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Gewerkschaftsbund**

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Structural and Regional Policy
Office

10-Point Paper on Corporate Social Responsibility (CSR) adopted by the German Confederation of Trade Unions (DGB) and its affiliates

Binding rules for one and all!

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Preamble:

In any democratically constituted society, companies must bear social responsibility. To the DGB and its affiliated trade unions, “corporate social responsibility” (CSR) means that companies undertake a binding commitment to improve working and living conditions, to play their part in caring sustainably for the environment and to protect consumers.

Companies do not have an exclusive power to define how this socially responsible conduct ought to be defined. Article 14 (2) of Germany’s Basic Law, for example, states: “Property entails obligations. Its use shall also serve the public good.”

In the spirit of this, our Constitution, the DGB and its affiliated trade unions call for better regulation of corporate activity, which should be geared towards the public good.

Consequently, we call upon companies to involve democratically elected workers’ representatives in drawing up their CSR strategies. Works councils and workers’ representatives on supervisory boards are invited, in turn, to help formulate CSR codes.

There is an opportunity here to place classic trade union issues such as decent work and worker participation within the focus of these voluntary pledges. Germany’s trade unions expect companies to display transparency and accountability, both at home and abroad, with regard to the social and ecological consequences of their operations.

Voluntary agreements can only ever complement legal provisions; they will never be a substitute for them. The applicable conventions cannot be eroded or deprived of meaning.

In this respect, a debate about CSR is only meaningful if consultation rights and mechanisms for the participation of workers and trade unions are essential components of the corporate structure. Potential CSR guidelines must be the subject of social dialogue between the company and the trade union concerned.

In the following 10 Points on CSR, the DGB submits a package of recommendations and demands to companies and the political community.

10 trade union requirements of CSR:

1. Companies only accept CSR if it is based on the voluntary principle. CSR is therefore not sufficient in itself to ensure the required level of protection for workers’ rights and trade unions.

The German trade unions champion robust, legally enshrined, protective rules at the workplace, for free collective bargaining and for consultation of the workforce to secure workers’ rights and decent working conditions.

CSR can provide additional protection for working men and women that extends beyond these statutory rules, but it assumes as a minimum requirement that compliance with the law has been demonstrated.

Voluntary CSR schemes can by all means complement national, European and international legal provisions and collective bargaining agreements, but they can never become a substitute for these.

Furthermore they should not hinder the development and extension of standards encoded in law or agreed in collective bargaining.

In the corporate context of workers’ participation, trade unions are committed to the objective of creating structures which provide scope to exert a binding influence, strengthening bargaining power by institutionalising rules and procedures (for example, by setting up global works councils, global group committees, global workers’ forums, etc.).

The German model of *Mitbestimmung* already involves workforce and trade union decision-makers in the formulation of corporate strategy without the aid of CSR. The credibility of a company’s national or international CSR strategy is fundamentally linked to the way social partnership is implemented within the company.

The trade unions affiliated to the DGB observe that a credible CSR strategy can only be communicated to the outside world in an environment where the structures of work and participation are worker-friendly.

2. Workers' representatives on works' councils and supervisory boards are increasingly being confronted with CSR schemes. A practical response to CSR schemes harbours both opportunities and risks. The risks lie in particular in the potential ability of management to use voluntary commitments as an argument against the need for company agreements or statutory provisions. Workforce representatives might even be drawn into a CSR scheme that quite possibly has only been designed for PR purposes and lacks any discerning substance, without being able to exert a real influence. On the other hand, works councils and workers' representatives on the supervisory board may be able to draw attention to any discrepancies between what the company claims in public about adopting social, civic and environmental responsibility and how it applies this in practice, and in this way they might exercise pressure for change. Besides, involving workers' representatives in a CSR scheme could open up opportunities for workers in workplace consultation structures to operate beyond their institutional confines. However, this does assume that the workers' representatives can exert a substantial influence on the CSR strategy. All things considered, there are many reasons to adopt a critical stance on CSR.

3. At international level there is still no binding framework to regulate corporate activity in global markets. Economic globalisation lacks a political and social matrix. The German trade unions have been calling for a binding international framework that would subject globalisation to minimum social and environmental standards. The ITUC's Annual Survey of Violations of Trade Union Rights across the world repeatedly paints a terrifying picture: terrifying because more and more people are being murdered on account of their trade union activities. The ILO Core Labour Standards, and in particular the Declaration on Fundamental Principles and Rights at Work adopted by the International Labour Organisation in 1998, have established a framework that is binding under international law. The Core Labour Standards are an integral component of human rights and oblige countries who are members of the ILO to respect them, even if they have not ratified the standards specifically. In this context, the DGB and its affiliated trade unions call for binding intergovernmental modes of operation to assert the Core Labour Standards, such as a more efficient and effective system of sanctions based with the ILO or the World Trade Organisation (WTO) or applied in partnership with the WTO/ILO. The ILO's Core Labour Standards must be integrated into the treaties governing the WTO. The ILO's present review mechanisms must be strengthened and extended with a view to monitoring ILO standards under WTO treaties, as recommended by the ILO Declaration on Social Justice for a Fair Globalisation in 2008. The international community and the world's governments bear the principal responsibility for at long last achieving binding intergovernmental arrangements with sanctions attached in order to assert and implement a social dimension to globalisation. Apart from the Core Labour Standards and other ILO Conventions, which merely establish minimum standards, voluntary commitments together with companies can generate an additional impact, i.e. Core Labour Standards (CLS) plus

Corporate Social Responsibility (CSR). While no international rules and appropriate review mechanisms are in place, the trade unions remain willing to pursue the consensual path of dialogue within the CSR debate and, in a pragmatic fashion, to support companies wishing to guarantee minimum social and environmental standards. International framework agreements can contribute functionally to securing minimum standards for working conditions across all company locations. Nevertheless, the principle remains: voluntary agreements can complement public rules, but never replace them.

4. The trade unions affiliated to the DGB call upon companies to comply in their global operations with the relevant ILO conventions, the provisions of labour law and the environmental requirements of host countries, not only at their locations but also along the value-added chain. The decent work agenda is not just a task for the implementing governments; companies and their supply chains can set good examples.
The German trade unions also urge globally active companies to respect and apply the OECD Guidelines for Multinational Enterprises. In spite of their weaknesses, the OECD Guidelines are – in the eyes of the DGB – the most comprehensive instrument available today for asserting internationally valid environmental, labour and social standards.
5. The DGB urges the German government to initiate the measures needed to tap the full potential of the OECD Guidelines in order to assert social and environmental responsibility in the corporate sector. Initial steps would be:
 - to create a truly inter-ministerial National Contact Point;
 - to enhance the transparency and efficiency of Germany's National Contact Point;
 - to make the OECD Guidelines essential minimum standards for all government action relating to CSR.
6. The German trade unions call for more stringent liability rules to be applied to companies committing national and international violations. Companies must be held liable to a greater degree for the social, environmental and humanitarian effects of their activities. The governments and parties concerned must have an opportunity to sue them in court.
7. Voluntary CSR commitments must not amount to corporate cosmetics. The competitive advantage among critical consumers should only benefit companies who demonstrate their social and environmental responsibility. Compliance with voluntary commitments must, therefore, be monitored externally by all relevant stakeholders. The DGB and its affiliated trade unions urge the political community to impose duties of accountability and disclosure on companies in relation to the environment, social conduct and human rights. Voluntary corporate reporting is not enough. Transparency, verifiability, comparability and participation are indispensable CSR criteria. CSR reporting must specifically include working and employment conditions throughout the entire company, opportunities for workers to participate, cooperation with workers' representatives, support for disadvantaged groups and the work/life balance. Reporting about commitment to values and social responsibility also embraces equal opportunities, offering the same career prospects and opportunities for promotion within the company.

8. The German trade unions urge that awards of public contracts be contingent upon compliance with the ILO Core Labour Standards and the payment of wages which have been agreed in collective bargaining or which reflect the customary local rate. Voluntary information provided by the companies themselves is insufficient to make a fair and social assessment when awarding public contracts. For a long time now, trade unions have been calling for the award of public contracts to be based on a criterion of compliance with collective bargaining agreements. There must be an end to wage dumping on public contracts.
9. The German trade unions call for corporate social and environmental pledges to be anchored in international trade agreements.
10. In the field of private commercial standards (DIN/ISO), the DGB calls for compliance with applicable law and for the existing (e.g. ILO) rules to be upheld as a minimum requirement. Voluntary ISO standards on CSR are not conducive to achieving the desired goals. To ensure corporate social and environmental responsibility ISO 26000 needs clear objectives and criteria, a review of compliance with these objectives and criteria and, in the event of failure to observe requirements, an initial chance to remedy the situation. However, if deficiencies are not eliminated, the public and – where appropriate – the competent authorities should be informed.

The CSR debate is a response to worldwide criticism of socially and environmentally irresponsible corporate policy. Essentially, from a trade union perspective, the need is for binding intergovernmental mechanisms, which are still lacking, to assert a social dimension to globalisation. The present financial and economic crisis and climate change demonstrate clearly that we need a public framework which places social, environmental and economic objectives on an equal footing.

Protection for workers, consumers and the environment from corporate abuse must be extended. CSR must not be used by companies to redefine or reinterpret their responsibilities. Protection and support for working men and women should not be founded purely on management concepts. That is why CSR must never become a substitute for statutory rules.

Nationally and internationally the same principle applies: corporate commitment will only be acknowledged by the trade unions united in the DGB if it extends beyond existing and agreed standards. We rest our case: companies have no political right to define their social responsibility by themselves.