

# European Works Councils and Corporate Social Responsibility in the European Energy Sector

Thijs Kerckhoffs & Joseph Wilde-Ramsing

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**June 2010**

## Colophon

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## Abbreviations and terminology

<b>CDP</b>	<i>Carbon Disclosure Project</i>
<b>CSR</b>	<i>Corporate social responsibility</i>
<b>EC</b>	<i>European Council</i>
<b>EDF</b>	<i>Électricité de France</i>
<b>EDP</b>	<i>Electricidade de Portugal</i>
<b>Enel</b>	<i>Ente Nazionale per l'Energia eLettrica</i>
<b>EP</b>	<i>European Parliament</i>
<b>EPSU</b>	<i>European Federation of Public Service Unions</i>
<b>EU</b>	<i>European Union</i>
<b>EUSS</b>	<i>Electric Utility Sector Supplement</i>
<b>EVN</b>	<i>Energie-Versorgung Niederösterreich</i>
<b>EWC</b>	<i>European Works Council</i>
<b>GC</b>	<i>Global Compact</i>
<b>GDF</b>	<i>Gaz de France</i>
<b>GRI</b>	<i>Global Reporting Initiative</i>
<b>IAEA</b>	<i>International Atomic Energy Agency</i>
<b>IFA</b>	<i>International Framework Agreement</i>
<b>OECD</b>	<i>Organization for Economic Cooperation and Development</i>
<b>RWE</b>	<i>Rheinisch-Westfälisches Elektrizitätswerk</i>
<b>SDA</b>	<i>Social Development Agency</i>
<b>SOMO</b>	<i>Stichting Onderzoek Multinationale Ondernemingen (Centre for Research on Multinational Corporations)</i>
<b>TNC</b>	<i>Transnational Corporation</i>
<b>UN</b>	<i>United Nations</i>

## Executive summary

Over the past decade, transnational corporations (TNCs) operating in the energy sector have become increasingly active across borders in multiple European countries. As a result, employee representation in European energy companies has become more multi-national, evidenced by the rising number of active European Works Councils (EWCs) in the sector. At the same time, the concept of corporate social responsibility (CSR) has been gaining ground in the European energy sector.

The (potential) role of the EWC in developing and implementing CSR is central to this study. The main goal is to provide some insight into the existing role and ambition of EWCs with regard to CSR and to offer recommendations on how EWCs and trade unions can influence a company's CSR policy and practice. Information for the study was gathered through a survey of and interviews with EWC members and other worker representatives as well as input from representatives of the management of European energy companies.

The study examines the CSR policies of the 24 largest transnational energy companies in Europe: Centrica, ČEZ, DELTA, DONG, EDF, EDP, EnBW, Enel, E.ON, ESB, EVN, FORTUM, Gas Natural Fenosa, GDF Suez, Iberdrola, RWE, MVV, National Grid, Scottish and Southern, Statkraft, TenneT, Vattenfall, Veolia, and Verbund. For 16 of the companies, a more detailed analysis of the policies and relationship with employee representatives is conducted. The 16 companies examined in-depth cover all of the EWCs in the European energy sector and have a combined workforce of more than one million employees and a combined 2008 revenue of over €480 billion. The companies exhibit considerable variation in terms structure, size, business activities, location of headquarters (although all in Europe) and operations, and number of employees.

### **CSR in the European energy sector**

As a point of departure, the study considers CSR to be a concept whereby a company assumes responsibility, across its entire supply chain, for the social, ecological and economic consequences of the company's activities, reports on these consequences, and constructively engages with stakeholders including the workforce at the local, national, and European level. This implies that companies attempt a best-possible integration of social, economic and environmental concerns. CSR is of utmost importance for the energy sector given the sector's immense potential to contribute to economic and social development and its simultaneous potential for devastating impacts on the environment and communities. Recent years have seen energy companies increasingly aligning their CSR policies with international normative standards for sustainable development and sustainability reporting such as the UN Global Compact, the OECD Guidelines for Multinational Enterprises, the Global Reporting Initiative (GRI), and the Carbon Disclosure Project (CDP). The analysis of the selected companies' CSR policies reveals that more than 70% is a member of the UN Global Compact and that approximately 38% has an explicit reference to the OECD Guidelines in their publicly available CSR policy documents. Furthermore, 80% of the companies use the CDP standard for reporting on CO<sub>2</sub> emissions, and 67% reports according to the GRI G3 sustainability reporting guidelines. The analysis also revealed that 63% of the companies that use the GRI guidelines are also using the energy sector-specific Electric Utilities Sector Supplement (EUSS). Around 38% of the companies makes use of all four of these CSR initiatives while 13% has not incorporated any of the four into their policy. The study notes that while a company's efforts to align its CSR policies with these international standards is a positive step, this does not necessarily guarantee that the company is actually acting responsibly; the true

test of responsible behaviour is putting the standards into practice and monitoring their implementation.

### **EWCs in the European energy sector**

EWCs can be established if a company meets certain criteria with regard to number of employees and transnationality of operations, and if employee representatives request it. Of the 16 companies examined by this study, 12 currently have an EWC in place. Three of the remaining companies do not meet the EWC criteria and can thus not be obliged to establish a EWC, while one, Spain-based Iberdrola, meets the criteria but has not (yet) established one. The longest running EWC in the sector dates from 1995 (Germany-based RWE EWC), having already gone through several renegotiations in its 15 years of existence, while the newest EWC was established just last year (Netherlands-based DELTA in 2009). The EWCs that are active in the sector also vary widely with regard to structure and size. For example, the EWC of France-based GDF Suez has 65 members representing 20 countries while the EWC of Austria-based EVN consists of only 7 members from 3 countries. Although the number of members and countries in a given EWC generally corresponds to the overall size of the company, there are some exceptions.

In addition, the competences of the different EWCs, as established in the individual EWC agreements, also exhibit significant variation. With regard to this study's main focal area of CSR, some EWC agreements make explicit reference to the EWC's competence on CSR, some making implicit reference to CSR issues (by, for example, referring to CSR issues but not the term "CSR" itself), and some make no reference at all.

### **Responses to the survey on EWCs and CSR**

Although not all EWC agreements contain clear references to CSR, energy sector EWC members surveyed as part of this study almost unanimously indicate that it is important for the EWC to be involved in developing and implementing a company's CSR policy. In principle, this aim is backed by the European Commission, the European Parliament and the European electricity sector social partners (including Eurelectric for the employers), both of which express the importance and desirability of dialogue on CSR issues between employee representatives (e.g. the EWC) and a company's management.

Nevertheless, many EWC representatives consider the current role of the EWC is developing and monitoring CSR policies to be less than satisfactory. Survey respondents cite the lack of a mandate of the EWC to discuss those issues and the fact that CSR is just not (consistently) on the agenda of the EWC. Other respondents express their desire to discuss the company's annual CSR/sustainability reports more thoroughly. Although the desire to do so is there, many EWC representatives admit that, in order to engage meaningfully and constructively on CSR issues, additional resources and expertise would be needed for EWCs in order to overcome the complexity involved in monitoring the company's progress and to prevent the EWC from simply being used as "green washing".

With a few exceptions, EWC representatives regard energy companies' efforts to tackle issues such as employee uncertainty about globalization and climate change to be insufficient. Some respondents express their concerns about companies using CSR as a public-relations undertaking and worry about the narrow focus on shareholder value. While several EWC representatives feel that trade unions' efforts to assist EWC members in coping with CSR topics could be improved, the previously mentioned electricity sector social partners' joint statement on CSR is widely welcomed and appreciated.

## Recommendations

Based on the research findings and analysis, the study offers a number of recommendations to the EWCs. These include:

- Ask your company's management to directly involve the EWC in the development, implementation and monitoring of the company's CSR policy. Refer to the European electricity sector social partners' joint statement on CSR and the fact that it is common practice in the industry to involve employee representatives (EWCs) in CSR issues.
- Ensure that CSR issues are (if possible explicitly) included in (re)negotiated EWC agreements in order to have the clear mandate to discuss CSR-related concerns.
- In cases of restructuring, merger or acquisition proposals, require impact assessments that assess social and environmental implications and impacts in developing countries.
- When CSR issues are discussed, it may be valuable to involve or engage trade union and NGO experts that have specific knowledge on CSR issues to be better prepared for negotiation on CSR issues and avoid simply legitimizing the CSR efforts of a company without having enough detailed knowledge about the company's CSR policies and practices to be (constructively) critical..
- If possible, nominate an employee representative to the company's board and ask that person to take CSR issues into account.
- Consider using the OECD Guidelines complaint procedure to directly engage company management if there have been violations of CSR standards and norms, including labour-related issues.
- Encourage transparent reporting by requiring your company to use the GRI G3 guidelines and the Electricity Utility Sector Supplement.
- Follow up the European electricity sector social partners joint statement on CSR (see Annex 2) by evaluating whether your company abiding by the agreements reached in the statement.
- Send a survey to your members to identify yourself as the EWC and ask them which CSR issues are important to them and which issues they would like the EWC to work on.

In addition to these suggestions for EWC representatives, the study also concludes by recommending that European and global trade unions develop a toolkit or centre of expertise on CSR that EWCs could rely on when discussing CSR issues with management. In order to develop such a toolkit or centre of expertise, it could be useful to form or engage strategic coalitions of unions, NGOs, academics and other centres of knowledge who could provide expertise on social, environmental, human rights and development issues.



# 1 Introduction

## 1.1. Context, relevance and point of departure

Prior to the turn of the century, many energy companies in Europe operated primarily on a national basis, generally focussed on providing their domestic market with electricity, gas and related services; consequently, their workforces were, for the most part, comprised of nationally-homogenous groups of employees. However, since the creation of an internal European energy market by the European Union in 1999<sup>1</sup>, transnational corporations (TNCs) in the energy sector have become increasingly active across borders in multiple European countries. As a result, employees' representation in European energy companies has had to become more multi-national as well. The European Union (EU) had already established a legal framework for European Works Councils (EWCs) in 1994, with the aim of ensuring information and consultation rights for employees of multinational companies operating in Europe. This framework was updated with a new Directive on 6 May 2009.<sup>2</sup>

Parallel to this trend, the concept of corporate social responsibility (CSR) has recently been gaining ground in the European energy sector. CSR is relatively new in the electricity sector; a recent study by ECOTEC for the European Federation of Public Service Unions (EPSU) found that none of the 65 large European electricity companies analysed had published a CSR report prior to 2003.<sup>3</sup> German electricity giant RWE admits that while conservation work has long been a part of the company's strategy, CSR and climate protection are relatively new concepts for the company.<sup>4</sup> Even the French electricity giant EDF, with its relatively long history of publishing information on environmental and sustainability issues, only began to concretise its CSR policy in 2005.<sup>5</sup> Yet it is clear that interest in CSR is rapidly growing in the European electricity sector. On 22 June 2009, the European electricity sector social partners EURELECTRIC (representing the employers) and EPSU and EMCEF (representing the trade unions) signed a joint statement on CSR<sup>6</sup> (this updated a previous joint statement and position on CSR from 2004<sup>7</sup>); the Global Reporting Initiative (GRI) has recently developed an Electric Utilities Sector Supplement (EUSS) to provide companies with sustainability reporting guidelines<sup>8</sup>; and the UN's International Atomic Energy Agency (IAEA) is conducting pilot studies to establish energy indicators for sustainable development<sup>9</sup>. Furthermore, the ECOTEC study found that none of the 65 companies surveyed had produced a CSR report prior to 2003 also found that by 2007 approximately one-third were doing so, with another third producing some CSR-related material, and a final third making no reference to CSR at all.<sup>10</sup> While CSR reporting by only one-third of the electricity sector is quite low compared to other industries, it is nevertheless a significant increase from no reporting at all in 2001 and reveals a clear trend in the industry.<sup>11</sup>

Despite this recent increase in activity around CSR in the European electricity industry, there is little empirical knowledge as to how the CSR policies of electricity TNCs are developed and implemented, particularly the role of employees and EWCs in developing and implementing CSR policies. While some companies appear to have made CSR a part of their long-term strategy and have involved EWCs integrally in the development of this strategy, others have simply produced a one-off CSR report without the involvement of EWCs that lacks a clear strategy for systematising and further developing the concept.<sup>12</sup> As part of a project undertaken by the Social Development Agency (SDA) and EPSU entitled "EWCs: Learning and practicing, a project for the European Energy Sector", this report examines EWC agreements and their relationship to the CSR policies and practices of TNCs in the European energy sector.

## 1.2. Aim and objectives

The larger SDA-EPSU project is designed to assist workers' and trade union representatives in their understanding of the operation of EWCs, their rights (by law and agreement), their possibilities and their limitations. The project focuses on providing practical examples as to how a regular exchange of information can be established. The expected outcome is that the EPSU and EWC Steering Committees/Secretariats/Presidencies will establish a system of regular exchange of information. Main aim of the project is to gather representatives of European energy companies with European Works Councils, focusing on their Steering Committees/Secretariats/Presidencies and trade union officers. Three workshops are scheduled on 14 December 2009, 24 March 2010 and 8 June 2010.

This report feeds into that larger objective and aims to provide trade unions and workers' representatives with critical information on the relationship between the EWC agreements and CSR policies of nine major European energy companies. The report also aims to conduct a thorough comparison of EWC agreements and provide additional information on the European energy sector, EWCs in the energy sector, international framework agreements, and recent trends and best practices in CSR policy and performance among European energy companies.

## 1.3. Methods

In order to achieve the abovementioned aims and objectives, this report employs a variety of research methods including desk research, a literature survey and empirical research through a questionnaire<sup>13</sup> sent to representatives of the EWCs of the companies under examination. The report builds on several recent studies on CSR in the energy sector such as the 2009 SOMO and SINTEF Energy study on defining sustainable electricity provision<sup>14</sup>, the 2007 ECOTEC report for the EC, the 2007 ECOTEC report on CSR for EPSU<sup>15</sup>, the 2009 GRI Electric Utility Sector Supplement (EUSS)<sup>16</sup>, the 2009 EC skills studies, and various individual company reports on CSR. Additional information on the functioning of the EWCs and their relationship to CSR policies has also been gathered through direct contact with EWC and trade union representatives during the period October 2009 – March 2010. This contact came in the form of follow-up telephone calls and interviews with EWC representatives, three rounds of comments on drafts of the report, and oral input from EWC representatives during two presentations of the research and draft results at EWC meetings organised by EPSU in Brussels on 14 December 2009 and 24 March 2010. In addition, a draft company profile was sent to management-level representatives of all of the companies mentioned in the report for review prior to publication. The companies were allowed two full working weeks to provide comments on all information and statements pertaining to their company, add additional relevant information, and correct any inaccurate information. The companies that responded with comments (either written or orally over the telephone) are Centrica, ČEZ, Detla, EDF, Enel, FORTUM, Iberdrola, National Grid, RWE, and TenneT. The remaining companies did not respond despite multiple requests and opportunities for input and ample time to comment. The company review process took place throughout February and March 2010.

## 1.4. About SOMO

SOMO's activities and research on corporations and their international context focus on sustainable economic and social development and are aimed at promoting sustainable development and the structural eradication of poverty, exploitation, and inequality. SOMO has the following primary goals:

- Change through knowledge building: The research SOMO carries out is aimed at stimulating change. This means that on the one hand, SOMO fulfils a 'watch dog' function; SOMO collects the necessary information and carries out analyses to reveal unsustainable corporate conduct and contradictions in economic and political systems. On the other hand, with its analyses and its alternative proposals, SOMO contributes to the policy development of governments, international organisations, civil society organisations (CSOs) and corporations.
- Strengthening of civil society in the global North and South: By providing information and facilitating cooperation, SOMO helps to strengthen civil society in the global North and South. SOMO's activities focus on the disclosure of previously fragmented information, the building of networks of CSOs and the training of CSOs. SOMO concentrates its efforts on CSOs that work with multinational enterprises and international trade, such as labour unions and human rights, consumer, environmental, gender and development organisations.
- Increasing the impact of civil society organisations: Through its research as well as cooperation with partners from the South, and joint initiatives with other NGOs and unions, SOMO contributes to the debate on CSR. SOMO targets its policy influence, workshops, and public meetings at opinion leaders and decision makers from governments, civil society organisations and the media. SOMO promotes the interests of the global South when participating in policy dialogues, lobby activities, conferences, expert meetings, and other fora.

## 1.5. About EPSU

The European Federation of Public Service Unions (EPSU) is the largest federation in the European Trade Union Confederation (ETUC). EPSU represents more than eight million public service workers in more than 250 trade unions in all European countries including in Central and Eastern Europe, in the European energy community and in Central-Asian Republics, Georgia, Russia, Ukraine, amongst others. EPSU's members deliver services to the public in national/central and European administrations and agencies, in local and regional government, in health and social services and in utilities (electricity, gas, waste and water). In the electricity and gas sector, the trade unions organize workers in exploration and production, generation (from all fuel types: water, renewable, nuclear, coal, gas, etc.), in transport and transmission, in distribution and retail and in auxiliary services. Employers include small companies, municipal or state-owned enterprises and very large multinational companies active in several European countries and world wide. EPSU is a recognized European social partner and participates in the European social dialogue committees for gas and for electricity. EPSU representatives participate in European Works Councils. EPSU is the recognized European organization of the Public Services International (PSI) Global Federation.

## 1.6. Structure of the report

The structure of the report is as follows: Chapter 2 comprises a brief description of each of the selected energy companies. The criteria for selection are presented, and the differences between the companies regarding ownership structure, number of employees, turnover and degree of internationalization are indexed. Chapter 3 introduces the core concept of CSR and provides an overview of the critical issues for CSR in the energy sector, including the most relevant international standards. Based on these international standards, the selected energy companies' CSR and supply chain policies are analyzed. The fourth chapter begins with a brief theoretical outline of the European Works Councils, followed by an analysis of the existence, structure and

competences of the European Works Councils of the selected energy companies. This chapter also contains the study's core analytical focus, i.e. the EWCs' involvement in and linkages with the various companies' CSR policies and practices. The latter is done based on general company information and policy documents as well as on questionnaires that have been sent to EWC representatives of the selected companies. The last chapter provides some recommendations that aim to contribute to the work of energy sector EWCs and trade unions with regard to CSR.

- <sup>1</sup> The EP and EC issued a co-decision on the internal electricity market on 25 July 1996 (Directive 96/92/EC) and a co-decision on the internal gas market on 22 June 1998 (Directive 98/30/EC). The rules for the internal energy market have since been updated in 2003 (Directive 2003/54/EC) and 2008. See European Parliament, "Energy Policy Factsheet" <[http://www.europarl.europa.eu/factsheets/4\\_12\\_0\\_en.htm](http://www.europarl.europa.eu/factsheets/4_12_0_en.htm)> (4 November 2009).
- <sup>2</sup> European Parliament and Council, "DIRECTIVE 2009/38/EC of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees," Official Journal of the European Union, 16 May 2009, <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:122:0028:0044:EN:PDF>> (4 December 2009).
- <sup>3</sup> ECOTEC (2007). Describing developments in the European electricity sector: Drivers for change: Corporate Social Responsibility - a report to the sectoral social partners, Eurelectric, EPSU and EMCEF.
- <sup>4</sup> RWE (2005). Corporate Responsibility Report 2005. p.11
- <sup>5</sup> ECOTEC (2007). Describing developments in the European electricity sector: Drivers for change: Corporate Social Responsibility - a report to the sectoral social partners, Eurelectric, EPSU and EMCEF.
- <sup>6</sup> The full statement is reproduced in Annex 2. EPSU, Eurelectric and EMCEF (2009), "Joint Position on the Social Aspects of Corporate Social Responsibility in the European Electricity Industry". EPSU, Eurelectric and EMCEF, Brussels, <[http://www.epsu.org/IMG/pdf/Joint\\_Position\\_CSR\\_22\\_June\\_2009-2.pdf](http://www.epsu.org/IMG/pdf/Joint_Position_CSR_22_June_2009-2.pdf)> (4 December 2009).
- <sup>7</sup> EPSU, Eurelectric and EMCEF (2004), "Corporate Social Responsibility and the European Electricity Sector". EPSU, Eurelectric and EMCEF, Brussels. <[http://ec.europa.eu/employment\\_social/dsw/public/actRetrieveText.do;jsessionid=LW1T1wsWBK18tnDp5KKTjs01QphlyqTXgnYYCz942rGffBh2FGvT1263744025?id=10533](http://ec.europa.eu/employment_social/dsw/public/actRetrieveText.do;jsessionid=LW1T1wsWBK18tnDp5KKTjs01QphlyqTXgnYYCz942rGffBh2FGvT1263744025?id=10533)> (5 September 2009).
- <sup>8</sup> GRI (2008), "Sustainability Reporting Guidelines & Electric Utilities Sector Supplement: Pilot Version". Global Reporting Initiative, Amsterdam. <<http://www.globalreporting.org/ReportingFramework/SectorSupplements/ElectricUtilities/>> (19 November 2009).
- <sup>9</sup> IAEA (2007), "Energy Indicators for Sustainable Development: Country Studies on Brazil, Cuba, Lithuania, Mexico, Russian Federation, Slovakia and Thailand". United Nations International Atomic Energy Agency, Vienna. <[http://www.un.org/esa/sustdev/publications/energy\\_indicators/full\\_report.pdf](http://www.un.org/esa/sustdev/publications/energy_indicators/full_report.pdf)> (19 November 2009).
- <sup>10</sup> ECOTEC (2007). Describing developments in the European electricity sector: Drivers for change: Corporate Social Responsibility - a report to the sectoral social partners, Eurelectric, EPSU and EMCEF.
- <sup>11</sup> It should be noted that while no electricity companies produced a CSR report prior to 2001 and only one-third did so in the 2007 ECOTEC report, many electricity companies do publish information on CSR-related issues such as environmental performance and sustainability and have done so for some time.
- <sup>12</sup> ECOTEC (2007). Describing developments in the European electricity sector: Drivers for change: Corporate Social Responsibility - a report to the sectoral social partners, Eurelectric, EPSU and EMCEF.
- <sup>13</sup> See Annex 1 for the questionnaire.
- <sup>14</sup> J. Wilde-Ramsing, Quality Kilowatts: A normative-empirical approach to the challenge of defining and providing sustainable electricity in developing countries, p. 21, footnote 3, (Amsterdam and Oslo: SOMO and ProSus/SINTEF, June 2009), <[http://somo.nl/publications-en/Publication\\_3170/view](http://somo.nl/publications-en/Publication_3170/view)>, (28 October 2009).
- <sup>15</sup> ECOTEC (2007). Describing developments in the European electricity sector: Drivers for change: Corporate Social Responsibility - a report to the sectoral social partners, Eurelectric, EPSU and EMCEF.
- <sup>16</sup> GRI (2008), "Sustainability Reporting Guidelines & Electric Utilities Sector Supplement: Pilot Version". Global Reporting Initiative, Amsterdam. <<http://www.globalreporting.org/ReportingFramework/SectorSupplements/ElectricUtilities/>> (19 November 2009).

## 2 Energy companies selected for study

### 2.1. Overview of selected transnational energy companies

The European Union has many national and transnational energy companies that differ widely in size, number of countries in which they are active, system and structure of employee participation, and CSR policies. This study has sought to include as many transnational European energy companies as possible given time and resource constraints. A key selection criterion for inclusion in the study was the number of countries in which a company is active since companies active in only one country do not qualify for an EWC. Furthermore, the selection process sought to include the largest energy TNCs in Europe so as to cover the greatest amount/number possible of turnover, customers supplied, and employees. The selection criteria also attempted to introduce variation in terms of ownership (state-owned vs. privately owned) and a regional distribution (i.e. companies headquartered in northern, southern, western and eastern Europe). Given these selection criteria, 16 of the largest European transnational energy companies have been selected for in-depth analysis. Together, these 16 energy companies have a combined workforce of more than one million employees and had a combined revenue of over €480 billion in 2008. They include seven of the top 10 largest electric utilities in the world.<sup>17</sup> Furthermore, these 16 companies cover all of the EWCs in the European energy sector. The 16 energy companies selected for in-depth analysis are:

- Centrica
- ČEZ Group (ČEZ)
- DELTA
- DONG Energy (DONG)
- Électricité de France (EDF)
- Ente Nazionale per l'Energia eLettrica (Enel)
- E.ON
- Energie-Versorgung Niederösterreich (EVN)
- FORTUM
- Gaz de France / Suez (GDF Suez)
- Iberdrola
- Rheinisch-Westfälisches Elektrizitätswerk (RWE)
- National Grid
- Statkraft
- Vattenfall
- Veolia Environnement (Veolia)

In addition to these 16 companies, nine additional European energy companies have been selected for a brief CSR-only analysis. They are covered in the tables and analysis of endorsement of international CSR instruments, but are not investigated in greater detail. None of these eight additional companies have an EWC, but including them in the study means the vast majority of Europe-based transnational energy companies are covered. The nine additional companies are:

- Electricidade de Portugal (EDP)/Hidroantábrico<sup>18</sup> (Portugal)
- Energie Baden-Württemberg (EnBW) (Germany)<sup>19</sup>
- ESB (Ireland)
- Gas Natural Fenosa (Spain)
- Mannheimer Versorgungs- u.Verkehrsgesellschaft (MVV) (Germany)

- Scottish and Southern (UK)
- TenneT (Netherlands)<sup>20</sup>
- Verbund (Austria)

## 2.2. Key characteristics of selected energy companies

Table 1 provides an overview of some of the key characteristics of the 16 companies selected for in-depth study.

**Table 1: Key characteristics of the selected European energy companies, 2009**

Company	Ownership	Head-quarters	State shares (%)	Employee shares (%)	Employees <sup>21</sup>	Countries active	Revenue 2008 (€ bln)
Centrica	Listed, public limited liability company	Windsor, UK	0	Various degrees <sup>22</sup>	32,817 <sup>23</sup>	10 <sup>24</sup>	25.7 <sup>25</sup>
ČEZ	Listed, public limited liability <sup>26</sup>	Prague, Czech Republic	69.8 <sup>27</sup>	n/a	27,232 <sup>28</sup>	13 <sup>29</sup>	7.0 <sup>30</sup>
DELTA	Public limited liability company	Middelburg, Netherlands	100 <sup>31</sup>	0	3,000 <sup>32</sup>	4	0.12
DONG Energy	Public limited liability	Copenhagen, Denmark	73 <sup>33</sup>	n/a	6,000 <sup>34</sup>	10 <sup>35</sup>	8.2 <sup>36</sup>
EDF	Listed <sup>37</sup> public limited liability <sup>38</sup>	Paris, France	84.7 <sup>39</sup>	2.0 <sup>40</sup>	160,913 <sup>41</sup>	26 <sup>42</sup>	64.2 <sup>43</sup>
Enel	Listed, public limited liability company <sup>44</sup>	Rome, Italy	13.9 <sup>45</sup>	n/a <sup>46</sup>	82,500 <sup>47</sup>	23 <sup>48</sup>	61.0 <sup>49</sup>
E.ON	Listed, public limited liability company <sup>50</sup>	Dusseldorf, Germany	0	% unknown but in 2007 the employees had 373,905 shares in total	93,538 <sup>51</sup>	19 <sup>52</sup>	87.0 <sup>53</sup>
EVN	Listed, public limited liability	Maria Enzersdorf, Austria	51 <sup>54</sup>	n/a	8,937 <sup>55</sup>	18 <sup>56</sup>	2.7 <sup>57</sup>
FORTUM	Listed, public limited liability	Espoo, Finland	50.8 <sup>58</sup>	Unknown	13,278 <sup>59</sup>	15 <sup>60</sup>	5.6 <sup>61</sup> (5.4 in 2009)
GDF Suez	Listed, public limited liability <sup>62</sup>	Paris, France	35.6 <sup>63</sup>	2.7 <sup>64</sup>	200,000 <sup>65</sup>	n/a	83.1 <sup>66</sup>
Iberdrola	Listed, public limited liability company <sup>67</sup>	Bilbao, Spain	0	Share-based employee compensation but amount is unknown <sup>68</sup>	28,096 <sup>69</sup>	More than 40 <sup>70</sup>	25.2 <sup>71</sup>
RWE	Listed, public limited liability company <sup>72</sup>	Essen, Germany	0	1.0 <sup>73</sup>	70,726 <sup>74</sup>	16	49.0 <sup>75</sup> (47.7 in 2009)

National Grid	Listed, public limited liability	London, UK	0	n/a	27,577 <sup>76</sup>	2	17.3 <sup>77</sup>
Statkraft	Public limited liability	Oslo, Norway	100	0	3,200 <sup>78</sup>	23 <sup>79</sup>	2.9 <sup>80</sup>
Vattenfall	Public limited liability <sup>81</sup>	Stockholm, Sweden	100 <sup>82</sup>	0	32,801 <sup>83</sup>	8 <sup>84</sup>	16.0 <sup>85</sup>
Veolia Environnement	Listed, public limited liability	Paris, France	0 <sup>86</sup>	1.4 <sup>87</sup>	336,000 <sup>88</sup>	72 <sup>89</sup>	36.2 <sup>90</sup>

As is clear in the table, the selected energy companies vary significantly in their structure, size, business activities and number of employees. These differences are partly due to the fact that some companies have energy-only activities while others are also engaged in other activities such as water provision and waste management. Furthermore, some companies are active only in Europe whereas others have global operations. It should be noted that figures related to the energy sector only may be considerably different for some companies; for example, Veolia's energy sector workforce of 52,802 employees comprises only 15% of its total workforce, and its energy activities contributed only 21% (€7.5 billion) to the company's total revenue in 2008.<sup>91</sup> Nevertheless, the company-wide consolidated figures are relevant and presented here for two reasons: 1) Energy-only and Europe-only figures are not publicly available for all companies, and 2) the European Works Councils associated with these companies are also mandated to deal with issues on a consolidated basis.

With a workforce of over 336,000, Veolia is the largest company in the study with regard to total number of employees, but it is surpassed by five other companies in terms of revenue. The German company E.ON has had the highest revenue in 2008 followed by GDF Suez, EDF, Enel and RWE. Netherlands-based DELTA is the study's smallest company in terms of total number of employees (3,000), number of countries active (4), and 2008 revenue (€120 million).

The companies also differ in their business structure with three companies, namely DELTA, Statkraft and Vattenfall, being fully state-owned while six companies, namely Centrica, National Grid, Veolia, Iberdrola, RWE and E.ON, have no state shares. EDF, ČEZ, Fortum, EVN and DONG Energy are not completely state-owned, but national governments have a controlling majority of their shares. Employee shareholding also varies, with the state-owned companies plus ČEZ, Fortum and DONG Energy<sup>92</sup> having no employee ownership to nearly 3% employee participation at GDF Suez.

<sup>17</sup> Ranked by revenue, profits, assets, and market capitalization, the top 10 largest electric utilities in the world in 2008 were 1. E.On AG, 2. Electricite de France, 3. RWE AG, 4. Enel SpA, 5. Suez, 6. Tokyo Electric Power Co., Inc., 7. Endesa SA, 8. Korea Electric Power Co., 9. Gaz de France, 10. Duke Energy Corp.

<sup>18</sup> In 2004, Portuguese electricity company EDP acquired sole control of Spain's utility company Hidroeléctrica del Cantábrico (Hidrocantábrico).

<sup>19</sup> EnBW is partially owned by EDF but has its own CSR policy

<sup>20</sup> Tennet is the first trans-border high voltage network company in Europe. Tennet is wholly owned by Dutch municipal governments, but did not get money from the municipalities for the EU network; it raised money on the international market to finance the deal.

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## 3 CSR in the European energy sector

### 3.1. CSR in Europe<sup>93</sup>

Europe has perhaps the strongest culture of corporate social responsibility of any region in the world<sup>94</sup>, which is reflected in the fact that the EC has recently sought to formalise its interpretation of the concept and promote a common vision of CSR through the continent. The EC's work on CSR dates back to at least 2000 when, during the setting of strategic goals during Lisbon Council, it encouraged businesses to embrace CSR. When the EC, with the aim of developing a common European approach to CSR, issued the first of three (to date) communications on CSR in 2001, it received over 250 responses to the document, half of which were from European companies.<sup>95</sup> The EC's 2001 communication defined CSR as "a concept whereby companies integrate social and environmental concerns in their business operations and their interactions with their stakeholders on a voluntary basis".<sup>96</sup> Since then, the EC has issued two more communications on CSR, in 2002 and 2006. In its most recent communication, the EC stressed that the notion of CSR and the importance given to it rests on common values found throughout the European region.<sup>97</sup> The 2006 communication goes on to state that CSR can contribute to addressing a number important social and environmental issues such as more rational use of natural resources, poverty reduction, respect for human rights, skills development, and better innovation performance.<sup>98</sup>

But the European culture of CSR extends beyond the government to a wide range of European stakeholder groups who have demanded a more prominent and clearer role for corporate responsibility. The European electricity industry social partners EURELECTRIC, EPSU and EMCEF have endorsed the EC's definition of CSR mentioned above and believe that "demonstrating their social responsibility and voluntarily taking on commitments which go beyond regulatory and conventional requirements...entails the need to monitor standards of social development, respect for fundamental rights, embrace open governments, and reconcile the interests of various stakeholders in an overall quality-driven approach".<sup>99</sup> The European Coalition for Corporate Justice (ECCJ) is an umbrella group that brings together national platforms of civil society organisations from around Europe including NGOs, trade unions, consumers' organisations, and academic institutions promoting corporate accountability and CSR. The ECCJ defines CSR more sharply than the EC position mentioned above; according to the ECCJ, "CSR is a process whereby a company assumes responsibility, across its entire supply chain, for the social, ecological and economic consequences of the company's activities, reports on these consequences, and constructively engages with stakeholders".<sup>100</sup> This implies that companies attempt "a best-possible integration of social, economic and environmental concerns in specific projects in given societal settings".<sup>101</sup> European businesses have also shown a good deal of interest in CSR. As mentioned above, more than 100 European businesses provided input on the EC's 2001 communications. The European Alliance for CSR and CSR Europe are networks of European businesses that provide a forum for businesses to exchange best practices on CSR in a number of issue areas such as fostering innovation and entrepreneurship in sustainable technologies, products, and services; assisting enterprises to integrate social and environmental considerations in their business operations, especially those in the supply chain; improving and developing skills for employability; improving working conditions; and, importantly, operating outside the borders of the European Union in a socially and environmentally responsible way. CSR Europe counts more than 70 corporate members, including several of the energy companies examined in this study. Graus et al. found that European companies generally scored highest (compared to North American and Asian companies) in their ranking of commitment to renewable

energy and that Europe was the region with the highest response rate to the group's request for collaboration in the research.<sup>102</sup> It should be noted, however, that European businesses have fought and lobbied hard to keep the elements and critical issues raised in the CSR debate voluntary and prevent any normative standards for sustainable development from becoming law. For example, the European Federation of Energy Traders (EFET), an energy industry lobby group that counts among its members several of the companies examined in this study, has fought efforts to improve the EC's counting scheme for renewable energy.<sup>103</sup>

### **3.2. CSR in the energy sector**

Access to high quality, reliable electricity is an absolute necessity for maintaining Europe's modern economies and high standards of living, as well as being vital for achieving sustainable development in accordance with the Millennium Development Goals. However, the electricity industry is also a major source of air and water pollution and one of the world's largest emitters of greenhouse gases, which are contributing to climate change. In fact, there is hardly another industrial sector that has such potential to contribute to economic and social development that at the same time can potentially have such negative impacts for people and planet. A rapidly changing climate and continuously rising electricity demand underline the urgency of defining corporate social responsibility in the context of the energy sector.

As mentioned above, the European electricity industry social partners Eurelectric, EPSU and EMCEF have endorsed the EC's definition of CSR and recognize that CSR is a broad concept that entails economic and environmental, as well as social, concerns.<sup>104</sup> Following this definition, it is essential to determine the specific social, economic and environmental issues and international standards relevant for the electricity sector. There exists a broad array of literature from academic, (inter-)governmental, industry, trade union, and NGO sources related to standards and criteria for sustainable electricity provision in developing countries. ECOTEC's 2007 study provides a background on CSR policies of European and international institutions and indicates key factors in the success of CSR policies. Furthermore, in 2009 Wilde-Ramsing conducted a comprehensive survey of this literature and extracted the most relevant critical issues and internationally accepted normative standards for sustainable electricity provision.<sup>105</sup> These internal and external norms are the source of the moral pressure on electricity companies to align their CSR policies and practices with the principles of sustainable development. It is not the intention of this report to detail all of the critical issues, standards and norms, but it is relevant to briefly review the main critical issue areas identified by ECOTEC and Wilde-Ramsing and identify some of the most important international standards and norms that should form the basis of an energy company's CSR policy.

#### **3.2.1. Overview of critical issues for CSR in the energy sector**

The critical issues identified by Wilde-Ramsing<sup>106</sup> represent a comprehensive list of indicators from the literature that should provide the basis for developing a comprehensive CSR policy. These issues can be roughly categorised into the three "pillars" of sustainable development: social issues, environmental issues, economic issues. A number of critical issues cut through all three pillars and lie at the heart of corporate social responsibility in the energy sector.

##### **Social issues**

Social issues refer to the impact that an electricity company's operations have on the social well-being of a country or community. Despite the fact that social issues are generally of great concern to developing countries, ECOTEC's analysis of electricity industry CSR reports found that the social pillar of sustainable development is often the most neglected by electricity companies.<sup>107</sup>

This may be due to the fact that electricity companies have a longer history of reporting on economic and environmental issues than on the social impacts of their operations. Social issues are also often overshadowed by the dominance of the current debate on global warming, which has focused CSR concerns on the environmental aspects of sustainable development.

Nevertheless, the European electricity industry social partners' recent joint statement on CSR makes it clear that there is agreement among employers and workers that social issues are a vital element of CSR. The social partners note that the social pillar of electricity companies' CSR policies must be grounded in internationally accepted standards related to the social aspects of sustainable electricity provision.<sup>108</sup> Relevant standards include:

- UN Universal Declaration of Human Rights and its Protocols
- UN International Covenant on Civil and Political Rights
- UN International Covenant on Economic, Social, and Cultural Rights
- ILO Declaration on Fundamental Principles and Rights at Work of 1998 (particularly the Core Conventions of the ILO)
- OECD Guidelines for Multinational Enterprises
- ILO Tripartite Declaration Concerning Multinational Enterprises and Social Policy
- UN Global Compact
- Council of Europe's Social Charter

Critical issues in the social pillar of CSR include the need for electricity provision to contribute to poverty alleviation and meeting basic needs, which means that companies' CSR policies should address concerns regarding affordability and access to electricity.<sup>109</sup> Furthermore, in their joint statement, the social partners identify a number of key issue areas, including:

- Social dialogue, including employee participation in the company, employee satisfaction, trade union recognition and collective bargaining
- Personnel, dealing with staff numbers and breakdown in different categories (i.e. gender, age, skill level, etc.), staff turnover and (access to) training
- Health and safety, comprising the internal (training of staff, accidents, illness and prevention) and external (community impact) dimensions
- Community relations, in particular consultation on the development of new sites, relations with NGOs and other organisations and information centres for users and citizens
- Equity and diversity, linked to codes of good conduct and ensuring compliance with equal opportunity policies and principles.<sup>110</sup>

Of particular importance in the joint statement is that the electricity social partners agree that "CSR is based on a positive attitude of management towards trade unions" and that the involvement and full integration of stakeholders such as trade unions and employees into the process of developing CSR policies is vital if CSR policies are to be successful in making a company more economically, socially and environmentally sustainable.<sup>111</sup> Furthermore, electricity trade unions have undertaken work to develop toolkits. The restructuring toolkit contains an important chapter on outsourcing that has been jointly agreed-upon by the electricity sector employers' association Eurelectric.<sup>112</sup> While the toolkits and checklist are not binding, they do indicate and set a standard for company behaviour and highlight social aspects of CSR policies that are essential to electricity sector employees such as information provision, advance notice and timetables, alternatives, right to remain and return, continuous monitoring, and training and qualifications.

### **Environmental issues**

The production, transmission, distribution and use of electricity create pressure on environments and ecosystems in the household, the workplace, the community, the city, and the natural

surroundings at national, regional and global levels. It is therefore imperative that electricity companies strive to minimise the environmental impact over the full life cycle of their product, from inputs such as fuels, water and materials, to waste products such as emissions and effluents. The electric power industry is among the world's largest consumers of fossil fuels and, as a result, largest emitters of carbon dioxide, making fuel use and fuel mix a critical concern. Power generation can result in significant negative environmental impacts such as diminishing soil, water and air quality; climate change; loss of biodiversity, in which developing countries are particularly rich; production of radioactive waste; and acid rain. In developing countries, where large numbers of people live in precarious situations, environmental problems, climate change and pollution affect a greater number of people and have a more direct and more acute impact on people. Furthermore, electricity infrastructure such as hydroelectric dams and high-voltage transmission lines are often located in ecologically sensitive areas rich in biodiversity.

Electricity companies have a responsibility to ensure the environmental sustainability of their operations. Companies need to have in place initiatives to stimulate the increase of renewable sources of energy for electricity and a long-term strategy for phasing out fossil fuels and completely switching to renewables. In addition to increasing the use of renewables, electricity companies should also implement other strategies to reduce their impact on climate change and GHG emissions, and disclose proper information regarding their performance to the public. They should also install control systems for waste and pollution, thereby minimising ecosystem impacts. Other, related environmental indicators include the company's impact on biodiversity and natural resource depletion.

Some of the most relevant international environmental standards that apply to electricity companies providing services in developing countries include:

- The 1992 Rio Declaration on Environment and Development
- The 1992 Biodiversity Treaty
- The 1997 Kyoto Protocol
- ISO 14001
- Chapter V on Environment of the OECD Guidelines for Multinational Enterprises

In addition, the role of private companies in sustainable development was emphasised at the 2002 Johannesburg UN World Summit on Sustainable Development. There are also a wide range of conventions and treaties addressing the responsibilities of corporations with regard to their impact on natural ecosystems, air, water, soil, climate, health and biodiversity. In general, companies should minimise the negative environmental impacts of their activities and should at least follow the most important principles for environmental sustainability expressed in the above-mentioned standards, including:

- The principle of preventative action
- Addressing environmental damage at its source
- The polluter pays principle (Principle 16 of the Rio Declaration)

### **Economic Issues**

Economic issues affect the progress and sustainability of economic development. While it is clear that energy companies must make a profit in order to continue their operations, economic aspects of companies' operations and impacts are increasingly debated from a CSR perspective.<sup>113</sup> Power companies are expected to contribute to sustainable economic development in their host country by investing in and improving electricity infrastructure, researching and developing sustainable new technologies that can be utilised by the host country in the future, ensuring a reliable supply of electricity for local residences and businesses in the short and long-term, managing demand,

paying fair and appropriate taxes, and conducting their operations in an efficient, honest, and transparent manner.

In order to maximise contribution to local economic development, electricity companies should first assess the local needs and determine whether new generation capacity is truly necessary or whether the demand could be met through efficiency measures and other demand-side initiatives rather than additional supply. Reliability of supply refers to the ability of a electricity system to provide an adequate, secure and uninterrupted supply of electrical energy at any point in time. Eco-efficiency refers to reducing the impact on natural resources for producing goods and services. Other economic indicators of sustainable electricity supply include competition, corruption, taxation, due diligence, and research and development.

Some of the most relevant international standards include:

- ❑ UNCTAD's Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices
- ❑ Chapter VI on combating bribery, Chapter X on competition and Chapter II on local economic development of the OECD Guidelines for Multinational Enterprises.

### **Cross-cutting issues**

Several critical issues cut through all three pillars of sustainable electricity provision and lie at the heart of a comprehensive approach to integrating the social, environmental, and economic dimensions of sustainable development. The cross-cutting standards and norms represent bottom-line normative standards with which electricity companies are expected to comply. A minimum requirement for sustainable electricity projects is compliance with all existing laws and regulations, both locally and internationally, in social, environmental, and economic issue areas. Furthermore, there is considerable support for considering respect for human rights as a fundamental normative reference point in any debate on electricity provision projects. The Special Representative of the UN Secretary-General on the issue of business and human rights has emphasised TNCs' responsibility to respect all human rights and the corresponding requirement for concrete action by companies to discharge this duty. Other "cross-cutting issues" include poverty reduction and meeting basic needs, the precautionary principle and evaluation of risks and alternatives, transparency and provision of information, stakeholder engagement and public participation in decision-making, and product chain responsibility. The internationally accepted standards and norms under these cross-cutting issues are consistent with a wide range of UN agreements and declarations, including the UN Declaration of Human Rights, and they are aligned with the WCD's foci of equity, efficiency, participatory decision-making, sustainability, and accountability.

### **3.2.2. CSR standards endorsed by European electricity industry**

The branch organization representing the employers in the European electricity industry, Eurelectric, has signed a joint statement with EPSU and EMCEF in which it pledges that the following international standards should be the basis of "any activity dealing with the social aspects of CSR".<sup>114</sup>

- ❑ OECD Guidelines for Multinational Enterprises
- ❑ ILO Tripartite Declaration Concerning Multinational Enterprises and Social Policy
- ❑ UN Global Compact
- ❑ Council of Europe's Social Charter

Since all of the companies examined in this study are members of Eurelectric through their national electricity associations, they should, in theory, all be committed to upholding the standards

referenced in the Eurelectric statement. Nevertheless, as will be seen below, many of the companies do not make explicit reference to standards like the UN Global Compact and the OECD Guidelines in their CSR policy statements and documents.

### **3.2.3. International CSR standards used as benchmarks in this study**

While the critical issues, norms and standards mentioned above paint a broad picture of what a best-practice CSR policy in the energy sector should look at, it is important to analyse how the selected energy companies are putting these standards into practice in their own CSR policies. For the purposes of this study, we will not investigate the energy companies' performance on all of the issues and standards identified above, but will concentrate on assessing the selected energy companies' endorsement of four of the key international CSR instruments relevant to the energy sector:

- UN Global Compact
- OECD Guidelines for Multinational Enterprises
- Carbon Disclosure Project (CDP)
- GRI G3 Guidelines and the Electric Utilities Sector Supplement (EUSS)

The first two instruments (the UN Global Compact and the OECD Guidelines) are internationally-agreed sets of standards for responsible business conduct. The second two instruments (the CDP and the GRI) entail reporting initiatives that encourage businesses to be transparent and disclose information on CSR issues that are important to their stakeholders. Between them, these four instruments reference a wide combination of social, economic, environmental, and cross-cutting issues relevant to the energy sector. In addition to the economic, social and environmental standards and criteria referred to in these four instruments, all of them highlight companies' responsibility to ensure that those standards are also met throughout the value chain of the products and services they provide.

It should be noted that participation in or endorsement of the Global Compact and the OECD Guidelines standards does not necessarily guarantee that a company is acting responsibly and putting the standards into practice. Evaluating compliance with the standards in practice is the only way to ensure this. As is explained below, there is a complaints procedure attached to the OECD Guidelines that can be used by trade unions and NGOs (see below), but this is based on stakeholders themselves bringing cases and is wrought with inadequacies. A complaints procedure for the Global Compact is in practice non-existent. Similarly, while reporting based on the CDP and GRI guidelines does give an indication that a company is aware of the critical CSR issues at stake, it says nothing about the company's interpretation of the issues or the conclusions that it attaches to their importance in practice. It is also possible that a company that is behaving in a responsible manner simply has not, for whatever reason, decided to officially endorse these international standards or report on them. It is beyond the scope of this study to evaluate the companies' performance on the CSR standards in practice. Nevertheless, official endorsement of these standards gives a good indication of the intentions of a company.

Each of the four benchmark standards are explained briefly below, along with a separate subsection on references to value chain responsibility in each of the standards.

#### **UN Global Compact**

The United Nations Global Compact is a "strategic policy initiative for businesses that are committed to aligning their operations and strategies with ten universally accepted principles in the

areas of human rights, labour, environment and anti-corruption”.<sup>115</sup> The Global Compact’s Ten Principles are derived from:

- ❑ The Universal Declaration of Human Rights
- ❑ The ILO’s Declaration on Fundamental Principles and Rights at Work
- ❑ The Rio Declaration on Environment and Development
- ❑ The United Nations Convention against Corruption

While not specific to the electricity industry, they cover critical issue areas of relevance to electricity sector CSR policies such as freedom of association and collective bargaining; respect for human rights; elimination of forced, compulsory and child labour and discrimination in the workplace; the precautionary approach; greater environmental responsibility and diffusion of environmentally-friendly technologies. Corporations can express their intention to abide by the Global Compact standards by signing up to the initiative, after which time they must make regular updates (communications) on their progress in implementing the principles.

#### **UN Global Compact Integrity Measures**

The UN Global Compact is a partnership initiative rather than a compliance-based initiative and therefore does not have a procedure to handle complaints related to the compliance of its members. However, the GC has decided on a set of “integrity measures” that include a procedure for initiating dialogue around allegations of systematic and egregious abuse of GC principles. This procedure “*aims primarily to generate a response from a company for the person raising a concern rather than being a fully-fledged complaint process aimed at achieving remediation*”.<sup>116</sup> The Board of the GC is charged with dealing with the “complaints”. In theory, thus, trade unions and (European) works councils can raise their concerns about a company’s alleged non-compliance with GC principles. The integrity measures have been invoked 81 times since the initiative’s inception, but not a single one of these instances has led to the termination of the of a company’s membership in the GC. Nevertheless, invoking the integrity measures and the dialogue that should follow could lead to improvements in corporate behaviour. The international character of the GC and the high-level of the GC Board, which counts among its members the Secretary-General of the UN, could result in (negative) publicity for the company and may lead to a change in corporate behaviour.<sup>117</sup>

#### **OECD Guidelines for Multinational Enterprises**

The OECD Guidelines are “a set of voluntary recommendations to multinational enterprises in all the major areas of business ethics, including employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation”.<sup>118</sup> While they can make reference to the OECD Guidelines in their policy documents, companies cannot officially sign up to the OECD Guidelines because the Guidelines apply to *all* multinational enterprises from all 30 OECD countries and 13 additional countries “adhering” to the OECD Guidelines. Given that all of the 24 energy companies examined in this study are headquartered and operate in countries that have signed the OECD Guidelines, the Guidelines apply to all of them. The state-owned companies have an even clearer responsibility to follow the OECD Guidelines given that their owners (governments) have signed the Guidelines and committed to their implementation.

The OECD Guidelines are more specific and go into greater detail on particular CSR issues than the Global Compact. Although they are not (electricity) sector-specific, the OECD Guidelines, in the ten chapters, cover a wide range of CSR issues from environment, labour rights and corruption to human rights, disclosure, taxation and supply chain management.



### **OECD Guidelines Specific Instance Mechanism**

One of the characteristics of the OECD Guidelines that makes them unique among CSR initiatives and instruments is that they have a dispute resolution (i.e. complaint) mechanism attached to them. All of the 43 countries adhering to the OECD Guidelines are required to set up a National Contact Point (NCP) to deal with complaints related to a company's alleged non-compliance with the Guidelines. Any interested party, including unions and NGOs, can raise a complaint, called a "specific instance" in OECD parlance. The NCP's primary role is to get the parties together to attempt to mediate among the parties with the aim of reaching a mutually-acceptable solution. However, if a mediated solution is not possible, NCPs should issue a statement determining whether the Guidelines have indeed been breached. The statement should be made public and should contain (non-binding) recommendations for improving compliance with the Guidelines. Nearly 200 specific instances have been filed by NGOs and unions since the mechanism was implemented in the year 2000. Thus far, however, the specific instance mechanism has had limited impact on improving corporate behaviour. This is due primarily to the poor functioning of the NCPs and the fact that governments are largely unwilling to attach consequences to breaches of the Guidelines. Nevertheless, there have been a number of successes in which a specific instance led to positive changes in corporate behaviour. Both OECD Watch, a network of NGOs, and the Trade Union Advisory Committee (TUAC) to the OECD have developed guides (translated into dozens of languages) to assist unions, NGOs, victims of corporate abuses and other "interested parties". For more information on the OECD Guidelines, the specific instances and outcomes, and the guides, see [www.oecdwatch.org](http://www.oecdwatch.org) and [www.tuac.org](http://www.tuac.org).

### **Carbon Disclosure Project (CDP)**

The Carbon Disclosure Project is an independent, not-for-profit organisation that holds the largest database of corporate climate change information in the world. The data is obtained from responses to CDP's annual Information Requests, issued on behalf of institutional investors, purchasing organisations and government bodies. Since its formation in 2000, "CDP has become the gold standard for carbon disclosure methodology and process, providing primary climate change data to the global market place" and aims to help organisations and countries to "measure and disclose their greenhouse gas emissions and climate change strategies, in order that they can set reduction targets and make performance improvements".<sup>119</sup>

The CDP's most recent report (CDP6) from 2008 indicated a general trend towards increased corporate emissions reporting under the CDP across all sectors. According to the CDP, this can be attributed to a number of factors, including growing awareness of climate change challenges and opportunities and increased regulatory requirements (or their anticipation) on corporate reporting of GHG emissions. Interestingly, the gas and electricity utility sector scores highest in terms of responding to the CDP (at 93%). This is certainly a positive development, given the enormous importance of the power sector for reducing greenhouse gas emissions. However, CDP analysis reveals that current company commitments are not likely to be sufficient to achieve the level of reductions recommended by the IPCC.<sup>120</sup>

### **GRI G3 Guidelines & Electric Utilities Sector Supplement (EUSS)**

The Global Reporting Initiative is a multi-stakeholder initiative that has developed a framework that "sets out the principles and indicators that organizations can use to measure and report their economic, environmental, and social performance".<sup>121</sup> In addition to its general G3 reporting guidelines, which cover social, environmental, economic and organizational aspects, in April 2009 the GRI launched the electricity industry-specific Electric Utilities Sector Supplement, which is based on and further specifies the existing G3 guidelines with electricity industry-specific indicators and commentaries. A multi-stakeholder group of 25 participants developed the EUSS sustainability reporting guidelines for companies engaged in all stages of electricity provision. The EUSS is intended to be applicable for all electric utilities in their activities around the globe. The EUSS reporting guidelines identify electricity sector-specific disclosures and performance indicators

aimed at improving organisations' reporting and transparency on economic, environmental, and social performance.

Examples of electricity sector-specific disclosure areas related to labour issues required of conforming companies by the EUSS include:

- ❑ Programs and processes to ensure the availability of a skilled workforce (EU14)
- ❑ Percentage of employees eligible to retire in the next 5 and 10 years (EU15)
- ❑ Policies and requirements regarding health and safety of employees and employees of contractors and subcontractors (EU16)
- ❑ Percentage of total workforce represented in formal joint management-worker health and safety committees that help monitor and advise on occupational health and safety programs (LA6)
- ❑ Health and safety topics covered in formal agreements with trade unions (LA9)
- ❑ Programs for skills management and lifelong learning that support the continued employability of employees and assist them in managing career endings (LA11)
- ❑ Percentage of employees receiving regular performance and career development reviews (LA12)<sup>122</sup>

### CSR in the Value Chain

In addition to the economic, social and environmental standards and criteria referred to in these four instruments, all of them highlight companies' responsibility to ensure that those standards are also met throughout the value chain of the products and services they provide. For example, Chapter II, paragraph 10 of the OECD Guidelines "Enterprises should encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the Guidelines".<sup>123</sup>

The Global Compact uses the term "sphere of influence" to refer to the supply chain, and asks companies to embrace, support and enact the Global Compact principles within that sphere of influence. Although the term "sphere of influence" has been discredited by the recent work of the Professor John Ruggie, Special Representative to the UN Secretary General on the issue of business and human rights, and replaced with the concepts of "sphere of responsibility" and "due diligence", it is a clear that the Global Compact is referring to implementing CSR beyond the individual company level into the value chain.

The 2009 CDP Supply Chain Report emphasises that a company could be put at risk by the inability of its suppliers to manage the climate-related risks.<sup>124</sup> In 2007, CDP Supply Chain was launched to help large companies identify opportunities for reducing GHG emissions from external operations. Member companies provide the CDP with a list of their suppliers, and encourage these suppliers to complete a standardized survey that includes questions on GHG emissions, energy consumption and cost, and energy/GHG management strategies. CDP analyzes the responses and provides the member company with a report detailing comprehensive supply chain emissions and energy costs.<sup>125</sup>

Examples of GRI EUSS electricity sector-specific disclosure areas related to labour issues in the value chain include:

- ❑ Policies and requirements regarding health and safety of employees and employees of contractors and subcontractors (EU16)
- ❑ Days worked by contractor and subcontractor employees involved in construction, operation & maintenance activities (EU17)

- Percentage of contractor and subcontractor employees that have undergone relevant health and safety training (EU18)
- Benefits provided to full-time employees that are not provided to temporary or part-time employees (LA3).
- Percentage of significant suppliers and contractors that have undergone screening on human rights and actions taken (HR2)<sup>126</sup>

93 This section draws heavily on J. Wilde-Ramsing's "Quality Kilowatts: A normative-empirical approach to the challenge of defining and providing sustainable electricity in developing countries" (Amsterdam and Oslo: SOMO and ProSus/SINTEF, June 2009), <[http://somo.nl/publications-en/Publication\\_3170/view](http://somo.nl/publications-en/Publication_3170/view)>, (28 October 2009).

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98 Ibid.

99 The full statement is reproduced in Annex 2. EPSU, Eurelectric and EMCEF (2009), "Joint Position on the Social Aspects of Corporate Social Responsibility in the European Electricity Industry". EPSU, Eurelectric and EMCEF, Brussels, <[http://www.epsu.org/IMG/pdf/Joint\\_Position\\_CSR\\_22\\_June\\_2009-2.pdf](http://www.epsu.org/IMG/pdf/Joint_Position_CSR_22_June_2009-2.pdf)> (4 December 2009).

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101 J. Wilde-Ramsing, Quality Kilowatts: A normative-empirical approach to the challenge of defining and providing sustainable electricity in developing countries, p. 21, footnote 3, (Amsterdam and Oslo: SOMO and ProSus/SINTEF, June 2009), <[http://somo.nl/publications-en/Publication\\_3170/view](http://somo.nl/publications-en/Publication_3170/view)>, (28 October 2009)

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105 See J. Wilde-Ramsing, Quality Kilowatts: A normative-empirical approach to the challenge of defining and providing sustainable electricity in developing countries (Amsterdam and Oslo: SOMO and ProSus/SINTEF, June 2009), <[http://somo.nl/publications-en/Publication\\_3170/view](http://somo.nl/publications-en/Publication_3170/view)> (28 October 2009)

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111 Ibid.

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113 MVO Platform (2007), "MVO Referentiekader". MVO Platform, Amsterdam. <[http://mvo-platform.tuxic.nl/files/Publicaties/MVO%20referentiekader%20NL\\_tweede%20druk.pdf](http://mvo-platform.tuxic.nl/files/Publicaties/MVO%20referentiekader%20NL_tweede%20druk.pdf)> (5 December 2009).

114 The full statement is reproduced in Annex 2. EPSU, Eurelectric and EMCEF (2009), "Joint Position on the Social Aspects of Corporate Social Responsibility in the European Electricity Industry". EPSU, Eurelectric and EMCEF, Brussels, <[http://www.epsu.org/IMG/pdf/Joint\\_Position\\_CSR\\_22\\_June\\_2009-2.pdf](http://www.epsu.org/IMG/pdf/Joint_Position_CSR_22_June_2009-2.pdf)> (4 December 2009).

115 UN Global Compact website, about us, <<http://www.unglobalcompact.org/AboutTheGC/>>, (29 October 2009)

116 Baseswiki website, UN Global Compact Integrity Measures, <[http://www.baseswiki.org/en/Global\\_Compact\\_%28GC%29: Integrity\\_Measures](http://www.baseswiki.org/en/Global_Compact_%28GC%29: Integrity_Measures)>, (15 March 2010)

117 Ibid.

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- 118 Organization for Economic Co-Operation and Development website, International investment, Guidelines for multinational enterprises, 2000, <[http://www.oecd.org/department/0,3355,en\\_2649\\_34889\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/department/0,3355,en_2649_34889_1_1_1_1_1,00.html)>, (29 October 2009)
- 119 CDP website, "What we do", <<https://www.cdproject.net/en-US/WhatWeDo/Pages/overview.aspx>>, (29 October 2009).
- 120 CDP, "CDP6", 2008, <[www.cdproject.net/reports.asp](http://www.cdproject.net/reports.asp)> (5 December 2009).
- 121 Global Reporting Initiative website, "About GRI", no date, <<http://www.globalreporting.org/AboutGRI/WhatIsGRI/>>, (29 October 2009)
- 122 GRI, "Sustainability Reporting Guidelines and Electric Utility Sector Supplement", April 2009, <<http://www.globalreporting.org/ReportingFramework/SectorSupplements/ElectricUtilities/>> (5 December 2009).
- 123 Organization for Economic Co-Operation and Development website, International investment, Guidelines for multinational enterprises, 2000, <[http://www.oecd.org/department/0,3355,en\\_2649\\_34889\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/department/0,3355,en_2649_34889_1_1_1_1_1,00.html)>, (29 October 2009)
- 124 CDP, "CDP6", 2008, <[www.cdproject.net/reports.asp](http://www.cdproject.net/reports.asp)> (5 December 2009).
- 125 CDP website, "Supply Chain Project", no date, <[www.cdproject.net/corporate-supply-chain-faqs.asp](http://www.cdproject.net/corporate-supply-chain-faqs.asp)> (9 December 2009).
- 126 GRI, "Sustainability Reporting Guidelines and Electric Utility Sector Supplement", April 2009, <<http://www.globalreporting.org/ReportingFramework/SectorSupplements/ElectricUtilities/>> (5 December 2009).

## 4 Comparison of company CSR policies with international benchmarks

Table 2 presents an overview of the 24 selected companies' CSR policies with relation to the four international CSR instruments used as benchmarks in this study. The policy overview already reveals some similarities among the companies as well as some important differences.

**Table 2: Endorsement/use of CSR instruments by selected electricity companies, 2009**

Company	UN Global Compact <sup>127</sup>	OECD Guidelines	CDP 2008 <sup>128</sup>	GRI G3 & EUSS reporting <sup>129</sup>
Centrica	YES, since 2006	YES <sup>130</sup>	YES	G3:NO <sup>131</sup> , EUSS: NO
ČEZ	NO	NO*	YES	G3: NO EUSS: NO
DELTA	NO	NO*	NO	G3: NO EUSS: NO
DONG Energy	YES, since 2006	NO*	NO	G3: YES, score "B+" EUSS: YES
EDF <sup>132</sup>	YES, since 2001	YES	YES	G3: YES, score "undeclared" EUSS: NO
EDP/ Hidrocantábrico	YES, since 2004	NO*	YES	G3: YES, score "A+" EUSS: YES
EnBW	NO	NO*	NO	G3: NO EUSS: NO
Enel	YES, since 2004	NO*	YES	G3: YES, score "A+" EUSS: YES
E.ON	YES, since 2004	NO*	YES	G3: YES, score "B+" EUSS: YES
ESB	NO	NO*	YES	G3: NO EUSS: NO
EVN <sup>133</sup>	YES, since 2005	YES	YES	G3: YES, score "A+" EUSS: YES
FORTUM	NO <sup>134</sup>	NO*	YES	G3: YES <sup>135</sup> , score "undeclared" EUSS: NO
Gas Natural Fenosa	YES, since 2002	NO*	YES	G3: YES, score "A+" EUSS: YES
GDF Suez <sup>136</sup>	YES, since 2000	YES	YES	G3: YES, score "B" EUSS: NO
Iberdrola	YES, since 2002	YES <sup>137</sup>	YES	G3: YES, score "A+" EUSS: NO
MVV	YES, since 2009	NO*	YES	G3: NO EUSS: NO
National Grid <sup>138</sup>	YES, since 2008	YES	YES	G3: YES <sup>139</sup> , EUSS: NO
RWE <sup>140</sup>	YES, since 2004	YES	YES	G3: YES <sup>141</sup> , score "undeclared" EUSS: YES
Scottish and Southern	NO	NO*	YES	G3: NO <sup>142</sup> EUSS: NO
Statkraft	YES, since 2004	YES <sup>143</sup>	NO	G3: YES, score "B+" EUSS: YES <sup>144</sup>
TenneT	NO	NO* <sup>145</sup>	NO	G3: NO, but YES for the year 2010 <sup>146</sup> EUSS: NO, but YES for the year 2010
Vattenfall <sup>147</sup>	YES, since 2008	YES	YES	G3: YES, score "A+" EUSS: YES

Veolia Environnement	YES, since 2002	YES <sup>148</sup>	YES	G3: YES, EUSS: NO
Verbund	NO	NO*	YES	G3: YES, score "A+" EUSS: YES

\* "NO" means that there is no explicit mention of the OECD Guidelines could be found in any of the company's publicly available policy documents.

Seventeen (70%) of the 24 companies are members of the UN Global Compact. The eight companies that are not members of the GC are ČEZ, DELTA, EnBW, ESB, Fortum, Scottish and Southern, TenneT and Verbund. Although Fortum is not a member of the UN Global Compact, the company claims that its code of conduct and supplier code are based on the ten principles of the UN GC.<sup>149</sup>

Although it is not possible to become a "member" of the OECD Guidelines, all companies are expected to abide by them and follow the standards they comprise. Nine (38%) of the companies examined in this study make explicit reference to the OECD Guidelines in their CSR policy documents – Centrica, EDF, EVN, GDF Suez, Iberdrola, National Grid, RWE, Vattenfall and Veolia Environment. Three of the selected energy companies, EDF, National Grid and Vattenfall, have had a case filed against them by NGOs for violation of the OECD Guidelines under the procedures outlined above. It is interesting to know that each of these three companies explicitly state in their policy documents that they uphold the OECD Guidelines in their operations. The three cases are described briefly in boxes below.

#### OECD Guidelines case 1: National Grid<sup>150</sup>

In July 2003, the NGO Citizens for a Better Environment (CBE) filed a complaint against National Grid Transco (NGT) regarding its mining practices in Zambia. The allegations concern the manner in which NGT had acquired the Copperbelt Energy Corporation (CEC). NGT had allegedly negotiated obtained and accepted exemptions in their agreements with respect to environmental, financial and tax incentives and safety regulations on behalf of CEC. These agreements make that CEC enjoys considerable non-uniform, discriminatory, undue or improper advantages through waivers, powers or immunity and causes a monopoly for CEC's in supplying electricity and an unstable macroeconomic environment by among others raising the tax burden on the poor. Another allegation is that CEC has failed to co-operate with its 350 employees to mitigate the effects of collective lay-offs despite the company's wide profit margin.

In November 2003, NGT expressed a willingness to engage in the OECD process, but asserted that the Guidelines had not been breached. The UK National Contact Point (NCP) insisted CBE produce more information, which resulted in the case being stalled for over a year. In March 2005, NGT indicated to the UK NCP that the company was eager to have the case concluded. NGT was critical of the UK NCP for its lack of action. In April 2005, the NCP wrote to CBE threatening to close the case. Although CBE challenged the fairness of such an action and requested help in obtaining the necessary additional documentation, the NCP closed the case citing "want of prosecution" in July 2005.

#### OECD Guidelines case 2: EDF<sup>151</sup>

In November 2004, the NGO Proyecto Gato, on behalf of a coalition of NGOs, filed a complaint against EDF concerning the Nam Theun 2 hydropower project in Laos of which EDF is the main shareholder. The NGOs were concerned about the negative social and environmental impacts of the project, including adverse impacts on biodiversity. In addition, the project was assumed to have major impacts on the livelihoods of villagers who were not adequately consulted.

EDF responded to the complaint in January 2005 and the French NCP organized a joint meeting between the company and the NGOs. In April 2005, the French NCP issued a statement that no breaches of the OECD Guidelines could be attributed to EDF and that the company had even made commitments going beyond the Guidelines.

**OECD Guidelines case 3: Vattenfall<sup>152</sup>**

In October 2009, Greenpeace Germany filed a complaint against Vattenfall regarding, among other things, the company's Hamburg-Moorburg coal-fired power plant, which is currently under construction. Greenpeace argues that Vattenfall is attempting to undermine German environmental law by filing a complaint with the World Bank arbitration tribunal ICSID in which the company is demanding €1.4 billion in compensation from the German government because of the environmental standards imposed on Moorburg. However, Greenpeace has calculated that Moorburg emissions will exceed levels necessary for sustainable development by more than five times. Furthermore, while Vattenfall claims in its "Climate Manifesto" public relations campaign that it is committed to climate protection issues, Greenpeace alleges that in Germany the company generates the highest levels of CO<sub>2</sub> emissions per kilowatt/hour of electricity generated. According to Greenpeace, the Moorburg plant will consume nearly 10% of the German energy industry's CO<sub>2</sub> budget in its projected 40 years of operation, while generating only a scant 2% of the total amount of energy produced. On 16 March 2010 the German NCP rejected the case against Vattenfall

In terms of reporting standards, nineteen (80%) of the 24 companies examined report according to the Carbon Disclosure Project standard. The five companies that do not produce CDP reports are DELTA, DONG, ENBW, Statkraft and TenneT.

The majority (66%) of the companies examined also uses the GRI G3 guidelines for sustainability reporting. Sixteen of the companies report according to the GRI, with Centrica, ČEZ, DELTA, EnBW, ESB, MVV, Scottish and Southern and TenneT being the companies that do not. Both Centrica and Scottish and Southern claim that they use the GRI in order to report, but neither company is registered with the GRI as a GRI-compliant reporting entity. TenneT has expressed its intention to publish its first CSR report in 2011 and have the report be based on the GRI. Of the companies that do currently report according to the GRI, 63% are already using the newly-developed Electric Utilities Sector Supplement. The companies that use the EUSS are DONG, EDP, Enel, E.ON, EVN, Gas Natural Fenosa, Statkraft, RWE, Vattenfall, Verbund.

Nine of the companies (38%) have integrated all four benchmark standards into their own CSR policy - Centrica, EDF, EVN, GDF Suez, Iberdrola, National Grid, RWE, Vattenfall and Veolia. RWE and Vattenfall are the only two to have four "YES"es and a "YES" on the GRI EUSS.

DELTA, EnBW and TenneT (comprising 13% of the companies examined) are the only companies that have not incorporated any of the four benchmark standards into their own CSR policy. However, TenneT indicated that it uses the OECD Guidelines for Multinational Enterprises for the development of supplier evaluation criteria and that its CSR-report of 2010 will be based on the GRI standards, including the relative sector supplement (EUSS).

The European Alliance for CSR and CSR Europe are networks of European businesses that provide a forum for businesses to exchange best practices on CSR in a number of issue areas such as fostering innovation and entrepreneurship in sustainable technologies, products, and services; assisting enterprises to integrate social and environmental considerations in their business operations, especially those in the supply chain; improving and developing skills for employability; improving working conditions; and operating outside the borders of the European Union in a socially and environmentally responsible way. Of the energy companies examined in this study, only four are members of the European Alliance for CSR – Enel, GDF Suez, RWE, and Unión Fenosa.<sup>153</sup> In addition, Enel, GDF Suez and Vattenfall are members of CSR Europe.<sup>154</sup>

## 4.1. Company policies on supply chain responsibility

The energy companies also differ on the policies they have developed regarding social and environmental concerns in the supply chain, with some companies having developed a detailed and far-reaching policy in this area while others have no policy at all. The various companies and their policies and approaches to supply chain responsibility are briefly examined below.

### □ Centrica

Centrica has developed a “Group responsible procurement and supplier management policy”, which applies to “all procurement and supplier management activity”. The key elements of the policy include ensuring integrity in business transactions, openness and fairness, respecting human rights, focussing on health, safety and security, tackling climate change and environmental impact and responding to feedback. The policy is implemented by assessing and monitoring the company’s supply chain activities and the effectiveness of policies and practices of business partners based on an established set of indicators and targets. Underperformance results in the development of a remediation plan and could end with the termination of a contract.<sup>155</sup>

### □ DONG

DONG stipulates a range of overall ethical, social and environmental requirements to all of its suppliers by requiring suppliers to comply with the DONG Energy Code of Conduct for Suppliers, which references the UN Global Compact.

### □ EDF

EDF has developed a “Suppliers' Charter for Sustainable Development” by which suppliers are expected to respect and support the ILO conventions and the principles of the Global Compact. Moreover, each EDF supplier is required to “ensure the compliance of himself and his sub-contractors with regards to the respect of the law, to the health and safety of the workforce, to ethical practices with clients and to the respect of the environment”.<sup>156</sup> If necessary, EDF may monitor the implementation of this clause by internal or external auditors.

### □ Enel

Enel has a “general information” clause in “all contracts” that make the adoption of Enel’s Code of Ethics explicit.<sup>157</sup> The implementation of this code goes through an internal control committee, training and audits. The social report on ethical and social responsibilities is submitted to an external auditor. In addition to the Code of Ethics, Enel “obliges contractors to apply the National Collective Bargaining Agreement to its workers, and in general to comply with regulations regarding on-the-job health, safety, and hygiene, as well as wage, pension, and insurance obligations”.<sup>158</sup>

### □ E.ON

E.ON also references the UN Global Compact in its “Responsible Procurement Policy”, which instructs its purchasing managers to take environmental and social standards into account along the entire supply chain. E.ON expects suppliers to do so and insists that “companies from whom we source goods and services protect human rights, implement fair working conditions, uphold environmental standards and maintain transparent business relationships”.<sup>159</sup> E.ON assesses its policies with its own, specially trained, auditors. If breaches of its standards are uncovered, E.ON informs the supplier of what is required of it and may eventually terminate the relationship.



□ EVN

EVN has a Code of Conduct that references UN Global Compact, the OECD Guidelines for Multinational Enterprises and several ILO conventions; however, the Code strangely states that “demands placed on third parties cannot be inferred from this document”, implying that suppliers and contractors may not be beholden to the standards expressed therein.<sup>160</sup> The company does stress that the “contract allocation process takes into account the environmental, employee protection and safety aspects of services and supplies”. Furthermore, the EVN Code of Conduct stresses “suppliers who do not fulfil the required quality criteria, or who do not sufficiently take account of environmental, occupational safety, security and sustainability considerations will be excluded from doing business with us”.<sup>161</sup> The evaluation of the compliance takes place via specific procedures, which are not outlined, and regular auditing.<sup>162</sup>

□ Fortum

Fortum’s supplier Code of Conduct is based on the principles of the UN Global Compact and defines the basic sustainability requirements placed on Fortum’s suppliers. The company states that all of its suppliers are obligated to implement the principles of the Supplier Code of Conduct across their whole business. Furthermore, the company expects its suppliers to “to verify compliance by providing information and allowing possible audits at site by Fortum or by an accredited auditor company representing Fortum”.<sup>163</sup>

□ GDF Suez

GDF Suez has developed both an “Ethics Charter” that is applicable to its suppliers as well as a “Code of Conduct Governing Supplier Relationships”.<sup>164</sup> The policies are implemented by the Ethics and Compliance Division, which also handles monitoring and verification through audits.<sup>165</sup>

□ Iberdrola

Iberdrola makes reference to the UN GC in its “Supplier Contracting and Relationship Policy”. The company assesses its suppliers on quality, safety and occupational risk prevention, environment, social responsibility and their economic-financial situation.<sup>166</sup> The supplier CSR requirements are included in the Group’s general contracting conditions. If a supplier breaches a condition, Iberdrola claims that it will require corrective measures to be taken or Iberdrola will terminate the contract.<sup>167</sup>

□ National Grid

National Grid’s human rights policy includes a pledge “to do business with partners, contractors and suppliers that respect the fundamental principles of human rights and to work with our supplier base to increase the practical implementation of these principles”.<sup>168</sup>

□ RWE

RWE claims to “work to further enforce the Global Compact principles in its business relationships” and not to “have business relationships with suppliers who are publicly known to be in violation of the principles underlying the Global Compact”.<sup>169</sup> Compliance with this code is monitored by compliance officers and internal and external auditors. If breaches are found, RWE may encourage corrective action “though sanctions”.<sup>170</sup>

□ Statkraft

Statkraft claims to have “detailed procurement procedures in order to secure structured and traceable interaction and equal treatment of suppliers”.<sup>171</sup> As part of these procedures, Statkraft’s suppliers are familiarized with the Code of Conduct and ethical guidelines during tender processes and when signing contracts. These define clear requirements and standards within areas such ethics and integrity, environment, and health and safety. Moreover, the company wants to primarily

use suppliers that have been approved under Sellihca, the Nordic energy sector's supplier registration and rating system that currently comprises around 2,000 approved suppliers.<sup>172</sup> Other Scandinavian energy companies DONG Energy, E.ON, Fortum, and Vattenfall are participants in the Sellihca system.<sup>173</sup>

#### □ Vattenfall

By means of a supplier code of conduct, Vattenfall encourages all suppliers to accept and to act in line with the UN GC principles. Vattenfall has recently introduced system in which suppliers are required to register and to perform a self assessment of their compliance with the code. Although the company is currently doing business with unregistered suppliers, the company argues that "in due time purchasers will not be able to order from unregistered suppliers".<sup>174</sup>

#### □ Veolia

Veolia Environment has developed various means for promoting adherence to the principles of sustainable development by external parties, such as the company's Purchasing Charter and its procedures for supplier evaluation. Furthermore, training for purchasing officers includes a sustainable development module.<sup>175</sup> The company notes that it only accepts contracts if it is sure that the business partners complies with human rights as defined by the ILO and OECD.<sup>176</sup>

#### □ ČEZ and DELTA

While it is clear that the majority of energy companies have a well-developed policy for respecting (or at least taking into account) social and environmental concerns in selecting and dealing with suppliers and contractors, ČEZ and DELTA seem to have no such supply chain policy.<sup>177</sup>

<sup>127</sup> UN Global Compact website, Participants & stakeholders, participant search, <[http://www.unglobalcompact.org/ParticipantsAndStakeholders/search\\_participant.html](http://www.unglobalcompact.org/ParticipantsAndStakeholders/search_participant.html)>, (28 October 2009)

<sup>128</sup> Carbon Disclosure Project website, Results, responses, <<https://www.cdproject.net/en-US/Results/Pages/responses.aspx>>, (29 October 2009)

<sup>129</sup> Global Reporting Initiative website, GRI reports, GRI reports list, <<http://www.globalreporting.org/GRIReports/GRIReportsList/>>, (29 October 2009)

<sup>130</sup> Centrica website, business principles, anti-corruption, <[http://www.centrica.com/files/pdf/businessprinciples\\_ant Corruption.pdf](http://www.centrica.com/files/pdf/businessprinciples_ant Corruption.pdf)>, (6 January 2010). There is an explicit reference to the "combating bribery" element of the OECD guidelines on multinational enterprises.

<sup>131</sup> Centrica website, <<http://www.one-report.com/report/gri-index.html?companyid=567>>, (6 January 2010)

<sup>132</sup> EDF Corporate Responsibility Agreement, (25 January 2009), <<http://sustainable-development.edf.com/accueil-com-fir/edf-developpement-durable/edf-sustainable-development/a-responsible-approach/the-group-s-commitments/edf-corporate-responsibility-agreement-csr-107590.html>>, (29 October 2009)

<sup>133</sup> EVN Code of Conduct, p. 5, <<http://www.evn.at/getdoc/1615c16d-52b4-4f05-820b-b9c393bdd706/EVN-Verhaltenskodex.aspx>>, (22 December 2009)

<sup>134</sup> Although Fortum is not a member of the UN Global Compact, the company claims that its code of conduct and supplier code are based on the ten principles of the UN GC. Fortum comment on draft company profile 17 March 2010

<sup>135</sup> Fortum website, about fortum, sustainability, reporting, GRI comparison, <<http://www.fortum.com/document.asp?path=14022;14024;14026;14043;14116;14118;42815;42818>>, (28 October 2009)

<sup>136</sup> GDF Suez website, Commitments, our organization, ethics and compliance, <<http://www.gdfsuez.com/en/commitments/our-vision/organization/ethics-and-compliance/ethics-charter-and-guidelines-ethics-in-practice/ethics-charter-and-guidelines-ethics-in-practice/>>, (29 October 2009)

<sup>137</sup> Iberdrola Code of Professional Conduct of the Iberdrola Group, (18 November 2008), <<http://www.iberdrola.es/webibd/gc/prod/en/doc/codigoiberdrola.pdf>>, (29 October 2009)

<sup>138</sup> National Grid website, Responsibility, Managing our impacts, our policies, human rights, <<http://www.nationalgrid.com/NR/rdonlyres/9B68E057-9E08-4F1E-89B4-19259B06E614/38369/PPSonHumanrights09reviewfinal.pdf>>, (6 January 2010).

<sup>139</sup> National Grid website, Responsibility, reporting our performance, <<http://www.nationalgrid.com/corporate/Our+Responsibility/Reporting+our+Performance/>>, (6 January 2010)

<sup>140</sup> RWE website, responsibility, strategy, guidelines, <<http://www.rwe.com/web/cms/en/11206/rwe/responsibility/strategy/guidelines/standards/>>, (29 October 2009)

<sup>141</sup> RWE website, verantwortung, daten & fakten, <<http://www.rwe.com/web/cms/de/238424/rwe/verantwortung/daten-fakten/gri-bilanz-2008/>>, (28 October 2009)

<sup>142</sup> Although it is not registered with the GRI, Scottish and Southern's 2008 CSR report notes, "The GRI has guided the development of this report. The GRI is the most widely accepted global standard for corporate responsibility reporting". S&S 2008 CSR report, <<http://www.scottish->

southern.co.uk/SSEInternet/uploadedFiles/Corporate\_Responsibility/Our\_Performance/Reports/Report\_items/SSE\_CR08\_finalspreads.pdf> (16 December 2009).

143 Statkraft Code of Conduct, p. 4, <[http://www.statkraft.com/Images/Code%20of%20Conduct%20A5\\_UK\\_Singel\\_tcm9-7109.pdf](http://www.statkraft.com/Images/Code%20of%20Conduct%20A5_UK_Singel_tcm9-7109.pdf)>, (2 March 2010)

144 The company has indicated that the EUSS will be used for the reporting of the account on the year 2009.

145 TenneT is using the OECD Guidelines for Multinational Enterprises for the development of supplier evaluation criteria.

146 Tennet has indicated that it will publish its sustainability report of 2009/2010 will be based on the GRI standards (including a GRI-index table).

147 Vattenfall Annual report 2004, Competence Organisation and Management, p. 53, <[http://www.vattenfall.com/www/vf\\_com/vf\\_com/Gemeinsame\\_Inhalte/DOCUMENT/360168vatt/5966164xin/596675annu/5967152004/2004-AnnualReport-EmployeesAndCompetence.pdf#search=%22OECD%20Guidelines%22](http://www.vattenfall.com/www/vf_com/vf_com/Gemeinsame_Inhalte/DOCUMENT/360168vatt/5966164xin/596675annu/5967152004/2004-AnnualReport-EmployeesAndCompetence.pdf#search=%22OECD%20Guidelines%22)>, (29 October 2009)

148 Veolia website, sustainable development, challenges, fundamental social rights, <<http://www.sustainable-development.veolia.com/en/challenges-sustainable-development/fundamental-social-rights.aspx>>, (21 December 2009)

149 FORTUM supplier code of conduct, <[www.fortum.ru/netcat\\_files/File/Purchase/.../Codex\\_eng.doc](http://www.fortum.ru/netcat_files/File/Purchase/.../Codex_eng.doc)>, (17 March 2010).

150 This information is based and summarized from the OECD Watch website. Source: OECD Watch website, cases, National Grid Transco, <[http://oecdwatch.org/cases/Case\\_34](http://oecdwatch.org/cases/Case_34)>, (6 January 2010).

151 This information is based and summarized from the OECD Watch website. Source: OECD Watch website, cases, EDF, <[http://oecdwatch.org/cases/Case\\_55](http://oecdwatch.org/cases/Case_55)>, (6 January 2010).

152 This information is based and summarized from the OECD Watch website. Source: OECD Watch website, cases, Vattenfall, <[http://oecdwatch.org/cases/Case\\_170](http://oecdwatch.org/cases/Case_170)>, (6 January 2010)

153 CSR Europe website, The Alliance, <<http://www.csreurope.org/pages/en/supporters.html>>, (9 November 2009)

154 CSR Europe website, Our members, <<http://www.csreurope.org/members.php>>, (11 November 2009).

155 Centrica website, Responsibility, principles and policies, our policies, responsible procurement and supplier management, (2008), <[http://www.centrica.com/files/pdf/businessprinciples\\_suppliermanagement.pdf](http://www.centrica.com/files/pdf/businessprinciples_suppliermanagement.pdf)>, (6 January 2010)

156 EDF The sustainable development charter between EDF SA and its suppliers, (June 2006), <<http://suppliers.edf.com/the-edf-offers/home/edf-purchases/edf-commitments-78005.html>>, (29 October 2009).

157 Enel sustainability report 2008, p. 164, <<http://www.enel.com/en/sustainability/doc/EnelSostenibilitaEng2008.pdf>>, (30 October 2009).

158 Enel sustainability report 2008, p. 164, <<http://www.enel.com/en/sustainability/doc/EnelSostenibilitaEng2008.pdf>>, (30 October 2009).

159 E.ON website, Corporate, responsibility, marketplace, responsible procurement, <<http://www.eon.com/en/unternehmen/29274.jsp>>, (29 October 2009).

160 EVN Code of Conduct, p. 6, <<http://www.evn.at/getdoc/1615c16d-52b4-4f05-820b-b9c393bdd706/EVN-Verhaltenskodex.aspx>>, (22 December 2009).

161 EVN Code of Conduct, p. 6, <<http://www.evn.at/getdoc/1615c16d-52b4-4f05-820b-b9c393bdd706/EVN-Verhaltenskodex.aspx>>, (22 December 2009).

162 EVN website, responsibility, economy, suppliers, auditing of external suppliers, <<http://www.evn.at/auditing-of-external-suppliers.aspx>>, (22 December 2009).

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## 5 European Works Councils

In 1994, the European Union launched a legal framework for establishing European Works Councils that should ensure information and consultation rights for employees of multinational companies that meet certain criteria.<sup>178</sup> The procedure makes it possible for employees to request the start of negotiations with a company's management to set up either an EWC or an alternative information and consultation procedure functionally equivalent to an EWC. Currently, 841 EWCs are in operation, with more than 12,000 members and covering around 60% of EU workers that have the right to request an EWC.<sup>179</sup> The EWC directive stipulates that companies with more than 1,000 employees in the EU, Liechtenstein, Iceland and Norway and at least 150 employees in each of at least two of those countries qualify to have an EWC or alternative structure.

Once an EWC is created, they are not all exactly the same. To begin with, the first EWCs were created on the basis of Article 13 of the 1994 EU directive while later agreements, those signed after the transposition date of 22 September 1996, are based on Article 6 of the directive. The main difference is that the latter allow for renegotiating of the agreements, which allows the parties to the EWC agreement much more flexibility in terms of setting the structure, tasks and operational functioning. Agreements that are based on Article 6 obliged the negotiating parties to respect minimum requirements.<sup>180</sup>

Furthermore, aside from the legal requirements and provisions, the functioning of an EWC is primarily based on national traditions of the relevant countries. As a result, EWCs may differ in their structure, tasks and operational functioning. Experts stress that in France, for instance, it is common to involve financial experts in the assessment of a company's financial figures while in Germany this is not the case. The Dutch model includes good arrangements with regard to education of EWC members.<sup>181</sup> Also worthy of note is the fact that French legislation stipulates that the CEO of the company himself/herself should chair the EWC; however, the workers side does have its own, separate meetings.

In general, all EWCs should be set up at the group level of the undertaking, rather than for a particular subsidiary or business unit.

### 5.1. 2009 EWC Directive

In 2009, the European Union revised the legal framework of the EWCs to more precisely formulate the provisions on information and consultation, the two primary functions of EWCs. Article 2 of the 2009 EWC directive provides the following definitions:

“(f) ‘Information’ means transmission of data by the employer to the employees’ representatives in order to enable them to acquaint themselves with the subject matter and to examine it; information shall be given at such time, in such fashion and with such content as are appropriate to enable employees’ representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare for consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings;

g) 'Consultation' means the establishment of dialogue and exchange of views between employees' representatives and central management or any more appropriate level of management, at such time, in such fashion and with such content as enables employees' representatives to express an opinion on the basis of the information provided about the proposed measures to which the consultation is related, without prejudice to the responsibilities of the management, and within a reasonable time, which may be taken into account within the Community-scale undertaking or Community-scale group of undertakings".<sup>182</sup>

The new definition of "consultation", which comes into force in 2011, is important because the phrase "enables employees' representatives to express an opinion" could lead to a significant increase of the power of the EWCs. Under the 1994 directive, "consultation" was defined as "the exchange of views and establishment of dialogue between employees' representatives and central management or any more appropriate level of management".<sup>183</sup> There is thus an upgrade from "exchanging views" to "enabling an opinion". Although the older EWCs founded prior to 22 September 1996 on the basis of Article 13 will continue to operate with the old definitions of information and consultation rights as agreed before, any new EWC negotiations or any Article 6 EWCs that are revised or renegotiated after 2011 will fall under the new, improved definitions. However, it is important to note that Article 6 agreements that are revised or renegotiated in 2010 (i.e. prior to the coming into force of the new directive in 2011) will maintain the old definitions and legal obligations from the 1994 Directive, even after the new directive comes into force.

The new right of consultation enables EWCs to undertake a detailed examination of the potential effects of planned decisions. The EWC has the opportunity to give its opinion or proposals in sufficient time to make it possible for the management to take them into consideration, as long as the decision-making process has not been concluded. Once the EWC provides its position, it has no further legal manoeuvring room. As a result, in certain circumstances it may be in the strategic interest of an EWC to prolong its assessment of all possible information. Although the 2009 directive stresses that consultation should not delay a corporate decision, experts argue that an EWC's timing in giving its advice may sometimes be at least as powerful as the content of its advice.<sup>184</sup> The EWC could, for instance, ask the management for additional information in order to "enable" the EWC make an informed decision in giving its opinion. This could provide an incentive for management to come to the negotiation table with the EWC at early stage on certain issues in order to ensure a smooth consultation procedure.

An interesting example of how the right of information and consultation was exercised by EWCs was during the merger between GDF and Suez in 2008. The GDF EWC brought a legal case against the company because there had been insufficient information and consultation with the EWC about the merger. The EWC demanded and won the right to full information and consultation. After the additional information was provided and consultation took place, both the GDF and Suez EWCs recommended that the merger not go through. In the end, of course, the merger did go through, but the extra information and consultation period that the EWCs had won bought valuable time for the unions to organise better conditions for the employees that were made redundant and even save some jobs.

Another interesting element of the new directive is a more obligatory component for companies without an EWC. Although experience has shown that companies generally respond to a request to create an EWC by opening negotiations, companies that refuse to enter such negotiations within a

period of six months are obliged to establish an EWC according to the subsidiary requirements of the directive. The old directive did not foresee any sanctions.

When it comes to CSR the social partners as well as the European legislators have, however, missed the opportunity to create the formal mandate for EWCs on CSR within the directive. Such an explicit reference would have made it more demanding and realistic for EWCs to discuss CSR policies and reporting.

## 5.2. Relationship between national works councils and EWCs

Some experts argue that national employee participation structures often focus on operational participation while the European structure for employee participation is more directed toward the strategic and abstract level.<sup>185</sup> As a result, EWCs should not be regarded as a threat to national works councils. The 2009 and 1994 directives explicitly state that EWCs should not interfere with the rights and competences of national structures and that the EWC only adds an extra tool for influencing corporate strategic decision making at a multinational level. National and European works councils should cooperate in order to be as effective as possible, in particular through information exchange. One should note that confidentiality clauses could hamper such dialogue between national and EU-level employee representatives and stand in the way of more coordination and thus effective representation. However, the 2009 directive stresses that EWC members should consult their national level colleagues on their positions. Moreover, the 2009 directive instructs new EWC agreements to clarify the relationship between national and European employee representation with regard to the consultation procedure. If such a provision on the relationship is absent, the information and consultation should take place simultaneously at both levels.<sup>186</sup>

## 5.3. Costs and benefits of an EWC

The overviews of the perceived costs and benefits associated with the operations of EWCs in Table 3 and Table 4 reveal that both employees and employers are generally positive about the benefits and believe that these outweigh the operational costs of running an EWC.<sup>187</sup>

**Table 3: Views of involved parties on the benefits associated with the operation of EWCs**

	Companies (%)			Employees (%)		
	Agree	Neutral	Disagree	Agree	Neutral	Disagree
Better ability to talk to employee reps from other countries	88	4	8	96	0	4
Better ability to talk directly to group management	79	10	10	91	4	4
Improved understanding of management decisions	82	10	8	76	15	10
Better exchange of information	80	12	10	98	2	0
Improved relations between management and employees	76	22	2	63	17	20
Increased trust	63	29	8	61	20	20
Better corporate culture at European level	62	28	11	73	22	5
More effective decision-making	23	33	44	37	22	41
Enhanced productivity	0	38	62	19	46	35

Source: EPEC 2008

**Table 4: Views of involved parties regarding the non-financial costs associated with the operation of EWCs**

	Companies (%)			Employees (%)		
	Agree	Neutral	Disagree	Agree	Neutral	Disagree
Increased bureaucracy	52	23	25	12	15	73
Raised employee expectations	51	23	26	32	10	59
Slowed down managerial decision-making	23	19	57	5	7	88
Introduced unnecessary rigidities into employee relations	21	26	53	0	8	92
Led to calls for transnational collective bargaining	19	26	55	25	8	68
Led to breaches of confidentiality	15	10	75	2	17	80
Led to coordinated industrial actions	10	21	69	15	20	66

Source: EPEC 2008

The benefits attached to EWCs could also apply to the CSR policy and practices of a company. This CSR element of EWCs is further elaborated in section 6. However, it is interesting to note in the benefits overview that, on average, neither employees nor employers believe that the EWC contributes “more effective decision-making”. In the same vein, the costs overview reveals that neither companies nor employees consider the EWC to be a cause of slowed-down managerial decision-making. In general, it appears that neither party considers the EWC to have a significant impact on the timing of managerial decision making. This implies that delaying an advice to the management, which, as is explained above, may be the EWC’s most powerful instruments for influencing decision making, is not (yet) a common outcome of the information and consultation procedure. This could either mean that EWCs are generally in agreement with corporate strategies, that EWCs already receive sufficient information from companies, making it hard to delay the process, or that EWCs are unaware, unwilling, or unable to use this instrument.

#### 5.4. EWCs of the selected energy companies

A recent study notes that companies based on public or semi-public structures, as are most companies in the European energy sector, generally have a strong tradition of employee participation.<sup>188</sup> In this study, 12 (75%) of the 16 selected energy companies have installed a EWC. The companies have not (yet) agreed on a EWC are Centrica, Iberdrola, National Grid and DONG Energy. Most of these four companies do not qualify for a EWC because they do not have the minimum number of employees in two EU countries. DONG Energy, for instance, qualifies when it comes to the number of countries in which it operates, but does not currently meet the provision regarding the number of employees at those locations. On the other hand, Iberdrola does meet the EU’s EWC criteria for total and multi-country employees, indicating that its employees have the right to open negotiations with the management for an EWC or alternative structure. However, in response to a draft of this report, Iberdrola management stressed that it is “currently not considering setting up an EWC”.<sup>189</sup>

Among the companies that do have an EWC in place, the date of establishment varies widely, with RWE being the earliest to establish an EWC in 1995 and Enel the most recent to do so in 2008. A



number of the EWC agreements of the selected companies have been recently renegotiated. GDF Suez, for example, which has had an EWC in place since 2001, renegotiated the agreement in 2009. RWE has renegotiated its EWC agreement three times since it was established in 1995. All of the selected energy company EWCs are based Article 6 of the 1994 directive, except for the E.ON EWC, which was negotiated under Article 13.

The various energy company EWCs also differ in terms of number of seats in the EWC and number of countries represented. The average EU EWC has 23 members from 9 countries with a range of between two and 24 countries.<sup>190</sup> In this survey, GDF Suez has the largest EWC with 65 members across 20 countries. Veolia Environnement's EWC is also large, spanning 22 countries but with only 29 seats. EVN has the smallest EWC in this study with six members from three countries.

Although it was not always possible to determine exactly which countries are represented in the various EWCs, it is interesting to see that some countries more dominant in their presence while other EU countries are significantly underrepresented within the selected EWCs. This is likely due to the fact that the majority of the energy TNCs are based in northern and western Europe. In addition to official representation, some EWCs have an observer from outside the EU. For example, EVN's EWC includes an observer from Macedonia, and Veolia's EWC has an observer from Morocco.

Table 5 provides a full overview of the structure and size of the EWCs of the selected energy companies.

**Table 5: Structure and size of EWCs of selected energy companies, 2009**

Company	EWC	EWC re-negotiated	Number of seats	Employees per seat	Number of countries	Countries
Centrica	NO	n/a	n/a	n/a	n/a	n/a
ČEZ <sup>191</sup>	YES, since 2007	NA	23	1,184	4	CZ, BG, RO, PL
DELTA	YES, since 2009	n/a	9	333	3	NL, IR, BE
DONG	NO	n/a	n/a	n/a	n/a	n/a
EDF <sup>192</sup>	YES, since 2001	2005	33	4,876	7	FR, DE, HU, IT, PL, SK, UK
Enel <sup>193</sup>	YES, since 2008	n/a	20	4,125	5	IT, BG, RO, SK, ES
E.ON <sup>194</sup>	YES, since 1996	2004, 2006	31	3,017	14	n/a
EVN <sup>195</sup>	YES, since 2007	n/a	7	1,490	3	AT and BG; Macedonia as observer
FORTUM <sup>196</sup>	YES, since 1999	2006	23	577	9	DE, FI, EE, HU, LI, LT, PL, SE, UK
GDF Suez <sup>197</sup>	YES, GDF since 2001 and Suez since 1995 <sup>198</sup>	2009	65	3,077	20	n/a
Iberdrola	NO	n/a	n/a	n/a	n/a	n/a
RWE <sup>199</sup>	YES, since 1995	1996, 2002, 2005, 2009	30	2,200	8	DE, UK, HU, CZ, NL, SK, AT, PL
National Grid	NO	n/a	n/a	n/a	n/a	n/a
Statkraft	YES, since 2010	n/a	10	340	4	DE, NO, SE, UK

Vattenfall <sup>200</sup>	YES, since 1998	2002	29	1,093	7	DE, DK, SE, FI, NL, BE, PL
Veolia <sup>201</sup>	YES, since 2005	n/a	30 <sup>202</sup>	11,200	22 <sup>203</sup>	BE, CZ, DK, EE, FI, FR, DE, HU, IE, IT, LT, NL, PL, PT, RO, SI, SK, ES, SE, UK; NO and Morocco as observers

Although the official mandate of the EWCs of all selected energy companies is information and consultation with a provision regarding confidentiality, the interpretation of this mandate differs. For example, the FORTUM EWC agreement states that “consultation means exchange of views and a dialogue,”<sup>204</sup> while the EDF EWC agreement obliges company management to respond to any opinion given by the EWC.<sup>205</sup> Moreover, management at EDF and RWE is required to inform and discuss with the EWC before decisions are taken on restructuring.<sup>206</sup> Similar principles have been agreed to by ČEZ management, which recognizes in the EWC agreement that “it has to seek agreement with the EWC over major issues such as restructuring and mergers”.<sup>207</sup> At FORTUM, the management and EWC Working Group members developed a detailed information sharing model in 2009. According to that model, upper management should inform the working group as soon as possible if redundancies or similar activities affecting at least two legal entities in two different countries are planned. Despite these different characteristics, it is important to note that none of the EWCs has the mandate of approval, which is necessary to have the formal power to block a restructuring or merger.

The SDA has elaborated information on the specific competences of the EWCs of all the selected energy companies except Delta, Statkraft and Enel.<sup>208</sup> Table 6, Table 7 and Table 8 below list the competences of existing EWC agreements on social, economic and financial issues. Companies for which no such information is available or those that do not have an EWC are left out of the tables. It should be noted that there are some discrepancies between the SDA’s tables and information provided by the companies themselves. For example, the preamble of the ČEZ EWC agreement states that the company supports dialogue with trade unions while the SDA lists “trade union rights” as not being a competence of the ČEZ EWC. Another discrepancy relates to EDF’s working conditions that are part of the EWC competences but not identified by the SDA. Furthermore, the SDA tables do not include human rights or CSR in their list of competencies while the EWC agreements of GDF Suez and EDF, for instance, make explicit references to these issues in their preambles. Despite these discrepancies, the SDA overview provides an idea of where different EWC competencies lie, and the SDA-based tables have been “supplemented” with additional “X”s based on additional SOMO research and information provided by the companies themselves.

As is to be expected, most of the EWC competencies lie in the social area with such topics as employment and mass redundancies. Training is part of the competences of seven of the studied EWCs.

**Table 6: Selected EWC competences on social issues**

Company	Employment	Working conditions	Mass redundancies	Training	Health and safety	Union rights	Equality	Other
ČEZ	X	X	X	X	X	X		
EDF	X	X	X	X	X		X	
E.ON	X							
EVN	X	X	X	X	X			
FORTUM	X	X	X	X	X		X	X
GDF Suez	X		X	X	X		X	
RWE	X	X	X	X	X		X	
Vattenfall			X					
Veolia	X		X	X		X		

Based on: SDA<sup>209</sup>

The economic issues that potentially fall under the competence of EWCs relate to production, market, field of activity of the company, mergers, closures and delocalisation, research, new technologies and environment. Especially the “new technologies” and “environment” competences create opportunities to discuss CSR issues with the management through the EWC. Only E.ON has not included “environment” and “new technologies” in its agreement. All the others have at least one of the two with five companies having both competences. RWE’s EWC seems to have the greatest number of competences in the economic area, followed by FORTUM and Veolia.

**Table 7: Selected EWC competences on economic issues**

Company	Production	Market	Field of activity	Environment	Mergers	Closures	New technologies	Research
ČEZ	X	X	X	X	X	X	X	
EDF			X	X	X	X	X	X
E.ON	X	X	X		X			
EVN			X	X	X	X	X	
FORTUM	X	X	X	X	X	X	X	
GDF Suez				X	X	X	X	X
RWE	X	X	X	X	X	X	X	X
Vattenfall	X	X			X	X	X	
Veolia	X	X	X	X	X	X		X

Based on: SDA<sup>210</sup>

Competencies in the financial arena include issues such as investments and balance sheet analysis. Most EWCs have competency on balance sheet analysis and investments. E.ON’s EWC has the most competencies as it also covers joint ventures. Furthermore, the Vattenfall EWC seems to miss the explicit competence to discuss the balance sheet but has “other” issues foreseen which could include such discussions.

**Table 8: Selected EWC competences on financial issues**

Company	Balance sheet (analysis)	Investments	Joint ventures	Other
ČEZ	X	X	X	
EDF	X	X		
E.ON	X	X	X	
EVN	X	X		
FORTUM	X	X		X
GDF Suez	X			
RWE	X	X	X	
Vattenfall		X		X
Veolia	X	X		

Based on: SDA<sup>211</sup>

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## 6 EWC involvement in CSR

Although CSR policies are generally understood to be beyond the originally intended legal purpose of EWCs, in their most recent joint statement on CSR, both the European employee representatives (EPSU and EMCEF) and employer groups (Eurelectric) agreed that CSR policies *should* be considered a subject of discussion between the social partners, i.e. between employee representatives and management.<sup>212</sup> The European Parliament<sup>213</sup> and European Commission also acknowledge and value the contributions made by EWCs regarding CSR. The European Commission noted, “Social dialogue, especially at the sectoral level, has been an effective means for promoting CSR initiatives, and European Works Councils have also played a constructive role in the development of best practice on CSR”.<sup>214</sup> Moreover, the EC announced in 2006 that “the role of employees, their representatives and their trade unions in the development and implementation of CSR practices should be further enhanced”.<sup>215</sup> The European Trade Union Institute (ETUI) supports this position and adds that the legal framework of the EWC should provide a satisfactory legal underpinning for the involvement of the EWCs on CSR practices and international framework agreements.<sup>216</sup> This demand, however, was not taken up in the 2009 revision of the EWC directive.

And in reality, many EWC agreements already address improving company performance on social and environmental issues. For example, GDF Suez’s EWC agreement contains a clear reference to the company’s social responsibility, specifically “the signatories also wish to ensure that the EWC is one of the means by which GDF Suez’s principles of social responsibility and its public service values are demonstrated and shared, notably with regard to solidarity and access to water, waste management and energy for customers in difficulty”.<sup>217</sup> Another example is the most recent EDF EWC agreement, which states that “the Signatories thus wish for the EWC to become one of the fora involved in implementing the EDF Group Corporate Social Responsibility Agreement signed unanimously on 24 January 2005. To this purpose, the EWC Secretary shall therefore be *de jure* entitled to participate in the EDF Group Dialogue Committee on Corporate Social Responsibility (DC/CSR) created under said Agreement”.<sup>218</sup> A final example concerns the recent EWC agreement of Statkraft, which not only refers to ILO standards but also explicitly declares that the company’s CSR policy and its Code of Conduct are an integral part of the discussions in the EWC.<sup>219</sup>

In addition, many of the EWC agreements that lack explicit reference to CSR issues still contain starting points with which to address CSR due to references to international CSR standards such as the ILO and OECD Guidelines in their preambles. For example, the ČEZ EWC agreement states, “As a company with international activities, ČEZ respects the principles and basic rights of the ILO. ČEZ supports social dialogue with trade union organisations and collective bargaining”. Unfortunately, some EWC agreements include neither explicit nor implicit references to CSR, which could make it more difficult for EWC members to discuss possible social or environmental concerns with company management, to request information, and to exert influence on the company’s CSR-related policies and practices. For example, the ČEZ EWC does not appear to be involved at all in determining the company’s CSR policy. The company’s 2007 CSR report describes the role of the EWC as “a platform to discuss particularly the following themes: the policy and strategy of the ČEZ Group including strategic mergers and acquisitions, organizational structure, economic and financial condition of the ČEZ Group, likely development of activities, production, sale, employment status, investments and substantial changes to technology, cancellation and transfers of employees of the ČEZ Group influencing the interest of employees of the ČEZ Group at least in two EU member countries, decision of the headquarters based on which mass downsizing of

employees of the ČEZ Group will be conducted in at least two EU member countries". In a response to a survey for this study, a representative of the ČEZ EWC confirmed that the EWC has not yet discussed the topic of CSR because it does not appear to be in the EWC's mandate. This underscores the importance of including references to CSR issues and policies when negotiating an EWC or reviewing/renegotiating an existing agreement.

However, even the EWC agreements that lack reference to CSR policies and codes may find some useful leverage points for raising CSR-related concerns under the issues that both employers and employees listed as benefits of EWCs in Table 3 and Table 4 above. These include:

- Better ability to talk to employee representation from other countries
- Better ability to talk directly to group management
- Improved understanding of management decisions
- Better exchange of information
- Improved of relations between management and employees
- Better corporate culture at European level
- More efficient decision-making
- Enhanced productivity

The ETUI notes that "in some companies EWCs go as far as to participate in the negotiation of transnational framework agreements and are invited to comment on codes of conduct".<sup>220</sup> On the other hand, ETUI also notes that as long as "codes of conduct and ethical charters remain the main vehicles of CSR strategies, the processes tend to be unilaterally designed and implemented by management".<sup>221</sup> It is striking to note that nearly a quarter of the corporate members of the European Alliance for CSR that qualify for an EWC in fact do *not* have an EWC. This reveals that even among companies who do consider CSR important, a significant portion do not consider a multinational dialogue with its employees to be relevant for developing CSR policy.<sup>222</sup> The electricity companies that are members of the European CSR Alliance (GDF Suez, Enel and RWE<sup>223</sup>, and Vattenfall as a member of CSR Europe<sup>224</sup>), all have established an EWC.

One advantage of discussing CSR issues at a more international, European level has to deal with the differences between different cultural perceptions and traditions. The European arena provides the opportunity to pick and choose from the best traditions and customs in different countries, resulting in, for instance, the combination of the French tradition of a more principled and structural approach to CSR, charters and agreements, and the more pragmatic Dutch approach. To fully benefit from this "best of both worlds" possibility, it is necessary for EWC members to educate themselves about the unwritten traditions and rules regarding the functioning of works councils in a certain country and of course to be open with information exchange and communication.

## 6.1. Results of the survey of EWC representatives

In order to get more in-depth, first-hand insight into the role of EWC in determining a company's CSR policy and the monitoring of such policies, a questionnaire was sent to representatives of the EWCs of the selected companies. The questionnaire can be found in Annex 1. In addition to questions on the structure of the EWC and IFA (if applicable), the survey focused on the role and involvement of the EWC and trade unions in developing the company's CSR policy and the effectiveness of these efforts.

### 6.1.1. Involvement of EWCs in developing company CSR policy

All respondents considered it important that EWCs be involved in developing and monitoring company CSR policies. That said, on the whole, the respondents were not satisfied about the present situation and the possibilities they currently have to fulfil this role. Below, the results of the survey are presented per company.

#### □ ČEZ

The representative of the ČEZ EWC admitted that the EWC has not yet had the topic of CSR on the agenda. Even though CSR is not explicitly mentioned in the ČEZ EWC Agreement, the representative stressed that the agreement nonetheless allows for information and consultation on topics, such as CSR, that are not explicitly mentioned in Agreement and that he considers the EWC to be an appropriate platform for discussing such issues. The EWC has reached an agreement with the company's central management to regularly have CSR on the agenda of ČEZ EWC meetings.

#### □ EDF

The EDF EWC representative noted that a special Group Dialogue Committee had been established to monitor the implementation of company's international framework agreement (IFA) on CSR (see section 6.2 below) and that this is one of the ways EWC representatives can be involved in the CSR practices of the company. However, members of this committee are not necessarily members of the EWC. Furthermore, while the representative considered it important that the EWC discuss CSR issues, he noted that the EWC has no mandate to do so given that the Group Dialogue Committee on CSR had been created to debate and drive CSR within EDF.

#### □ E.ON

Two representatives of E.ON's EWC were surveyed, and both placed value on the EWC discussing the company's CSR policy. In this respect, one of the representatives also stressed the importance of a joint declaration with the trade unions in order to reevaluate and improve the EWC's mandate to discuss CSR issues. In January 2009, E.ON's EWC discussed the topic of CSR for the time and agreed to investigate how the CSR measures have been implemented. The results of the investigation were presented at the EWC meeting in January 2010. It is interesting to note that while E.ON stresses on its website that the EWC is also informed about the company's CSR activities,<sup>225</sup> both EWC representatives surveyed for this study argued that the management does *not* discuss its annual CSR/sustainability report with the EWC. One respondent considered this something to be implemented in the future.

#### □ EVN

The EVN EWC representative noted that CSR issues are discussed at every EWC meeting. In particular, the representative stressed the EWC's potential to affect the social policy of the company, such as on uniform social security benefits for all employees. With regard to the EWC's mandate, the respondent stressed that the EWC can table CSR issues for discussion and thereby influence the content of the company's CSR report, but that the mandate is not strong enough to challenge or overturn decisions by management on these issues.

#### □ FORTUM

FORTUM's EWC representatives noted that CSR issues are discussed in general at EWC and working group meetings. Separate pieces (sustainability, environmental and safety) of the



company's CSR report are presented to the EWC and on the company's intranet. However, FORTUM EWC representatives noted a worrying trend at the company in which management is increasingly imposing its decisions without consulting with or listening to employees. As a result, the EWC representatives stressed that it is important that employees discuss these issues at all levels, including through the EWC.

#### □ DELTA

A member of DELTA's recently-established EWC stresses that the EWC has not yet discussed CSR issues, an international framework agreement, or the company's sustainability reports. However, the representative does consider it the EWC's task to discuss these issues and estimates that the EWC's mandate is sufficient to do so.

#### □ GDF Suez

The representative of the GDF Suez EWC also considered it important for the EWC to work on CSR issues. Currently, the EWC primarily supports the special negotiators, who are nominated by the national trade unions, in drafting proposals on the monitoring of the global agreement and some other CSR issues. Beyond this, the EWC generally only gets an annual presentation of the implementation assessment and the CSR reports, as a separate committee is in charge of monitoring the IFA on CSR.

#### □ RWE

In contrast to the situation at GDF Suez, the RWE EWC does discuss the content of RWE's CSR report as well as the implementation of the company's CSR policy. The RWE EWC respondent considered the involvement of the EWC in CSR to be especially relevant for those issues that directly or indirectly concern the employees. The current mandate of the EWC is considered to be sufficient for this purpose.

#### □ Vattenfall

A member of the Vattenfall EWC notes that the EWC used to be involved in the determination of the company's CSR policies but can no longer be involved because of the rapidity of the CSR process and the tight time schedules of the EWC. However, the involvement of the EWC in the process is considered to be desirable but impossible due to time constraints. This constraint also hampers the influence of the EWC on the content of the CSR report and makes that it is only presented by the management to the EWC.

#### □ Veolia

Although Veolia's EWC representative would like to see employees involved in the CSR processes of the company, he did not consider it to be the task of the EWC to discuss CSR issues at the European level at the moment because a European committee is not yet operational. However, national-level social dialogue committees have been established of which the EWC takes stock every six months. Furthermore, the respondent noted that it is important for the EWC to discuss the company's CSR reports but doubts the potential impact or influence of such discussion on managerial decision making.

Finally, although Centrica has not (yet) installed an EWC, a labour representative from the company considers it to be important for a future EWC to have CSR issues under its mandate. A labour representative of National Grid commented that the company briefs the trade unions two or three times a year on their wider activities, including CSR, and that the unions comment as appropriate, but noted that neither side would regard this as consultation exercise. National Grid also surveys employees and tests levels of awareness about CSR.

### **6.1.2. Effectiveness of the companies' CSR policies**

Two of the survey questions asked the EWC representatives to reflect on the effectiveness of their company's CSR policy and the efforts of European and global trade unions in tackling current CSR issues such as uncertainty among employees about globalization and climate change. The majority of the respondents considered the efforts of both the company and the trade unions to be insufficient.

The representative of EDF's EWC believes that the company's CSR policy is largely a public-relations undertaking designed to improve the company's image for marketing purposes. The respondent highlighted the difficulty and complexity involved in monitoring the company's progress on CSR and sustainability issues but also noted the positive impact of the company's activities on, for instance, the recognition of trade unions in China and Vietnam as well as the efforts to protect the environment and to minimize the impact on people from the construction of its hydroelectric dam in Laos. The GDF Suez EWC representative echoed this sentiment, noting that the company currently lacks the will to truly address the critical issues and that including current CSR issues in a new agreement with the management is thus necessary. A Centrica worker representative also found his company's efforts in this respect insufficient and noted that the company was missing a golden opportunity to link CSR issues with the work of trade unions who could potentially contribute greatly to developing the social aspects of the company's CSR policy. However, in response to a draft of this report, Centrica management expressed that it believes it is performing strongly on issues such as uncertainty among employees about globalization and climate change.

The Vattenfall EWC representative also expressed concerns about the effectiveness of the company's CSR reports, believing them to be mainly focused on placating shareholders rather than addressing the concerns of consumers and society as a whole. A similar concern was raised by EVN's EWC representative, who noted that the company is primarily motivated by economic interests and that CSR is only a communication tool. The representative of the ČEZ EWC stressed the need for more binding measures on individual companies since the information and consultation process on CSR issues in the EWC are too general, with little details about exactly how the company formulates and executes its policy and the effect this has on workers. A representative of DELTA's EWC noted that his company's efforts are insufficient and could be improved, especially concerning globalization.

In contrast, representatives of the EWCs of E.ON, FORTUM, and Statkraft did have some positive things to say about their company's CSR policies. One representative of E.ON's EWC valued the company's efforts with regard to the economic and ecological challenges of today. However, the other E.ON EWC representative argued that company's efforts in these areas were largely insufficient. FORTUM's EWC representative did mention the gap between the company's CSR policy and its actual activities, but did value the management's pledge to start work on five key areas, namely "trust in the management", "trust in the future", "social responsibility", "cooperation across unit boundaries" and "feeling valued".

### **6.1.3. Effectiveness of European and global unions in influencing company CSR policy**

Most respondents praised the work of the European-level unions on CSR, but, overall, considered the current efforts of trade unions on CSR issues to be largely insufficient. The representative of RWE EWC particularly valued the work of the European trade unions in reaching a common statement on CSR with the employers' association Eurelectric.<sup>226</sup> Almost all of the respondents to the survey were aware of and approved of the joint statement. The FORTUM EWC representatives

appreciated the European and global trade unions efforts to help the EWC with questions relating to, for instance, globalization and climate change, but was concerned that the unions' positive influence is undervalued by the employers. The Vattenfall EWC respondent suggested that European and global trade unions should establish a network of expertise to help the EWCs with questions regarding CSR reports in order to increase the influence of the EWC regarding CSR policies.

Respondents seemed divided on the level of information that unions should provide to workers on CSR issues, reflecting the tricky balance between providing information that is too general or too specific. The representative of EDF's EWC considered the information on CSR provided by unions to be too limited and too specific for the average French employee to feel connected to and affected by these issues. In contrast, the ČEZ EWC representative argued that trade unions are "very active" on CSR issues but considers their work to be too general. Respondents from Statkraft and EVN also considered there currently exists ample room for improvement in trade unions' efforts on CSR.

One of the two E.ON EWC representatives considered the efforts of the trade unions to be insufficient given that their activities "are global, marginal and do not solve specific issues faced by workers in individual countries". In a similar vein, the representative of GDF Suez's EWC suggested that European and global trade unions should better coordinate the CSR efforts on the country-level in order to effectively monitor the CSR agreements. A similar concern came from the Centrica respondent, who argued that stakeholders currently lack suitable fora, i.e. ones that can actually have an impact on company decision making, for addressing the issues.<sup>227</sup> Veolia's EWC representative suggested that national confederations could also play a role in this regard.

## 6.2. CSR in international/global framework agreements

International framework agreements (IFAs) have gained importance because of globalization and the internationalization of economic activities, including massive corporate restructuring. IFAs have given global and European trade union federations as well as EWCs a recognized place in the area of global social regulation.<sup>228</sup> As such, IFAs are considered by to be an instrument that EWCs and trade unions can employ to influence the CSR policies of companies. IFAs are generally signed between a multinational company and global trade unions, but EWCs are frequently involved in the process in one way or another. For instance, EWCs have co-signed almost all the IFAs signed by the International Metalworkers Federation (IMF). Alternatively, EWCs are often involved in monitoring the implementation of IFAs. Active involvement of trade unions in European framework agreements has been shown to result in more concrete agreements and provisions related to the implementation of the agreement.<sup>229</sup> It is thus mutually beneficial if trade unions and EWCs cooperate and strengthen one another. IFAs principally deal with the ILO's core labour standards, and labour-related issues such as trade union rights, corporate social responsibility during restructuring, occupational health and safety, skills and training, and gender equality.<sup>230</sup> However, IFAs could also include more genuine CSR principles as is the case with the IAF signed by ENI.<sup>231</sup>

It is also interesting to note that while EWCs or European trade unions are well represented in IFA negotiations, unions and employees representatives from developing countries are frequently left out of such negotiations, despite the fact that developing country workers and unions are affected by IFAs as European workers.

### 6.2.1. International/global framework agreements on CSR among selected energy companies

Table 9 presents an overview of the international or global framework agreements on CSR that have been signed by the selected energy companies.

**Table 9: International/global framework agreements of selected energy companies, 2009**

Company	IFA on CSR?	Signed by unions?	Signed by EWC?	EWC involved in implementation?
Centrica	NO	n/a	n/a	n/a
ČEZ	NO	n/a	n/a	n/a
DELTA	NO	n/a	n/a	n/a
DONG Energy	NO	n/a	n/a	n/a
EDF <sup>232</sup>	YES (since 24/01/2005)	YES	NO	NO
Enel <sup>233</sup>	YES (since 27/04/2009)	YES	NO	YES
E.ON	NO	n/a	n/a	n/a
EVN	NO	n/a	n/a	n/a
FORTUM	NO	n/a	n/a	n/a
GDF Suez <sup>234, 235</sup>	YES, European agreement (since 02/07/2008)	YES	NO	YES
Iberdrola	NO	n/a	n/a	n/a
RWE	YES <sup>236</sup>	NO	YES	YES
National Grid	NO	n/a	n/a	n/a
Statkraft	YES	unknown	unknown	unknown
Vattenfall	NO	n/a	n/a	n/a
Veolia	NO	n/a	n/a	n/a

As can be seen in Table 9, less than half of the selected energy companies have signed an IFA on corporate social responsibility. The companies that have such an agreement are EDF, Enel, GDF Suez, RWE and Statkraft. Even among the companies that do have an IFA, the role of the various EWCs in determining which CSR issues are addressed by the agreement differs per agreement. In general, however, EWC are primarily involved in the implementation and assessment processes of the CSR policies and standards rather than the initial development of the agreement. The EDF EWC, however, appears to be one of the few examples where an EWC did have influence on the determination of the content of the IFA given that the EWC was involved in the creation of the IFA and the EWC secretariat voted on the nominations for the Secretariat of the Special Negotiation Group that reached the agreement on the IFA.<sup>237</sup> After the signing of the IFA, the debate and monitoring of the CSR implementation shifted away from the EWC to another forum, the Group Dialogue Committee on CSR. Nevertheless, the EDF EWC secretariat remains a *de jure* member of the Dialogue Committee on CSR and has the same rights as other members designated by the trade unions, including the right to vote in the election of the Secretary General of the CSR Dialogue Committee.<sup>238</sup> To somewhat of a lesser degree, the GDF Suez EWC was also involved in drafting the company's IFA.<sup>239</sup> However, according to an EWC representative, the EWC is concerned that the content of the current CSR agreement will be weakened by a new global agreement that is now under negotiation. The company appears not to be willing to apply the same standards at the global level as it did at the European level.

Enel has the newest IFA, having just signed its agreement into force in April, 2009. In that agreement, "The envisaged programme of information and consultation in relation to the European Works Council is jointly identified as an important instrument for dissemination of CSR issues throughout the Group, and for the implementation of the Principles in the present Protocol, in compliance with local and national socio-economic and normative systems".<sup>240</sup> As part of the RWE's restructuring agreement, the EWC agreed with management minimum standards that apply

to the company's operations around the globe in the case of restructuring. EPSU notes that this agreement "must be seen in the light of corporate social responsibility of the company".<sup>241</sup>

Among the companies that do not currently have an IFA, the respondents to the EWC survey reflected on the role of the EWC in determining and drafting an IFA in the future. The representative of Fortum's EWC noted that the issue of an IFA had been discussed several times during EWC meetings. However, according to the EWC representative, the company does not want to be the first energy company in Finland to sign such an international framework on CSR. The EVN EWC representative also noted that the EWC has been discussing a possible IFA. EVN has recently developed a Code of Conduct with the approval of the national-level works council, but the degree to which the EWC was involved is unclear.<sup>242</sup>

The representative of Vattenfall's EWC mentioned that the company has no IFA since it is owned by the state, and that the company is thus bound to the principles in the UN Global Compact. It is interesting to note, however, that EDF, which is also primarily controlled by the state, has signed an IFA on CSR.

Although E.ON does not yet have an IFA, a representative of the E.ON EWC suggested that a discussion on a possible IFA would take place in the next EWC meeting in January 2010.

<sup>212</sup> The full statement is reproduced in Annex 2. EPSU, Eurelectric and EMCEF (2009), "Joint Position on the Social Aspects of Corporate Social Responsibility in the European Electricity Industry". EPSU, Eurelectric and EMCEF, Brussels, <[http://www.epsu.org/IMG/pdf/Joint\\_Position\\_CSR\\_22\\_June\\_2009-2.pdf](http://www.epsu.org/IMG/pdf/Joint_Position_CSR_22_June_2009-2.pdf)> (4 December 2009).

<sup>213</sup> European Parliament resolution of 13 March 2007 on corporate social responsibility: a new partnership (2006/2133(INI))

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<sup>218</sup> EDF EWC agreement, < [http://www.ewcdb.eu/show\\_pdf\\_first\\_page.php?document=1273.pdf](http://www.ewcdb.eu/show_pdf_first_page.php?document=1273.pdf)>, (22 December 2009)

<sup>219</sup> Statkraft, Vereinbarung uber den Europaischen Betriebsrat der Statkraft, 28 April 2010, (7 May 2010)

<sup>220</sup> The European Trade Union Institute, 7. workers' involvement, csr and corporate governance, <<http://www.etui.org/research/Media/Files/Bench/Bench-2008/Chapter-7>>, (9 November 2009)

<sup>221</sup> Ibid

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<sup>224</sup> Vattenfall website, our company, corporate social responsibility, membership, <[http://www.vattenfall.com/www/vf\\_com/vf\\_com/365787ourxc/367489corpo/367893membe/index.jsp](http://www.vattenfall.com/www/vf_com/vf_com/365787ourxc/367489corpo/367893membe/index.jsp)>, (11 November 2009)

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<sup>226</sup> See Annex 2 for the full text of the joint statement.

<sup>227</sup> Centrica management, in a response to a draft of this report, insisted that it has extensive engagement programmes, including employee representation across the business, including trade unions where membership levels justify it.

<sup>228</sup> V. Telljohann, da Costa, I, Muller, T., Rehfeldt, U, & Zimmer, R., European and international framework agreements: new tools of transnational industrial relations, (Autumn-Winter 2009), In: Transfer (ETUI)

<sup>229</sup> Ibid.

<sup>230</sup> Eurelectric website, restructuring, 3.4 mechanisms which can help to promote anticipation, <[http://www.eurelectric.org/Restructuring/restructuring\\_final\\_toolkit\\_enp16.htm](http://www.eurelectric.org/Restructuring/restructuring_final_toolkit_enp16.htm)>, (7 December 2009)

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## 7 Conclusions and recommendations

This study examined the CSR policies of the 24 largest transnational energy companies in Europe: Centrica, ČEZ, DELTA, DONG, EDF, EDP, EnBW, Enel, E.ON, ESB, EVN, FORTUM, Gas Natural Fenosa, GDF Suez, Iberdrola, RWE, MVV, National Grid, Scottish and Southern, Statkraft, TenneT, Vattenfall, Veolia, and Verbund. For 16 of the companies, a more detailed analysis of the policies and relationship with employee representatives was conducted. Twelve (75%) of the 16 selected energy companies have installed an EWC. The (potential) role of EWCs in developing and implementing CSR was a focus of the analysis, with the main goal being to provide some insight into the existing role and ambition of EWCs with regard to CSR and to offer recommendations on how EWCs and trade unions can influence a company's CSR policy and practice.

Recent years have seen energy companies increasingly aligning their CSR policies with international normative standards for sustainable development and sustainability reporting such as the UN Global Compact, the OECD Guidelines for Multinational Enterprises, the GRI, and the Carbon Disclosure Project. The analysis of the selected companies' CSR policies revealed that more than 70% is a member of the UN Global Compact and that approximately 38% has an explicit reference to the OECD Guidelines in their publicly available CSR policy documents. Furthermore, 80% of the companies use the CDP standard for reporting on CO<sub>2</sub> emissions, and 67% reports according to the GRI G3 sustainability reporting guidelines. The analysis also revealed that 63% of the companies that use the GRI guidelines are also using the energy sector-specific EUSS. Around 38% of the companies makes use of all four of these CSR initiatives while 13% has not incorporated any of the four into their policy. The energy companies also differ on the policies they have developed regarding social and environmental issues in the electricity supply chain, with some companies having developed a detailed and far-reaching policy in this area while others have no policy at all. The study notes that while a company's efforts to align its CSR policies with these international standards is a positive step, this does not necessarily guarantee that the company is actually acting responsibly; the true test of responsible behaviour is putting the standards into practice and monitoring their implementation.

Although CSR policies are generally understood to be beyond the originally intended legal purpose of EWCs, in their most recent joint statement on CSR, both the European electricity sector employee representatives (EPSU and EMCEF) and employer groups (Eurelectric) agreed that CSR policies *should* be considered a subject of discussion between the social partners, i.e. between employee representatives and management.<sup>243</sup> The vast majority of EWC representatives surveyed for this study considered it important that EWCs be involved in developing and monitoring company CSR policies. That said, on the whole, the respondents were not satisfied about the present situation and the possibilities they currently have to fulfil this role. A new (2009) EWC directive offers important opportunities to EWCs in this regard, specifically in terms of demanding information and consultation, the two primary functions of EWCs, from company management on important decisions. Some EWC agreements, particularly those of the French companies EDF and GDF Suez, make specific reference to CSR, and several others address improving company performance on social and environmental issues, if not mentioning the specific term "CSR". Most respondents praised the work of the European-level unions on CSR, but, overall, considered the current efforts of trade unions on CSR issues to be largely insufficient. One recent achievement of the European trade unions that was particularly valued by nearly all EWC representatives is the joint statement on CSR reached with the employers' association Eurelectric.<sup>244</sup>

The results of the research and the survey of EWC representatives offer an interesting insight into the existing role and ambition of EWCs with regard to CSR and provide the basis for a number of recommendations on how EWCs and trade unions can more effectively influence a company's CSR policy and practice. These recommendations are detailed below.

## 7.1. Recommendations for European Works Councils

- Ask your company's management to directly involve the EWC in the development, implementation and monitoring of the company's CSR policy. Refer to the European electricity sector social partners' joint statement on CSR (see Annex 2) and the fact that it is common practice in the industry to involve employee representatives (EWCs) in CSR issues.
- Ensure that CSR issues are (if possible explicitly) included in (re)negotiated EWC agreements in order to have the clear mandate to discuss CSR-related concerns.
- In cases of restructuring, merger or acquisition proposals, require impact assessments that assess social and environmental implications and impacts in developing countries.
- When CSR issues are discussed, it may be valuable to involve or engage trade union and NGO experts that have specific knowledge on CSR issues to be better prepared for negotiation on CSR issues and avoid simply legitimizing the CSR efforts of a company without having enough detailed knowledge about the company's CSR policies and practices to be (constructively) critical.
- If possible, nominate an employee representative to the company's board and ask that person to take CSR issues into account.
- Consider using the OECD Guidelines complaint procedure (described in section 3.2.3 above) to directly engage company management if there have been violations of CSR standards and norms, including labour-related issues
- Encourage transparent reporting by requiring your company to use the GRI G3 guidelines and the Electricity Utility Sector Supplement.
- Follow up the European electricity sector social partners joint statement on CSR (see Annex 2) by evaluating whether your company abiding by the agreements reached in the statement.
- Send a survey to your members to identify yourself as the EWC and ask them which CSR issues are important to them and which issues they would like the EWC to work on.

## 7.2. Recommendations for European/global trade unions

- Develop a toolkit or centre of expertise on CSR that EWCs could rely on when discussing CSR issues with management.
- Examine the options for strategic coalitions with NGOs who could provide expert input on social, environmental, human rights and development issues.
- Contact employee's representatives of the most relevant pension funds that have shares in companies. The pension funds could influence a company's policy by either engagement or finally to divest in a certain company. Furthermore, investments could be promoted in a certain company when for instance employees and human rights are well respected. However, the latter should not be too enthusiastically promoted since investments of workers capital in the company of those workers are usually not encouraged because such practices would place too many eggs in the same basket. Employees would not only lose their jobs if a company goes bankrupt but also lose their pensions. As a result, it seems appropriate that employee representatives in pension funds promote socially responsible



investments in general rather than relating to a specific company. If sustainable companies are rewarded for their behaviour by an increase of investment it will trigger other companies to follow such a sustainable manner. Besides this, pension funds could engage by means of using their voting power of the funds at the company's annual general meeting in order to influence a company's sustainability policy and practices. On the other hand and finally, it could be necessary to carry a big stick regarding divestments in certain companies, which are not sustainable and/or do not respect employees and human rights.

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<sup>243</sup> The full statement is reproduced in Annex 2. EPSU, Eurelectric and EMCEF (2009), "Joint Position on the Social Aspects of Corporate Social Responsibility in the European Electricity Industry". EPSU, Eurelectric and EMCEF, Brussels, <[http://www.epsu.org/IMG/pdf/Joint\\_Position\\_CSR\\_22\\_June\\_2009-2.pdf](http://www.epsu.org/IMG/pdf/Joint_Position_CSR_22_June_2009-2.pdf)> (4 December 2009).

<sup>244</sup> See Annex 2 for the full text of the joint statement.

## Annex 1: Questionnaire on EWCs & CSR

### Questionnaire on the role of EWCs regarding CSR policies in the energy sector

#### The European Works Council

- 1) How many seats are in your company's EWC?
- 2) How many countries are represented in the EWC?

#### CSR policy of the company

- 3) Has the EWC discussed issues relating to the company's corporate social responsibility?
  - a. YES, if yes, what was the outcome of this discussion? And how often are CSR issues on the agenda of the EWC?
  - b. NO, if no, why not?
  - c. Unknown
- 4) Do you consider your company's CSR policy to be sufficient to tackle the issues of today, such as uncertainty among employees through globalization and climate change?
  - a. YES, if yes, what do you consider to be most valuable?
  - b. NO, if no, what areas could be improved upon?
  - c. Unknown

#### An international/global framework agreement on CSR

- 5) Has your company agreed on an international/global framework on CSR with trade unions or the EWC?
  - a. YES, if yes, what was and is the role of the EWC regarding this framework?
  - b. NO, if no, has the EWC ever discussed such a framework?
  - c. Unknown

#### EWCs and CSR

- 6) Do you consider it a task of the EWCs to discuss CSR issues?
  - a. YES, if yes, why?
  - b. NO, if no, why not?
- 7) Do you consider the mandate of the EWC sufficient to discuss issues regarding CSR?
  - a. YES, if yes, why?
  - b. NO, if no, what would you consider to be desirable?
- 8) Does your company discuss its annual CSR/sustainability report with the EWC?
  - a. YES, if yes, do you consider the EWC to be influential regarding the content of this report?
  - b. NO, if no, would you consider it appropriate to discuss such a report?

#### Trade Unions and CSR

- 9) Do you consider the activities of European and/or global trade unions sufficient to tackle the issues of today, such as uncertainty among employees through globalization and climate change?
  - a. YES, if yes, why?
  - b. NO, if no, why not?
  - c. Unknown
- 10) Are you aware of the European Policy agreed between the European employers Eurelectric (of which your company is a member through its national association) and the trade unions? If not, please see <http://www.epsu.org/a/5344>. Do you feel this joint statement is helpful in your work in the EWC to raise and discuss CSR issues?

## Annex 2: EU Electricity Social Partners' Joint Position on Social Aspects of CSR

**13 November 2008**

The social partners in the European electricity industry, represented by:

**EURELECTRIC** for the employers  
and  
**EPSU** and **EMCEF** for the trade unions

agree the following joint position:

Given its economical and societal role and the impact of its activities; adequate CSR policies are of great importance for the European electricity industry.

In 2004 the social partners agreed on a framework defining their further activities related to CSR policies. In 2006 they launched a study (funded by the Commission - further referred to as the ECOTEC study) and organised a conference on CSR policies in the electricity industry. A report was published in December 2007.

In the past the social partners have also produced a number of studies and published joint statements on issues related to CSR such as: equal opportunities & diversity, skills needs and health & safety. Moreover, two more studies (funded by the European Commission) have recently been finalised: one on demographic change and another on restructuring in the electricity industry.

The ECOTEC study "*Describing developments in the European electricity sector – Drivers for change: Corporate Social Responsibility*" provides a background on CSR policies of European and international institutions, indicates key factors in the success of CSR policies, details a number of case studies and suggests recommendations for companies developing CSR policies (the report can be downloaded from the Social Partner's websites)

The social partners recognise that CSR is a broad concept, encompassing economic, environmental as well as social issues. According to the EU CSR Green Paper Definition (18-7-2001) "CSR is a concept whereby companies integrate social and environmental concerns in their business operations and in their interactions with their stakeholders on a voluntary basis".

By demonstrating their social responsibility and voluntarily taking on commitments which go beyond common regulatory and conventional requirements, which companies would have to respect in any case, the social partners note that this would entail the need to monitor standards of social development, respect for fundamental rights, embrace open governance, and reconcile the interests of various stakeholders in an overall quality driven approach.

Moreover, social partners recognise that CSR is based on a positive attitude of management towards trade unions and on commitments by both parties to contribute to companies' and the industry's long term security, competitiveness, high quality of service and economic, socially responsible and environmental sustainability in a European and global environment.

In particular, the social pillar of CSR policies are cited in international charters and conventions and generally accepted standards such as the Council of Europe's Social Charter, the ILO tripartite declaration on guidelines on multinational enterprises, the OECD guidelines on multinational enterprises and the UN Global Compact (see annex 1 for more detail). The social partners agree that any activity dealing with social aspects of CSR policies should take these standards as a point of reference, with CSR policies being the subject of discussion between the social partners in accordance with their national laws, traditions and practices. The toolkit reflects this diversity. Concerning CSR reporting, the social partners agree on the following key areas, as identified by the ECOTEC study:

Social Dialogue – including employee participation in the company, employee satisfaction, trade union recognition and collective bargaining.

Personnel – dealing with staff numbers and breakdown in different categories (such as gender, age and skill levels), staff turnover, training and access to training.

Health and Safety – comprising the internal (training of staff, accidents, illness and prevention) and external dimensions (impact on the community).

Community Relations – relating to consultation on the development of new sites, relations with NGOs and other organisations, information centres for users and citizens and funding for sport, culture, arts, etc.

Education approach – including support for schools and the community in general, and, in particular, for disadvantaged persons.

Equality and Diversity - linked to codes of good conduct and ensuring compliance with equal opportunity policies and principles.

The social partners support the recommendations of the ECOTEC study as to the critical factors in the development of CSR policies. Any CSR policy must be fully integrated within the organisation. This requires compliance with the following critical factors:

- ❑ Commitment from senior management, board members and other key members of staff, is the only guarantee for the effective implementation of a CSR policy.
- ❑ The involvement of stakeholders such as trade unions, customers, employees and shareholders is vital in developing adequate CSR policies. Only customers can fully understand their own needs, and employees and their representatives are best placed to give advice on what constitutes a good working environment.
- ❑ Ensuring employees are fully integrated into the process. When CSR becomes fundamental to daily working practices, a policy has a better chance success.
- ❑ For multinational corporations, CSR should be approached as a global exercise, whilst remembering that different localities have different needs. In many of the cases reviewed in this study, the over-arching principles for CSR have been set at a central level, while autonomy has been given to subsidiaries to implement relevant policies for their region. This maximises benefits to the community.
- ❑ Multi-national corporations should encourage the sharing of best practice across the group. This allows for greater innovation in CSR activities and more enthusiasm in its implementation.

The social partners have closely followed the development of the GRI Electricity Utility Sector Supplement to the G3 reporting indicators. The proposed supplement (published in April 2009) includes numerous additional benchmarks important to the electricity industry. Reporting on the basis of these indicators will ensure that the electricity industry will continue to contribute to socially responsible and sustainable development and ensuring the well-being of citizens. The GRI supplement is currently being tested. European electricity companies are encouraged to understand the indicators. We recommended they become a reference standard for the electricity industry in developing CSR policies.

Finally and more widely, the Parties consider sustainability fundamental to all companies' strategies. They are deeply convinced that the creation of value for shareholders does not conflict with the pursuit of environmental, economic and social objectives. On the contrary, they believe that competitiveness and the success of a business are inevitably linked to the ability to make companies' activities sustainable.

Additionally the social partners of the electricity industry recommend that companies in developing and reporting on CSR policies take into account the recommendations of the joint statement and toolkit on equal opportunities and diversity and the future toolkits on restructuring and demographic change.

Finally, the social partners agree to reflect on the development of CSR policies in the European electricity industry in 3 years time to consider further activities to develop adequate CSR policies for the industry.