The French legislation on extra-financial reporting: built on consensus

Michel Doucin
Ambassador at large for Corporate Social Responsibility
Geneviève Besse
Advisor, Ministry of Ecology, Sustainable Development and Energy
9 April 2013
The French legislation on extra-financial reporting

Introduction by M. Doucin, French Ambassador in charge of CSR

Outlines of the presentation

I) The first legal framework
   a) The NRE Act 2001: a pioneer law
   b) Company compliance

II) The Grenelle process
   a) Article 225 of the Grenelle II Act - a new reporting regulation
   b) The cost of reporting

III. The September 2012 National Conference on Environment and its outcomes
I) The first legal framework

The NRE Act 2001: a pioneer law

The French Parliament adopted several laws in order to encourage CSR (corporate social responsibility) and SRI (socially responsible investment) within the private sector.

Law on New Economic Regulations

NRE Act requires that listed companies disclose information in their annual report about measures taken into account regarding the environmental and social impacts of their activities. Around 30 topics were identified in a subsequent 2002 decree.

- prescriptions designed mainly to ensure security, through transparency, for shareholders.
- No provision concerning sanctions was included.
- It marked a significant change in that it allowed shareholders and other stakeholders (including rating agencies) to better assess the overall performance of companies.
I) The first legal framework

Company compliance

The NRE Act was assessed regularly and its implementation analysed across different studies following the NRE Act, there was a growing trend among top French companies to create a dedicated sustainable development and/or CSR department.

- the C3D organization (College of Sustainable Development Executives)
- the NRE Act instilled greater responsibility at the highest levels. in 2009, in 17% out of listed companies, the part of the CEO’s variable compensation was indexed on extra-financial performance results.
  - the AMF (the French Financial Market Authority)

81% of companies had at least made some effort in terms of reporting. It was becoming apparent that companies were indeed now incorporating sustainable development and CSR in their core strategies.


However, the way in which the NRE Act was written gave companies so much flexibility that some categories were consistently under-reported. Regarding the category of relations with stakeholders, because this particular set of data is demanded “where necessary”, there was a substantive lack of information on this subject.

I) The first legal framework

Percentage of companies reporting on corporate responsibility initiatives (2008 vs 2011)
Study focused on 100 largest companies out of the 34 countries of the panel

Source: International Corporate Responsibility Survey KPMG 2011
I) The first legal framework

Disparity in levels of reporting between different sectors.

Source: Study realized in February 2010 by independent French rating agency Vigeo
I) The first legal framework

Analysis of 9 years of implementation of the NRE Act

Source: Alpha Group’s analysis (2011)
II) The Grenelle process

“Grenelle for environment”
A nationwide multi-stakeholder dialogue on sustainable development launched in France in which business organizations, trade unions, environmental and consumer NGOs, and academics participated.

Effects of the NRE Act

- The goal of an increased security for shareholders, but also for consumers and society as a whole had been widely achieved.

- Many companies with significant social and environmental impacts were outside the scope of the law and hence evaded reporting obligations, particularly large non-listed companies, both private and State-owned.

- Several key topics for CSR reporting had been omitted from the list, while some of those on the list were not relevant for all the industrial sectors. Some of the reporting indicators were not informative enough.

2007

2009 the Grenelle I Act (August 3, 2009)

2010 the Grenelle II Act (July 12, 2010)
II) The Grenelle process

Article 225 of the Grenelle II Act - a new reporting regulation

The implementation decree was published on April 26, 2012 and amends Section 225-102-1 of the Commercial Code with several notable innovations:

1. **It widens the breadth of companies required to submit reports mandatorily**, using several criteria:
   In short, by the 31st of December 2013, all companies with over 500 employees will be subject to these reporting requirements.

2. **It broadens the amount of information required**: There are now 42 topics that companies must report on, divided into three themes: Social, Environmental, Commitments to sustainable development.
   The list of subjects reflects the content of the main international guidelines on CSR reporting.

3. **For each required topic, companies have the liberty to select the most relevant indicators.**

4. **A “comply or explain” approach** is proposed. **Independent auditors** give their opinion on the omissions and provided explanations.

5. **It provides stricter rules on the breadth and quality of the report**: According to the decree, a company’s report should disclose all actions taken by the company and its subsidiaries. It must present data observed during the defined financial year and, if necessary, during the previous one, in order to allow comparison. If the company chooses to comply with a national or international reporting framework in order to fulfil its reporting obligation, it must mention the nature and terms of this framework.

6. **It states that a company’s report must be subject to verification by an independent third organization**
   This organization is appointed by the executive director or chief executive, and must be accredited by Cofrac (French Committee of accreditation) or by any other accreditation body signatory to the multilateral recognition agreement established by the European coordination of accreditation bodies. This third party must then prepare a report certifying the quality of the company’s reporting and provide a “reasoned opinion” on the accuracy of information provided, and also (as mentioned above) on the explanations given by the company for any omitted data.
**II) The Grenelle process**

The cost of reporting

<table>
<thead>
<tr>
<th>Size of company by n° of employees</th>
<th>Cost of creating the report</th>
<th>Cost of getting report verified</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Reasonable estimate</td>
<td>Reasonable estimate</td>
</tr>
<tr>
<td>500 to 999</td>
<td>17 000€</td>
<td>7 200 €</td>
</tr>
<tr>
<td></td>
<td>33 300€</td>
<td>11 000 €</td>
</tr>
<tr>
<td>1000 to 4999</td>
<td>30 300€</td>
<td>11 000 €</td>
</tr>
<tr>
<td></td>
<td>61 600€</td>
<td>18 000 €</td>
</tr>
<tr>
<td>5000 +</td>
<td>197 000€</td>
<td>30 000 €</td>
</tr>
<tr>
<td></td>
<td>357 000€</td>
<td>100 000 €</td>
</tr>
</tbody>
</table>

_Evaluation for CAC 40 (top companies in France)_

|                                    | 60 000 €                     | 200 000 €                      |

Compared to many other costs, these are undeniably affordable expenditures.
III. The September 2012 National Conference on Environment and its outcomes

The President elected in May 2012 decided to organize a series of consultations on key topics concerning the future of French society.

A National Conference on Environment was convened on September 14th and 15th of 2012.

Its conclusions:

- Importance of sustainability reporting in order to enhance transparency in ESG company behaviour.

The Grenelle Laws were confirmed, with the announcement of a change in the text from the April 2012 implementation decree: the discrepancy between the number of topics that must be reported on for listed and non listed companies will be removed.

In addition it was decided to create a multi-stakeholder National CSR Platform to create on-going dialogue on these issues. It will be directly related to the Prime Minister’s Office. Its task will be inter alia to monitor the implementation of Grenelle Laws and propose new developments for the development of CSR.

For eleven years, the French policy on CSR reporting has been successfully motivated by a permanent will to build consensus.
Conclusion

Thank you for your attention