

BKMEA has undertaken three major initiatives for making the industries compliant with the social requirements from international counterpart retailers companies. These initiatives are identified as permanent initiatives, current initiatives including the constitution of a compliance monitoring cell, and awareness raising programmes and a jointly initiated project for the elimination of child labour.

5.4.2.1 Permanent Programmes

The permanent programmes include the fulfilment of the conditions for the membership of the association, dispute settlement, and the introduction of insurance for workers. To obtain the membership of the association every factory has to meet some pre-conditions which are set by the association while application is lodged for membership. The conditions include that the factory must be free from child labour; it must have alternate stairs for safety and basic fire fighting equipment; the building layout for factory must be approved before the factory applies for membership; and every factory has to initiate mandatory group insurance for all workers and

⁷⁷ Circular No. BGA/ssd/2005/128, Dec.10, 2005.

⁷⁸ Islam and Deegan, above n 24,854.

⁷⁹ BKMEA is the owner association of knitwear manufacturers which was formed separately from BGMEA in 1996 in the face of several compelling necessities for the knitwear sector itself and to address many issues concerning business interests, among which social compliance status enhancement of the member units and the basic rights and awareness issues are prominent.

employees.⁸⁰ In respect of dispute resolution, it has formed a conciliation-cum-arbitration bi-lateral committee to deal with individual grievances. The committee tries to solve the disputes that arise between owner and the employees of the factory before referring the matter to court. BKMEA has established a Mandatory Group Insurance for all of member units.⁸¹ A new membership or renewal depends upon the payment of premiums for the insurance.⁸²

5.4.2.2 Introduction of Social Compliance Monitoring

BKMEA has launched a 'Social Compliance Monitoring Programme' in collaboration with GTZ from February 2007 up to the end of 2009.⁸³ The main objective of the programme is to ensure social compliance in all member factories within 3 years. The project has included the following activities: the formation of a skilled monitoring team at BKMEA,⁸⁴ the development of a detailed checklist on the basis of the national labour law and grading system in the categories of A, B, C and D on the basis of compliance status, unannounced visits, follow up visits, maintaining software storing field data and systematic evaluation of the factories, and capacity building of factories through training and workshops.⁸⁵ In extreme case BKMEA is planning to impose penalties for violating the compliance related laws⁸⁶ after giving several warnings.

5.4.2.3 Awareness Raising Programmes

The development of a compliant factory is largely dependent on the intention and capability of the owners, officials and their awareness of the responsibilities. It also requires the awareness of the workers. Considering this, BKMEA has undertaken three kinds of awareness raising programmes: (a) CSR workshops for factory owners; (b) social compliance training for factory owners and other top level officials; and (c) publications for awareness raising for all incumbents particularly the workers. The objective of the programmes intended for owners and officials includes imparting a compliance scenario and its impact on the productivity and sustainability of the business.

⁸⁰ BKMEA, *Social Compliance Activities of the Knitwear Sector* (updated 2007) <http://www.bkmea.com/social-compliance.php> 25 June 2008.

⁸¹ Ibid.

⁸² The per annum premium is Tk 80,000 for a maximum of 20 persons.

⁸³ BKMEA, above n 80.

⁸⁴ For information, BKMEA has already appointed 15 members monitoring team.

⁸⁵ BKMEA, above n 80.

⁸⁶ The laws include *Bangladesh Labour Act 2006*, *The Building Construction Amendment Bill 2006*, *The Environment Conservation Act and Rules 1995 and 1997* respectively.

Publication is a very effective means of creating awareness among the workers of their legal and social rights. As part of this, BKMEA has already published a handbook, posters, stickers, and training manuals on compliance issues in the local language and these materials have been distributed to the member factories.⁸⁷ The publication of a handbook from the association level is obviously a significant step towards clearer understanding of compliance issues and the procedures for implementation. It provides information to the workers about their own rights as recognised by legal and social standards both at the national and international level.⁸⁸

5.4.2.4 BKMEA' Child Labour Elimination Programme

BKMEA has undertaken a project with Save the Children (Sweden-Denmark) on "Corporate Social Responsibility and Child Labour".⁸⁹ This joint initiative aims at identifying the children working in BKMEA member units through audits and continuous monitoring and training them at the Non-Governmental Technical Training Institute. After the completion of the training, the child workers are rehabilitated in the BKMEA member factories and the factory owners restrict their work hours up to their adult age. The project also includes a plan to establish a permanent training institute. Initially, it will be conducted by the Underprivileged Children's Educational Programme (UCEP), an NGO.

The initiatives and programmes undertaken by BKMEA as an owner organisation can be said to be more practical in bringing about a change in the improvement of labour rights and working conditions of the workers at the industry level. Its monitoring system as a whole is a better way to help grow the awareness and motivation towards the reality of social compliance both in the market and societal context. Their awareness programme, if implemented in the right way, will make the employers and employees aware of their own rights and duties. Particularly, the in-house measures for awareness-raising through publication of books and stickers are considered to be visionary steps for improving the compliance situation.

⁸⁷ Ibid.

⁸⁸ The hand book provided by BKMEA contains four sections: (a) a basic guideline for making a socially compliant factory; (b) frequently required factory and labour laws; (c) a guide for the construction of a safe factory building on the basis of Bangladesh National Building Code; (d) guideline for creating environmentally sustainable knitwear factory: see for example BKMEA, '*Compliance & Relevant Laws: Guidelines for Implementation*' (March 2006).

⁸⁹ Save the Children (Sweden-Denmark), *Corporate Social Responsibility and Children's Rights in South Asia* (2007) <http://www.crin.org/docs/CSRmapping/finalpdf> 10 July 2008.

5.4.3 Government Initiatives for the Promotion of Social Compliance Issues/CSR in the RMG Sector

The Government has felt the necessity and urgency of the ‘social compliance’ issue in the garment sector. The urgency has heightened following incidents in the factories in recent times that affected its credible character as to social and legal compliance in the eyes of international buyers, customers, and investors.⁹⁰ In addition, the challenges encountered by the RMG sector after the MFA phase-out, have in a sense forced the government to play a constructive role in protecting the business interests of its biggest export earner. It has undertaken some institutional measures under its Ministry of Commerce and Ministry of Labour and Employment.

5.4.3.1 Steps Taken by the Ministry of Commerce for the Promotion of Social Compliance

In order to promote the level of compliance in the RMG sector, the Ministry of Commerce formed in 2005 a Social Compliance Forum (SCF) which is also known as National Compliance Forum. The forum acts as a guiding and coordinating authority at the policy level on compliance related activities in areas prominently focused on by the international counterparts; working conditions, occupational safety and security, and labour standards.

The unique feature of SCF is its multi-stakeholder representation that creates an intra-organisational partnership. It is comprised of the Commerce Minister as chairman and the State Minister for Labour and Employment as co-chairman, other members from concerned ministries and departments (such as representatives from the Ministries of Works and Labour, Home, Industry, Environment, Foreign Affairs, Export Promotion Bureau), business associations (BGMEA and BKMEA), NGOs, labour leaders, international organisations and development partners (like ILO, UNDP, GTZ), as well as international buyers’ representatives.

To carry out the objectives of SCF three working groups are formed: the Taskforce on Labour Welfare, the Taskforce on Occupational Safety, and the Compliance Monitoring Cell. The Taskforce on Labour Welfare has been formed with the Joint Secretary, Ministry of Labour and Employment as the chair and includes representation from other ministries, governmental departments, and business and workers associations.⁹¹ The responsible assignments include, inter alia,

⁹⁰ Between 1990 and 2005, there were 115 reported factory fires resulting 300 deaths and over 2,500 injuries among which one of the most shocking is fire incident in KTS garment factory in Chittagong leaving 56 died and 100 injured. Apart from fire incident, a widely shocking incident was the collapse of a nine-storied garment factory building near Dhaka in 2005.

⁹¹ The other members are the Deputy Secretary of the Ministry of Women and Children Affairs; Director, Textile (EPB), a representative from the Ministry of Environment and Forest; Chief

1. taking stock of national rules and regulations on the compliance;
2. reviewing the activities of the concerned inspection agencies relating to the compliance;
3. monitoring and reporting on compliance; and
4. formulating long, medium and short term action plans on the compliance in the RMG monitoring the progress made with respect to the compliance.

The Taskforce on Labour Welfare has already prepared a term based work plan on the following issues: the elimination of all sort of discrimination; abolition of forced labour; removal of all sort of harassment and abuses; abolition of child labour; providing workers with an appointment letter; reasonable working hours; health and hygiene; and the right for freedom of association and collective bargaining. It makes surprise visits to the factories to identify non-compliant factories with an aim to persuading them to becoming compliant gradually. It has reportedly inspected 150 factories within the 2 years since its formation which proves it to be slow in action.⁹²

The Taskforce on Occupational Safety is formed with the Joint Secretary (Development) in the Ministry of Housing and Public Works. Its responsibilities include four security aspects such as fire safety, building safety, environmental safety, and security matter safety. It designs the term-based work plans for the implementation of compliance issues in the same way as the other taskforce does. Recently, a booklet on safety related laws and regulations has been published by the taskforce for distribution among the workers.

The Compliance Monitoring Cell (CMC) is formed with the Director General of the Export Promotion Bureau of Bangladesh (EPB). Its main objectives are to coordinate compliance related activities at the implementation level through compiling the reports of the taskforces, creating a database on the progress made in the industry and suggesting to the forum means of creating a positive image of the industry as well as in Bangladesh and abroad. This cell is mainly involved in compliance monitoring and auditing. The establishment of the CMC by the Government of Bangladesh is recognition of the need to standardise compliance requirements and audit practice. The activities of the forum and the taskforces are supposed to spin around the CMC. But it is argued that the CMC is yet to attain its expected level of functional efficacy, although about 3 years have already elapsed since its formation.⁹³ It needs to be widely structured and equipped with the necessary staff.

There are some constraints involved in the effective activities of CMC in EPB. The CMC in EPB is not properly organised. There is a scarcity of officials involved

Inspector, Factories and Establishment; the Director of BGMEA and BKMEA; President of Bangladesh Independent Garment Workers Union Federation (BIGUF); representatives of Workers Unions, Director Operations, Fire Service and Civil Defence.

⁹² ILO, Social Compliance and Decent Work: Bangladesh Perspective (Papers and Proceedings of the National Tripartite Meeting, 2007) 16.

⁹³ Ibid.

in facing challenges. It is learnt that UNDP provided initial support for a year and after that the consultant had to leave as financial support for their continuance was not available either from the donors or the government of Bangladesh. This has made CMC almost non-functional. Furthermore, EPB has no budgetary allocation to maintain a cell with the required number of staff and logistic support. The cell is charged with a Deputy Director who finds it difficult to monitor about 4,500 RMG factories.⁹⁴

5.4.3.2 Steps Undertaken by the Ministry of Labour and Employment

There are some major initiatives undertaken so far by the Ministry of Labour and Employment that can enable and promote labour rights, safety and security of the industry, and workers' welfare. The initiatives are as follows:

- holding a tri-partite ten point Memorandum of Understanding (MoU) between government, owners of the garment industries and the leaders of the workers on 12 June 2006⁹⁵;
- initiating for Bangladesh Labour Welfare Foundation Act 2006;
- constituting inspection teams to inspect and monitor compliance with MoU; and
- forming crises management committees in order to meet any untoward situation arising out of non-compliance at the factory level.

The inspection teams are assigned to check and collect information about eight core aspects, such as the issuance of appointment letters and delivery to the workers, distribution of ID cards, workers' weekly holiday, regular payment of wages, payment of minimum wages, over time payment and its character, and enjoyment of maternity leave.⁹⁶ As per the reports of inspection from 26 June 2006 to 31 May 2007, among 3,046 factories, 1,241 (40.74 %) were found compliant, 794 (26.07 %) were semi-compliant, and 948 (31.12 %) are non-compliant.⁹⁷

The initiatives of the Ministry of Commerce and Ministry of Labour and Employment may be good endeavours on the part of the government to create a socially compliant RMG sector, provided there is a good coordination among the members of different committees. In a recent study it is alleged to be loosely

⁹⁴ Ibid 18.

⁹⁵ The MoU was signed in the face of long time unrest in the garment situation on the basis of their different demands. Along with some temporary issues, the MoU include some employment issues like appointment of letters and ID cards, fair trade unionism and combined bargaining, one day weekly holiday, overtime allowance to regular workers as per the labour law, maternity leave with pay, the formation of a wage board to fix wages. Under the newly adopted labour law a wage board has already been formed.

⁹⁶ ILO, above n 92, 28.

⁹⁷ Ibid, 29.

coordinated.⁹⁸ The monitoring, auditing, supervision, review, and reporting may be the effective means of enforcement of social standards in the industry. In particular, the term-based action programme under two taskforces can create gradual improvement of the labour and occupational health situation and thus achieve its goal.

5.4.4 Buyers' Initiatives for the Promotion of Social Compliance in the RMG Sector

The buyers not only pressure the RMG industry to be socially compliant, but also provide support for this end. Their only concern is that enterprises be socially compliant up to a reasonable standard. The reasonable standard is determined by compliance with the Labour Law 2006 to fullest extent, and the passing of their particular audits related to corporate CoCs or other general codes (e.g. BSCI, WRAP, and Jo-In etc.). The buyer companies at their own expense audit the exporter companies before purchase-contract. They mainly consider three things: social compliance, related code of conduct and audits. Thus the auditing and other supervision activities in the exporter companies pave the way for better compliance situations in companies in future.

The buyer companies, through their participation in different capacity-building training programmes on social compliance issue, contribute to the development of labour practices as a whole. The international brand buyer groups such as Wal-Mart, SEARS, Carrefour, Hens and Mauritz participate in the training programmes organised by the BGMEA under its Compliance Cell to educate top level garment officials on their own requirements and individual codes of conduct with a view to raising awareness among member factories and educate the manufacturers on compliance issues.⁹⁹ Marks and Spencer (M&S), has been operating in Bangladesh for about 5 years to promote mainstreamed and integrated CSR, rather than projects and donations, in the supply chain garment factories. Early in January 2008 it initiated a plan to fully implement its international supply chain CSR in Bangladesh as part of its international plan.¹⁰⁰

While it is evident that some international brands and buyers are providing assistance to raise the social responsibilities of RMG factories in Bangladesh, some incidents has questioned into the commitments of these brands and buyers for raising their suppliers' social accountabilities.

⁹⁸ ECORYS ICS Consortium, *Compliance with Environmental Regulations in the Textile Industry* (Report 2008) <http://www.ecrys.com> 28 October 2008.

⁹⁹ BGMEA, above n 34.

¹⁰⁰ See Reed Consulting (Bangladesh) Ltd., *Corporate Responsibility: An Awareness Guide for Companies Operating in Bangladesh* (2008) <<http://www.reed-bangladesh.org>> 20 October 2008.

Frequent loss of lives and properties due to the fire incidents in RMG factories in this country has cast doubt that the operations international buyers and brands are operating are not effectively raising social accountability of RMG factories, rather they are to show the western customers that the brands are carefully sourcing their products from weak economies. The Tazreen tragedy has brought this issue once again at the fore of the discussion related with this industry.

5.4.4.1 Tazreen Tragedy: A Dismay of Global Buyers' Accountability to Their Suppliers in Bangladesh RMG industry

With the 600 Bangladeshi workers perished in garments factory fire over the past decade, more than 112 added due to the tragic incident happened in Tazreen Fashions Ltd on 25th November 2012. Tazreen Fashions Ltd is a ready-made garments producing company situated in Asulia, 22 miles away from Dhaka—the capital city of Bangladesh. This company is a member of the Bangladesh Garments Manufacturers and Exporters Association and it has more than 12 years experience as a RMG product supplier of many multinational buyers, brands and retailers.

The reason behind this tragedy, at the outset, is common as there were many incidents happened that killed workers in this industry following the same manner. Crowded production lines, an electric short circuit, flammable chemicals, faulty fire extinguishers, fire exits blocked by piles of stocks, workers—mostly female—trapped, asphyxiated, burned, or forced to jump to their deaths. But this should not be the case for this company. It is a supplier in the buyer driven global supply chain where the buyer defines what standards a supplier has to meet. The relationship between the buyer and supplier in this chain is quasi-hierarchical, in which these two parties are not joined by ownership but engage for a long term. Typically, a company can be within this supply chain if it can successfully execute the business and social accountability requirements. Typically execution of social accountability means that a supplier audits its accountability in social issues, such as, workers welfare, work place safety, reasonable wages, responsible management and these are measured by social audit.

As a supplier in the global supply chain, Tazreen should be used to audit its social accountability performance and if it were doing this audit properly, the tragic incident would not happened. The level of commitment of its buyers is also pertinent with this incident. If the multinational companies and retailers that were sourcing their apparels from Tazreen were effectively auditing its social accountability, it would not neglect its accountability to the workers safety that caused this tragic incident.

Over the last 15 years multinational clothing companies of these regions have greatly increased their import from Bangladesh. International fashion brands and retailers like H&M, C&A, M&S, Wal-Mart, GAP, Levi's, s. Oliver, Tesco, Zara, Tesco, M&S, Target, Carrefour, JCPenney and many more are not only increasing their sourcing from this country, they are increasingly setting up their liaison offices in Bangladesh. While the main function of these liaison offices is to operate their

sourcing relationship with the RMG producing companies in Bangladesh, they are also responsible to ensure that their suppliers provide workplace practices that are acceptable to western consumers.

This has been reflected in the development of “self-regulation” culture in the accountability audit practices of multinational companies. At the individual multinational company level, the notion of self-regulated accountability usually enshrines either through its own code of conduct or through its incorporation of any multi-stakeholder initiative/guideline prepared by any other social or commercial organization.

As mentioned earlier in this book, the codes are the main self-regulatory instruments for multinational companies sourcing products from developing countries. While the buyers in general require supplying companies follow the standards set by the specialized agencies in their social audit practice, they tend to cross check this practice by their own auditors or by their hired audit agencies. They usually do not depend on any third party for auditing social accountability performance of their supplying companies. This puts a vital question into the accountability of their social audit practice, specially in the absence of any credible and independent third party that evaluated their audit outcome. They relate third parties with their audit only when they face major threats as a result of media accusations and/or sustained NGO campaigns, for example, in relation to the use of child labour, or any others inappropriate behaviour by the suppliers. There was a belief that the involvement of third parties increases the likelihood that information would be accepted or believed by various stakeholder groups. Information provided by independent third parties is considered to have greater credibility.¹⁰¹ There appeared to be a belief that external third party reviews are an instrument for corrective action, and as a means to pacify concerned stakeholders. As one external auditor stated in a survey conducted by Aziz et al:

You may be aware that multinational companies are often criticised because of a belief that their supply sources are not ethical. There have been many incidents that the western news media has frequently highlighted such as showing pictures and videos of children working in the factories; this could be in the Wall-Mart factories, Gap factories, Nike factories and so on. NGOs and labour right bodies often take actions against many multinational companies for not being responsible: for not meeting maternity leave expectations, for paying poor wages, or for massive fire accidents. You may have heard of the massive accidents at Spectrum where many workers died; this issue became so sensitive within the European community because the news media and NGOs directly linked a European-based multinational company, for which Spectrum was manufacturing garments at the time, to the accident. Many people are also aware of how the US news media accused Wal-Mart by showing children working in the factory and coming out of the factory; you probably also know how a group of NGOs and labour rights took action in a US court against Wal-Mart

¹⁰¹ Craig Deegan and Muhammad Azizul Islam, Social Audits: *Creating real change or simply sustaining ‘business as usual’?* Paper presented in 2012 AFAANZ conference, 1–3 July, Melbourne, Australia.

for poor working conditions and underpayments in its supply factories. We saw many of these being very sensitive as western consumers react so quickly to these events. These sorts of events have lead to the appointment of third party auditors who are believed to be more credible agents to investigate these matters. We found concerned multinational companies usually take corrective actions based on our audit outcomes particularly when a crisis leads the companies to appoint us.¹⁰²

This has been reflected into a comment of an internal auditor of a multinational company:

We need to listen to what consumers want from us. They don't want us to use child labour or to follow poor working practices. We need to make sure there are no such incidents in the factory. We, the internal auditors, are quite capable of doing this. But when something goes wrong such as fire accidents—the way media highlights as if we are directly responsible for this; such as child labour—the way media suddenly shows it - it really gets beyond our control. When something goes wrong, you can imagine third party auditing is imminent. You can expect our headquarters in USA to directly assign an accounting firm or NGO to investigate the incidents and to make public the existence of the third party involvement.¹⁰³

It seems that the social audit practice of multinational buyers is about addressing legitimacy threats and protecting brand image rather than being motivated by any underlying ethical reasoning. Their social audit practice is considered to represent a risk reduction strategy (rather than primarily as means of improving employee conditions), and the nature of the work appeared to be influenced by whether the media was involved in highlighting particular issues. They consider this audit not for the effective development of social accountability system into their supplying companies' internal regulation, but as a tool for sorting out strategic suppliers so that they can (a) reduce transaction cost, (b) increase profitability, (c) reduce costs as a result of a reduced need to switch suppliers, and to (d) increase competitiveness in the marketplace through increased relationship with the consumers.

The social audit practice in Tazreen could be related with the obligation of Wal-Mart—an American multinational retail corporation—for raising social accountability of its suppliers in a weak economy. Wal-Mart runs chains of large discount department stores and warehouse stores. The company is the world's third largest public corporation, according to the Fortune Global 500 list in 2012, the biggest private employer in the world with over two million employees, and is the largest retailer in the world. It 'serves customers and members more than 200 million times per week' at more than 8,424 retail units under 53 different banners in 15 countries. The company operates under the Wal-Mart name in the United States, including the 50 states and Puerto Rico. It operates in Mexico as Walmax in the United Kingdom as Asda, in Japan as Seiyu, and in India as Best Price. It has wholly owned operations in Argentina, Brazil, and Canada. It is also the largest grocery retailer in the United States. One of its main retail products is ready made garments. While the USA is the largest single importer of Bangladeshi RMG, Wal-Mart accounts 30 % of this import.

¹⁰² Ibid.

¹⁰³ Ibid.

Wal-Mart maintains a set of standards for its supplying companies. It requires all its suppliers and their manufacturing facilities, including all subcontracting and packaging facilities strictly follow these standards. It has prepared a manual for Standards for Suppliers which details all the requirements a supplier of this multinational company needs to fulfil. Of particular important amongst the standards mentioned in this manual are the standards related with labour welfare, safety in work place, and environmental impact of production.¹⁰⁴ It requires every supplier to sign an agreement that they, their contractors and subcontractors will abide by these standards. It uses social audit to verify suppliers' compliance with the standards in those facilities producing merchandise for Wal-Mart.

Social audit is a central pillar of its ethical sourcing program. For this audit it depends either on its own auditors or on its affiliated audit firms. Auditors engaged by it conduct a five tier audit practice: first, arrange an opening meeting with the supplying company management; second, arrange a factory tour; third, meet the workers selected on a random basis; four, check documentation, and finally, sit with the supplying company management and sign of the onsite report. In all these tiers, auditors, as it claims, rigorously check all the social issues related with workers' welfare and work place safety arrangements of a supplying company.¹⁰⁵ Its auditors also reports on suppliers' ability to adherence to its standards through social audits.

Wal-Mart's commitment for developing its supplying companies' accountability to social issues, however, becomes questionable after the Tazreen tragedy. Labour activists, civil society groups, researchers and media groups highlight many loopholes into its commitment and asked for rejecting multinational companies use of 'social audit' as a means of getting legitimacy to the consumers in the western markets.

Wal-Mart's lack of commitment for developing workplace conditions in its supplying companies can be traced back to a meeting amongst the leading buyers and suppliers of RMG products from Bangladesh in April 2011. In that meeting the suppliers suggested the buyers to pay an extra cost so that they can develop security measures and infrastructure in their factories to minimise accidents. While most of the representatives of buying companies in that meeting were confused in response to this suggestion, Wal-Mart's director of ethical sourcing, Sridevi Kalavakolanu, most strongly advocated against this suggestion in the meeting followed by dozens of deaths in RMG factory fires. It is hard for a buying company to claim its commitment for developing its supplying companies' accountability in social issues while it is unwilling to pay for ensuring that its suppliers are operating safely.

Wal-Mart did not want to relate with any recovery activities related with the Tazreen disaster. At the outset of the disaster, Wal-Mart declared that it does not have any contractual relationship with Tazreen and hence it does not have any responsibility. On Nov 26, 2012 it passed a statement mentioning that 'the Tazreen

¹⁰⁴ Wal-Mart, 'Standards for Suppliers' <http://corporate.Wal-Mart.com/global-responsibility/ethical-sourcing/standards-for-suppliers> 14 February 2013.

¹⁰⁵ Ibid.

factory was no longer authorized to produce merchandise for Wal-Mart. A supplier subcontracted work to this factory without authorization and in direct violation of our policies. Today, we have terminated the relationship with that supplier. The fact that this occurred is extremely troubling to us, and we will continue to work across the apparel industry to improve fire safety education and training in Bangladesh'.¹⁰⁶ This statement shows Wal-Mart's dual position in the question of accountability development in supplying companies via social audit practices. In its website while describing its functions for this development, it includes subcontracting companies. It mentions that 'undisclosed subcontracting is defined as factories in our supply chain that produce merchandise or component items for Wal-Mart in a facility that is improperly disclosed and/or unknown to Wal-Mart....To more effectively monitor undisclosed subcontracting, we have taken steps to enhance our Standards for Suppliers, audit reporting and training processes.'¹⁰⁷ Moreover it was revealed that at least three supplier companies were using the Tazreen factory during the past year to provide apparel for Wal-Mart and its subsidiary Sam's Club. Greenhouse uploaded an internal production report shows that from mid-September five of the factory's 14 production lines were devoted to making apparel for Wal-Mart. Another document attached to a Bloomberg article also shows that at least five Wal-Mart suppliers used the Tazreen factory. In reply to the arguments based on these documents, Wal-Mart shifted its position from denying of any connection with Tazreen, and said that 'it could not confirm that it had ever sourced apparel from the Tazreen factory'. Again, in reply to a document that was found in the website of Tazreen's parent company Tuba Group, which shows that a Wal-Mart audit had uncovered 'higher-risk violations' in Tazreen on May 2011, Wal-Mart gave a vague reply saying that it could not confirm the authenticity of this document.

There are strong indication that that there were multiple Wal-Mart suppliers using the Tazreen as recently as April of 2012, and at least one when the fire broke out. Even it is evident that Wal-Mart conducted an audit of Tazreen's accountability in social issues. It was marked as a risky factory in this report. But even though it continued its relationship with Tazreen till the tragic incident happened. All these highlight its ineffective commitment to its supplying companies' accountability to social issues. Scott Nova described this in a short but nice way. He mentions Wal-Mart's concern for social audit in this way: '(1) We know these factories are

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

unsafe. (2) We know it will cost substantial sums to make them safe. (3) We are not going to pay for this. (4) We are going to keep using the factories anyway.'¹⁰⁸

The standard Wal-Mart set for its supplying companies' social audit and the process it maintains while conducting this audit shows its commitment to the development of social accountability in supplying companies. These impetus this multinational company set behind the social audit practice in supplying companies should have a sustainable impact on the accountability practice in the social audit culture in the RMG supplying companies in Bangladesh since a large number of these companies are either directly or indirectly producing apparel products for Wal-Mart. However, the Tazreen incident explicates a different picture. It brings the philosophy, if there is any, behind the social audit practice of the company and their effectiveness at the fore front; it urge to evaluate the commitment of multinational companies sourcing products from developing countries. Also, it highlights the drawbacks in the supplying company's commitment and practice of social audit in RMG industry of Bangladesh. The following section discusses the social audit practice in the RMG producing companies in general and in Tazreen Fashions Ltd in particular.

To the RMG companies in this country social audit is an important issue. However, it is not very important in the sense that they should develop their social accountability performance for the benefit of the society within which they operates; they are interested in social audit mainly to remain within the global supply chain as suppliers of multinational companies. This has been evident in the replies to the questions Deegan and Islam asked to the RMG supplying companies in Bangladesh. Interviewees explained that a central reason for conducting social audits is that they are a buyers' requirement and that social audits would not be undertaken in the absence of a demand from multinational buying companies. From the local manufacturers' and suppliers' perspectives, social audits are effectively mandatory given that social audits typically come with every order placed. This was seen to represent a departure from the requirements of 10–15 years ago when the main issues of concern were cost and product quality. A comment Deegan and Islam got in their survey would be a worth mention here. A senior executive of a supply company stated:

Yes the social audit is the buyers' requirement. They employ either their own employees or third part parties to inspect our factories. This is a pre-condition of finalising and executing any order with the buyers. We have to sell our products and that's why we must follow certain codes of social conduct as required by the buyers.¹⁰⁹

¹⁰⁸ Scott Nova, the executive director of the Workers Rights Consortium. Nova said this in his email to the Nation. For details, see Josh Eidelson, 'Documents Undermine Wal-Mart Account on Deadly Bangladesh Fire' The Nation on 6 December 2012. This article is available at <http://www.thenation.com/blog/171628/documents-undermine-Wal-Mart-account-deadly-bangladesh-fire> 14 February 2013.

¹⁰⁹ See Deegan and Islam above n 102.

What appeared to surface in the interviews Deegan and Islam conducted in Bangladesh RMG industry was that social audits would simply not exist if buyers did not require them, but they were a necessary requirement of attracting business. They asked general questions to all chief officials of seven RMG companies regarding their perceptions of social audits and the tensions the activities create. All interviewees replied that they are subject to pressure during the audit as audit outputs might lead to the cancellation of orders. For instance one chief official mentioned: 'this provides huge mental tension for us. We are always in fear of losing our contract'.¹¹⁰

Reflecting on the perceptions from the local suppliers it was interesting that none of the suppliers primarily considered the benefits that social audits might create for employees. Rather, they saw social audits as a potentially costly exercise that could only create benefits (of a financial nature) if the outcome of the audit was positive. Such results are generally consistent with the perspectives provided by executives of BGMEA in that they noted that the organisation undertook particular actions (in that case, the disclosure of social performance information) because of the expectations of multinational buyers, rather than because of any underlying ethical reasoning pertaining to accountability. In explaining how the audits led to improved employee conditions, one representative response (in the field survey conducted by Deegan and Islam) is as follows.

There are a number of reasons why there is a positive change in working conditions. First the position of a social auditor within the company is permanent and their sole responsibility is to implement MNCs commitment to viable and globally acceptable working conditions. Second, for whatever reason, the activities of MNCs and suppliers are continuously monitored by global NGOs and the media. Third but not least, because of these, workers are aware about their human rights and responsibilities; they are now not only productive but also to some extent skilful in raising their voice if anything goes wrong. The continuous monitoring by internal and external parties gives workers a sense that if MNCs try to do business with suppliers in Bangladesh then both parties have to follow social standards. Is this not a good change?¹¹¹

Indeed, the current audit processes employed within the RMG supplying companies for developing their accountability in social issues fall short of an effective social audit culture. There is a trend of practicing social audit in these companies following the prescriptions given by their buyers. But the underlying objective of this practice is not to develop social accountability practice in the internal audit systems. They are trying to follow this audit requirement as long as they have chance to do business with multinational companies. Here the driver of this practice culture is the multinational companies that are sourcing RMG products from this industry. If these multinational companies as buyers are not committed to the development of social accountability of their supplying companies, if they are only keen to maximise their profits, the social audit culture in this industry will not truly contribute to the labour welfare, safe workplace and healthy environment. In

¹¹⁰ Ibid.

¹¹¹ For details, see Deegan and Islam above n 102.

these circumstances, accountability via social audit is not developing sustainably within accountability culture of Bangladeshi RMG companies. For instance, an investigation revealed that most of the RMG factories near the capital city of Bangladesh are not using their effluent plants regularly; they have set up these plants since it is a requirement for obtaining orders from the renowned buyers/brands. They only use these plants when the buyers and governmental agencies are supposed to inspect them. This investigation into the environmental pollution caused by the export-oriented RMG manufacturing companies covered a region containing three villages; Kumkumari, Khagan and Basaet, located beside the Turag river approximately 35 km away from Dhaka. These three villages alone have 30 export-oriented manufacturing factories of which almost all have effluent plants.¹¹² Sometimes these companies face inspection teams and pay fines for not using their effluent plants regularly. Despite this, pollution in these villages is mounting and thousands of tonnes of toxic liquid wash through the agricultural fields and enter the Turag every day, with the result that currently, the water in the Turag contains only 0.4–0.5 mg/litre of oxygen and is losing its usual flow, and the villagers are being exposed to a risky environment.

Tazreen tragedy has brought the objective of social audit and the commitment for this edit from the buyers and suppliers of RMG product to the forefront. While the objective of a social audit should be a whole process by which an organisation can determine its impacts on society and measures and reports to the wider community.¹¹³ However, a possible loop whole in this audit practice is that the management of a company can control the whole process by strategically collecting and disseminating only the information it deems appropriate to advance the corporate image, rather than being truly transparent and accountable to the society it serves.¹¹⁴ That is, there is a risk that social audits can be confined to operating largely as a management tool rather than as a mechanism for promoting accountability.¹¹⁵ Once again, this tragic incident has showed that social audit practice in this industry is not effectively raising social accountability in this industry. While social audits provide a potential instrument for the buying and supplying companies to claim its legitimacy to their constituents, this practice in RMG industry is more a tool for the brands and buyers to gain business.

The current practice of social audit needs a reform as it is not effectively contributing to the rise of accountability and a meta-regulation approach in social audit practice could be a viable way to add values to the accountability in social audit. For developing an effective audit system, all the stakeholders of this industry

¹¹² Satadol Sarker, 'ETP Plants Are Inactive, Villages and Rivers are Facing Acute Industrial Pollution', *The Prothom Alo* (Dhaka), 20 April 2011.

¹¹³ Owen D L, Swift T A, Humphrey C and Bowerman M, 'The New Social Audits: Accountability, Management Capture or the Agenda of social Champions? (2000) 9:1 *The European Accounting Review* 81–98.

¹¹⁴ Ibid.

¹¹⁵ Owen D, 'Assurance Practice in Sustainability Reporting' in Unerman J, O'Dwyer and Bebington J (ed) *Sustainability Accounting and Accountability* (2007).

should work together for raising awareness regarding the social responsibility among the manufacturers. This is necessary for retaining their competitive status in the international markets, particularly in the US and EU. This sort of consolidated efforts should not be in only those industries or enterprises who are engaged in direct business contract with the buyers. A study in 2005 reveals that the buyers are only working with some larger manufacturers numbering 500–600 in this industry. A huge number of subcontract level factories are lagging behind due to their lack of business contracts with the buyers. Moreover, to be particular, the buyers and government should bind BGMEA and BKMEA improve labour and human rights standards in all kinds of RMG factories. In addition, the buyers should be careful of sub-contracting and agent companies with the technical support to maintain a minimum standard of compliance.¹¹⁶

5.4.5 The Role of Intergovernmental and Development Agencies in Promoting Social Compliance/Labour and Environment-Related CSR Issue in the RMG Sector

Apart from business associations, the public sector and international buyers, like other developing and least developed countries the intergovernmental organisations and development agencies in Bangladesh are also active in promoting CSR practice in the RMG sector in Bangladesh. The intergovernmental organisations and development agencies mainly work as facilitators through providing technical and logistic support, donation and advocacy programmes and sometimes as partners. A number of organisations are involved in financial assistance for the RMG sector to improve social and to some extent environmental compliance. Assistance for the improvement of environmental compliance is not yet seen much in their assistance programmes. The organisations and agencies which are actively engaged in such activities are the German Agency for Cooperation (GTZ), the International Labour Organisation (ILO), the South Asia Enterprise Development Facility (SEDF), the United Nations Development Organisations (UNIDO), and the United Nations Children Fund.

¹¹⁶ The buyers should be more careful for the standard of the audit of their supplying companies' social compliance. These days they tend to depend on private organizations to do this audit for hem but in most cases they do not follow up the process and quality of the reports they got from external auditing agencies. For an instance, according to a report released by the AFL-CIO, Responsibility Outsourced, just before a fire at the Ali Enterprises factory in Pakistan killed 262 workers in 2012, clothing manufacturers hired an auditing firm, Social Accountability International, to certify it was safe. SAI then subcontracted inspection to an Italian firm, RINA, which subcontracted it yet again to a local firm RI&CA. Ali Enterprises was certified that August. "Nearly 300 workers died in a fire two weeks after," the report charges. For a link of this report see David Bacon, Bangladesh Disaster: Who Pays the Real Price of Your Shirt? *The Progressive* on 26 April 2013. For details visit <http://www.progressive.org>.

The ILO at different stages has provided support to the RMG sector for establishing the concept of decent work and improving working conditions. It launched its first move through a partnership programme as said before for the elimination of child labour from the RMG sector by signing two MoUs with BGMEA in 1995 and 2001. It also conducted a partnership project on Work Place Improvement from 2002 to 2005. At present the ILO is providing necessary support to the Ministry of Commerce and Ministry of Labour and Employment in organising seminars and workshops on social compliance issues.¹¹⁷

Under PROGRESS programme¹¹⁸ the GTZ plays the roles of partner and facilitator for the development of social compliance in the RMG sector. The programme emphasises skill development, product innovation, productivity enhancement, information services, and compliance with social and environmental standards in the RMG sector. This is in fact a jointly ventured project between the Bangladesh Ministry of Commerce and the German Federal Ministry of Economic Cooperation and Development (BMG), implemented by GTZ and other partners. The other partners are the Ministry of Commerce, the Ministry of Labour and Employment, the Ministry of Industry, BGMEA and BKMEA, buyers and producers, workers' unions, and NGOs. GTZ has also been in national MFA Forum, and Bangladeshi Government Social Compliance Forum.

BKMEA has been working closely with PROGRESS for several years. PROGRESS helps facilitate BKMEA and strengthens its information services, enabling the association to provide the rapid, high quality information and services that its members need. Another partnership project by GTZ and BGMEA titled the 'Competitive Enhancement Project' has come into operation recently. The object of the project is to provide the participant factories all kinds of technical and logistic support for the betterment of social compliance and productivity of every individual factory.

SEDF is playing a partnership and facilitating role for the promotion of socially responsible business in Bangladesh. As part of its effort to enhance this practice in the key export-oriented sectors of Bangladesh, SEDF has signed a MoU with BKMEA on jointly launching a social compliance project. This project mainly includes an extensive management level training,¹¹⁹ factory-based workers'

¹¹⁷ Ministry of Commerce, Government of Bangladesh/Delegation of European Commission, *Compliance with Environmental Regulations in the Textile industry* (2008) <http://www.ecorys.com> 25 October 2008.

¹¹⁸ PROGRESS is a project of the Bangladesh Ministry of Commerce and the German Federal Ministry for Economic Cooperation through GTZ. It focuses its attention on improving the competitiveness of small and medium sized enterprises (SMEs), in an attempt to create alternative employment opportunities for those who might be displaced from the garment industries.

¹¹⁹ This training covers compliance issues in the context of the history of the sector, buyers' requirements, working conditions, occupational health and security, industrial relations, workers' welfare, labour productivity, and so on.

training,¹²⁰ and factory audits. In April 2006 a MoU was signed jointly by BKMEA, BGMEA, the ILO and SEDF to implement a 5 year programme to address child labour, mid-management development and the productivity management issues in the garments and knitwear sectors.¹²¹ The last MoU was signed between BGMEA and SEDF on 17 June 2008 to monitor the occupational safety and health status of the workers in the member factories of BGMEA.¹²²

The UNDP programme was mainly financing the Compliance Monitoring Cell (CMC) of the Export Promotion Bureau (EPB). Thus it was supporting the activities of the Compliance Forum, along with the Department of Labour, BGMEA and BKMEA. This programme is now discontinued. In collaboration with government of Bangladesh, UNICEF is monitoring the abolition of child labour in RMG factories, and also enrolling former child labourers into school.

Among the said organisations SEDF and GTZ are actively engaged in the promotion of CSR in the RMG sector as facilitators and partners. The significant feature of their activities is their provision of technical and logistic support to assist businesses for compliance with social and environmental standards. The drafting of a code of conduct for the RMG, and the publication of compliance guidelines for the knitwear manufacturers are a remarkable evidence of their contribution. It is admitted that the collaborative programme of BGMEA and ILO for the elimination of child labour from garment industries creates a replicable model in this respect among developing countries.

5.5 The Progress and Current Status of Social Compliance in RMG Sector

In determining the progress of social compliance or labour and environment related CSR a two-level evaluation is important, as the current notion of CSR requires not only the implementation of the principles or norms, it also includes its integration into the companies' policy and implementation mechanisms. Therefore, we first see how far the present web of compliance issue contributes to the development of mechanism in the company or industry level to implement social compliance/CSR. Then we proceed to evaluate the status of practices.

¹²⁰ It is designed to focus on labour laws, occupational health and safety issues, personal and reproductive health, and workers' rights and responsibilities.

¹²¹ BKMEA, above n 80.

¹²² For information, under this programme 1380 factories have already been audited by the monitors of social compliance of BGMEA.

5.5.1 The Development of Enforcement Mechanism

The requirements of ‘social compliance’ have been able to bring about certain changes in the development of enforcement mechanisms in the RMG sector. The main changes are an increase in the tendency to develop a code of conduct at the factory level; the development of a uniform code of conduct for the industries at Dhaka EPZ, the development of internal auditing, and an increase of CSR/ social compliance management.

5.5.1.1 Adoption and Development of Code of Conduct

The adoption of code of conduct for CSR/labour and environmental policies is a growing trend in the RMG sector. The code of conduct at the corporate level provides a guideline for a company’s own enforcement mechanisms. Most of the RMG companies have labour and workplace policies in the written form under different guises, such as Employee Handbook or Worker’s Guide Book. These guide books appears to have focused on issues such as commitment to the prohibition of child labour and forced labour, equal opportunities in the appointment and post-appointment situations, prohibition of harassment and abuse, health and safety, wages and benefit, respectful working condition, freedom of association, and respect for environmental rules and regulations.¹²³ The companies in their policy statements in relation to labour and employment issues affirm their commitments to the compliance with the Labour Code 2006.

5.5.1.2 Development of a Code of Conduct at the Dhaka EPZ

The Dhaka EPZ authority has developed a code of conduct consisting of 16 activities on the basis of standards followed by internationally renowned retailers such as Nike, H&M, Gap, Adidas, Reebok and so on. The activities include providing a service contract, minimum wages, additional benefits, hours of work/overtime, forced labour, service record, leave and holiday, disciplinary measures, safety and security, working environment, the environment, non-discrimination, grievance procedures, freedom of associations and other conditions.

¹²³ See Workers Guidebook of Interstoff Apparels Limited, Employment Handbook of DBL Group, *Chakuri Bidhi O’ Diknirdeshona* of Gomti Group of Industries, the Code of Conduct of M&J Group and Nexus Sweater Industries Private Limited.

5.5.1.3 Development of Internal Auditing

The perception about the need for internal auditing on social compliance related issues is growing among the management of the private sector particularly in the RMG industry as a consequence of pressure from international buyer groups and owners' associations.¹²⁴ The social compliance monitoring programmes of both BGMEA and BKMEA have created a positive impact on the member units in regard to internal auditing on social compliance issues. The practice of internal auditing is more or less increasing. It has been observed that the companies' internal auditing includes the social compliance requirements which have mainly come from brand buyer groups.¹²⁵ Therefore, the emphasises is on employment issues, general safety and security, health and hygiene, labour welfare, industrial relations and social dialogue, and the management system in relation to resource, quality and productivity.

5.5.1.4 CSR Management/Social Compliance Management

For the strategic application of CSR, corporations should build up a separate CSR management body in their administration. CSR management generally deals with CSR policing, enforcement and execution. As per the common practice of corporate governance, every company has a human resource management section that generally deals with employee and staff training and other skill development programmes for the employees, resource management and employment issues. The trend of establishing separate management for CSR is still absent in Bangladesh. CSR issues in relation to corporate philanthropy and other community development programmes are in many cases governed by the persons of director level in corporate houses. The human resource management or special type of management at the factory level deals with the labour rights and employment related issues. As a result of the external pressure for social compliance a trend of establishing separate compliance management body has developed. According to a report about 70 % of the factories have now set up social compliance committee or cell headed by a manager.¹²⁶

¹²⁴ Ataur Rahman Belal and David Owen, 'The Views of Corporate Managers on the Current State of and Future Prospects for, Social Reporting in Bangladesh: An engagement based Study' (2007) 20:3 *Accounting, Auditing and Accountability Journal* 472,488.

¹²⁵ The information is based on the examination of the auditing checklist of about 30 garment companies, for example Interstoff Apparels Limited, DBL Group, *Chakuri Bidhi O' Diknirdeshona* of Gomti Group of Industries, M&J Group and Nexus Sweater Industries Private Limited, Altex Industry Limited, Standard Group, Step Three Apparels Ltd., Columbia Garments, East West Group, Shamoli Garment Limited etc.

¹²⁶ See ILO, above n 92, 77.

5.5.2 *The Review of the Status of Practice in the RMG Sector*

It is difficult to place an in-depth over all situational analysis that would cover a large percentage of RMG companies without a massive empirical study on their performance. In addition, the total number of garment companies is 4,524, among which 1,505 are closed temporarily or permanently. So accuracy in evaluating the status of practice is rather difficult. As far as social compliance is concerned, there are conflicting figures and information provided by different sources. For example, according to BGMEA in respect of the payment of wages and some other employment conditions, most of the factories are found to be compliant.¹²⁷ But the study on workers' associations in this respect provides a different and unmatched picture. According to some buying houses' opinion, 60–70 % of the 4,500 clothing manufacturers are moving towards social compliance and are compliant in different stages.¹²⁸ According to Bangladesh Export Processing Zone Management (BEPZA) all exporting RMG companies are compliant.¹²⁹ According to BKMEA, at least 80 % of their members are to some extent compliant.¹³⁰ And according to the Office of the Chief Inspector of Factories (under Ministry of Labour and Employment) about 50 % companies are compliant, about 36 % are semi-compliant (one violation, 90 % compliance) 14 % are low level compliant.¹³¹

Apart from the above mentioned brief and consolidated statistics, in the course of assessing the level of practice of social compliance the focus will be on some basic components of employment conditions and labour right as well as environmental management. These include following heads on issuance of appointment letters and ID cards, minimum wages and over time benefits, weekly holidays, other leaves and maternity leave and benefits, working hours and overtime, abolition of child labour, freedom of association and collective bargaining, equal treatment in the employment, abolition of forced and bonded labour, protection physical health of the workers, occupational health and safety, and environmental management in the end.

5.5.2.1 **Issuance of Appointment Letter and ID Cards**

The ten point tripartite MoU signed on June 12, 2006 as mentioned earlier incorporated the demand of issuance of appointment letters and ID cards for the workers in the garment sector as a guarantee of security of their job. This demand was subsequently reaffirmed and recognised by the provisions of the *Labour Code*

¹²⁷ See BGMEA Summery Report on Compliance (2008), (manually collected).

¹²⁸ ECORYSS, above n 98.

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ Ibid.

2006.¹³² According to the compliance report of BGMEA,¹³³ 78 % of the total factories do issue appointment letters to the workers, and 79 % give ID cards to their workers.¹³⁴ In respect of appointment letters and ID cards the trade union leaders' view as per BILS' (Bangladesh Institute of Labour Studies) report¹³⁵ is that 60 % of the factories do not issue appointment letters and 30 % factories do, but for their files only, these are never handed to workers.¹³⁶ Factories show these letters of appointment when they face pressure from buyers. 50 % RMG factories have given ID cards so far to their workers.¹³⁷

5.5.2.2 Minimum Wages and Overtime Benefits

The newly set up National Wage Board declared an agreed new wage structure with refixed RMG workers' monthly minimum wage at Tk. 1,662 in October 2006. This amount applies to all workers at entry level. The law provides for the review of the wage structure every 5 years.¹³⁸ The garment industry leaders (BILS report) claim that 60 % of the factories have not yet introduced the newly declared minimum wage (TK 1,662 is equivalent to US \$24.32) and only the big factories have introduced the new wage structure.¹³⁹ As a result 40 % of the workers are enjoying the present salary status. This is supported by another survey published in a daily newspaper on 18 December 2007 which shows that most of the garment factories have not implemented the new wage structure for their workers.¹⁴⁰ Contrary to this, BGMEA's report in 2007 shows that 98.86 % companies is compliant with new minimum wage.¹⁴¹ It is notable that BGMEA has recently decided to stop all sorts of services to the factories which are not giving minimum wages.

¹³² See *Bangladesh Labour Act*, 2006, Bangladesh, section 5;

The section says, 'No employer shall employ any worker without giving such workers a letter of appointment and every such employed worker shall be provided with an identity card with photograph.'

¹³³ The BGMEA's report is based on its Compliance Monitoring Cell's quarterly investigation into the compliance situations. BGMEA's quarterly survey covers mostly employment conditions such as minimum wages, issuance of identity cards and appointment letters, provisions of all kinds of leave like weekly, casual, sickness and maternity, festivity and benefits of maternity leaves, overtime payments, fire safety arrangements, and formation of participatory committee.

¹³⁴ BGMEA's Summery Report, above n 591.

¹³⁵ BILS report is based on the survey among the trade union leaders and workers in the RMG enterprises.

¹³⁶ ILO, above n 92.

¹³⁷ Ibid 75.

¹³⁸ *The Bangladesh Labour Act*, 2006 (Bangladesh) section 122.

¹³⁹ ILO, above n 92, 75.

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

In respect of overtime benefit, the BGMEA reports show 81 % companies follow the newly adopted *Labour Act* 2006.¹⁴² According to trade union leaders less than 25 % factories follow the law, 45 % of factories provide the same amount of basic wages as over time benefit and more than 30 % of factories gives a lump sum amount.¹⁴³

5.5.2.3 Weekly Holidays, Other Leaves and Holidays, Maternity Leave and Benefits

The Labour Act 2006 follows the international standards in respect of determining weekly holidays and other leaves and holidays with benefits. The Act provides for 1 day as a weekly holiday in the case of factories and one and a half days, in the case of industrial establishments.¹⁴⁴ It provides for casual leave for 10 days in a calendar year, annual leave for 1 day of every 18 days, sick leave for a total period of 14 days, 11 days for festival holidays, and the maternity leave for 8 weeks immediate after the delivery.¹⁴⁵ All these types of leave are recognised with full wages during the period of leave.¹⁴⁶

In the implementation of all types of leaves such as weekly, maternity, casual, and sick leave there is huge difference between BGMEA reports and the BILS survey report except in festival leave and leisure. According to BGMEA report 96 % factories grant weekly holidays, 92 % casual leave, 94 % sick leave, 65 % annual, 98 % maternity leave.¹⁴⁷ BILS report from workers perspective shows that 20 % of the factories allow sick leave for their workers, 10 % of the factories provide casual leave and earned leave, 80 % of the factories allow maternity leave either with pay or without pay, and 15–20 % factories have introduced weekly holiday.¹⁴⁸ According to workers view, 100 % workers enjoy the festival leave and leisure,¹⁴⁹ even in some factories the workers are provided with food during the lunch.¹⁵⁰

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ See *The Bangladesh Labour Act 2006*, section 103.

¹⁴⁵ Ibid, sections 115, 116, 118 and 45.

¹⁴⁶ Ibid, section 119; In this section it is said that ‘for leave of holidays allowed to a worker under the provisions of this Code, he shall be paid at the rate equal to the daily average of his full time earnings including dearness allowances and interim or adhoc wages’.

¹⁴⁷ BGMEA, above n 34.

¹⁴⁸ ILO, above n 92, 76.

¹⁴⁹ Ibid 76.

¹⁵⁰ Jenefar Jabbar, ‘Ready Made Garment Sector in Bangladesh: A Study from the Employers’ Perspective’ in ILO (Dhaka) *RMG Industry, Post MFA Regime and Decent Work: The Bangladesh Perspective* (2005) 55, 63.

5.5.2.4 Working Hours and Overtime

The new Labour Act 2006 fixes 2 h a day for working like the previous *Factory Act 1965*.¹⁵¹ It recognises 2 h as overtime working beyond the fixed hours. Although there is no direct provision for overtime, the Code allows working beyond the fixed time only for 2 h with extra allowance.¹⁵² The buyers' CoCs in respect of working hours and over time generally require the compliance with the local laws. BGMEA's annual report does not have any category for the maintenance of fixed working hours in the industries. In this respect, the workers' view is that none of the garment factory workers can work 8 h a day. 50 % of the workers have to work for at least 12 h a day, 40 % of the workers work 12–15 h.¹⁵³ According to survey findings of NUK, 90 % of the EPZ factories and 30 % of factories working in contract with the buyers maintain working hours as per law.¹⁵⁴ The factories working with agents of buyers and subcontracting factories do not maintain them properly.

It is argued that in the garment factories maintenance of the stipulated schedule for the delivery of products often compels the workers to work for more than 8 h. This situation affects mainly workers in the production sections, not in other departments such as sewing or packing.¹⁵⁵

5.5.2.5 Abolition of Child Labour

It is reported that the garment sector in Bangladesh is fully free from child labour.¹⁵⁶ The remarkable change as to the abolition of child labour is credited to the collaborative initiatives of BGMEA, the ILO and UNICEF and subsequently BGMEA's 'child labour free' certification initiative and above all buyers' pressure. Moreover the BKMEA-Save the Children joint project and regular surveillance by the buyers¹⁵⁷ and external and internal auditing have contributed to the present situation in the knitwear factories. However, it is contended that there are still some

¹⁵¹ *The Bangladesh Labour Act 2006*, section 100.

¹⁵² Ibid.

¹⁵³ ILO, above n 92.

¹⁵⁴ Masuda Khatun Shefali (Executive Director, NUK), 'Social Compliance in Textile and Garment Sector In Bangladesh' (speech delivered at the Ministry of Commerce Textile Cell, Dhaka, 25 July 2005).

¹⁵⁵ Minhajul Islam, 'Review of Compliance Situation in RMG Sector: Employers Perspective' in ILO (Dhaka) *Social Compliance & Decent Work: The Bangladesh Perspective* (2007) 50, 56.

¹⁵⁶ Shefali, above n 154; see also BGMEA, above n 34.

¹⁵⁷ According to a report of Save the Children (Sweden-Denmark), the child labour in the garment sector has been reduced to a minimal and negligible rate. See Save the Children (Sweden-Denmark), *Corporate Social Responsibility and Children's Right in South Asia* (2007) <http://www.crin.org/docs/csrmapping/final.pdf> May 30 2008.

problems with the factories of domestic products or in the subcontractors who are not in direct business with international buyers.¹⁵⁸

5.5.2.6 Freedom of Association and Collective Bargaining Agent

The trend of unionisation for collective bargaining still reportedly is at a nascent stage on the whole in consideration of the number of factories. The overall poor situation of trade unionism is one of the responsible factors for recurrent labour unrest in the garment factories. A study shows that the number of registered trade unions for the garment sector alone was 112 in 2000 and increased to 123 in 2004, and the number of federations increased from eight to ten.¹⁵⁹ After the new law came into force and on the basis of MoU in 2006 54 workers' associations have achieved registration so far.¹⁶⁰ On the other hand through the interventions of the ILO-BGMEA Partnership Project 285 Workers Welfare Committees (WWC) were signed out of which 87 have been successful and operational and 16 are partially successful.¹⁶¹ It may be noted that since 11 January 2007 the activities and formation of trade unions in the industrial sector is banned under the state of emergency imposed by the military backed care-taker government.

It is also noteworthy that the formation of trade unions was banned in the EPZ garment factories by the executive order of the governing body of the factories before the enactment of new law in 2004. *The Regulating Act of EPZ 1980* provides no obligation for employers to allow workers' association in the factory.¹⁶² The ban on trade unions in the EPZ was criticised by the ILO, international trade unions, particularly AFL-CIO, the apex body of trade unions in the US, and international buyers.¹⁶³ The present Act 2004 titled '*EPZ Workers Association and Industrial Relations Act*' has brought about changes in the EPZ factories as it recognises the formation of trade union after 1 November 2006.

It may be concluded that the trend of unionisation is quite slow in the RMG sector in consideration of the number of the enterprises. The state of the formation of participatory committees which are treated by the employers as alternatives to unions as introduced by the national labour law is not satisfactory. As per the

¹⁵⁸ CBC News, 'Wal-Mart to cut ties with Bangladesh Factories using child labour', *French-Language Service*, 9:01, 30 November 2005.

¹⁵⁹ Jabbar, above n 150, 63.

¹⁶⁰ Abul Kashem, 'In garment sector 54 registered workers association and 49 NGOs are active' *Manob Jamin*, Bangladesh (28 September 2008) <http://www.manabzamin.net/lead-04.htm> 28 September 2008.

¹⁶¹ Jabbar, above n 150, 63.

¹⁶² There is no direct exemption provision, but it provides that the government may exempt an EPZ from as many as 16 laws, including the Industrial Relations Ordinance 1969.

¹⁶³ One example is that in 1993, AFL-CIO filed a petition to United State Trade Union Representative (USTR) for prohibiting trade union activities inside the EPZs in Bangladesh and it demanded the suspension of General System of Preferences (GSP).

BGMEA report, 8 % companies have participatory committees.¹⁶⁴ The basic reason for the slow progress of unionisation is reluctance from workers and employers. The majority of the workforce considers unionism as a political tool of a group of leaders affiliated with different national politics who look more into their partisan interests than in workers' problems. On the other hand owners do not want trade unionism in the factories for the fear of the spread of national political activities in their industry. It is noted that most of the trade union leaders in the RMG sector are affiliated with different political parties and they are not elected from the garment workers.¹⁶⁵

5.5.2.7 Equal Treatment in the Employment

Equal and non-discriminating treatment in employment is one of the core labour rights recognised by the ILO Conventions 110, 111 and 183 that was subsequently incorporated in the ILO Tripartite Declaration for Multinational Corporations. According to the Conventions a company shall not engage in or support discrimination in hiring, remuneration, access to training, promotion, discipline, termination of employment, retirement or any other terms of employment based on race, colour, sex, religion, political opinion or affiliation, national extraction or social origin, caste, marital status, sexual orientation, pregnancy, disability or age and so on. *The Bangladesh Labour Act* 2006 appears to be respectful of international standards of non-discrimination in setting forth the respective principles of law but the does not cover discrimination based on origin/ethics, religion or political opinion.

Equal and non-discriminatory treatment is a burning question in the RMG sector as the majority workforce is female (the rising share for women in the labour force is sometimes referred to as the "feminisation of labour"). Equality and non-discrimination issues concern aspects such as equal remuneration, equal treatment in the workplace, equality in individual and dignified treatment and other womanly issues like pregnancy and maternity leave considerations, injury compensation and retrenchment. As regards the implementation of the current minimum wage declared by the National Minimum Wage Board and another six grades although the opinions of the employers and employee leaders vary, there is virtually no complaint available as to discrimination between male and female workers. However before this development, the complaint was frequent that female workers were underpaid.¹⁶⁶ In addition, there are plenty of complaints from the workers

¹⁶⁴ BGMEA, above n 34.

¹⁶⁵ 'The Trade Union Leaders in the RMG Sector are Outsiders', *Dainik Amar Desh* (Dhaka, Bangladesh) 22 October 2008, last page http://amardeshbd.com/detail_news_index.php?NewsID=178384&NewsType=bi... 22 October 2008.

¹⁶⁶ Chawdhury Repon and Sayeed Ahmed, 'Social and Economic Costs of Post-MFA Phase Out: Workers' Perspective' in ILO (Dhaka), *RMG Industry, Post MFA Regime and Decent Work: The Bangladesh Perspective* (2005) 100, 108.

about discrimination on the assignment of job responsibilities in as much as men are preferred in higher skilled and higher paid jobs.¹⁶⁷ According to survey findings by NUK, the discrimination rate in factories located in EPZ is 20 %, in the factories working with buyers 50 %, in the factories working with buyers' agents 70 % and in sub-contracting factories also 70 %.¹⁶⁸

5.5.2.8 Abolition of Forced and Bonded Labour

Forced labour, meaning any work or service exacted under the threat of penalty or for which the person concerned has not offered himself or herself voluntarily including prison and bonded labour, is prohibited.¹⁶⁹ This also includes workers who are required to lodge deposits with their employer and workers whose movement is restricted in an employer controlled residence. In the garment factories, there is reportedly no forced, bonded or slave labour. As regards forced, bonded and slave labour, almost all companies' labour policies express their commitment not to indulge in these prohibited practice.¹⁷⁰ A study conducted by the Fair Wear Foundation supports the claim that there is no forced, bonded or slave labour in Bangladesh.¹⁷¹ However it is argued that there are some kinds of malpractice in the garment sector which can be called bonded labour, such as delay in the payment of wages and overtime.¹⁷² NUK survey findings show that the EPZ factories are free from forced labour, but not other garment factories in general.¹⁷³

5.5.2.9 Protection of Physical Health of the Workers

As far as the protection of physical health of the workers is concerned, at present almost all the garment factories have their in-house medical arrangements, such as, a doctor with some medical assistants for regular prescription and consultation, and also arrangements for the provision of first aid and limited medication. It is already mentioned that for larger scale treatment, the workers of RMG factories are entitled to enjoy the free service and other related benefits from ten BGMEA-established

¹⁶⁷ Ibid.

¹⁶⁸ Shefali, above n 154.

¹⁶⁹ See ILO Conventions 29 and 105; Relevant ILO Recommendations 135.

¹⁷⁰ The information has been based on the review of the labour policies of garment factories a few of which are Interstoff Apparels Ltd, Birds Garments and Birds Apparels Ltd., Epyllion Group, Nexus Ind. (PVT.) Ltd, and M&G Group.

¹⁷¹ Fair Wear Foundation, Background Study Bangladesh (2006) <http://www.fairwearfoundation.org> 24 July 2008.

¹⁷² Ibid.

¹⁷³ Shefali, above n 154.

medical centres.¹⁷⁴ As part of their welfare commitments, since 2002 the garment factories have introduced free medical treatment; some manufacturers have even extended medical facilities to the families of workers.¹⁷⁵

5.5.2.10 Occupational Health and Safety

Occupational health and safety is a major issue in the garment industries in Bangladesh. The RMG factories are showing utmost concern for the workplace safety measures as provided by the new labour law.¹⁷⁶ For instance, a crash programme on safety, health and labour issues is underway jointly by BGMEA-SEDF.¹⁷⁷ It is an undeniable fact that a huge number of garment factories, particularly in the urban areas, mostly in rented or leased houses did not consider the occupational safety issues at the event of establishment and therefore lack the required space and facilities for ensuring occupational safety. The recent plan of establishing individual industrial park undertaken by BGMEA is a praiseworthy step to resolve this issue effectively.

Among the safety measures those in relation to fire escape, fire prevention, and building structures are of special concern for RMG employers following some recent incidents reflecting badly on the garments sector as a whole and its vulnerable workplace situations.¹⁷⁸ The programme under the Department of Safety of BGMEA since 2001 and the requirement of submission of a building plan prior to construction to obtain BGMEA membership should have impact on the improvement of the situation.¹⁷⁹ However, the Savar tragedy has raised this issue at the foreground and heavily criticised RMG industry owners' for the lack of effective initiatives for this industry's workers wellbeing and safety. The section below discusses this tragic incident with the aim of assessing CSR in this industry.

¹⁷⁴ BGMEA, above n 34.

¹⁷⁵ BGMEA and BKMEA above n 498.

¹⁷⁶ Sections 51–60 of the Labour Code 2006 describe the provisions relating to occupational safety including rooms, floor, windows, cleanness, building and house, breadth and length of stairs and doors, sufficient light and air flow, ventilation of fume, latrines and urinals and so on.

¹⁷⁷ The report of crash programme is awaiting publication.

¹⁷⁸ In the last 2 decades, at least 13 major incidents occurred in the garment factories which claimed the lives of more than 1,300 workers. Among them, two major incidents in the recent past, the fire accident in KTS garment in Chittagong, and the collapse of the nine storied Spectrum Garment Building caused a widespread shock and showed a state of vulnerable situation in the workplace.

New Steps, *Workers' rights and working conditions in the export-oriented garment sector in Bangladesh: A review* (2006) http://www.newsteps.info/workers_rights.php 26 May 2007.

¹⁷⁹ BGMEA, above n 34.

5.5.2.11 Savar Tragedy: Workers Lives on Mercy?

The RMG industry in Bangladesh experienced the most devastating fire incident in its history on November 24, 2012, which occurred at Tazreen Fashions at Ashulia, an industrial hub near the capital city Dhaka. The intensity and publicity, at home and abroad, of that disastrous incident has beaten records of all such previous incidents in the industry. The tragic occurrence at Tazreen Fashions raised serious questions about the ‘credibility’ of the 100 % export-oriented garment sector, which the industry had earned in the last 3 decades. Questions have arisen about the industry’s capability, capacity and sincerity concerning the compliance issue at the factories. The developed world, which comprises many of the buyers of this industry’s products, almost lost their confidence in the factory owners of this industry. Following the Tazreen tragedy, buyers, in many cases, conducted visits to the factories by themselves. Different governmental departments and the industry’s apex bodies considered the fire incident as a kind of a wake-up call. The fire occurred at a time, when Bangladesh was branding itself in a positive light and its RMG industry was being rated highly by international firms and financial organisations—more importantly by the world-renowned buyers.¹⁸⁰

Recently this industry has fallen again into another serious quagmire—the horrific collapse of Rana Plaza puts the RMG industry of Bangladesh in a sticky situation. Rana Plaza is an eight-story factory building collapsed like a house of cards on 24 April 2013 and killed more than 1,126 RMG workers. This has cast a spotlight on the poor conditions in which millions of Bangladeshi workers make clothes for consumers worldwide. This tragic incident could be better explained by Nazma Akther who was working on the fourth floor of this factory building and luckily survived from an obvious death. Her description of that day is as follows.

‘My name is Nazma Akhtar. I’m 23. When I was 19 I left my village and made my way to Dhaka to work in a garment factory. I came to Dhaka with my parents and two younger sisters. We had to leave because the river Dhaleshwari took most of our rice fields and my father could not grow enough rice to get us through the year.

I started work at the Ananta fashions garment factory in Savar about 15 miles north of Dhaka. My starting pay was 2,500 taka (£20). My father worked as a night guard at another factory. Together we rented a small, two-room house in Savar bazaar, down the road from the factory. I had to work more than 10 h a day, 6 days a week. Sometimes, we had to work on our days off, if there was an important shipment to be made. I was new and it took me a while to get to know how the circular knitting machines worked. The supervisors drove us hard. We were given targets for the day and if we hadn’t completed our quota, we would not be allowed to rise from our benches.

¹⁸⁰ Mohammad Hasan, ‘Hartal, lead time and compliance: The RMG industry in a tight spot’ in the Financial Express, Published: Wednesday, 15 May 2013.

There was a line supervisor named Samad who used to abuse me when I made a mistake. He threatened to dock pay if I missed a stitch. Once I had diarrhoea and had to go to the toilet several times. He threatened to slap me. In December 2012, I joined the Phantom Tac garment factory on the fourth floor of the Ana Plaza building in Savar. There my wages improved. I was good at my job, and nimble with my fingers and feet. I worked long hours, but enjoyed the company of all the other girls who worked at the factory. We were like sisters.

I always liked the look and smell of finished clothes. I didn't know which companies we were producing for, but I knew the clothes I sewed would be sold in fancy shops in Europe and America.

On 23 April, we were working as usual when the factory manager asked us to come out. He said an engineer would inspect the building and we were being sent home. We didn't know at the time that a crack had developed in the wall of the building. But when I went to work the next morning, everyone was talking about it.

I went to our floor supervisor and asked him for a day off, but he refused and started yelling at me. We had to keep working, he told me. If we missed our deadline, the buyer would cancel the order and we would have to go hungry, he said. Then, Sohel Rana, the owner of the building turned up. Rana's men shouted that all the workers should go inside and start working. Otherwise, we would be beaten with sticks, they said. We went inside and sat down at our benches. The whole floor was silent. We were filled with a strange fear.

I sewed about five T-shirts, then the power went out. I heard the generators start up with a roar and suddenly the whole building started to shake. Plaster fell from the ceiling. People started screaming. We ran for the exit. But before I could reach the stairs, the floor collapsed under me. I fell and fell. I lost consciousness.

When I came to, I was in hospital. I heard that fire service rescue workers had pulled me out after 8 h. My right leg is broken. Many of my friends and co-workers are dead.¹⁸¹

The building, Rana Plaza, contained a bank, shops and five garment factories¹⁸² that, as news reports stressed, produced apparel for large Western brands like Benetton, Children's Place and Primark. Sadly, without the Western-brands angle, the collapse might not have even made news in the Western world. But now, because of this connection, the disaster has become fodder for the perennial debate over globalization. In a recent letter to the Prime Minister of Bangladesh, a collaboration of six leading US and Canadian apparel and retail trade associations sought cooperation to implement the Safer Factories Initiative (SAI) in Bangladesh. The North American Bangladesh Workers Safety Working Group in the letter said:

¹⁸¹ Nazma Akhtar was interviewed by Syed Zain Al-Mahmood. For details of this interview, see Lucy Siegle, 'Ethical shopping: how the high street fashion stores rate' in the Guardian on 17 May 2013.

¹⁸² These five garments factories were: Ether Tex, New Wave Bottoms, the New Wave Style, Fantom Apparels, Fantom Tex.

“we understand that joint effort and cooperation of all parties—the Bangladesh government, factory owners, workers, buyers in North America and Europe, members of civil society, and organised labour are essential to identify viable solutions and implement a successful and sustainable plan of corrective action.”¹⁸³

But Western sourcing practices are not the main factor here. While Many North American and European human-rights groups and labor activists claim that the Western companies who send their production overseas should be held responsible for this disaster,¹⁸⁴ in Bangladesh thousands of garment workers also took to the streets and were met by police spraying rubber bullets and teargas. These Bangladeshi protesters were not directing their outrage at the Western brands or cost-conscious consumers, but at their own failed network of governance and RMG owners’ attitudes towards workers wellbeing.

The apparel industry may be global, but the blame for this disaster should be primarily local, focused on the bribes, corruption and ineptitude that allowed the Rana complex to be illegally built and occupied in the first place.¹⁸⁵ The building’s owner was a crooked mobster. The building permit was granted by an office that wasn’t authorized to issue such permits. The construction was subpar, and the factory bosses knowingly sent workers back into the building, assuring them that it was safe. The collapse and resulting deaths were caused by these local failures. These can also be related with the attitudes of the RMG owners as a whole in regards to the benefits, safety and wellbeing of their workers; their greed for profits could be another underlying factor that makes them reckless to the workers’ rights. At Rana Plaza, factory owners refused to evacuate the building after huge cracks appeared in the walls, even after safety engineers told them not to let workers inside. Workers told IndustriALL union federation representatives they’d be docked 3 days pay for each day of an absence, and so went inside despite their worries. As a result, the death toll over 1126.¹⁸⁶

¹⁸³ The group comprises the American Apparel & Footwear Association (AAFA), the Canadian Apparel Federation (CAF), the National Retail Federation (NRF), the Retail Industry Leaders Association (RILA), Retail Council of Canada (RCC) and the United States Association of Importers of Textile and Apparel (USA-ITA). The group’s observations came against the back-drop of the losses of lives in tragic incidents at Rana Plaza, Tazreen Fashions, Tung Hai and other apparel manufacturing facilities in Bangladesh in the recent past. For details see Siddique Islam, ‘US, Canada retailers seek PM’s help in factory safety’ in the Financial Express on 19 May 2013.

¹⁸⁴ For an instance, Western activists protested outside the Gap headquarters in San Francisco last week (Gap’s spokesperson says the company did not have ties to the collapsed factories).

¹⁸⁵ Transparency International provides an idea regarding the overall corruption in this country. According to this organisation, Bangladesh’s Corruption Perceptions Index score is 26 on a scale of 0 to 100—a failing grade by any measure. ‘Corruption translates into human suffering’, writes Transparency International, a truth that is tragically evident as the death toll continues to rise in Dhaka.

¹⁸⁶ David Bacon, Bangladesh Disaster: Who Pays the Real Price of Your Shirt? *The Progressive* on 26 April 2013. For details visit <http://www.progressive.org>. It would be worth mentioning a comment of Scott Nova, executive director of the Worker Rights Consortium, a monitoring group in Washington. He mentioned while discussing disaster, ‘this disaster demonstrates that

Lack of any insurance for the workers in this industry is another instance that would show how the RMG owners of this country are treating their workers. It has been reported that the garments factories in this country do not buy any sorts of group insurances for their workers, although they regularly buy suitable insurances for the machineries in their factories. There were more than 3,400 workers in the five factories in Rana Plaza and only 100 amongst these workers were covered by insurances. According to section 99 of the Bangladesh Labour Act 2006, a factory owner is liable for buying insurances for its workers if the factory has more than 200 workers. BGMEA also prepared a guideline following this legal provision. But neither the factory owners nor BGMEA is interested to this requirement. As there is no penal provision against the violation of section 99 in the Act, government agencies also do nothing about this.¹⁸⁷

From the government perspective, other than its failure to present a corruption less administration, it has not yet been able to declare a time worthy labour legislation for this industry. After this tragic incident happened, in a bid to enhance the image of the country's garment sector, factory owners and the government sought to join the Better Work programme but did not get a go due to a lack of a proper legislation to deal with labour issues in this country. The ILO and the World Bank are firm about not letting this country join a global textile industry monitoring programme run by them until the country implements the proposed amendments to its labour law. They have identified the existing labour legislation as 'weak' and the conditions for unions and workers as 'treacherous'. One out of many instances to show the weakness of the Bangladesh Labour Act 2006—the guiding legislation for labour administration in this country— is the absence of OHS issues in this Act. This Act does not cover the basic OSH international standards. Comparing this Act with the same in Nepal would easily show this weakness in it. The Nepal Labour Act covers OSH issues in almost comprehensive way and the relevant provisions are more specific conforming to the international concept of OSH. Bangladesh Act does not even use the term 'OSH' and thus the original concept is absent there. Like Thailand, for an instance, Bangladesh needs to have a separate law as a vulnerable location in terms of the status of OSH. Thailand has separate OSH law titled 'The Safety, Health and Work Place Act 2011.

Recently, the cabinet approved a draft last week to an amended labour law, which, among others, is said to give greater freedom to the formation of trade unions. The draft is slated to go before parliament in June 2013. It stipulates at least 30 % representation of workers of a factory for the formation of a trade union and

nothing has changed—in particular in terms of the psychology of the industry'. For details of his comments, see Amy Kazmin, Barney Jopson, James Politi Louise Lucas, 'Bangladesh Factory Disaster Highlights Regulatory Failures' in *the Financial Times* on 25 April 2013.

¹⁸⁷ For a detailed report on the insurance of RMG workers, see Fakrul Islam, 'Machines are covered by insurance but not the lives' *the Prothom Alo* on 5 May 2013.

workers only within the factory are eligible for the position of union leaders. Trade unions are currently not allowed at RMG factories.¹⁸⁸

Therefore the anger on the streets of Dhaka is different from the anger on the streets of San Francisco. RMG owners of this country frequently blame the global buyers as they think that the buyers are not providing them a proper price of their products and hence they are not getting ways to ensure their workers safety and wellbeing. This could be a point deserves to be heard. But if we closely listen to the RMG workers of this country, we would hear the anger of those trapped not by global capitalism, but by the very institutions that are supposed to protect them and their families. The mundane protections the West takes for granted—building codes, inspections, zoning, fire protection and occupancy rules—sound almost too boring to make a fuss about. But these workers deserve better, not just from Western brands and the government, but also from their factory owners.

5.5.2.12 Environmental Management

Environmental management is a vital component of CSR that includes the policies and practices in relation to the use of environmental management tools, energy use, and responsibility for products, resource consumption, recycling, reduction and disposal of wastage.¹⁸⁹

The issues surrounding environmental management in the RMG sector mainly concern establishing an environmental management system (EMS) in the factories; the existence of an environmental emergency plan (EEP), storage of hazardous and combustible materials in secure and ventilated areas, and disposal of them in a legal manner. In Bangladesh *the Conservation Act 1995* lays down principles in relation to these requirements.¹⁹⁰ Likewise, *the Labour Act 2006* underscores the effective arrangements in every establishment for the disposal of waste and effluents due to the manufacturing process carried out therein.¹⁹¹ Compliance with these legal provisions give some basis for companies' environment related CSR practice as well. The companies are under obligation to report on the consumption of energy in their annual mandatory report.

¹⁸⁸ Staff Reporter, 'Fix law, get benefits: ILO, WB block Bangladesh from joining Better Work programme' in *the Financial Express* on 19 May 2013.

¹⁸⁹ The ICC Business Charter for Sustainable Development has developed 16 principles which are also reconfirmed by the 'triple bottom' line reporting system. The major principles relate to establishing environmental management as one of the highest corporate priorities; integrating a management system, using environmentally sound products and operational designs, minimising waste, and reducing the life cycle impacts of products. See *ICC Business Charter for Sustainable Development* (1991) http://www.bsdglobal.com/tools/principles_icc.asp 20 November 2008.

¹⁹⁰ For example, the *Conservation Act 1995* contains provisions for construction of an Effluent Treatment Plant (ETP) in the existing units; provisions for issuance of licence to new units only with ETP, and provisions for compulsorily maintenance of environmental health and safety.

¹⁹¹ *The Bangladesh Labour Act 2006*, Bangladesh, Section 54.

RMG is not a major polluting sector unlike the other three: textile, palf and paper, and leather. Therefore RMG factories normally do not require ETP unless they have a dyeing and washing plant. There are many RMG composite mills that require an ETP for dyeing plants. Composite mills consist of textile along with garment manufacturing. These mills create dust, noise, solid waste, and require washing water for cloths to make the cloths free from toxic chemicals such as AZO which is a common standard in exporting RMG production. Therefore environmental management is a concern for the garment composite mills and thus under an obligation by the *Environmental Conservation Act 1995* to establish ETP as part of environmental management.

The RMG industries are reportedly regular in receiving an environmental clearance certificate from DoE and the environmental cell of BGMEA also conducts supervision in this respect.¹⁹² Under the continuous pressure from BGMEA for improving environmental pollution control at their workplace and neighbouring areas, the member units are adopting policies and measures for this end.¹⁹³ To improve the situation the environmental cell of BGMEA works in partnership with Department of Environment. According to a survey conducted by NUK, 80 % factories of the EPZs, 50 % of the factories working with buyers, 30 % of the factories working with buyers' agents and 20 % of subcontracting factories comply with environmental management standards.¹⁹⁴ Another study finds that most of the apparel and composite mills that are in direct contract with buyers are aware of the environmental problems.¹⁹⁵

In addition, in partnership with SEDF, BGMEA is conducting a crash programme on environmental management. Under the crash programme, the monitored issues include the existence of an environmental policy, wastage recycling, environmental certificates, and establishing an ETP in case of a washing and dyeing plant.

One of the big threats to the environment is that companies often install their plants in agricultural areas creating problems to the agricultural environment. In addition, there are reportedly huge number of garment industries which are located in the residential area of the capital city Dhaka as well as in commercial city Chittagong creating the environmental pollution to neighbours. Considering this situation, the government has recently undertaken for establishing a separate garment village (garment *pallii*).¹⁹⁶

¹⁹² ILO, *Study on the Knit Garment Sub-Sector of Bangladesh* (December 2005) http://www.ilo.org/dyn/declarations/DECLARATIONWEB.DOWNLOAD_BLOB?var=Document70=3446. It is for information that under the *Conservation Act*, 1995, the clearance certificate has to be renewed annually.

¹⁹³ Ibid.

¹⁹⁴ Shefali, above n 154.

¹⁹⁵ ECORYS, above n 98.

¹⁹⁶ Repon and Ahmed, above n 166, 125.

This initiative would help the industries ensure better environmental management.

The process of ISO 14001 certification conducted by different multinational companies like Intertek and Bureau Veritas is encouraging the enterprises to develop environmental application of CSR. As a result, many companies are organising internal auditing and training programmes for the workers on different aspects of environmental management including precautionary measures against the negative impact of pollution.¹⁹⁷

From the above discussion we find conflicting information about employment issues. In terms of employment issues or working terms and conditions the information drawn up by the BILS reports based on survey among the workers and trade union leaders varies a lot from BGMEA reports, although both are almost contemporary as BGMEA's survey is done in 2007 and BILS' survey is done in 2006. The BGMEA's reports are more recent and based on their frequent inspection and monitoring at factory levels. One distinguishing feature of inspection is that they only conduct the survey in the factories which are their permanent members. According to their reports although the number of garment factories in Bangladesh is more than 4,000, but the number of operative factories always remain below three 3,000 and some are not its permanent members. BGMEA's report shows that most of the operative garment factories are complaint with working conditions and workplace safety issues as per law and international standards.

The report of BGMEA proves a satisfactory level of performance in certain issues of employment. On the other hand, the BILS survey findings from the workers' perspective show an unsatisfactory picture of performance. Given the information available it is difficult to assess the real situation. But it can, at best, be assumed that the compliance level is increasing day by day.

The findings of NUK reveal that the industries in EPZ and the industries in direct contract with the buyers are better in performance than subcontracting factories. The reason may be assumed that EPZ companies are better in terms of a corporate environment and other required facilities and the direct contracting companies always face repeated audits and inspections by the buyers while subcontracting companies are less monitored by the buyers. This is supported by another study that categorises companies into three: large A grade exporting RMG companies; smaller export-oriented subcontracting B grade companies; and smaller and non-exporting C grade RMG companies. According to the study most of the large A grade companies are socially compliant at different levels.¹⁹⁸ Many subcontracted companies do not have sufficient capital to become fully compliant. In additions,

¹⁹⁷ For instance, the companies such as Interstoff, Columbia Garments Limited, MBM Garments Ltd. Citadel Apparels, Esquire Fashion Ltd. Altex Industry Limited, Shangu Tex Limited, East West Group, Shamoli Garments Ltd, Pandora Fashion Ltd, Milinium Fashion Ltd, Chaity Group, M&M group, Shahnin Group. Ananta Apparels Ltd and so on.

¹⁹⁸ ECORYS, above n 98.

the buyers are not focusing enough on subcontracting companies.¹⁹⁹ Most of the smaller and non-exporting companies are non-compliant due to the little pressure from buyers and less monitoring from BGMEA/BKMEA.²⁰⁰

After the tragic incidents happened in Tazreen and Rana Plaza, RMG industry of this country is now a recurrent theme in local and international media. These incidents have raised questions into the ethical and operational norms of the owners of the RMG factories while they are dealing with the interests of their workers. What the Tazreen fire prompted little over 5 months back seems to be pulling things down the rock bottom after the Rana calamity.

Given what the BGMEA and BKMEA are capable of in the light of the past experiences, one may tend to be sceptical. But this is not going to help from now on. They have to come up with programs specifically related to their accountability for their workers as they are under immense pressure due to strong reactions from various overseas rights groups and prominent labour organisations. Besides there are threats from the European Union (EU) of scrapping the all-important GSP (generalised system of preferences) - an incentive of duty-free access that for the most part allowed Bangladesh's RMG sector to not only emerge as a formidable manufacturing base but also to thrive in exports at an almost unbridled pace. For instance, reacting immediately after the Rana Plaza collapse, a spokesperson of the EU told Reuters news agency, 'this is about firing a shot across the bows of Bangladesh to get them to engage on the issue.' The EU officials hope the threat of action should make the RMG factory owners and the government change their strategic posture and gear up enforcement to keep hold of the market for this industry. The EU imported roughly euro 9.2 billion worth of goods from this industry in 2012, according to data from the EU's executive body, the European Commission.

This industry is not only under threat due to its failure to take care of its workers, but also in a gradual material loss. A Swiss-based body, for instance, IndustriAll Global Union, representing 50 million workers worldwide, has served a May 15 deadline for the Western retailers for a commitment for fire and building safety plan for this industry. It said funds should be made available for inspection training and up-gradation of facilities in the county and called on the retailers to pay the suppliers more. Fair Trade USA, a non-profit organisation that works to make sure workers overseas are paid fair wages and work in safe conditions, has appealed to shoppers who care about where their clothing is made.

Amidst these stringent reactions, the owners of this industry must take a course of action on the basis of a road map and time frame. It is not the EU threat alone that it has to encounter. The outcome of the USTR (United States Trade Representative) hearing that now looms more heavily than before, will also be of critical importance for them to consider, in order to steer their course of action in a befitting way.

¹⁹⁹ Ibid.

²⁰⁰ Ibid.

5.6 Restraints Involving Social Compliance in the RMG Industries

There are many difficulties and constraints in the performance of labour related CSR in the form of social compliance. The constraints lie with both the business and other factors. Some difficulties are identified from employers' perspective below:

Firstly, while fulfilling a contract for supply, businesses sometimes struggle to deliver the goods within their deadline.²⁰¹ Under this pressing situation the prescribed working hours and overtime management become difficult to follow.

Secondly, as the compliance issue is related mostly to the buying contract, the absence of such a contract leaves scope for avoidance.²⁰² It means a factory may maintain the compliance standards only until the execution of orders.

Thirdly, some aspects of social compliance seem to be irrelevant to the incumbent workers in the garment factories who are mostly female, illiterate and hail from rural areas of Bangladesh.²⁰³ For example, in regard to sanitation issue the female workers appear to be negligent in complying with the required provisions when they do not use toilet paper. But in rural culture people are generally used to cleaning with the water in the toilet.

Fourthly, the workers in general are not conscious about the compliance with social norms except in the area of payment of their wages and a few welfare issues. They are less concerned about child labour, equality in employment, and unionisations. As they are mostly poor, they want more overtime beyond the prescribed hours. They do not know about social and environmental norms and laws. So instead of being important stakeholders, workers' participation both in industry and trade union level is too poor to implement labour and environment related CSR issues. One reason may be that relationships between workers and owners in Bangladesh have not reached the stage where the workers share the owners' concerns about the fulfilment of externally imposed requirements.

Fifthly, all RMG industries are not equal in the physical fitness and resources necessary to maintain conformity with international social standards. The large factories are more fit to cope with the buyers' demands and confident of withstanding the challenges in terms of resources and internal management and preparation. On the other hand, small and medium scale firms often operating as subcontractors find it expensive to comply with buyers' codes and their physical fitness in many cases is insufficient to tackle their demands. Therefore, the compliance result is in favour of larger factories. In this respect, it is noted that the factories built in the 1980s in Bangladesh were unguided and therefore remain unable to meet most of the requirements of modern factories.

²⁰¹ ILO, above n 92.

²⁰² Ibid.

²⁰³ Ibid.

The factories built in the 1990s and in the EPZ are capable of meeting the requirements.

Apart from the above constraints a study has identified some other vital points of difficulties with compliance. The majority of them are:

- absence of a unified code of conduct;
- insufficient coordination among stakeholders;
- ineffective monitoring because of different baselines and non-comparable monitoring tools;
- resource constraints in the factories, particularly in SMEs;
- weak, ineffective and compromising law enforcement in many cases;
- lack of partnership and inadequate logistic and staff support from the government; and
- increased pressure by the buyers to reduce prices despite the increase of production cost.

Apart from the above mentioned challenges, there is another basic challenge that inherently relates to the perception of social compliance. Social compliance is applicable in supply chain and therefore affects more the enterprises which are in direct contract with the buyers. In addition, it is intended for gaining merely financial goals and therefore creates more compliance mentality than values, commitment and responsibility in the enterprises. As a result, through the application of social compliance, social responsibilities of the companies particularly in relation to labour and environmental aspects does not evolve equally. In view of this, the stakeholders such as business associations, government and development partners should undertake initiatives to promote CSR beyond social compliance.

5.7 The Exercise of Social Development Activities and Corporate Philanthropy in the RMG Enterprises

The social development activities include different community development programmes such as education (eg., the establishment of academic institutions, scholarship programmes, providing academic resources, and supporting technical education), health and sanitation of the community people, (establishing hospitals, medical centres, holding eye camps, arranging arsenic free water supply), poverty alleviation, other human rights development programmes, philanthropic contributions (charitable donations to religious institutions, relief and rehabilitation logistics for flood victims, financial supports for famine stricken people), sponsoring sports and cultural programmes, observing national days and so on. The practice of these development activities at the individual level of companies still seems to be largely in the form of traditional philanthropy not exactly CSR as it is defined

presently²⁰⁴ except for a few big corporate houses which have policies, management and annual budgets for these purposes.²⁰⁵ A study based on social responsibility disclosures over the last 15 years reveals that clothing companies' engagement in donation and community support programmes, health projects, poverty alleviation, education and others is gradually increasing.²⁰⁶ From 1995 to 2005 the disclosure-based statistics show that a total of 1,767 companies participated in the above said social development programmes.²⁰⁷ The companies participate in many social work programmes in response to national and international NGOs.

5.8 Conclusion

It is clear from the above discussion that adherence to social compliance or labour and environment related CSR is a crucial issue for the RMG sector in retaining its competitiveness in the global apparel market as well as fulfilling the expectations of workers and others in the community. Therefore, the practice of labour and environmental issues is achieving currency regularly in the RMG enterprises, and multiplayer activism consisting of business associations such as BGMEA and BKMEA, the government, development agencies, and buyers has developed.

This multiplayer activism, through the adoption of different awareness-building and enforcement mechanisms such as training on relevant social and labour standards, monitoring, reviewing, partnering, and facilitating activities, has brought about changes in the development of enforcement mechanisms and progress in relevant practices at the industry level. The enforcement mechanisms which have grown in the enterprises include the adoption of a code of conduct for workers, internal auditing, the introduction of CSR/compliance management, and stakeholder dialogues. The changes in practices mainly concern the payment of minimum wages, maintenance of stipulated working hours, overtime benefits, granting of all kinds of leaves and associated benefits, and other fundamental labour rights such as the abolition of child labour, right to freedom of association, abolition of forced labour, the right to equality, and occupational safety and security. As the multiplayer activism in the RMG sector is a recent origin and there is a lack of

²⁰⁴ The modern concept of CSR is a shift from traditional philanthropy as CSR is an integral part of companies' policies and practices undertaken for long time sustainable benefit of companies as well as societies which is absent in absolute philanthropic activities.

²⁰⁵ Maliha Shahjahan and Ryhan Sharif (eds), *Missing Links: Corporate Social Responsibility and Basic Education in Bangladesh* (2006).

²⁰⁶ Muhammad Azizul Islam and Professor Craig Deegan, 'Managerial Perception of Social Reporting: An Analysis of Bangladeshi Clothing Industry' (paper presented at European Accounting Association Conference, Portugal, April 2007) <http://www.rmit.edu.au/...?....35K> 26 July 2008.

²⁰⁷ Ibid.

coordination among the players and therefore determining its rate of success is difficult. Nevertheless, the rise of awareness among the enterprises as to the development of compliance mechanism at individual industry and corporate factory level can be assumed so far to be the key point of success of the activities and support from multiplayers- associations and government as internally driving force.

The study shows that there are conflicting opinions in regard to the changes in working conditions and other core labour rights in the RMG sector. But it is true that there is a change, although it is not occurring equally across the enterprises. The changes are mostly confined to enterprises located in the EPZ areas, large scale companies, and the companies that are in direct contract with international counterparts. The practice in small and medium scale companies is not satisfactory. However, one thing is agreed that the elimination of child labour from all the garment factories is a replicable model for others.

The reasons for differences among the enterprises and the unsatisfactory picture of the practices include, inter alia, lack of awareness among employees and local stakeholders about companies' labour and environment responsibilities, lack of coordination among the multi-players, absence of public sector initiatives for the development of labour, environment and other development issues as social responsibilities of companies (beyond mere compliance with buyers' requirements), and the perception of labour and environmental issues as a means of gaining market accessibility, rather than a tool of interaction between business and society. In addition, the absence of proper implementation of labour and environmental laws, the absence of a unified corporate code, and above all the absence of a national strategy for CSR is also responsible for the uneven situation.

Finally it can be concluded that labour, environment and other CSR practices as a whole in the RMG sector are better than in other sectors; more organised with the participation of multi-players, but also more market strategic.

Chapter 6

Current Trends in CSR Practices in Private Enterprises in: Comparative Experiences of Bangladesh and Vietnam

6.1 Introduction

In this chapter, as regards the promotion and practice of CSR in a comparable Asian country, Vietnam is examined with a view to comparing the status of its engagement in CSR with that of Bangladesh. The end in view is to identify the comparable rank/posture of Bangladesh and any lesson to be learnt from the Vietnam experience in promoting and integrating CSR in the private enterprises of Bangladesh. Vietnam was selected for comparison with Bangladesh as both are developing countries¹ and of similar character in business and economy.

Firstly, both countries possess a private sector-led, liberal and market-oriented economy. As far as the historical background of privatisation is concerned, the move for privatisation in the economy of Bangladesh began after it assumed a short-lived nationalisation character in the early 1970s. Policy developments and reforms for privatisation began to occur in Bangladesh from 1975.² Afterwards, the dominance of the private sector was established in 1990s.³ This dominance is credited with the adoption of several policies and laws such as the *Foreign Private Investment Act 1980*, *New Industrial Policy 1982*, *Revised Industrial Policy 1986*, and *Industrial Policy 1991*.⁴ In Bangladesh currently 77 % of the investment in the

¹ For information see the World Bank, 2008 List of Developing Countries http://www.aoac.org/meetings1/122nd_annual_mtg/list_developing_countries.pdf 13 November 2008.

² MU Ahmed, *Privatization in Bangladesh* (1999) International Labour Office <http://www.ilo.mirror.cornell.edu/public/English/region/asro/Bangkok/paper/privatize/chap/pdf> 6 June 2008.

³ Ibid.

⁴ Ibid; See also Shahzad Uddin 'Privatization in Bangladesh: The Emergence of Family Capitalism' (2005) 36: 1 *Development and Change* 157, 159.

national economy comes from the private sector which contributes significantly to the GDP (23 %) growth of Bangladesh.⁵

On the other hand, the new economic trend in Vietnam is focused on broadening the scope of private sector development and increasing the inflows of foreign direct investment (FDI). The economic reforms (*Doi Moi*) included the recognition of the private sector in the 1992 Constitution. In order to increase Vietnam's private sector and make the country attractive and fit for foreign investment, two new laws were enacted in 2005.⁶ This reform has impacted on the increase of FDI inflow and increase in the number of registered SMEs. As a result the private enterprises are supplying 56.3 % of the economy's employment, and holding a large share of the 1.2 million new entrants to the labour market annually, making such enterprises increasingly vital to the economy.⁷

Secondly, in these two countries the apparel sector is the dominant manufacturing entity for its major contribution to export growth and economic empowerment. It has already been said the garment products of Bangladesh accounts for about 76 % of its total export earnings and at the same time, it is the most labour intensive manufacturing sector.⁸ In Vietnam there are three main exporters; crude oil, textiles and garments, and leather and footwear.⁹ A study in 1998 shows that garment industry in Vietnam generates about 20 % of total merchandise exports and 41 % of manufactured exports.¹⁰ It employs half a million of workers (80 % of which are female), or about 22.7 % of the countries manufacturing workforce.¹¹ Export increased from US\$ 850 m to US\$ 2,750 m

⁵ ILO, 'Social Compliance and Decent Work: The Bangladesh Perspective' (Papers and Proceedings of the Tripartite Meeting on Social Compliance in the RMG Sector, Bangladesh 2007).

⁶ The enacted laws were the Unified Enterprise Law and the Common Investment Law. The Unified Enterprise Law merges the Enterprise Law, the State-Owned Enterprise Law, and the Law on Cooperatives, providing a mechanism to protect the rights of citizens to establish and operate private businesses. It also establishes the right of investors to be protected from undue interference from government or other officials, if the business operates legally. The Common Investment Law aims at levelling the playing field between foreign and domestic, and private and state-owned enterprises.

⁷ See, Tamara bakafi, *Viet Nam: Lessons in Building Linkage for Competitive and Responsible Entrepreneurship* (2006) UNIDO and Kennedy School of Government, Harvard University <http://www.unido.org> 13 September 2008.

⁸ ILO, above n 5; see also Asian Tiger Capital Partners, *Bangladesh Growth, Investment, Opportunity*, (2008) <http://www.at-capital.com> 13 November 2008.

⁹ Ibid.

¹⁰ See Khalid Nadvi et al., *Challenges to Vietnamese Firms in the World Garment and Textile Value Chain, and the Implications for Alleviating Poverty* (this paper has been prepared as part of the project 'Globalisation, Production and Poverty', 2003) UK Department for International Development <http://www.gapresearch.org/production/globprov.html> 15 September 2008.

¹¹ Ibid.

between 1995 and 2002.¹² In addition, the Vietnam is one of the ten countries in Asia whose apparel products are in stiff competition after MFA phase out.¹³

In view of these similarities in economy the comparison between Bangladesh and Vietnam in terms of social responsible entrepreneurship may be plausible. The comparison is based on some basic lenses of CSR promotion and practice. They are as follows:

1. the main drivers of CSR;
2. the performance of labour and environment related CSR standards or compliance with relevant Codes of Conduct (COCs);
3. the role of business associations in promoting CSR at the enterprises level;
4. the government or public sector's role in strengthening CSR practices; and
5. the development of institutional and partnership activism.

6.2 The Main Driving Forces of CSR in Bangladesh and Vietnam

A study in Bangladesh identifies three major factors contributing to the adoption of CSR and bringing about a change in practice. One is the increasing scrutiny of local practices of subsidiaries of MNCs, as the continuing incidents of pollution and exploitation, and the increasing local appreciation and understanding of international standards of CSR, lead to a case for wider integration of CSR application.¹⁴ The second factor is the increased social awareness of western consumers about high profile issues such as child labour in the garment sector and quality control of shrimp products which prompts companies to concentrate on CSR practices.¹⁵ And the third factor is that in Bangladesh, as elsewhere in the world, privatisation and market liberalisation policies have emerged as imperatives for business to take up wider social responsibilities and would play a complementary role to the state.¹⁶ In addition, the huge number of NGOs holding companies accountable for their activities; continuing incidents relating to the wasteful use of scarce resources

¹² Nigel Twose and Tara Rao, *Strengthening Developing Country Governments 'Engagement with Corporate Social Responsibility: Conclusions and Recommendations from Technical Assistance in Vietnam* (Final Report 2004).

¹³ International Labour Organisation (Sectoral Activities Programme), *Promoting Fair Globalisation in Textiles and Clothing in a post-MFA Environment* (Report for discussion at the Tripartite Meeting on Promoting Fair Globalisation in Textiles and Clothing in a Post-MFA Environment, Geneva 2005) <http://www.ilo.org/wcmsp5/groups/public/...ed-dialogue/...sector/document> 18 September 2008.

¹⁴ Ritu Kumer, et al. 'Understanding and Encouraging Corporate Responsibility in South Asia Update 3 Bangladesh' (Working Paper No.3, Teri Europe, New Academy of Business Centre for Policy Dialogue, 2004) 5 <http://www.teriin.org/teri-eu/index.htm>, <http://www.new-academy.ac.uk>, <http://www.cpd-bangladesh.org> 15 September 2008.

¹⁵ Ibid.

¹⁶ Ibid.

and pollution caused by industries; local and global pressure; and support from business associations also act as driving forces for the promotion of CSR practices in the corporations of Bangladesh.

A recent empirical study on CSR, in describing the driving factors, categories the practices of CSR into two: CSR as a short-term business demand or traditional practice of philanthropy, and CSR as a business case. The study reveals that the dominant driving forces for traditional CSR practices are moral obligations, religious beliefs and practices, and social obligations. For CSR as a business case, the driving factors are professional practice, maintenance of national and international standard codes, and the influence of business counterparts.¹⁷

In Vietnam, the driving forces for the adoption of CSR are largely similar to those in Bangladesh. In determining the driving factors a study on Vietnam¹⁸ reveals that many groups are found who are interested in CSR and push its implementation from different perspectives. These include the external consumer's perspective, importing countries' perspective, and exporting countries' perspective. The consumers always demand from their investors in developing countries the assurance of good CSR performance behind the goods they buy. The importing countries (generally known the developed ones) consider different CSR conditions for the control of their imported products which have direct impact on their employment and compete with domestic manufacturers' products. The conditions are placed by consumers, trade unions, domestic enterprises, human rights and non-governmental organisations, certifying companies and governments. As such, exporting countries/producing countries (generally known as developing ones) always adhere to CSR by fulfilling the requirements of their international counterparts with the expectation of further contracts and expansion of their market. This CSR is prompted by business associations, export enterprises, trade unions, certifying and supervising organisations, and governments. In the context of Vietnam three main drivers are identified for CSR practices; response to the demands of buyers and customers, self-awareness of enterprises, and supports from other stakeholders.¹⁹ However, aside from CSR as a corporate practice, philanthropy has long been a practice in business in Vietnam.²⁰

¹⁷ Mahila Shajahan and Muhammad Ryhan Sharif (eds.), *Missing Links: Corporate Social Responsibility and Basic Education in Bangladesh* (2006) 47.

¹⁸ Ministry of Labour, Invalids and Social Affairs and Institute of Labour Science and Social Affairs, *Study on Corporate Social Responsibility: Labour-Related Practice* (final report, Hanoi February 2004) http://siteresources.worldbank.org/INTPSD/Resources/Vietnam/Vietnam_ILSSA.pdf 18 September 2008; See also Nguyen Huu Dzung, *Labour-Focused Corporate Social Responsibility: Case Study in Textile and Footwear Enterprises* (summarised draft report, 2003).

¹⁹ Ibid.

²⁰ Ibid.

6.3 The Performance of Labour and Environment-Related CSR Standards and Compliance with Codes of Conduct

In the implementation of labour and environment related CSR, the export-oriented private manufacturers in developing countries are mostly found to be compliant with the codes of conduct (CoCs) of the multinational buyer companies. The exporting companies are also seen to follow other multi-stakeholder certificating codes such as SA 8000, ISO 14000 and 14001, WRAP, FLA, ETI, and Fair Wear Foundation (FWF) to obtain certificates. In the case of compliance with the buyers' codes the respective buyers and their hired third party conduct all checking, monitoring and supervision at their own cost. Therefore, the buyers' codes are popularly accepted by the producing companies and they enjoy the advantage of not being required to obtain a certificate. Moreover, the CoCs are mostly conformable to national labour laws. As for buyers' CoCs the World Bank reports that there have been more than 1,000 worldwide while there have been more or less 10 multi-stakeholder codes.²¹

In Vietnam, recently, the associations and export enterprises have rapidly responded to the CoCs of buyers in the performance of labour and workplace related CSR. Currently the leading players in CoCs implementation are textile and footwear enterprises, particularly in exporting goods to the US and EU market.²² In Vietnam, there is a comprehensive labour code providing the foundation for CSR implementation which covers many social issues as developed by the intergovernmental instruments.²³ With the formulation of the Labour Code, guideline documents, and amending regulation in conformity with globalisation and integration processes, the Government has in fact set up basic conditions to enable enterprises to take initiative in fulfilling CoCs requirements.²⁴ Enterprises with good performance of Vietnamese law do not suffer any difficulty in following CoCs imposed by buyers. Most of the CoCs provide similar provisions relating to labour and environmental issues to the national laws, sometimes even providing more.²⁵ In respect of environmental protection the companies also go by CoCs and simultaneously the Vietnamese companies follow the new *Environment Protection Law of 2005* and the *Vietnam Agenda 21*.²⁶

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ The 2005 Environmental Protection Law is a comprehensive one that provides for the protection of the environment, measures and resources for the environmental protection, rights and obligations of the organisations and individuals for the protection and state management of environmental protection. The law applies to all organisations, individuals, households, local resident communities, and foreign organisations operating in Vietnam; see the National Assembly Office <http://www.vietnam.net> 13 November 2008.

In Bangladesh the same scenario appears in the export-oriented enterprises, more particularly in the dominant Ready Made Garment (RMG) sector, with some exceptions. The RMG enterprises follow the CoCs of buyer companies when they usually get into contract with their international counterpart retailers based in the US and EU. The contracting companies currently maintain their own labour and environmental policies in line with the buyers' requirements.²⁷ The companies also follow WRAP, SA 8000, and ISO 14000 certification principles.²⁸ There is a recent development that garment enterprises located in the Dhaka EPZ have introduced their own code of conduct in respect of labour rights and workers' welfare related to CSR practice.²⁹

It is noteworthy that there has long been a demand for a uniform code of conduct from the RMG companies due to complexities arising in compliance with different CoCs that vary in contents and procedures in many cases. It is indeed an issue when a company is engaged in contract with more than one buyer at the same time. To address this demand the apex organisation of the garment owners, BGMEA has already drafted a code of conduct, but it is yet to be in force as is awaiting final approval from the Ministry of Labour and Industry of Bangladesh. Meanwhile there is also strong proposal and pressure from MFA Forum on the RMG sector to follow the uniform Jo-in-Code which is practiced in Turkey.³⁰

However it is pertinent to say that the Labour Act adopted in 2006 in Bangladesh is a landmark attempt to incorporate almost all relevant principles of labour rights and work place conditions recognised by the ILO Declarations and Conventions (Chap. 4). The compliance with the provisions of this national law by all kinds of enterprises whether export oriented or not, may fulfil the requirements of the labour-focused CSR aspects. Similarly, compliance with *Environmental Conservation Act 1995* and *Environmental Conservation Rules 1997* may fulfil to an extent the environmental CSR issues.³¹

²⁷ Kumer et al. above n 14.

²⁸ Ibid.

²⁹ ILO, above n 5.

³⁰ Bekafi, above n 7, 16.

³¹ *The Environmental Conservation Act 1995* provides for an environmental clearance certificate for industry as a condition for launching operation. The Environment Conservation Rules state the purpose of the certificate and categorises the industries into three, in consideration of their site and environmental impact and prescribes procedures for control and mitigation of environmental pollution.

6.4 The Role of Business Associations in Promoting CSR at Enterprises Level

Business associations may play a vital role in promoting CSR practices in the enterprises. As they are generally formed with the owners of the enterprises, their awareness of the need for CSR and thus involvement in the adoption and implementation through different ways may result in the creation of uniform model and guidelines and enable all to participate in the process irrespective of their size and business extent. Moreover, as an apex body, their monitoring, supervision, partnership, and advocacy may act as a pressure as well as an encouragement for shaping the structure of CSR as a long term business agenda.

The Vietnamese apex business organisations such as the Vietnam Chamber of Commerce and Industry (VCCI), Vietnam Leather and Footwear Association and Vietnam Textile and Garment Association (VITAS) are showing their strong commitment to the promotion of CSR in the enterprises.³² VCCI, as a representative of employers is assigned by the government to provide a series of supporting services to businesses in the field of sustainable development through much emphasis on the application of CSR.³³ It plays an important role for raising awareness of CSR on a wider scale. In partnership with the German development organisation GTZ, it established a roundtable series to address CSR issues relevant to businesses in Vietnam.³⁴ The roundtable meetings aimed to raise awareness of CSR, encourage the adoption of CSR in Vietnamese businesses, strengthen communication among firms engaged in these issues, and address particular CSR issues.³⁵ The topics of the meetings included benefits and challenges in implementing social standards such as CSR capacity building through workers' participation, audit quality control, provision of assistance to SMEs for implementation of social standards at a low cost, and developing the method of raising public awareness and sustaining social dialogue.³⁶ It also undertakes collaborative initiatives for organising seminars, workshops and other programmes to enhance the competitiveness of the enterprises through the application of CSR.³⁷ In addition, it provides support for the Vietnam Business Link Initiative (VBLI) which works to improve working conditions for all people in the footwear industries in Vietnam.³⁸

³² Dao Quang Vinh, *Labour Market and Employment Conditions in Vietnam* (2007) Institute of Labour Sciences and Social Affaires, Vietnam <http://gw.kli.re-kr/emate-gw/seminar.nsf...> 13 November 2008.

³³ CSR Vietnam Forum, *Corporate Social Responsibility Award 2006 - Footwear and Garment Industries in Vietnam* (2007) <http://www.vietnaumforumcsr.net/default.aspx?portalid=5&tabid=306>

³⁴ Bekafi, above n 7.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

Furthermore, in order to promote CSR, and honour those enterprises which have been implementing it well VCCI organises CSR award for the footwear and garments enterprises. In 2005 and 2006 it organised the honour award in collaboration with the Ministry of Industries, Ministry of Labour and Social Affairs (MOLISA), Vietnam General Federation of Labour (VGFL), Vietnam Leather and Footwear Association (LEFASO), Vietnam Textile and Apparel Association (VITAS), and Vietnam Action Aid.³⁹ Likewise in 2007, the same award programme was organised by this organisation. The honour award was aimed at creating a positive image of enterprises' integration process as well as enabling the enterprises to cooperate with the regional firms and forums in implementing CSR for sustainable integration.⁴⁰

In Bangladesh, the Bangladesh Federation of Chamber of Commerce and Industry (FBCCI) plays no official role in CSR promotion and its stated objectives do not include activities for that end.⁴¹ However, the Dhaka Chamber of Commerce and Industry (DCCI) has recently undertaken an initiative for the promotion of CSR and formed the Corporate Social Responsibility Standing Committee (2008). The mission of the committee includes creating awareness about CSR through meetings, seminars, roundtable discussions, press conferences and preparing schemes and activities.⁴² It has a plan to establish a CSR centre and the preliminary work has already been done. This organisation in the implementation of its objectives is at a preparatory stage.⁴³

In Bangladesh among the apex business organisations the activities of BGMEA and BKMEA may be considered to be unique and remarkable in accelerating the practice of CSR, particularly in labour and workplace related issues. Both the BGMEA and BKMEA have developed their own official mechanisms to enhance CSR practice at the enterprise level.⁴⁴ At the same time, they have also run some welfare activities for their workers as well as for the larger community in the areas of health care, poverty alleviation, capacity building for employment, and other philanthropic activities during emergency situations such as natural calamities, economic inflation and rising prices of commodities.⁴⁵ BGMEA's collaborative programmes with the ILO and UNICEF for child labour elimination and their immediate rehabilitation, the ILO and BGMEA partnership programme for

³⁹ Vinh, above n 32.

⁴⁰ Ibid.

⁴¹ This information is obtained by the 2007 Annual Report of the Federation (manually collected and also by face to face conversation with secretary of the Federation Mr. Amzad Ali Chawdhury, Dhaka Office).

⁴² Dhaka Chamber of Commerce and Industry, Resolution of the Meeting, 28 January 2008 (manually collected).

⁴³ Ibid.

⁴⁴ See Bangladesh Garment Manufacturers & Exporter Association (BGMEA), *Study on the Knit Garment Sub-Sector of Bangladesh* (2005) <http://www.bangladeshgarments.info> 11 November 2005.

⁴⁵ Ibid; The roles of BGMEA and BKMEA are detailed in Chap. 5.

improvement of working conditions, and the social compliance cell of BGMEA are the ground-breaking initiatives for the augmentation of labour related CSR activities.⁴⁶ In addition, drafting a code of conduct by BGMEA as a business organisation is the first of this kind in the developing country context.⁴⁷

Similarly, BKMEA as the apex organisation of knitwear manufacturers and exporters has some permanent initiatives as pre-requisites for membership of the organisation with a goal to ensuring a better employment situation in the member units.⁴⁸ It also organises regular monitoring and inspection activities, training and awareness building programmes for the management, workers and other stakeholders to ensure safe and sound working place in line with the spirit of international standards.⁴⁹ In addition, they also participate from the organisational level in different welfare activities for knitwear workers at times, and also in the national development agenda.⁵⁰

6.5 The Role of the Government and Public Sector as Navigator of CSR Practices

As noted before, the government or public sector's roles for the promotion of CSR may be executed generally in four ways as identified by the World Bank's study.⁵¹ These four ways are mandating, facilitating, partnering and endorsing. These four ways of government's role are well defined in the preceding Chap. 4.

It is difficult to evaluate governmental activities for the promotion of CSR through the application of the above said parameters in the context of developing countries, as the current notion of CSR is almost everywhere a new approach to business and its practice is at nascent stage. Nevertheless, an attempt is made for an overview of the government or public sector activities in Vietnam and Bangladesh.

In Vietnam, according to a country perspective analysis in the APEC region in terms of role-play for CSR, the enterprises and government are identified as the two main players.⁵² Enterprises are always concerned about the determination of the

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Bangladesh Knitwear Manufacturers & Exporters Association (BKMEA), Corporate Social Responsibility to the Workers in the Knitwear (2007) <http://www.redbarnet.dk/admin/Public/DWSDownload.aspx> 13 November 2008; see also BKMEA, Social Compliance Activities of the Knitwear Sector (2006) <http://www.bkmea.org> 13 November 2008.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Tom Fox, Halina Ward and Bruch Howard, *Public Sector Roles in Strengthening Corporate Social Responsibility: A Baseline Study* (October 2002) World Bank <http://www.worldbank.org> 22 July 2008.

⁵² Asia Pacific Economic Cooperation (APEC), *Corporate Social Responsibility in the APEC Region: Current Status and Implication* (Human Resource Development Working Group, Capacity Building Network, December 2005) <http://www.apec.org> 1 September 2008.

success of the implementation of CSR. The government alongside the legal development for the control of multi-sectoral market-based economy contributes in promulgating policies, supervising the enforcement of regulations, and providing information on CSR issues.⁵³ The Government of Vietnam now takes up CSR relevant issues as a public policy area.

As part of a public policy area, the existing focus in relation to CSR is on awareness-raising by creating forums for dialogue and exchanges, and partnering with national business associations as well as with international donor agencies.⁵⁴ Other indicators are increasing legislative activities in the areas of labour law, corporate governance and environment protection, and creating voluntary frameworks.⁵⁵ Although there is no explicitly designed CSR policy and strategy, the formulation of Vietnam Agenda 21 is treated as an attempt to address CSR as a sustainable strategy.

Therefore, the public policy actors in Vietnam are the Vietnam Agenda 21 office, particularly for environmental protection, and the Ministry for Labour, War Invalids and Social Affairs (MOLISA) for labour and workplace related issues. Agenda 21 is intended to strengthen enforcement measures against companies that pollute by the establishment of Environmental Police and special fees levied on the emission of polluted waste water.⁵⁶ In other ways, the government calls on companies to protect the environment and promote safety and health in the workplace.⁵⁷

The Ministry of Labour, Invalids and Social Affairs is involved in different multi-stakeholder partnership programmes, conducting research and study programmes on labour-related CSR practices, organising conferences, workshops, roundtables and awards.⁵⁸ In cooperation with Action Aid Vietnam it awards for excellence in CSR performance in the garments and footwear sectors.⁵⁹

In the national policy framework, besides policies of economic development, social and environmental protections are targeted to be mainstreamed into government legislations. The Vietnam Government stimulates and creates an enabling environment for enterprises to engage in the performance of CSR in all levels of operation. MOLISA in collaboration with Ministry of Industries (MoI) offers annual rewards for those enterprises that have best practice of CSR.⁶⁰ Since 2005

⁵³ Ibid.

⁵⁴ GTZ and Bertelsmann Stiftung, *The CSR Navigator: Public Policies in Africa, the Americas, Asia and Europe* (2007) <http://www.bertelsmann-stiftung.de> or <http://www.gtz.de> 25 September 2008.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Shizuo Fukada, *Corporate Social Responsibility in Vietnam: Current Practices, Outlook, and Challenges for Japanese Corporations* (2007) <http://www.keindanren.org.jp/cbcc/english/report/2007> 15 September 2008.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Vinh, above n. 32.

this incentivising award programme has been in operation in order to promote, honour, and praise the CSR practices of the enterprises.⁶¹

The Institute for Labour Sciences and Social Affairs in Vietnam receives funds from the World Bank to provide technical assistance to enable the government in the process of defining and strengthening its roles in promoting and supporting labour-related CSR.⁶² This technical assistance is an effective way to enable the government sector to play a wider role in strengthening CSR in Vietnam.

The Labour Code of the Vietnam Socialist Republic was amended twice from 1994 to 2006 with an aim to promptly modify the policies and regulations pertaining to labour and industrial relations in the market economy, so as to be more compatible with international practices.⁶³ This improvement in the legislation contributed to the generation of enabling conditions for enterprises to perform CSR in a meaningful way. The Labour Code has become more refined and is an important piece of legislation to protect employees in labour relations; in engaging labour contracts, in wage negotiation and settlement of labour disputes and regulations on fundamental labour rights. It includes workers benefits such as social insurance covering health and other fringe benefits given on the basis of a person's skill and efficiencies.⁶⁴ In addition a plethora of labour market programmes are covered, such as providing an unemployment allowance, providing credit for job generation, employment consultation and job matching services and vocational training.⁶⁵

In the light of the above discussion, it seems to be clear that the public sector's role in Vietnam is manifested in introducing the Vietnam Agenda 21, revising labour Code, different partnering activities, a high level of communication regarding CSR and increasing the level of stakeholder integration. Compared to developing countries perspective it is advancing regularly to a mature level.

In Bangladesh, the public sector's role in promoting labour-focused CSR is very limited. The Ministry of Commerce has recently undertaken some steps by establishing a Social Compliance Forum (SCF) to monitor and review the social compliance status in the RMG sector.⁶⁶ This is otherwise recognised as the National Compliance Forum. This forum is characterised by multi-stakeholder participation comprising of business associations, buyers, and international development agencies. SCF works through two issue-based task forces and one monitoring cell.⁶⁷ The taskforces are taskforce on occupational safety and taskforce on labour welfare. The task force on occupational safety is assigned for reviewing and monitoring the status of occupational safety in the factories and also formulating

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ See ILO, above n 5; The role of SCF is detailed in Chap. 5.

⁶⁷ Ibid.

short term or long term action plans. The occupational safety activity includes fire safety, building safety, environment safety and security. The taskforce on labour welfare includes labour- focused CSR issues, particularly employment conditions and core labour rights. One of the major achievements of the social compliance forum is that it coordinated in 2006 the signing of Memorandum of Understanding (MoU) between the employees, employers of the RMG sector and the government.⁶⁸

Apart from the role of the Ministry of Commerce, the Ministry of Labour and Employment has formed a crises management committee in order to tackle any untoward situation arising out of non-compliance at the factory level.⁶⁹ The main functions of this committee are taking appropriate steps to mitigate the emergent unpleasant situations, undertaking steps to implement different provisions of the tripartite MoU of 2006, and inspecting factories other than garments to ensure compliance. Both the committee and forums under these two ministries are not directly engaged in CSR policy-making activities; nevertheless they are playing a facilitating role for ensuring better labour and work place situations.

In respect of legislative development, it is already mentioned in the preceding Chap. 5 that there is no commanding legislation for CSR application by the enterprises, but the Labour Code 2006 and the Workers Welfare Foundation Act may be considered to be enabling regulations for CSR promotion and practice by the enterprises, although it is not explicitly legislated for CSR.

6.6 The Development of Institutional and Partnership Activism

CSR networking, research, campaign, and advocacy are instrumental in the enhancement of CSR integration into businesses and help awaken the concern of different stakeholders for the need of its practices in all levels of enterprises. Other than business owner organisations and the public sector institutions, in developed and developing countries there has been a growing trend of institutional development at the national or regional level to this end. These institutions operate their activities either independently or in partnership with business organisations, governments, international development agencies and trade unions. Their activities are intended to widen the scope of CSR activities, ultimately resulting in contributing to the national policy development of CSR, increase of the public sector involvement, development of implementation mechanism in the enterprises, and the creation of overall uniformity of the practices. The development of this type of institution in a country shows its progression and increasingly better status in the recognition of CSR.

⁶⁸ Ibid.

⁶⁹ Ibid.

From the developing countries' perspective, the institutional development for the promotion of CSR activities in Vietnam is comparatively remarkable and their activities in many cases are at a mature level. In this respect, institutes worth mentioning for their country-wide activities are Vietnam Business Link Initiative (VBLI) and Vietnam Business Council (VBC). VBLI is a tri-sector partnership between 26 local and international organisations and companies established in 1999 to address working conditions in the Vietnam footwear industries.⁷⁰ VBC is a consultative and deliberative forum that comprises of representatives from businesses, government and civil society to coordinate community-corporate collaboration for social development.⁷¹

The main objective of VBLI is to improve the working conditions for all people engaged in the footwear factories in Vietnam. To obtain its goal successfully the VBLI has divided its works into two strategic phases: Phase 1 from 1999 to 2005 and Phase 2 from 2005 to 2008.⁷² Phase 1 activities were focused on raising awareness of and fostering expertise in, occupational health and safety issues in the footwear industry. These activities were carried out through six key items; training workshops, research, pilot programmes commitment to good practice, affecting national policy and strengthening a management support system.⁷³ Phase 2 activities include increasing the scale and impact of improved health and safety standards developed in Phase 1; supporting the institutionalisation of health and safety standards through government, industry bodies, trade unions, and educational institutions; transferring the VBLI learning and process to garment industries; and repositioning VBLI as a facilitator for health and safety promotion in industries rather than a deliverer of training and other services.⁷⁴ It is noteworthy that the VBLI works with national firms, many of which are in multi-national supply chains, encountering both issues of occupational health and safety and proliferation of the codes of conduct to which they must adhere.

The VBLI is a success story in terms of promotional activities for occupational health and safety issues in the footwear industries as the maximum number of companies, their managers, and beneficiaries are convinced and responding in terms of CSR performance.⁷⁵ Similarly, it has helped raise awareness among industry leaders on occupational health and safety (OHS) issues and at the same time its' programme has made a positive impact on OHS management.⁷⁶

⁷⁰ Bekefi, above n 7.

The 26 entities participating in the VBLI represent government agencies, international associations, research and consultation agencies, sportswear and other private companies, and international organisations and NGOs.

⁷¹ Joaquin L. Gonzales, *Corporation –Community Collaboration for Social Development: An Overview of Trends, Challenges, and Lessons from Asia* (2005) Inter-American Development Bank <http://www.iadb.org/pub> 13 November 2008.

⁷² Bekafi, above n 7.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid.

The second famous institute in Vietnam is VBC which is committed to addressing issues related to the development of economic and social business policies or laws. It seeks corporation and community collaboration for social development, which is a means of widening the application of CSR for the community at large.⁷⁷ It also seeks to improve the process for obtaining input from both government and business in the reform process. This Council was created under the leadership of four key organisations: The Vietnam Chamber of Commerce and Industries (VCCI), the Prime Minister Research Commission, the Central Institute of Economic Management, and the Association of Small Enterprises in Hanoi.⁷⁸

In addition to the development of internal institutions, the famous intergovernmental and multilateral development agencies are running their own programmes for CSR in partnership. The leading organisations are UNIDO, ILO, GTZ, WB and DFID.

In Bangladesh there are some institutes established in recent years at the national level that are engaged in different awareness raising, advocacy, research and supporting programmes for the promotion and future structuring of CSR. The institutes are the Bangladesh Centre for Advanced Studies, Bangladesh Enterprise Institute, Bangladesh Partnership Forum, and the National Forum on Compliance.

The Bangladesh Centre for Advanced Studies along with their other programmes conducts monitoring services in the garment and textile industries for the improvement of social and environmental compliance status under its social and environmental compliance projects. The social compliance project is a collaborative one with German NGO 3p and BGMEA.

The Centre for CSR is a recent innovation of the Bangladesh Enterprises Institute with an objective to facilitate, expand, and encourage CSR practices in the private sector. The main focus of this centre is awareness raising and structural development of future CSR in Bangladesh.

The Bangladesh Partnership Forum is also a recently launched forum by business leaders and other key players as a part of global partnering programme of IBLF. It is formed with an expressed interest in building inter-organisational partnerships by connecting the corporate sector with the public and non-governmental sector to build mutually beneficial social economic and environmental development programmes.

Apart from this institutional development at the local level of Bangladesh, the partnership activism provided by international development agencies, NGOs or

⁷⁷ Gonzales, above n 71.

⁷⁸ VCCI is a national organisation which assembles and represents business enterprises and associations from all economic sectors across Viet Nam. Prime Minister's Research Commission is the think tank of the Prime Minister on economic, social and administrative reforms, which provides advice and proposals to the Prime Minister and leaders of the Vietnamese Government. The Central Institute of Economic Management is the research institute which helps the Vietnamese government work out economic laws and policies.

public sector is vibrant, particularly in the areas of labour and product quality. In this respect, the noteworthy names are the ILO, GTZ, SEDF and KATALYST.

The following table shows the summary of comparison of CSR practices between Bangladesh and Vietnam.

Lenses of comparison	Bangladesh	Vietnam	Remarks
1. The main driving forces of CSR	<ul style="list-style-type: none"> • Increasing scrutiny of local practices of subsidiaries of MNCs. • Increased social awareness of external consumers about labour and quality control of the product. • Emergence of privatization and market liberalization as imperatives for business to take up social responsibility 	<ul style="list-style-type: none"> • Responses to the demands of external buyers and consumers • Increasing self-awareness of the enterprises as to the fulfillment of the requirements of their international counterpart • Supports from other stakeholders such as business associations, trade unions, certifying and supervising organizations and governments 	Largely similar, the support from the stakeholders is more available in Vietnam
2. Performance of labour and environment related CSR and compliance with codes of conduct	<ul style="list-style-type: none"> • The trend of compliance with buyers' and certifying agencies' codes of conduct in relation to labour and environment issues is mainly available in the RMG enterprises among the export enterprises. • The BGMEA has drafted a code of conduct for the RMG enterprises, which are yet to be in force. 	<ul style="list-style-type: none"> • The trend of responses to buyers' codes in the performance of labour and workplace related CSR has grown rapidly among the business associations and export enterprises, The leading players are textile and footwear. • There is comprehensive labour code in Vietnam providing the foundation of CSR. • In respect of environmental management and protection, companies in Vietnam simultaneously with external codes follow Vietnam Agenda 21. 	The trend of compliance with buyers' and certifying agencies' codes is wider in the business practice than that of Bangladesh

(continued)

Lenses of comparison	Bangladesh	Vietnam	Remarks
3. The role of business associations in promoting CSR at enterprises level	<ul style="list-style-type: none"> • In Vietnam the apex business organization VCCI is engaged in providing support services for promotion of CSR at the enterprises level. • Two major owners associations LEFSO and VITAS are actively committed to the promotion of CSR in their enterprises in partnership with public sector. 	<ul style="list-style-type: none"> • In Bangladesh, only the business associations of the RMG sector BGMEA and BKMEA are playing roles in the improvement of labour and workplace conditions at the enterprises level. • The apex employers' organization FBCCI has no role for the promotion of CSR. 	The supporting services from the business associations in Vietnam are stronger than that of Bangladesh.
4. The role of public sector as a navigator of CSR	<ul style="list-style-type: none"> • The Government of Vietnam takes up CSR relevant issues as public policy area. • The Government has adopted Vietnam Agenda 21 providing guideline for companies for environmental control. • The Ministry of Labour, Invalids and Science Affaires are involved in different multi-stakeholder partnership programmes, conducting research and study programmes on labour-related CSR practices. 	<ul style="list-style-type: none"> • In Bangladesh, the CSR is not yet recognized as a public policy agenda. • The Ministry of Commerce has established Social Compliance Forum to monitor and review the social compliance status of the RMG sector. • There are some legal development such as the Labour Act 2006 and Workers Welfare Foundation Act, 2006. 	The Government role for CSR is very limited in Bangladesh.
5. The development of institutional and partnership activism	In Vietnam, there are two institutes, namely, VBLI and VBC which have country-wide	Bangladesh Enterprise Institute, Bangladesh Partnership Forum, and Bangladesh Centre	Institutional development and partnership activities in Vietnam in many

(continued)

Lenses of comparison	Bangladesh	Vietnam	Remarks
	activities for CSR through partnership programmes over the years.	Advanced Studies established in recent years are engaged in supporting programmes of CSR.	cases are at mature level.

6.7 Conclusion

The above discussion shows that there are some similar and dissimilar features in these two countries compared in regard to the promotion and development of CSR as a business agenda.

The similar aspect in developing country context is that the adoption and integration of CSR into the mainstream of business is essentially promoted to satisfy the requirements of international counterpart buyer companies. These requirements generally concern the labour rights, workplace conditions and environmental issues. Both in Bangladesh and Vietnam the need for access into the international market and survival there (i.e., the ‘market driven force’) is the main driving force for the application of labour-related CSR standards. The labour-related CSR practices here appear to be not value driven or self-initiated, but imposed and externally driven.

In both the countries compliance with buyers’ codes of conduct and other certification standards influences the national labour laws, which are evidenced with their amendments incorporating more recognised international labour standards as well as the adoption of labour welfare related laws. They are, for instance, the labour code of Vietnam (as amended up to 2006), the *Labour Code 2006* of Bangladesh and the *Workers Welfare Foundation Act 2006*. The compliance with the buyers’ codes also influences the adoption of codes of conduct such as BGMEA’s code of conduct which is unique one in the Asian region.

In respect of business association’s initiatives for CSR promotion, the Vietnamese business organisations are engaged in carrying out activities in wider scale. Particularly VCCI’s role can be said to be comprehensive as it works in all kinds of enterprises with the support of the Vietnamese government. This kind of comprehensive role from the apex level business organisation is absent in Bangladesh. In Bangladesh BGMEA and BKMEA’s for the promotion of labour and environment related CSR is confined only to the RMG sector. A distinctive feature of BGMEA and BKMEA is their direct involvement in social and community development activities such as poverty alleviation, manpower development, and charitable donations during natural disaster.

As regards government or public sector intervention in CSR Vietnam is far ahead of Bangladesh. CSR in Vietnam is considered as an area of public policy. CSR activities are regulated and supervised by the government, although government legislations and regulations on CSR issues remain insufficient and weak. The regulatory instruments such as Labour Code and Vietnam Agenda 21 provide a strong foundation for promotion of labour and environment related CSR. In addition, MOLISA as a government organ plays a partnering role for the enforcement of labour regulation, conducting research and providing information on CSR.

CSR issue is not yet undertaken in Bangladesh as a matter of public policy. The government's organisational support for CSR activities is almost limited to the RMG sector as it is the biggest export sector in Bangladesh. The public-private partnership and facilitating activities have not yet developed in true for wide scale promotion of CSR.

As for institutional development for CSR networking, research, campaigning, and advocacy in these two countries there has been recent progress such as in Vietnam with the VBLI and VBC and in Bangladesh with Bangladesh Enterprise Institute CSR Centre, Bangladesh Centre for Advanced Studies, and Bangladesh Partnership Forum. All these organisations also carry out their activities more or less in partnership with different development multilateral agencies or organisations, international companies and NGOs. The Vietnamese institutes are at an advanced stage as they have been working for about 10 years and gained a good maturity level in comparison with Bangladesh, where the local institutes in Bangladesh are more recent initiatives and less experienced.

Against the backdrop of above discussion it may be concluded that Vietnam is comparatively more advanced than Bangladesh in the promotion of CSR. Bangladesh can draw up considerably from the experience of Vietnam particularly in public sector interventions and development of institutional partnership in regard to labour, environment and community development issues.

Chapter 7

Concluding the Book

CSR, at present appears to be a well-embraced business agenda across the world. It has been recognised by the corporations, business associations, governments, development agencies, civil societies, and all other stakeholders of corporate business as a positive trend that can ensure a balance between business sustainability and societal goals. The increasing needs and benefits of the current notion of CSR over the last 2 decades have motivated entrepreneurs and stakeholders more or less to engage in the adoption, integration and promotion of CSR both in developed and developing countries. Bangladesh is one of those developing countries witnessing this trend. CSR is now welcome in Bangladesh as a business agenda, and is a reality in the corporate sector for ensuring more business and more societal benefits.

This book has evaluated the emergence and existence of CSR in the private enterprises of Bangladesh. In this process the focus was on some theoretical understandings of CSR, the development of its standards from an institutional perspective, its increasing recognition and development in developed and developing countries, the way it is growing in Bangladesh, particularly in the private enterprises, and where it stands in comparison with Vietnam, an emerging economy in Asia based on private sector business. This book now sums up all that came up in discussions and puts forward some recommendations for the improvement of CSR practices in Bangladesh.

7.1 CSR as a Business Agenda

As a business agenda CSR is not confined to a single definitional construct, it is rather ever-proliferating and progressive in nature in the face of the needs and demands of society. The current notion of CSR is based on stakeholder approach that negates the concept of ‘business for business itself’ in which shareholders’ primacy is paramount (Chap. 2). Instead, it identifies CSR as a long term business agenda, balancing corporate rights with obligations towards its stakeholders. These

obligations are generated in consideration of the social, environmental and economic impacts of a company's business operations.

CSR is tri-dimensional on the basis of the contents of responsibilities; economic, social and environmental (Chap. 2). The more applied and practiced responsibilities are in the areas of labour and human rights, the environment, and social and development activities. Social compliance and corporate philanthropy come from within mainstream CSR.

CSR standards have been developed by the self-regulatory voluntary codes of conducts such as company, association or model codes, multi-stakeholder codes, and intergovernmental codes. The company and associations' codes mostly focus on specific issues such as labour rights, working conditions, the rights of suppliers and independent monitoring. The multi-stakeholder codes introduce certification, monitoring and global reporting methods to issues such as labour and environmental management standards which are applied in the companies and their supply chains. The intergovernmental codes of conducts such as those of the OECD, the ILO and the UN provide the general norms of corporate social behaviour and regulating framework for MNEs and their employment mechanisms. These codes of conduct also apply to the national companies.

7.2 CSR as an Emerging Trend in Global Business

The adoption and application of CSR is better structured and more mature in the developed economies due to favourable socio-economic political situation, institutional development, development of regulatory approaches, growth of strong public-private partnerships, more active stakeholders and, above all, companies' greater resources. The development trend is not heterogeneous in the EU developed countries and the US. CSR in the EU countries is more regulated by the government while in American companies' voluntary and self-regulatory policies are more encouraged and legislative control is minimal (Chap. 3).

The development of CSR in corporate business lags behind in general in developing countries. However, a few countries in different regions are advancing and coping with the trend of developed countries such as Brazil, Argentina, Mexico, Chile and Uruguay from Latin American, South Africa from Africa, and Korea, Singapore, Malaysia and Hong Kong from Asia (Chap. 3). CSR practices in developing countries are commonly featured by the fulfilment of the requirements of the global marketplace and their supply chains, interventions by the development agencies and the impact of multinational enterprises in importing good CSR practices. The practice and proliferation of CSR is characterised in these countries as a top-down approach. There is also a mixed pattern of CSR practices where philanthropy dominates a major part of social and community related activities. Nevertheless as a whole the concern for CSR application and promotion is regularly increasing in developing countries among entrepreneurs, business associations, and the public sector and this leads to the expansion of institutional support, public

sector policy and regulatory development, and moreover the expansion of public-private and business-community partnerships.

7.3 Emergence of CSR in Bangladesh

It has already been said that the current notion of CSR entered into the corporate business activities of Bangladesh through the pressure to fulfil the requirements of international markets during the 1990s, although CSR had traditionally been a part of corporate practice long before that (Chap. 4). The labour and environmental requirements of the international counterpart companies have pushed forward the concept in the local manufacturing companies. Meanwhile the role of subsidiaries of multinationals and their CSR activities and also the support and facilitating roles of multi-lateral development agencies have influenced the corporate sector to participate in social development activities through addressing CSR. As a result, over the last decade CSR has been a more welcome issue in the corporate sector where the large and major export-oriented manufacturing sectors have taken lead. The most noticeable changes in respect of social development programs are in the service sector, especially in private banking and telecommunications. But the overall scenario of CSR practice and promotion appears to be at a nascent stage, ill structured and not properly guided and regulated. This book sums up the major findings as follows:

- The application of CSR as a mainstream business policy is increasing in the private sector of Bangladesh, but is still limited to major export-oriented private sectors and larger business enterprises where SME's participation is poor.
- Companies' activities are characterised by their involvement in the more common areas such as funding for educational development, promotion of health care services, economic empowerment, rehabilitation programs for disaster affected communities and sponsorship of cultural and sporting programs. Some of these programs go beyond traditional philanthropy as they have been developed at the discretion of the companies while some of them look like traditional philanthropy (Chap. 4).
- The labour and environmental issues are generally ignored and are not a matter of interest or concern in the manufacturing companies which are not under the scrutiny of foreign buyers (Chap. 4).
- The adoption of CSR into the corporate activities of Bangladesh is not uniform due to the lack of any concrete national strategy or guideline for CSR. The practices are incoherent and heterogeneous. The existing CSR issues are externally instructed and designed only for the manufacturing companies.
- CSR reporting is increasing slowly in the corporate sector due to a lack of knowledge about its importance for market access and business reputation, and the lack of any regulatory or quasi-regulatory initiative from government or any apex regulatory or business body (Chap. 4).

- Except in the RMG sector, the business associations have no active role in tackling CSR issues in the companies. Even the apex business organisation FBCCI is yet to make any policy level development for the promotion of CSR.
- The role of the public sector in strengthening wider scale application and development of CSR practice (with the exception of RMG sector) is minimal, due to the lack of coordination between relevant public organs and also between the public and private sectors. It has not yet embarked upon any kind of partnering, facilitating and incentivising programs for the promotion of CSR. There have been some enabling laws respecting the promotion of labour rights and welfare, working conditions and environmental management. But these lack the required and effective enforcement mechanism for creating an effective compliance environment among the corporations (Chap. 4).
- The partnership and funding activities of development agencies, international NGOs, and multi-stakeholder forums are growing, but they are mostly concentrated on the RMG sector (Chap. 4).
- There are many obstacles to the improvement of CSR status in the private enterprises as a whole the prominent of which are the absence of stakeholder engagement or multi-player activities, inadequate public sector interventions, and the absence of national consensus on CSR or uniform guidelines (Chap. 4).

7.4 CSR in the RMG Sector in Particular

In the face of social compliance requirements of international counterpart companies, the practice of labour and environment related CSR is growing comparatively well in the RMG sector in Bangladesh. The need for the retention of a competitive edge of garment products in the global apparel market and the protection of the largest source of export earnings leads to the development of multi-player activism and the development of internal mechanisms concerning the promotion of social compliance. These development aspects and the compliance status of the RMG enterprises are summed up in the following.

7.4.1 *The Growth of Multi-player Activities*

The major players are the owners' associations BGMEA and BKMEA, the government of Bangladesh, international buyers, intergovernmental organisations or development agencies and the producers. All these players have their own roles and activities for the promotion of social compliance.

The significant aspects of BGMEA's activities include institutional development (such as the constitution of a social compliance cell, department environmental management, a safety department and so on), the introduction of a monitoring, inspection and auditing system to measure compliance, and active engagement in different capacity-building and social development and welfare activities. These

activities seem to be fruitful for the improvement of social compliance in the RMG enterprises and also encouraging for other business sectors. However, in many cases their activities appear to be more market strategic and flashy as they do not provide any guideline for total CSR application in the enterprises beyond simple compliance (Chap. 5).

The government's role through the Social Compliance Forum under the Ministry of Commerce is a good initiative for the improvement of compliance situation in the RMG enterprises. The important aspects of their activities are the formation of working groups such as two taskforces and a monitoring cell, and the adoption of monitoring, inspection and reporting methods for the implementation of the plans. The forum has been in existence for only 4 years, making evaluation of its activities difficult. Nevertheless it is alleged that it is poorly coordinated and that the working groups are not working efficiently (Chap. 5). The government's role also seems to be merely market strategic and aimed to convince international buyers only.

The brand buyers such as Wal-Mart, SEARS, Carrefour, Hens and Mauritz are working to make the contracting companies socially compliant by undertaking monitoring and auditing within them and also participating in skill development and awareness raising programs (Chap. 5). As a powerful economic stakeholder, buyers have an indispensable role in promoting CSR in enterprises which are dominated by SMEs. But buyers' activities are mostly confined to the large reputed companies, which are often in direct business contract with them. However, among the renowned buyers Marks and Spencer has been working for about 6 years to promote ethical business in all the garment factories.

Among the international development agencies the ILO, GTZ and SEDF have worked actively for a long time to enable the RMG companies to be socially compliant. As far as the ILO's activities are concerned, two successful MoUs with BGMEA for the elimination of child labour and the children's rehabilitation are considered a replicable model. The ongoing 'PROGRESS' program of GTZ and the 'Competitive Enhancement' partnership project are very important endeavours for a radical and sustainable change in compliance status and the enhancement of capacity in the garment industries, particularly in SMEs (Chap. 5).

7.4.2 Development of Enforcement Mechanisms

The need for the improvement of social compliance has led to some developments in the enforcement mechanism at the industry level (Chap. 5).

These include the following:

- (i) an increasing tendency for the adoption of an individual code of conduct with a mention of social commitment in the mission and vision statement;
- (ii) the development of an individual and uniform code of conduct for whole industries in the Dhaka EPZ, in line with recognised labour standards including workers' welfares and benefits;

- (iii) the expansion of internal auditing systems; the introduction of separate CSR or social compliance management at the industry level; and
- (iv) introduction of a stakeholder dialogue system for the promotion of employer-employee relations and enhancement of productivity.

7.4.3 Situation of Social Compliance in the RMG Sector

This book explores some major findings in respect of the compliance situation. These are:

- There remains conflicting data in regard to the social compliance situation in the industries among owners' associations, the government, workers and others. Association reports consistently show a high rate of compliance, which is opposed by workers and NGOs. Therefore exact or approximate compliance figures are absent. But it can at least be assumed that some changes are taking place.
- It is reportedly true that the social compliance issue is creating changes, mainly in the attitude and behaviour of the larger entrepreneurs who are coming into direct contract with the counterpart international buyers. The practice is not growing as expected in subcontracting and non-contracting small and medium scale companies.
- Workers' rights and other facilities are better ensured in the EPZ factories. The prime reason is that they are in a good environment and are structurally advantaged.
- There are some satisfactory situations in terms of the promotion of labour rights, including the abolition of child labour and significant development in safety and security measures through the recurrent application of crush programs conducted by BGMEA. The major unsatisfactory matter still remains, with constraints on the freedom of association in the garment factories. The number of workers' associations in the factories is very few in comparison with the total number of companies.
- As far as social compliance in garment enterprises is concerned, labour issues are given priority over environmental management, and therefore as a whole the environmental management standards are not maintained in the factories except in large and EPZ companies. However the recent plan for relocating unplanned and non-compliant small and medium size garment factories in the proposed 'Garment Village' would be a good solution for overall environmental management in the industries.
- There are some difficulties and constraints available in the performance of social compliance requirements from practical perspectives. They are, inter alia, the physical and structural disadvantages of most of the small and medium level factories as well as the factories built before the mid 1990s; a lack of awareness of rights among the workers; the absence of a unified code of conduct; insufficient coordination among stakeholders; resource constraints in the factories

(particularly in SMEs); the lack of adequate law enforcement agencies; and the absence of any concrete guideline from the association or the government for better performance of labour and environmental standards.

- Apart from labour and environment-related CSR practices the RMG enterprises are engaged in social and community development activities including donation and community support programs, health projects, poverty alleviation, education and so on. Over the last decade this trend has gradually increased and more motivational and discretionary attitudes are noticed in the entrepreneurs in regards to social investment.

In the light of the above summaries of CSR practices it is fair to say the overall CSR practice is improving, but still lacks organisation and coordination. On the other hand, CSR practice in the RMG sector is better organised because of multi-player activities and public sector intervention. Nevertheless, the practice has many gaps and deficiencies and still there are many challenges for implementation. CSR practice is needed in Bangladesh for business itself and the development of society as a whole. Therefore, in view of the present situation this book puts forward some recommendations for the improvement of the overall situation of CSR practices and also specifically for the RMG sector.

7.5 Recommendations for the Improvement of the Overall Situation of CSR in Bangladesh

7.5.1 Establishment of a National CSR Forum

A national CSR forum can be established under the auspices of the government of Bangladesh (GOB) with representation from the relevant ministries including the Ministries of Commerce, Labour and Employment, Environment and Forest, and Social Welfare, all business associations, trade unions, local consumer associations, international counterpart companies, and CSR specialised institutes and academics. The major activities of this Forum would include:

- adoption of a national CSR strategy or uniform CSR code in line with internationally recognised and best applied CSR standards;
- Making specific recommendations for CSR application in the enterprises and giving them quasi-binding force;
- promotion of a culture of stakeholders' dialogue at the corporate level; and
- organisation of awareness raising and motivational programs including publications and CSR networking for owners, executives, workers, consumers and civil society.

7.5.2 Establishment of a Labour Standards Commission

A commission of a permanent nature can be established under the Ministry of Labour and Employment to ensure workers' rights and boost exports in the wake of consumers' preference for ethical buying. The Commission would also coordinate with other departments of Ministries and bodies in the implementation of local laws, the ILO Conventions and the Universal Declaration of Human Rights.

7.5.3 Promoting Government or Public Sector Roles

The Government should undertake CSR as a public policy matter. Therefore it would play partnering, facilitating and incentivising roles for the improvement of CSR in different manufacturing sectors such as RMG, shrimp and frozen foods, leather and tanneries, pharmaceuticals and construction. These roles can be played in collaboration with business associations and civil society organisations. In this respect, the experiences of MOLISA, in Vietnam, and Vietnam Agenda 21 can be borrowed as a model of practice (Chap. 6).

7.5.4 Bringing Regulatory Reforms for Enhancing Companies' Social Responsibilities

In order to promote CSR reporting a regulatory reform can be made by bringing an amendment to the responsibilities of the public limited companies under the existing Company Act 1994. Under the amendment an obligation for reporting on companies' CSR performance can be imposed on limited liability companies. For incentivising CSR the current tax law could be amended with the provision of a tax exemption for CSR related expenses.

7.5.5 Development of Business-Community Partnerships for Social and Development Activities

Business-community partnerships can be instrumental to companies' engagement in development activities in the territories in which they operate. The government of Bangladesh, along with the enhancement of public-private partnership, can provide institutional support to promote business-community partnerships. In this regard, the government can encourage FBCCI which has local branches in all districts to establish business–community partnerships.

7.5.6 Building Up Multi-player Activism

Multi-player activism is necessary in other manufacturing sectors beyond RMG for facilitating the implementation of CSR. Therefore the Federation of Bangladesh Chamber of Commerce and Industry (FBCCI), and the respective business organisations can jointly take the initiative through promoting partnership activities with public sectors, development agencies, NGOs and the national CSR institute, or by signing a tri-party memorandum on labour and environmental issues.

7.5.7 Expanding the Support of Development Agencies and Intergovernmental Organisations

The development agencies and intergovernmental organisations can expand their facilitation and partnership program gradually to promote CSR activities in all kinds of private enterprises. The ILO local office can come forward to negotiate with different business organisations and the government to sign a tripartite agreement for the promotion of labour standards.

7.6 Specific Recommendations for the RMG Enterprises

7.6.1 Setting a Common Standard for CSR Application

BGMEA should set a common standard of CSR for application in the member factories and initiate awareness-raising and capacity building programs under the compliance cell to influence CSR implementation in the subcontracting and non-contracting small and medium scale RMG enterprises. In the process, a collaborative effort can be taken with the trade unions, and the trade unions would participate in monitoring the implementation of CSR both at large companies and sub-contractors.

7.6.2 Initiative for the Formation of Participatory Committee at the Industry Level

BGMEA should encourage the RMG industries to develop a structural system to ensure the ILO's "decent work" concept through establishing participatory committees according to the Labour Act of Bangladesh, or an individual committee

for social dialogue with representatives for employers, workers, civil society or community leaders and the local administration.

7.6.3 Strengthening Communication Systems

The BGMEA and BKMEA should strengthen means of communication about compliance and related problems, with workers, NGOs, civil society and other stakeholders. These would help improve the relationship between workers and the factory owners.

7.6.4 Introduction of Mandatory Reporting on CSR

A mandatory CSR reporting system should be introduced for the RMG companies listed on the Dhaka and Chittagong Stock Exchange, particularly on labour related issues and the reporting should appear in their annual reports as well as in the websites. As in the present context, labour issues form the major part of the social compliance, the mandatory CSR reporting on labour related issues would help create better compliance environment among the companies and retain competitiveness of garment business in the international market.

7.6.5 Establishing a Tri-Party Partnership for Environmental Management

For environmental management, a long term tri-party partnership can be established between BGMEA, the government of Bangladesh and interested development agencies. This partnership program would promote training on environmental management for officials and workers and provide logistic support and expert knowledge for establishing ETP.

7.6.6 Strengthening Coordination and Activities of the Social Compliance Forum

The coordination among three working wings of the Social Compliance Forum of the Ministry of Commerce should be strengthened. In addition, government should provide adequate physical and logistic support to make the forum an effective organ for the promotion of social compliance in the RMG sector. Apart from the

monitoring and review program the government can introduce under the Social Compliance Forum partnership and logistic support programs for disadvantaged and small and medium scale industries.

7.6.7 Enhancement of Buyers' Technical and Logistic Support

The buyers of garment products in Bangladesh are mainly from OECD countries such as the US and the UK. So they should follow the provision of OECD Guidelines for Multi-national Enterprises which says “buyers should consistently encourage and provide necessary technical assistance in improving social accountability to their business partners including agents and sub-contractors”.

7.6.8 Entrepreneurs' Efforts for CSR and the Workers' Associations' Cooperation

The RMG entrepreneurs should make efforts to adopt CSR into their business activities, being motivated by the global business trend and social and ethical values. In this context, they can promote some established initiatives with their own employees and local community, particularly in the promotion of labour and environmental standards, capacity building and empowerment related activities. The workers associations should extend cooperation with the owners in the proper implementation with respect to the said issues.

In a private sector-led economy, which is the case in Bangladesh, the private enterprises play a vital role in a country's economic growth. They can also play a role for social development as a good citizen of the society. In Bangladesh, as in other developing countries, access to and survival in international markets is necessary for economic growth. But these are also areas of great challenge for enterprises in this era of trade liberalisation. The challenges have become fierce in the recent years surrounding the conditions of labour, environment and quality of product. CSR in the present context is a widely recognised instrument that can help individual enterprises and entire manufacturing sectors to achieve greater market access, improved and sustained market share and higher value addition. The private manufacturing enterprises in Bangladesh, through the application of an improved CSR, can face the challenges in the global market. Thus they can contribute considerably to the economy of Bangladesh and reap the concomitant benefit of global competition. At the same time, the private enterprises of Bangladesh through the application of CSR can share in a national development agenda with the government and contribute to the fulfilment of the expectations of their employees and the broader community of improved standards of living.

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