Corporate social responsibility and performance: Regulatory context

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Outline

- **Board composition: the independence and convergence debates**
- **CSR and ESG reporting: mandatory and voluntary schemes**

Main argument: the shift from independence to competence and the debate on the convergence of CG structures (in academic research and national legislations) requires to :

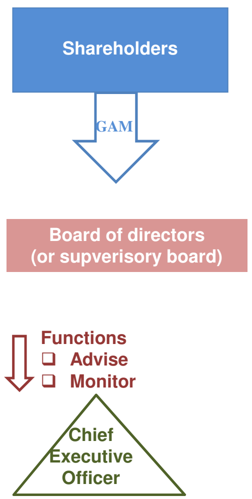
- critically assess the board own functioning and evaluate periodically the board as a whole and its individual members
- examine the link between governance and CSR and ESG reporting obligations :
  - ✓ does increasing concerns for CSR leads to convergence in CG ?
  - ✓ how does the board composition affects CSR?
  - ✓ what laws regulating CSR , including ESG reporting ?

Introduction: Corporate Governance

Separation between owners (of capital) and managers and the conflict of interest shareholders/managers.
=> Governance relates to the rules allowing shareholders to be sure that the firms they invest in are managed in compliance with their own interest, especially for publicly traded firms..

Such rules are organized within a three layer structure:

- **Shareholders**, who meet in general assemblies,
- delegate their control to a **board of directors** (or supervisory board) who
- monitor operational decisions of **CEOs**



Introduction: Why boards should delegate CSR to CEOs

Incomplete contracting literature (Hart, 1995) : complete contingent contracts are not the only contracts that agents face. In reality, rationality is bounded and individuals are not able to anticipate all options in all possible states of nature, contracts are therefore necessarily incomplete.

⇒ Contract incompleteness requires allocating discretionary power to firms' executives which will complement the contractual relationship during contract enforcement.

⇒ Such a discretionary power amounts to delegate CSR to managers, ie let them exercise their discretion in a way favoring the interests of other stakeholders (were managerial discretion always in favor of one particular party-for instance, shareholders or the executives themselves- other stakeholders would be unwilling to do business with the firms.)

Yet, for Friedman (1970), the responsibility of CEOs is to ensure profitability. If CEOs embark firms on CSR, they might misappropriate shareholder funds for opportunistic reasons. They don't have the political legitimacy for providing public goods.
In the agency theory, such a CSR could thus be a perquisite for managers who like the accolades of the advocates of broadened social performance (Baron et al., 2008).
In the **entrenchment theory (**Cespa and Cestone 2007) CSR strategies are a way for inefficient managers to ensure stakeholders' support to reinforce their own position at the expense of the shareholders.

Supports the need for an institution in between CEOs and shareholders to efficiently discipline CEOs , represent shareholders, but also represent other stakeholders => <u>key role played by boards of directors</u>

Board independence

Over the last two decades the boards of directors of large US and -to a lesser extent- European public companies have come increasingly to contain a majority of independent directors.

- In the US, the fraction of independent directors for large public firms has shifted from approximately 20 percent in the 1950s to approximately 75 percent by the mid-2000s.
- In France, the proportion of outside directors also increased, but more recently, reaching around 50% to 60% in average in 2012 for the biggest capitalizations (CAC40 index).

Board independence

Independence is normally treated in CG codes (matter of « comply or explain »)

the American National Association of Corporate Directors recommends that boards have a 'substantial majority' of independent directors. Greater board independence also remains high on the agenda of activist institutional investors.

The UK: UK CGC 2012 requires at least half of directors (excluding president) **,** plus an appropriate combination of executive and non-executive directors

Nordic countries: a majority of directors nominated by shareholders must be independent.

In France: CGC AFEP-MEDEF: at least half of the members independent (1/3 for firms with controlling shareholders)

Institutional shareholders promote such a trend.

Board independence

Increasing mandatory requirements on independence

- EU (directive 2006): at least one member of the audit committee be independent
- In two-tier systems (managmt / supervisory boards), cf the German and Dutch versions: mandatory division between executives (only) in the management board and non-executives (only) in the supervisory board (in Italy, managmt board may be mixed, not in the CGC)
- Netherlands & Italy: at least one executive director
- In continental Europe no jurisdiction requires parity bewteen independent and non independent, except French AFEP MEDEF recommendation, (and Netherlands, with all but one independent)
- Sweden: at most one executive director

The independence debate

Controlling shareholders: not independent ?

For controlled companies, the French CGC lowers the recommended percentages of independent directors from ½ to 1/3 , but representative of a major shareholder is considered independent if he does not take part in the control of the company

Representatives of holders of at least 10% of the shares are non-independent in Belgium (law), Netherlands and Sweden (CGC), and Germany

Swedish CGC recommends that at least 2 of the directors who are independent of the company and management, be independent of the major shareholders

In many European countries, the final determination of what constitutes independence remains an issue for the (supervisory) board itself to determine: criteria are nonbinding guidelines

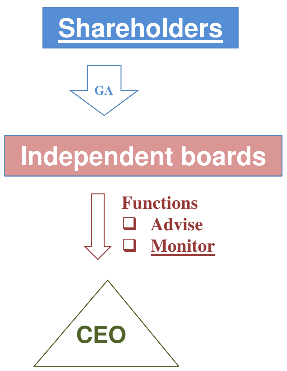
Why need board independence ?

Is directors' independence a guarantee of a better corporate management and therefore performance?

Independent directors are often supposed to :

❑ better monitor CEOs

❑ make the firm be managed in accordance with the shareholders' interest.



Board independence and performance

Yet: no empirical consensus on the link between board independence and performance

❑ Most works on american data

❑ direct evidence on the link independence/performance is weak, several studies find a negative link.

Bhagat, Bolton and Romano (2008):
"*Board independence* […] *is negatively and significantly related to contemporaneous, next year's, and next two years' operating performance. This result is surprising, especially considering the recent emphasis that has been placed on board independence* […]*; however, it is consistent with prior literature on boards*" (p.1850)

Board composition and extra-financial performance

- Much less works, predictions don't converge:
  - Agency theory: CSR = entrenchment of CEOs. Independents should have a negative impact on extra-financial perf (Barnea and Rubin, 2010)
  - Stakeholder and conflict resolution theory: Independents more sensitive than insiders to social and environmental impact… Independents should have a positive impact on extra-financial perf (Jo and Harjoto, 2011) .

Board independence and performance

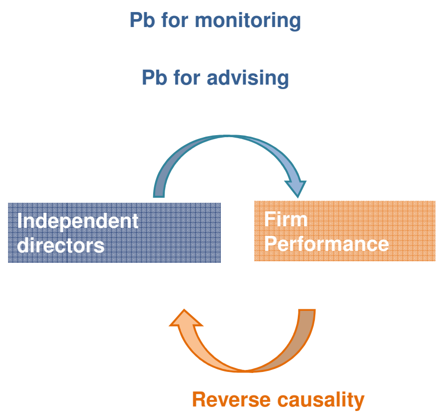
" independent directors would in fact often turn out to be lapdogs rather than watchdogs." (Baghat & Black, 1998)

Independent directors are « potentially valuable for treating all agency problems, but not exclusively dedicated to treating any » (Davies & Hopt,2013)

❑Independents not enough independents ?

❑Informational deficit

❑Reverse causality?



The convergence debate

Independent directors failed to prevent corporate scandals

Usually nominated or selected by CEO or executive directors who have professional or personal relationship with them

Unless they are professional non-executive directors, they are working part time and may not have the know-how of the business secor or the actual corporation

Thee flow of information to them is often suboptimal, particularly in the case of supervisory boards

They are paid less than executive directors, and may be less motivated

=>**emphasis has shifted to competence rather than independence**

In concentrated shareholding contexts, independent directors are likely to dilute the influence of block-holders, especially if the board must contain employee representatives, and rather serve as protectors of non-controlling shareholders

Independence has been promoted through market forces to provide assurance to foreign investors (especially north american) that local governance arrangements were credible

The convergence debate: the shift to competence rather than independence

Since several years, the shift has been from avoiding dominance by a small group of executive directors to emphasising the characteristics of members

Diversity relies on background, gender, age, nationality, residency, etc

- Academic research on board composition followed this trend and also shifted to other dimensions of board composition:
  - Gender (Ahern and Dittmar, *QJE*, 2012)
  - Foreigners (Masulis, Wang and Xie, 2012)
  - Several mandates (Honeine and Swan, 2010)
  - Presence of employees (Ginglinger, Megginson and Waxin, 2011)
  - Professional expertise (Reeb and Zhao, 2012)

Laws on expertise and diversity

in Europe the policy focus is on gender diversity

UK Walker review 2009: departing from the 50% recommendation is tolerated to obtain the required level of board expertise

France Jan 2011 : parity in boards of publicly traded firms (or with SB). Adaptation delay: 5 years with 20% of women in boards within 18 months and 40% within 4 years.
«Pacte national pour la croissance, la compétitivité et l'emploi» Nov 2012 : at least 4 representative of employees in boards or SB of firms with more than 5 000 employees,

Belgium : July 2011: 1/3 of women on boards, within 6 to 8 years for public firms, 2012 for state-owned firms.

Italy: July 2011: 1/3 of women on boards by 2015

Netherlands: change in the civil code (June 2011) for at least1/3 of women on boards

Spain: March 2007 at least 40 % of women by 2015 in boards of big firms

Laws on expertise and diversity

Interlocking directorates and availability

A number of countries leave this to the shareholders to decide: Sweden, Switzerland, Italy

UK CGC: limit only for executive directors (no more than 1 non executive directorship of FTSE 100 company, and not to be the CEO of the company)

Germany max 10 supervisory seats (3 in listed companies)

France: no more than one CEOposition, and 5 seats (possibly 3 in the future)

The convergence debate

The current policy emphasis on expertise and diversity is likely to reduce the priority given to independence: Are diversity and expertise inconsistent with independence ? Not necessarily…

But if sanctions are attached to gender characteristics and not independence , the regulatory pressure to meet both of them is unbalanced

⇒It is difficult to ensure efficient functioning of the board through rules on composition only…

⇒**The shift from independence to competence and the debate on the convergence of CG structures (in academic research and national legislations) requires finally to :**

- **critically assess the board own functioning and evaluate periodically the board as a whole and its individual members**
- **examine the link between governance and CSR and ESG reporting obligations :**
  - ✓does increasing concerns for CSR leads to convergence in CG ?
  - ✓how does the board composition affects CSR?
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CSR and ESG reporting: mandatory and voluntary schemes

FRANCE
Several laws starting in the late 1990s played an important role in the development of CSR and SRI

- Laws promoting long term investing and SRI :

Creaion in 1999, of a Pension Trust Fund (Fonds de Réserve des Retraites) whose main objective was to introduce some public funding in the “pay as you go” basic pension scheme to cope with its expected financial non-sustainability within the next decade. The FRR Responsible Investment strategy encourages mainstream investment managers to adopt responsible investment practices, and relies on SRI mandates that integrate ESG issues into investment decision-making and portfolio management.

The “Fabius law” of February 2001 (and the “Fillon law” on pensions of August 2003) establish a “voluntary partnership employee savings scheme” with the sums invested frozen for a ten-year period (vsfive years in the usual employee savings scheme) thereby developing a long-term perspective on savings and thus on SRI demand.

In 2001 the creation of the CIES (Comite Intersyndical de l’Epargne Salariale), provided a trade union ”SRI label” to a range of SRI employee saving funds.
The first SRI analysis department was created in 2002

CSR and governance: mandatory and voluntary schemes

FRANCE
Laws promoting more transparency and information to investors, focused on CSR:

- The NRE (Nouvelles Régulations Economiques) law of July 2001 (Article 116) obliges all companies listed on the first market (the largest market capitalizations) to report on a yearly basis on the social and environmental impacts of their activities.

- In 2011, The Grenelle II law extends the reporting obligation to two types of actors.

Article 225 mandated disclosure to non-listed large French companies with > 500 employees and French subsidiaries of foreign companies. It also expands the range of information required, and requests external verification.
Article 224 expands disclosure requirements to asset managers and open-end investment companies (OPCVM) as well.
Asset management companies now have to disclose whether an SRI policy is in place, by reporting to which extent social, environmental or ethical considerations are taken into account in the selection, retention and realization of investment.

15 French Corporate Governance Codes (CGC) and guidelines 2002-2012:

- Sept 2002 Suite aux Rapports Vienot I en 1995 et Vienot II en 1999, publication du Rapport Bouton « Pour un meilleur gouvernement des entreprises cotées ».
- Août 2003 Loi de sécurité financière instaurant notamment le rapport du président sur le gouvernement d’entreprise et le contrôle interne.
- Oct 2003 CGC AFEP-MEDEF "Les principes de gouvernement d’entreprise des sociétés cotées".
- Jan 2007 Recommandations AFEP-MEDEF sur la rémunération des dirigeants mandataires sociaux.
- Fév 2007 Référentiel de contrôle interne de l’Autorité des Marchés Financiers (AMF).
- Juillet 2008 Transposition dans la loi française de la directive sur la transparence des sociétés en matière de gouvernance et contrôle interne - Référence par les sociétés à un CGC
- Déc 2008 Principes de GE résultant de la consolidation des rapports AFEP MEDEF 2003, 2007 et 2008
- Déc 2008 Ordonnance transposant la 8ème directive européenne sur le contrôle légal des comptes: composition et missions du comité d’audit.
- Avril 2010 Recommandation AFEP-MEDEF sur le renforcement de la présence des femmes dans les Conseils intégrée dans le CGC AFEP-MEDEF.
- Juillet 2010 Rapport et recommandations de l’AMF sur les comités d’audit.
- Janvier 2011 Loi Copé-Zimmermann relative à la représentation équilibrée des femmes et des hommes au sein des Conseils d'administration et de surveillance.
- Avril 2011 Livre Vert de la Commission européenne "Le cadre de la gouvernance d’entr. dans l’UE".
- Février 2012 Recommandations de l’AMF sur le gouvernement d’entreprise et la rémunération des dirigeants se référant au code AFEP-MEDEF.
- Juillet 2012 Rapport final de l’AMF sur les assemblées générales d’actionnaires de sociétés cotées.

CSR and governance: mandatory and voluntary schemes

4 groups of countries:

❑ Northern Europe:	Denmark	Netherlands	Norway	Sweden
❑ Continental Europe:	France	Belgium	Germany	
❑ Southern Europe:	Portugal	Spain	Italy	
❑ Anglo-Saxon:	United States	United Kingdom	Australia	

	Denmark	Netherlands	Norway	Sweden
Scheme	Green Accounts ESG reporting	ESG Reporting	Environmental Information in Directors statement in annual reports	Environmental Information in Annual Report
Legal Framework	Green Account (GA)Act :June 1995 Detailed rules : December 1995, New draft in 2010 (less info published) Others: Social Index in 2000 , Voluntary ESG reporting (with external verification) Danish financial statement (DFS) act in 2001, subsection of business law, Mandatory ESG reporting , revised in 2009, applies to large companies and state-owned enterprises.	Environmental Protection Act : 1993, 1997, Decree Jan1999. Other mandatory: Dutch Civil Code 1838 (sec2, part9), revised 2004 Other voluntary: Guidelines for integration of ES activities in the financial reporting 2008; Dutch corporate governance code 2003	The Norwegian Accounting Act 1999– section Directors report Other mandatory: Accounting act (§3.3), 1998 Other voluntary: Norwegian code of practice for corporate governance 2007 Norwegian White Paper on CSR in global economy 2009	Accounting Act 1999 Other voluntary: guidelines on environmental information in the director's report section 1998

	Denmark	Netherlands	Norway	Sweden
Description	Green accounts DFS: on environment and intellectual capital + CSR	EPA Establishes a regime by which establishments licensed by the province and which have a substantial environmental impact can be required to produce each year an environmental report for the authorities (government report) and an environmental report for the general public (public report)	Information about conditions which may affect external environment and the measures which have been implemented or are being planned to prevent or reduce negative impacts on the environment	Companies obliged to report and seek permit according to the Environmental code must report on the effects on the surrounding environment caused by its production processes and whether the effects have direct or indirect significance to its financial development in the annual report.
Detailed Rules on Information content & Format	Yes Green accounts: : on significant consumption of energy, water and raw materials and the type and quantity of Pollutants + managerial statement on firm's environmental policy, supply chain, working conditions and employee participation	Yes for the government report: activities and procedure within the establishment, impacts on environment (incl. quantitative data), environmental policies and measures, further developments. For the public report it will be free-format	Yes AA: external environment (activities, inputs and products that may impact external environment including its resource used in production and products, which contributes to an impact on the external environment, as well as impacts), internal environment (working conditions, injuries and accidents, sick leaves), gender equality	Yes Impacts of the firm on the environment, including processes; influence of these impacts on the financial or future performance of the firm, explain why the firm is concerned by the environmental code

	Denmark	Netherlands	Norway	Sweden
Scope: Affected Companies	GA: All companies Reporting is at site Level DFS : for state owned companies and companies with total assets > € 19 million, revenues >€ 38 million and >250 employees	Establishment of license under the Environmental Management Act. Reporting is at site Level	All companies under companies law Reporting is at company level White Paper CSR propose that the largest companies with an accounting obligation state which ethical guidelines or standards for CSR they follow and what they have done in the FY for CSR	All companies that are obliged to report and seek permits Reporting is at company and site levels. Companies with operations outside Sweden need not to report about these sites No geographical limit
Verification / audit	No obligation for a third party audit but in case there is an internal or external audit, the name and auditor's declaration shall be stated in the accounts	The decree stipulates that there should be an independent verification of the report but it has not been implemented	Annual reports need to be audited but this does not apply to information in the directors report	Annual reports need to be audited.
Fines	Yes	Yes	No	Yes

	France	Belgium	Germany
Scheme	Environmental and social information in annual report	Social report	Environmental and Social report
Legal Framework	Mandatory: Grenelle II Act 2010, AD 2012-2013 (April 2012 & May 2013 + January 2012) Other mandatory: - New Economic Regulation Act 2001, AD February 2002 - Social Balance sheet (SBS) 1977, AD 1977, 1988 & 1997 (all firms > 300 employees) Other voluntary: ADEME Carbon footprint 2002	Mandatory: Law of Dec 1995 on long-range plan for employment Royal Decrees of Aug 1996 (AD 1997) & Oct 2001 on the social balance sheet & June –Nov 2003 Other voluntary: Legal framework for sustainable development Act of May 1997 Belgian CSR Reference Framework & Action plan April 2006 & Oct 2006 Belgian Social Label 2001	Voluntary: German sustainability code 2012 Other mandatory: BilReg Accounting Law reform 2005 BilMoG, modernise accounting laws 2008 Other voluntary: VorstAG on Compensation of the Managmt Board 2009 German Corporate Governance Code 2001
Description	All companies with more than 500 employees, have to report on the social and environmental consequences of its activities. This extra-financial information will have to be embedded in the annual management report, approved by the Board of Directors, verified by a third-party body and given to the annual general meeting. The mandatory information concerns the whole financial scope of the firm.	Data on the nature and the evolution of employment required for all companies employing more than 20 wage earners. Full SBS for large entities, and an abbreviated SBS for MSE.	GSC: voluntary implementation of GRI A+ or EFFAS LIII guidelines (European Federation of Financial Analysts Societies) ALR transposes the EU Modernisation Directive (2003/51/ EG)

	France	Belgium	Germany
Detailed Rules on Information content & format	Yes GII Themes of reporting Environment: Environmental policy, Pollution and waste management, Sustainable use of resources, Climate change, Biodiversity preservation Social (SBS has more than 100bndicators): Employment, Work Organization, Labor relations, Occupational health & safety, Training, Equal treatment, Promotion and respect for the clauses of ILO conventions (listed companies) Community and social involvement: Regional, economic and social impact of the company, Relationship with civil society and Philantropy, Subcontractors and suppliers, Fair operating practices (listed companies), Other actions promoting human rights	Yes Up to 74 indicators State of the workforce Fluctuations in the workforce Measures adopted for the promotion of employment Organized training	Yes GSC Themes: Strategy (strategic analysis, strategy and goals); Process Management (rules and processes, Incentives, Stakeholder engagement, Innovation and product management); Environment (Natural resources, Greenhouse gas emissions); Society (Employee rights & diversity, Human rights, Corporate citizenship, Political influence, Corruption) 26 GRI Indicators ,18 EFFAS indicators ALR: 5 principles for the management report: completeness; reliability; clarity and transparency; the conveyance of management's perspective; and a focus on sustainable value creation. VorstAG: link between board members' pay to SD.

	France	Belgium	Germany
Scope: Affected Companies	GII: All companies, private and public, with more than 500 employees and total assets or annual net sales > €100 million Extra-financial information must be consolidated for all subsidiaries SBS: all companies with more than 300 employees	All companies	GSC: All companies, organizations, foundations, NGOs, trade unions, universities, scientific organizations and the media, all publicly owned companies. ALR: all German parent companies that are required by law to prepare a group management report
Verification / audit	Yes, verification required by an independent third party (presence/completeness and legitimacy of exclusion of some information; fairness of the published data; due diligence performed to verify the data) Rule: "comply or explain"	Audit of annual reports	GSC: No, But companies publish a declaration of conformity; attestation issued by an independent third party (limited assurance). Reporting in accordance with GRI A+ or EFFAS Level III . Rule: "comply or explain"
Fines	None	Yes	No

	Portugal	Spain	Italy
Scheme	Environmental report	Environmental report	Environmental and social report
Legal Framework	Mandatory: The 29th Accounting Standard, 2004 replacing the Financial Reporting Accounting Standard nº 26 Other mandatory: Sustainability Report, 2006 Social Balance, 1985.	Mandatory: Resolution of March 2002 of the Institute of Auditing and Accounting Others mandatory: National Accounting Plan, 2007 PSOE (Spanish socialist party)'s commitment towards a CSR Report for public agencies, 2012 Public Agencies Transparency Royal Decree, 2009 Draft Sustainable Economy Law, 2009 Other voluntary: RSE.COOP Reporting guidelines Programme, 2006 Spanish Organic Law 3/2007 for Effective Equality between Women and Men, 2007 Assurance standard ICJCE Action Guide, 2008	Mandatory: Legislative decree 32/2007 (transposition of EU modernization directive), implemented by directors' report on financial statements, 2009 (not mandatory) Other mandatory: Ministerial Decree of January 2008 (Ministry of Social Welfare): social reporting guidelines for social enterprises Other voluntary: Social reporting standards, 1997, and the Social Reporting in the Public Sector, 2005, Operational Guidelines for CSR in the banking sector, 2005, Voluntary standards
Description	29 AS states that organizations are obliged to include environmental assets, provisions, investments and expenses in their financial statements.	Resol: organizations are obliged to include environmental assets, provisions, investments and expenses in their financial statements.	Companies shall provide a description of employee relations and environmental performance in the directors' report of the financial statements.

	Portugal	Spain	Italy
Detailed Rules on Information content & format	Yes SB: Information relative to employment, labour management relations, occupational health and safety, training, and salaries	Yes NAP: Spanish Inventory System (SEI) for air quality and protection of the atmosphere contains accumulated greenhouse gas emissions (GHG) and other atmospheric contaminants.	
Scope: Affected Companies	SR compulsory for the companies under guardianship of the Department of Transportation and Communications. SB: all companies with > 100 employees, in the near future these reports will be mandatory for all companies with > 10 employees	NAP: energy sector, manufacturing, construction, transport and waste treatment and elimination. PSOE: all public agencies PAT: All Spanish public agencies are obliged to publish their annual balance sheets, the composition of their governing bodies and their ethics or good practice codes online.	

	United States	United Kingdom	Australia
Scheme	Governance report +(ES)	ESG report	ESG report
Legal Framework	Mandatory: Sarbanes-Oxley Act 2002 EEO-1 Survey 2007 Security Exchange Commission Regulation S-K rev 2009 Clean Energy & Security Act 2009, to be approved and signed Toxic Release Inventory 1988 US EPA GHG Reporting Rule 2009, yet to be enacted, 1st report due by 2011 California Global Warming (assembly bill 32) Solutions Act 2006 California Assembly Bill 1103 , 2009 National Association of Insurance Commissions	Mandatory: British Companies Act, 2006 Combined Code, 1998 rev2003 + Turnbull guidance 1999 (details) + Flint Review 2006 (update) Climate Change Act, 2008 Carbon Reduction Commitment, 2010 Voluntary: Environmental Reporting Guidelines 2006 (DEFRA)	Mandatory: Corporations Act, 1998, 2001 rev 2004 Financial Services Reform Act, 2001 Energy Efficiency Opportunities Act, 2006 National GH and energy reporting act 2007 National Pollutant Inventory, 1998 Australian Securities and Investments Commission Section 1013DA disclosure guidelines 2003 New South Wales GHG Abatement Scheme, 2003 Voluntary: Australian Minerals Industry Framework for SD 2005 Triple bottom line, CDP, Standard DR03422
Description	SOA introduces new reporting requirements to increase corporate transparency (mainly CG). EEO1 CESA is a variant of a cap-and-trade plan for GHG to address climate change. Also includes a renewable electricity standard requiring each electricity provider that supplies over 4 million MWh to produce 20% of its electricity from renewable sources by 2020. .CGWS sets the 2020 GHGEm reduction goal into law, near compliance with the Kyoto Protocol (by 2020 the state's GHGE be reduced to 1990 levels, a roughly 25% reduction in BAU estimates), require reporting direct carbon emissions. CAB 1103 requires the disclosure of energy consumption data from Energy Star Portfolio Manager NAIC requires that insurance companies disclose to regulators the financial risks they face from climate change, as well as actions the companies are taking to respond to those risks	BCA: Explain in the annual report the company's strategies, performance and risks ("Business Review"). CC: report on governance and internal control.	CA: Environmental reporting, social impact under discussion FSR: investors must state "the extent to which labour standards or environmental, social or ethical considerations are taken into account in the selection, retention or realisation of the investment EEOA : identification and evaluation (+implementation) of energy efficiency opportunities NPI: report emissions and inventories for specific substances and fuel to regulatory authorities ASIC: disclosure about labour standards or environmental, social and ethical considerations in Product Disclosure Statements NSW: comply with GHGE benchmarks, and report annually on their compliance + Annual external audits

	United States	United Kingdom	Australia
Detailed Rules on Information content & format	TRI: requires companies to submit data on emissions of specified toxic chemicals to the EPA EEO1: requires annual filing by the US Equal Employment Opportunity Commission regarding employment records, including the racial and gender profiles of employees. SEC-SK : disclosure on the material effects (capital expenditures, earnings and competitive position) of compliance with environmental regulations (incl. Monetary sanctions) +information on the financial risks associated with environmental, human rights and other social issues allowed in shareholder resolutions. EPA GHG: reporting for 31 sources	BCA: Information on environmental, workplace, social and community matters CCA: accounts for all six Kyoto gases. By April 2012 the government is required to exercise powers under the Companies Act to require the inclusion of GHG reporting in a company's Directors' Report CRC: measure and report on all emissions related to energy use to the Environment Agency, and purchase allowances. By the end of 2011 Footprint Report of total energy and emissions	NSW: Electricity utilities and certain large end-users of electricity (e.g. metal refineries) in the state of NSW
Scope: Affected Companies	SOA: US-listed companies TRI: companies with >10 full-time employees US EPA : new reporting req apply to suppliers of fossil fuel and industrial chemicals, manufacturers of motor vehicles and engines+ large direct emitters of greenhouse gases with emissions equal to or greater than a threshold of 25,000 metric tons per year. NAIC: All insurance companies with annual premiums of $500 million or more	BCA: Companies listed on the London Stock Exchange CRC: Organisations that use more than 6,000MWh per annum (annual electricity bill of £1,000,000)	CA: companies FSR: fund managers and financial product providers EEOA: large firms NPI: industrial companies

In conclusion

Theoretical rationale for convergence or divergence

- Market-driven convergence=> Pressures of competition released by globalisation driving convergence

- Varieties of capitalism and complementarities:

A CG/CSR rule may have greater impact on performance in the presence of some other element in the environment than if the « complement » is not present

=>. different CG/CSR systems may be equally efficient because they are constructed around different complements (address the agency pb of minority shareholders in dispersed shareholding contexts, and shareholders as a class in concentrated shareholding contexts=> different laws but equally efficient equilibria)

Company rules reducing the responsiveness of the board to shareholder influence but complementary to rules and institutions encouraging firm-specific human capital investment by employees => may raise the cost of capital (because of reduced shareholder influence over management) but may reduce the cost of production because labour costs are reduced to a greater extent than its capital costs are increased

=>differences in corporate laws are likely to persist

(more transaction costs to make twofold changes – in the CG system and in the employee relations: cooperative vs arm's legnth.)