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Maastricht University

Faculteit Rechten

master in de rechten

Masterthesis

Corporate Social Responsibility and sustainability reporting: legal questions and practical implications

Emilie Tuypens

Scriptie ingediend tot het behalen van de graad van master in de rechten, afstudeerrichting rechten

PROMOTOR :

Prof. dr. Veerle COLAERT

De transnationale Universiteit Limburg is een uniek samenwerkingsverband van twee universiteiten in twee landen: de Universiteit Hasselt en Maastricht University.



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Outline of the thesis

First things first in the introduction, the research context is established, focusing on the subject of the thesis, which explores how different European and international frameworks interact with corporate sustainability reporting, particularly in the context of the recently adopted CSRD. the timeline and significance of the CSRD's implementation are outlined, noting the diversity in corporate sustainability reporting practices across jurisdictions. The problem statement highlights the complexities surrounding the interaction of various frameworks with corporate sustainability reporting and the legal challenges encountered during implementation, especially for multinational corporations operating across different jurisdictions. Furthermore, the introduction emphasizes the relevance of the research topic in addressing regulatory complexity, sustainability demands, and competitive advantage, while acknowledging the limitations faced during the research process.

Moving on to the research questions, the main question and its sub-questions are introduced in the introduction, highlighting their descriptive, comparative, evaluative, and recommendatory nature. These questions aim to explore the evolution of sustainability reporting, the influence of international and European frameworks, the interaction between key European legislation, the balance between transparency and protection in CSRD implementation, the effects of sustainability reporting outside the EU, and recommendations for effective integration into Belgian legislation.

The methodology section outlines the sources utilized, including legislation, legal literature, interviews, and AI tools. It explains the methodological approach for each sub-question, covering descriptive, comparative, evaluative, and prescriptive methods. In the literature review section, the evolution of sustainability reporting, the influence of international and European frameworks, and the interaction between key European directives are examined in detail.

The middle part analyses each sub-question, starting with the evolution of sustainability reporting, followed by the influence of international and European frameworks, the interaction between CSRD, CSDDD, and EU Taxonomy, the balance between transparency and protection of trade secrets, data gathering, and the promotion of harmonization in the CSRD, the effects of sustainability reporting outside the EU, and recommendations for effective implementation into Belgian legislation. These analyses include descriptive, comparative, evaluative, and prescriptive analyses, providing comprehensive insights into each aspect of the research questions. The sub-questions are formulated to facilitate the answering of the main question of the thesis more easily in the conclusion.

In the conclusion, the main findings are summarized, emphasizing their contributions to the field, implications for practice, and recommendations for future research. Furthermore, in the conclusion, each conclusion of the sub-questions will be reiterated and correlated with the answer to the main question of the thesis.

In the last section, the various sources that have been utilized are mentioned. Lastly, there is an annex containing the interview questions that helped shaping this thesis.

Foreword

Submitting the master's thesis is the final task that must be completed before concluding the master's program in law and moving forward into the job market. While the master's thesis is typically written alone, it is nevertheless a collaborative effort involving many people around you, including professors, their assistants, family, and friends, who support, guide, and provide feedback.

Primarily, I would like to thank the University of Hasselt, Faculty of Law. The teaching method employed by the university of Hasselt has enabled me to study law thoroughly. The extensive self-study and practice sessions have helped in digesting the material. The intensive 7-week model and subsequent exams aided in maintaining focus on the studies, as one is constantly processing the material. Not to forget is the opportunity provided by The University of Hasselt to its students to undertake a summer internship at the Law Clinic at the University of Pretoria in South Africa, where I received invaluable assistance regarding South African law and had the opportunity to experience the legal system in Africa for a month. Additionally, the accessibility to various libraries and archives has been a valuable asset in this study.

Furthermore, I would like to express my gratitude to Prof. Dr. Veerle Colaert, Mrs. Marleen Och, Mr. Casper Kikken and Mrs. Gaby Oosthuizen for their support, assistance, and critical insights in bringing this thesis to end. It was challenging to narrow down the topic and avoid excessive notes, and they provided me with the necessary guidance. I am immensely thankful to them for this.

I would like to extend my gratitude to the two companies based in Belgium that operate both in Europe and beyond for participating in the interviews. Their insights have been immensely valuable in completing my thesis. Furthermore, I would like to thank them for their time and cooperation.

Special thanks go to my parents, who provided the necessary support to successfully complete my studies. They financed my studies and accommodation throughout the years, ensuring that I never lacked anything. My mother ensured I took necessary breaks during every exam and throughout my entire study period. My father helped wherever he could in correcting my spelling mistakes.

Lastly, I would like to thank all the people I may have forgotten to mention for their contributions in broadening my horizons and encouraging me to look beyond the obvious. This includes certainly my circle of friends, who provided me with intriguing and sometimes amusing ideas. Additionally, I want to thank my partner for his patience.

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Abbreviations

BAFA	Bundesamt für Wirtschaft und Ausfuhrkontrolle
B-BBEE	The Broad-Based Black Economic Empowerment
COREPER	The Committee of the Permanent Representatives
CSDDD	Corporate Sustainability Due Diligence Directive
CSR	Corporate Social Responsibility
CSRD	Corporate Sustainability Reporting
DTSA	The Defend Trade Secrets Act of 2016
ESG	Environmental, Social and Governance
EU	European Union
G4	G4 Sustainability Reporting Guidelines
GHGP	Greenhouse Gas Protocol
GoF47	Group of friends of paragraph 47
GRI	Global Reporting Initiative
IBR	Institute of Belgium Registered Auditors
IRC	Integrated Reporting Committee
IIRC	International Integrated Reporting Council
ILO	International Labour Organization
ITAA	Institute of Tax Advisors and Accountants
MNE	Multinational Enterprises and Social Policy Declaration
Declaration	
MNEs	Multinational enterprises
NCPs	National Contact points
NFRD	Non-Financial Reporting Directive
NGO	Non-governmental organisation
OECD	The Organization for Economic Co-operation and Development
SD	Sustainability development
SDG	Sustainable Development Goals
SME	Small and Medium-sized Enterprises
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
UNCED	UN Conference on Environment and Development
UNGC	United Nations Global Compact
WSSD	World Summit on Sustainable Development

A) Introduction

1. Research context

1.1. Subject

1. The subject of this thesis is how different European and international frameworks interact with corporate sustainability reporting in the light of the Corporate Sustainability Reporting Directive. Additionally, the thesis explores the possible legal challenges encountered by businesses during the implementation of the CSRD. Furthermore, it proposes recommendations for the integration of the CSRD into Belgian legislation.

1.2. State of affairs

2. The Corporate Sustainability Reporting Directive (CSRD) was adopted in late 2022, with member states given eighteen months to transpose it into national legislation, setting the deadline for most EU countries including Belgium at the end of June 2023. Following that, on January 5, 2023, the CSRD entered into force. The initial companies required to comply with the new regulations will do so for the first time in the fiscal year 2024, with reports to be published in 2025. The directive aims to enhance transparency and comparability in sustainability information provided by companies, expanding reporting obligations to more businesses and improving report content.

It is essential to note that this legislation is very recent, and as such, there is currently no jurisprudence and limited scholarly literature available for reference.

3. Corporate sustainability reporting varies across jurisdictions, with some countries mandating reporting while others rely on voluntary frameworks or industry guidelines. This diversity reflects a global trend toward increased transparency and reporting on sustainability issues, although specific requirements and approaches differ.

4. Corporate sustainability reporting contains information on a company's performance in environmental, social responsibility, and governance (ESG) areas. This includes activities, initiatives, objectives, and results related to sustainability themes like climate change, human rights, labour practices, environmental management, ethics, and anti-corruption.

5. The purpose of corporate sustainability reporting is to provide stakeholders including investors, customers, employees, governments, and society with insights into how a company addresses sustainability issues. By being transparent about their ESG performance, companies can enhance their reputation, manage risks, create long-term value, and contribute to a more sustainable society.

6. Reporting can take various forms, such as sustainability reports, annual reports, financial statements with integrated sustainability information, websites, and specific reporting systems like the Global Reporting Initiative (GRI).

1.3. Problem statement

7. The problem statement of this thesis revolves around understanding the complexities surrounding the interaction of various European and international frameworks with corporate sustainability

reporting and especially the Corporate Sustainability Directive. This includes exploring how these frameworks influence corporate sustainability reporting practices and the legal challenges faced by businesses during the implementation process. For instance, multinational corporations with operations both within and outside the EU. These entities face a multifaceted regulatory environment, needing to comply not only to EU regulations but also diverse reporting standards across various jurisdictions. This complexity presents a significant challenge as they strive to harmonize their reporting practices across regions while meeting the specific requirements of each jurisdiction. Moreover, the diverse regulatory frameworks can introduce complexities in data collection, reporting, and ensuring transparency, further complicating the implementation process.

8. Furthermore, the thesis attempts to provide recommendations for the effective integration of the CSRD into Belgian legislation, considering its implications for businesses and regulatory compliance.

1.4. Relevance

9. Addressing the issue of the interaction between different regulatory frameworks and corporate sustainability reporting is relevant and even necessary due to the increasing complexity of the regulatory environment, the importance of sustainability, the demand for transparency, legal requirements, and the pursuit of competitive advantage in the market.

10. This thesis holds both theoretical and practical significance. Theoretical relevance lies in its contribution to understanding corporate sustainability reporting by examining the complex interaction among various European and international frameworks. It enriches existing knowledge on how regulatory frameworks influence companies in reporting sustainability. Moreover, it sheds light on the legal challenges arising from the implementation of the CSRD across different jurisdictions, providing valuable insights for legal, governance, and sustainability research.

11. On the practical front, this research offers insights beneficial to companies, particularly multinational corporations coping with compliance challenges across diverse regulatory landscapes. The recommendations derived from this study can aid in creating effective strategies to meet reporting requirements. Additionally, policymakers and legislators involved in drafting and implementing sustainability reporting regulations, especially in Belgium and other European nations, can influence the findings to inform and enhance legislation. This thesis contributes to both scholarly understanding and practical applications in the scope of corporate sustainability reporting and regulation.

1.5. Limitations

12. Firstly, the writer faced certain limitations beyond their control. Despite personally choosing the topic and finding it highly interesting, constraints on word count necessitated tough decisions. While the thesis remains longer than desired, two chapters have already been omitted, and numerous sections significantly condensed.

13. Next, the writer imposed personal limitations to keep the research feasible. Firstly, focusing on how different European and international frameworks interact with the CSRD necessitated strategic choices. In the second chapter, examining how international and European frameworks shape corporate sustainability reporting involved delving into key entities such as the UN, ILO, and OECD

on the international level, and exploring the Green Deal on the European level in relation to the CSRD, CSDDD, and EU Taxonomy. Subsequently, the third chapter evaluated the interaction of the last three regulations, because they are the most recent and important ones for this thesis. The fourth chapter is based on an evaluation question derived from interviews with major multinationals headquartered in Belgium, conducted by the writer. These interviews, though illustrative, were challenging to secure but provided valuable insights into potential legal challenges.

14. The fifth chapter, "The effects of corporate sustainability reporting outside the EU," focused on the EU, USA, and South Africa. The choice of these regions was strategic, considering the economic ties between the USA and the EU, South Africa's emerging market status, and the writer's firsthand experience during a summer internship in South Africa, which facilitated access to databases. While acknowledging the importance of other regions like Asia and Latin America, this selection allowed for a more focused analysis, providing deeper insights into regulatory trends, stakeholder dynamics, and corporate responses within distinct economic contexts.

15. Lastly, the writer addressed recommendations for implementing the CSRD in Belgian legislation based on comments from key stakeholders on the draft and insights from interviews, maintaining a practical approach to the research despite personal limitations.

2. Research questions

16. First and foremost the main question of the thesis: *"How do different European and international frameworks interact with the Corporate Sustainability Reporting Directive, and what (legal) challenges do businesses encounter during its implementation, while proposing recommendations for the integration of the CSRD into Belgian law?"* To address this comprehensive issue, the main question will be broken down into several sub-questions.

17. The main question is mainly descriptive, but combines elements of descriptive, comparative, evaluative, and recommendatory research questions. Descriptive because it seeks to describe how different European and international frameworks interact with the Corporate Sustainability Reporting Directive and identifies the legal challenges faced by businesses during its implementation. Comparative because it involves comparing the interactions of various European and international frameworks with the Corporate Sustainability Reporting Directive to understand their similarities and differences. Evaluative because it seeks to assess and evaluate distinct aspects related to the implementation of the CSRD in Belgian law. Explanatory because it aims to explain the nature of interactions between different frameworks and the Corporate Sustainability Reporting Directive, as well as the legal challenges encountered by businesses. Recommendatory because it proposes recommendations for the integration of the Belgian law based on the identified challenges, making it a recommendation-focused question.

18. The first sub-question: *"How has the concept of sustainability reporting evolved over time, and what historical factors have influenced its development?"* Explores the evolution of sustainability reporting and its historical influences serves as an important foundation for comprehensively addressing the main question regarding the interaction of different frameworks with the CSRD and the legal challenges and recommendations for its implementation in Belgian legislation. This sub-question is descriptive in nature. It aims to describe the evolution of sustainability reporting over time and examine the historical factors that have influenced its development.

19. The next sub-question: *"How do international and European frameworks shape corporate sustainability reporting?"* Directly addresses the influence of international and European frameworks on corporate sustainability reporting, which aligns with the broader discussion of examining historical roots and contemporary dimensions of sustainability reporting. This sub-question prompts an exploration of how these frameworks shape sustainability reporting practices, allowing businesses to understand the evolving regulatory landscape and adapt their strategies accordingly. This is a descriptive research question rather than an explanatory one. It aims to describe how international and European frameworks shape sustainability reporting practices, enabling businesses to understand the evolving regulatory landscape and adapt their strategies accordingly.

20. The Third sub-question: *"What is the interaction between the CSRD, CSDDD and EU Taxonomy?"* The sub-question specifically focuses on examining the interaction between the CSRD, the Corporate Sustainability and Responsibility Due Diligence Directive (CSDDD), and the EU Taxonomy. These are all significant frameworks within the European Union aimed at promoting sustainability, corporate responsibility, and transparency.

21. Analysing the interaction between these frameworks directly addresses the main question by providing insights into how different European initiatives complement or overlap with the CSRD. It helps explain the broader regulatory landscape surrounding corporate sustainability reporting in Europe and how businesses navigate various legal requirements and frameworks.

22. Furthermore, understanding the interaction between these frameworks is crucial for identifying legal challenges that businesses may encounter during the implementation of the CSRD. It allows for a comprehensive assessment of the regulatory environment, enabling businesses to develop informed strategies for compliance and integration into Belgian legislation.

23. This is a comparative research question because it specifically aims to examine the interaction between the CSRD, CSDDD, and the EU Taxonomy. The goal is to understand the similarities and differences among these three significant frameworks within the European Union, concerning the promotion of sustainability, corporate responsibility, and transparency.

24. The next sub-question: *"To what extent does the implementation of the CSRD effectively balance transparency with the protection of trade secrets, data gathering and promotion of harmonization across different jurisdictions?"* By examining how the CSRD balances transparency with trade secret protection, data gathering, and the promotion of harmonization across jurisdictions, this sub-question identifies potential legal challenges businesses may encounter during implementation, informing recommendations for integrating the CSRD into Belgian legislation.

25. This is an evaluative research question because it aims to assess the extent to which the implementation of the CSRD effectively achieves a balance between transparency and the protection of trade secrets, data gathering, and promotion of harmonization across different jurisdictions. It evaluates the performance of the CSRD in addressing these aspects and identifies potential legal challenges for businesses, informing recommendations for integrating the CSRD into Belgian legislation.

26. The Fifth sub-question; *"The effects of corporate sustainability reporting outside the EU."* While this sub-question focuses on the effects of corporate sustainability reporting outside the EU, it indirectly aligns with the main question by providing insights into the broader landscape of global sustainability reporting frameworks. Understanding how corporate sustainability reporting is approached in jurisdictions outside the EU contributes to a holistic understanding of international frameworks and practices. This broader perspective helps contextualize the interaction between different European and international frameworks with the CSRD. Additionally, insights into the effects of sustainability reporting outside the EU can inform discussions about legal challenges and recommendations for the integration of the CSRD into Belgian legislation by providing comparative insights from other regions. Overall, while the sub-question may not directly address the interaction between specific frameworks, it enriches the discussion by providing valuable insights into the broader context of global sustainability reporting practices on international and European level. This is a comparative research question because it focuses on comparing different jurisdiction and their legislative frameworks regarding corporate sustainability reporting.

27. Finally the last sub-question: *"What recommendations can be proposed for the effective implementation of the CSRD into Belgian legislation?"* This examination directly aligns with the main

question by focusing on the integration of the CSRD into Belgian legislation. By exploring recommendations for effective implementation. It contributes to understanding the legal challenges businesses may encounter during the implementation of the draft in Belgium and proposes solutions to address them. By proposing recommendation to address these challenges, it complements the broader inquiry into how various European and international frameworks interact with the CSRD. Additionally, it provides actionable insights specifically tailored to Belgian legislation, acknowledging that the CSRD has not yet been implemented in Belgium and that businesses can only argue against the draft version at this stage. This is a recommending research question because it focuses on proposing recommendations for the effective implementation of the CSRD into Belgian legislation.

3. Methodology

3.1. Sources

28. In selecting and utilizing sources for this research, the primary focus has been on legislation and authoritative materials that interpret and elucidate legal frameworks. The writer relied heavily on the legislation itself as a primary source. Additionally, legal literature was consulted to deepen understanding and provide scholarly insights. However, due to the newness of the legislation, there was limited availability of legal commentary and case law relevant to addressing the research questions. It is important to note that case law was not utilized as a source in this study, given that the CSRD has not been implemented yet by Belgium.

29. Moreover, the two interviews conducted by the writer served as illustrative examples contributing to the practical understanding of corporate sustainability reporting in business operations, especially in identifying legal challenges faced by businesses. It is noteworthy that while the number of interviews was limited, they provided valuable insights into the practical application of sustainability reporting.

30. Additionally, AI tools were employed not for drafting the thesis, but to aid in comparing findings and verifying translations of the writer. This helped ensure accuracy and consistency in the analysis.

31. Furthermore, a sizeable portion of the sources used were in English. Therefore, the writer deemed it important to draft the thesis in English to maintain accuracy to the original texts as much as possible. References to German sources were also included, as the writer is more skilled in German than French.

32. Lastly, it should be noted that the thesis was written using the steps outlined in the "Legal writing" booklet, which is mandatory literature at Hasselt University.¹²

3.2. Methodological approach

3.2.1. Mono-, multi-, and interdisciplinary research

33. This thesis can be considered multidisciplinary because it examines the interaction between different European and international frameworks and the CSRD while also addressing legal challenges faced by businesses during its implementation. By incorporating interviews, the research draws upon insights from multiple disciplines, such as law and business. The interviews provide firsthand perspectives from two businesses involved in contributing to a comprehensive understanding of the topic. Even if the number of participants in the interviews was limited to two, the inclusion of the interviews still introduces a multidisciplinary aspect to the thesis. This multidisciplinary approach enables the exploration of various aspects of the CSRD's implementation, considering legal, economic, and organizational perspectives, among others.

¹ K. HENDRICKX, L. KESTEMONT, P. SCHOUKENS & E. TERRY, *"Rechtswetenschappelijk schrijven"*, Leuven, Acco, 2021, (CXLIII).

² K. HENDRICKX, L. KESTEMONT, P. SCHOUKENS & E. TERRY, *"Juridisch schrijven in de praktijk"*, Leuven, Acco, 2018, (CXCVII).

3.2.2. Methodological characteristics per sub-question

34. First, the writer refers back to (A) Introduction and (2) Research Question, where explanations are provided for each sub-question regarding its nature. In the following section, the methodology of each sub-question is further elucidated.

SUB-QUESTION 1. "HOW HAS THE CONCEPT OF SUSTAINABILITY REPORTING EVOLVED OVER TIME, AND WHAT HISTORICAL FACTORS HAVE INFLUENCED ITS DEVELOPMENT?"

35. The first sub-question, is a descriptive question that focuses on the grammatical interpretation. It aims to describe the evolution of sustainability reporting over time and examine the historical factors that have influenced its development.

SUB-QUESTION 2. "HOW DO INTERNATIONAL AND EUROPEAN FRAMEWORKS SHAPE CORPORATE SUSTAINABILITY REPORTING?"

36. This is a descriptive research question characterized by a systematic interpretation. It seeks to describe how international and European frameworks shape sustainability reporting practices. The systematic interpretation involves systematically analysing and organizing information to provide a comprehensive understanding of the subject matter. In this case, the question aims to systematically explore and describe the influence of international and European frameworks on sustainability reporting practices, helping businesses understand the evolving regulatory landscape especially in relation to corporate sustainability reporting and adjust their strategies accordingly.

SUB-QUESTION 3. "WHAT IS THE INTERACTION BETWEEN THE CSRD, CSDDD AND EU TAXONOMY?"

37. This sub-question can be characterized as a comparative legal question, where different laws in the EU are confronted to reveal similarities and differences concerning corporate sustainability reporting. In this case, there has been an external legal comparison at supranational level. The reason for the comparison is to assess how these legislations relate to corporate sustainability reporting. This can be considered as a micro-comparison. Micro-comparisons focus on comparing specific laws, regulations, or policy components within a particular domain or context, as is the case here with the comparison between the CSRD, CSDDD, and the EU taxonomy regarding corporate sustainability reporting. The focus is on distinguishing similarities and differences between these specific legislations concerning corporate sustainability reporting. The common ground of all these legislations is that they have been issued by the European Union in response to the Green Deal. In this case, the methodology involved describing each legislation separately and then comparing them, particularly regarding corporate sustainability reporting.

SUB-QUESTION 4. "TO WHAT EXTEND DOES THE IMPLEMENTATION OF THE CSRD EFFECTIVELY BALANCE TRANSPARENCY WITH THE PROTECTION OF TRADE SECRETS, DATA GATHERING AND PROMOTE HARMONIZATION ACROSS DIFFERENT JURISDICTIONS?"

38. This is an evaluative question. The writer posed a number of questions to two multinational corporations headquartered in Belgium, with numerous establishments both within and outside Europe, in a conducted interview. The questions asked are also included in the annex. In formulating the questions, the writer employed very open-ended questions and attempted not to force desired answers. The interviews were not included in full in the thesis and were anonymized to protect the

companies' privacy. Furthermore, it should also be noted that the writer indeed conducted only two interviews with companies falling within the scope of the CSRD, but this does not imply that no interesting additions have been made to the thesis. The answers are therefore not generalized but serve only as examples. After transcribing the interviews, the writer searched for evaluation criteria that were present in both interviews and were interesting in revealing the legal challenges faced by the companies. The evaluation criteria extracted from the interviews are as follows: the balance between transparency and the protection of trade secrets, data gathering, and harmonization. For more about the criteria the writer suggests the reader to go to chapter 4 in part B. To operationalize these evaluation criteria, hypotheses were formulated and subsequently evaluated.

SUB-QUESTION 5. "THE EFFECT OF CORPORATE SUSTAINABILITY OUTSIDE THE EU".

39. This is a comparative legal question aiming to compare the regulations concerning corporate sustainability reporting across different jurisdictions. Furthermore, it involves an external comparison with legal systems at supranational and international levels. The reason for comparing different jurisdictions is because it is of interest to multinational corporations operating in both the EU and international markets.

40. Moreover, it can also be considered as a macro-comparison focusing on comparing legal systems at a broader level. In this regard, the regulations concerning corporate sustainability reporting are compared across different jurisdictions, with external comparisons made with legal systems at supranational and international levels. The commonality here is that the EU, the USA, and South Africa are all engaged in corporate sustainability reporting but in diverse ways. The choice of these regions was strategic, considering the economic ties between the USA and the EU, South Africa's emerging market status, and the writer's firsthand experience during a summer internship in South Africa, which facilitated access to databases. While acknowledging the importance of other regions like Asia and Latin America, this selection allowed for a more focused analysis, providing deeper insights into regulatory trends, stakeholder dynamics, and corporate responses within distinct economic contexts.

41. Finally, a functional approach was utilized, based on the assumption that corporate sustainability is relevant in the EU, USA, and South Africa. A functional perspective is also characterized by an extensive array of sources, such as formal sources, the legislation itself, and internet resources.

SUB-QUESTION 6. "WHAT RECOMMENDATIONS CAN BE PROPOSED FOR THE EFFECTIVE IMPLEMENTATION OF THE CSRD INTO BELGIAN LEGISLATION?"

42. This research question is recommendatory in nature, formulated based on insights from the thesis and feedback gathered on the draft version of the CSRD in Belgium from various stakeholders, as well as input from interviewed multinational corporations. The writer utilized this feedback to develop internal criteria, which are delineated in Chapter 6 through subheadings. Concerning the recommendations, the writer strived to ensure their clarity and specificity. Each recommendation outlines concrete actions and measures aimed at enhancing the implementation of legislation pertaining to corporate sustainability reporting. These recommendations target specific facets of the legislative process and offer practical suggestions for improvement.

B) Middle part

43. In the middle section, each sub-question will be addressed in the context of the main research question, with each chapter containing a brief introduction and conclusion that ties back to the main question of this thesis.

1. How has the concept of sustainability reporting evolved over time and what historical factors have influenced its development?

44. The concept of sustainability reporting has emerged as a fundamental practice in the domain of corporate governance, reflecting the growing recognition of the interdependence between business operations, society, and the environment. This practice, with its roots tracing back centuries to ancient societal responsibilities,³ has evolved into a structured approach aimed at acknowledging and managing corporate impacts.⁴

45. Understanding the history and evolution of sustainability reporting is crucial for businesses operating in today's global landscape. By tracing its trajectory from ancient societal norms to modern-day frameworks, companies can gain insights into the underlying principles and values that underpin this practice.⁵ Moreover, recognizing the historical context allows businesses to appreciate the significance of sustainability reporting in contemporary corporate governance.⁶

46. The First sub-question clearly explores the evolution of sustainability reporting, and its historical influences serves as an important foundation for comprehensively addressing the main question regarding the interaction of different frameworks with the CSRD and the legal challenges and recommendations for its implementation in Belgian legislation.

47. Furthermore, the exploration of sustainability reporting's concept and history sets the stage for a comparative analysis with the subsequent sub-question focusing on the Corporate Sustainability Reporting Directive⁷ on international and European level. Contrasting the historical evolution of sustainability reporting with the specific provisions and implications of the CSRD⁸ illustrates both the broader context and the difficulties of existing regulatory frameworks. By examining the differences

³ K. PAETZOLD, "Corporation Social Responsibility (CSR): an Internal Marketing Approach", Diplomica Verslag, 2010, 3, (92), <https://ebookcentral-proquest-com.bib->

⁴ Ibid, footnote 1, 7.

⁵ Ibid, footnote 1, 3.

⁶ X, "Corporate sustainability due diligence; Fostering sustainability in corporate governance and management systems", European Commission, consulted on 18 December, 2023, https://commission.europa.eu/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence_en.

⁷ C. FINK, "CSRD: Wat je over de nieuwe CSRD-richtlijn moet weten", LucaNet, 20 February 2023, <https://www.lucanet.com/nl/blog/esg/csrd-wat-je-over-de-nieuwe-csr-richtlijn-moet-weten/>.

⁸ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting, L 322/15, 16 December 2022, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022L2464>.

between historical practices and current legislative initiatives like the CSRD⁹, businesses can gain a nuanced understanding of the evolving landscape of corporate sustainability reporting and its implications for international and European business operations.

1.1. History

48. The idea of corporate social responsibility (CSR) can be tracked back to a time before Christ was born. In ancient Mesopotamia, around 1700 BC, a king introduced a code which builders, innkeepers or farmers were put to death if their negligence caused the death of others, or major inconveniences to local citizens.¹⁰ Over time, the focus of CSR evolved, initially centring on the actions of individuals, then shifting to encompass the responsibility of organizations as a whole.¹¹

49. In the 1950s, CSR began to concentrate more on the actions taken by organizations, making social responsibility transparent to the communities in which they operated. This shift accorded with increasing demands from investors for more than just financial information when making investment decisions, leading to the rise of socially responsible investing.¹²

50. During the last half of the 20th century, the detrimental effects of environmental pollution motivated many people to act against those responsible.¹³ A notable example in Europe was the air pollution crisis in various cities like London, Paris, and Madrid. This air pollution was primarily attributed to vehicular emissions, industrial activities, and other sources. In response, there were increased calls for stricter regulations on vehicle emissions, the promotion of public transport and the implementation of measures such as low-emissions zones.¹⁴

51. In the 1980s, the concepts of 'corporate social responsiveness' and 'corporate social performance' emerged, highlighting the importance of companies' actions and performance in addressing social and environmental issues. By the 1990s, globalization brought attention to the impact of large corporations worldwide, leading to increased scrutiny and called for greater corporate responsibility. To counter the public's negative perception of big business, many large companies began to engage with their stakeholders to protect their reputation.¹⁵

52. In 1990s the term 'corporate sustainability' was introduced to stress companies to take more awareness of environmental concerns.¹⁶ In the early 1990s the first CSR consultancies were established in Sweden. These consultants were acknowledging social responsibility as a new field of work: convincing organizations of the potential benefits CSR bring along.¹⁷

⁹ Ibid, footnote 6.

¹⁰ Ibid, footnote 1.

¹¹ Ibid, footnote 1.

¹² Ibid, footnote 4.

¹³ B. WHITE, G., *"Sustainability Reporting: Getting Started, Second Edition"*, New York, Business Expert Press, LLC, 2016, 16, <https://ebookcentral-proquest-com.bib.proxy.uhasselt.be/lib/ubhasselt/reader.action?docID=4009420>.

¹⁴ J. POSANER, *"EU court slaps down Brussels, Paris and Madrid in car pollution spat"*, POLITICO, January 13, 2022, Consulted on January 4th, 2024, <https://www.politico.eu/article/brussels-paris-madrid-slap-down-eu-court-car-pollution-spat/>.

¹⁵ Ibid, footnote 11.

¹⁶ Ibid, footnote 1, 7.

¹⁷ Ibid, footnote 1, 7.

53. Today, many companies incorporate sustainable development into their strategies, recognizing the financial rewards of publicizing positive social and environmental behaviour.¹⁸ The World Business Council for Sustainable Development defines CSR as continuing commitment in which ethical and environmental aspects are integrated into their day-to-day economic business activities (The Business Times Singapore/2009).¹⁹ The 'SAGE Encyclopaedia of Business Ethics and Society' published an interesting article that discusses and defines CSR over the years through the eyes of different academics (for the reader who wants to know more).²⁰

54. Overall, CSR incorporates two elements. On the one side sufficient focus by the enterprise on its contribution to the welfare of society in the long term and on the other side the relationship with its stakeholders and society at large.²¹

1.2. What does sustainability mean?

55. In the business world, "Sustainable" is frequently used to describe the process of conducting business in ways that protect Earth and its inhabitants from irreparable damage caused by human activities. Over the last century, people have used much of earth's resources with little regard for their use by future generations. As the world population expands, meeting the wants and needs of the world's population is becoming a more difficult problem.²² According to the Global Footprint Network.

56. The most commonly cited definition of "sustainability" comes from the final report by the United Nations World Commission on Environment and Development Conditions. In this report, '*Our Common Future*', the commission gave the following definition: "Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs."²³

57. Governments, companies, and citizens are becoming increasingly aware of the interconnectedness of environmental, economic, and social issues that confront the planet. Citizens worldwide are responding to the unsustainable business practices by demanding more corrective action from governments and businesses. Many businesses, governments and citizens' groups have begun to respond in positive ways.²⁴

1.3. What is Corporate Sustainability?

58. Corporate sustainability is an approach geared towards generating long-term stakeholder value by implementing a business strategy that prioritizes ethical, social, environmental, cultural, and

¹⁸ Ibid, footnote 11, 17.

¹⁹ Ibid, footnote 1, 7.

²⁰ A. B. CARROLL & R. W. KOLB, "*The SAGE Encyclopaedia of Business Ethics and Society, CSR and CSP*", SAGE Publications, Inc, 2018, 746-754.

²¹ Ibid, footnote 1, 7.

²² Ibid, footnote 11, 1.

²³ Ibid, footnote 11, 2.

²⁴ Ibid, footnote 11, 4.

economic considerations.²⁵ This comprehensive strategy aims to foster, transparency, and robust employee development within organizations.²⁶

59. To demonstrate their dedication to corporate sustainability, companies frequently express their commitment through the adoption of Corporate Sustainability Standards (CSS). These standards typically comprise policies and initiatives designed to not only meet but surpass minimum regulatory mandates, reflecting the company's initiative-taking stance towards responsible business practices.²⁷

60. Some examples of definitions of corporate sustainability:

"The continual improvement of business operations to ensure long-term resources availability through environmental, socially sensitive, and transparent performance as it relates to consumers, business partners and the community."

- Deloitte (2007)

"Corporate sustainability is a business approach that created long-term shareholder value by embracing opportunities and managing risks derived from economic, environmental and social developments."

- Dow Jones Sustainability Indexes (2015)

61. The definition of corporate sustainability has in common the long-term focus on an organization's environmental, economic, and social impacts. Another key aspect is the interactive effect of environmental, economic, and social dimensions. Companies' actions affect a wide range of individuals, groups, and countries. Because the impacts affect everyday life for people around the world, long-term corporate sustainability is important to the sustainability of the world economy and society.²⁸

62. The movement to incorporate sustainability into business practices is a response not only to counter the negative environmental effects of industrial and commercial activity but also to evaluate the economic and social effects of doing business in corporations. Furthermore, the pressure for corporations and governments to reassure the public of their good behaviour has increased. Business managers are beginning to see that this approach to conducting business has to become part of the strategy for their entire company in order to prosper in the future.

63. Furthermore, there is an increased demand for all organizations to be more transparent in how they treat the environment, how they govern themselves, how they treat their employees and how

²⁵ M. ACCIARO, M. ADAMS, M. ASHRAFI, G. MAGNAN & T. WALKER, "Corporate sustainability in Canadian and US maritime ports", Journal of Cleaner Production, 20 May 2019, 386-397, <https://www.sciencedirect.com/science/article/abs/pii/S0959652619304871?via%3Dihub>.

²⁶ D. PURKAYASTHA, "In search of the triple bottom line, case studies in corporate sustainability", Case Research Centre, Telangana, India, 2019, 1-305, https://www.researchgate.net/publication/338207467_In_Search_of_the_Triple_Bottom_line_-_Case_Studies_in_Corporate_Sustainability.

²⁷ J. GRIMM, J. HOFSTETTER & J. SARKIS, "Exploring sub-suppliers compliance with corporate sustainability standards", Journal of Cleaner Production, 20 January 2016, 1971-1984, <https://www.sciencedirect.com/science/article/abs/pii/S0959652614012165?via%3Dihub>.

²⁸ Ibid, footnote 11, 5.

they treat their communities. Corporate sustainability has become such a major issue that the big four international accounting firms devoting substantial resources to assist their clients.²⁹³⁰

1.4. Engagement with the stakeholders

64. Within the framework of corporate sustainability, the social dimension underscores the impact of companies on their stakeholders. The stakeholders such as employees, lenders, investors, customers, suppliers, governments, and communities' care. That is anyone that is affected by a company's economic, environmental, and social activities. The relationship between stakeholders and companies can be mutually rewarding. Companies depend on their stakeholders to succeed, and stakeholders rely on the companies for something in return. Although each group of stakeholders has a different relationship with the company, their mutually beneficial relationship is a driving force for sustainability.³¹

65. Governments and communities are important stakeholders in that they provide companies with the authority to operate. Governments need companies to pay taxes in order to provide services such as fire protection, a police force, water, and sewer management, these services are part of what companies expect in order to conduct business in a safe environment. Governments can provide a stable legal system that provides companies with an orderly approach to conducting business. For communities companies provide payroll funds that add to the local economy.³²

66. Suppliers and companies that they supply have a symbiotic relationship. They need each other to generate revenues and to stay in business. In order to maintain a vibrant relationship, each must meet the other's needs. Without safe and quality products delivered in time and at the desired location, companies cannot satisfy their own customers' demands. Suppliers need to offer fair prices and appropriate redress for faulty products for companies to return.³³

67. A company's relationship with its investors and lenders is critical to obtaining affordable funds for operations and expansion. Companies want a long-term, stable relationship with investors and lenders. To build this relationship, companies have to show that they have effective and ethical managers. The company's governance system needs to be in place and working. In turn, investors and lenders want their investment to be profitable in return.³⁴

68. Companies want motivated and dependable workers who will work ethically, carefully, and honestly. In return, employees expect to be paid fair wages, provided appropriate work tools, and trained to do their work. Employees that are satisfied with working conditions and the ethical conduct of their employer are more likely to work to their full potential. If companies do not provide what

²⁹ Ibid, footnote, 11, 6.

³⁰ M. FISCHER, D. FOORD, J. FRECE, K. HILLEBRAND, I. KISSLINF-NAF, R. MEILI, M. PESKOVA, D. RISI, R. SCHMIDPETER & T. STUCKI, "*Managing the Challenges of the 21st Century*", first edition, Springer International Publishing AG, 18 June 2023, 35-72, <https://ebookcentral-proquest-com.bib-proxy.uhasselt.be/lib/ubhasselt/detail.action?docID=30545132&query=Corporate%20Sustainability%20reporting>.

³¹ Ibid, footnote, 11, 5.

³² Ibid, footnote, 11, 7.

³³ Ibid, footnote, 11, 7.

³⁴ Ibid, footnote, 11, 6.

workers expect, it will be more difficult to attract and motivate workers to do their best for the business.³⁵

69. A company's impact on stakeholders can be positive or negative. Negative economic impacts can be seen when companies monopolize an industry by unfairly driving out competitors and illegally fixing prices within the industry. An example is the monopolistic activities of Standard Oil Trust in the late 1800s.³⁶

70. The social dimension of sustainability revolves around the influence of companies on their employees and communities. Employees constitute the backbone of an organization, and their treatment in terms of compensation, safety, and training significantly affects their welfare. Positive aspects of this dimension encompass fair wages, secure work environments, and relevant job training provided by organizations. Conversely, negative social impacts arise from neglecting worker well-being, such as violations of labour rights.³⁷³⁸

1.5. The rise of interest in corporate social responsibility and sustainable development.

71. While the idea that businesses should act responsibly toward their constituents and consider the ecological environment has roots as old as the capitalist system itself (Bowen 1953), the last three decades have witnessed an unprecedented surge in the significance of CSR (Corporate Social Responsibility) and SD (Sustainable Development). This urge is evident across managerial and political spheres at various levels—local, national, and transnational.

72. Both CSR and SD revolve around how organizations engage with their key stakeholders, emphasizing "context-specific organizational actions and policies that take into account stakeholders' expectations and the triple bottom line of economic, social, and environmental performance" (Anguini's 2011, 855). The sustained interest in CSR and SD, often termed as the "mainstreaming" of these concepts, can be attributed to several driving factors.

1.6. What is Corporate Sustainability Accounting and Reporting?

73. Sustainability accounting refers to information management and accounting methods that are designed to make and provide high-quality information to assist an organization in becoming sustainable. Sustainability accounting systems provide managers with relevant information to strive toward sustainable development. Sustainability reporting provides users with economic, social, and environmental impacts to help manage change toward sustainable development. Sustainability accounting information is useful for both external and internal users. For an external user, sustainability reports provide a more transparent view of a company's environmental, economic, and

³⁵ Ibid, footnote, 11, 6.

³⁶ Ibid, footnote, 11, 9.

³⁷ Ibid, footnote 11, 10.

³⁸ M. JEDYNAK, M. KARLOLINA & A. KUZNIARSKA, "Organizing Sustainable Development", edition 1, Taylor & Francis Group, 31 August 2023, 203-215, <https://ebookcentral-proquest-com.bib-proxy.uhasselt.be/lib/ubhasselt/detail.action?docID=30733607&query=Corporate%20sustainability%20reporting%20directive>.

social impacts. Stakeholders can measure companies' sustainable activity in a specific period and over time. For the internal users, sustainability reports assist the company in identifying and managing the full range of corporate sustainability impacts from processes, products, services, and activities.³⁹

74. The environmental dimension encompasses the reporting of an organization's material impacts on the air, water, and land. For manufacturing firms, the assessment of impacts should include the entire life cycle of the product from development to final disposition. In the product development stage, design decisions concerning the choice of raw materials and production processes can save costs and reduce a firm's environmental risks.⁴⁰

75. Within the social dimension of sustainability reporting, organizations document their impacts on employees (human rights), consumers (product responsibility), and society in general (community contributions). A notable example illustrating how not to conduct business is the case of Nike in its early years, where child labour was employed in the 1990s. Following public awareness of this issue, Nike embarked on a mission to restore its reputation, committing to stop the use of child labour and implementing stringent monitoring of its suppliers' factories. Over time, in response to sustained public scrutiny, Nike took unprecedented steps by disclosing the names and locations of its entire supply chain, encompassing more than seven hundred factories producing its goods.⁴¹

76. In the economic dimension of sustainability reporting, organizations report on its financial effects of their operations on various stakeholders, including communities, employees, governments, charities, and others directly impacted by their activities. A pertinent example is provided by HP, a renowned producer of computer hardware and software products. In its 2014 Living Progress Report, HP disclosed significant insights into its economic footprint. Notably, the company revealed that 65% of its net revenues originate from international markets outside the United States. Additionally, HP demonstrated transparency regarding the economic ripple effects of its procurement practices by disclosing the amounts spent with its U.S. suppliers, thereby illustrating its commitment to accountability and stakeholder engagement in the realm of economic sustainability.⁴²

1.7. Evolution of Corporate Sustainability Reporting: Navigating Towards a Sustainable Global Economy

77. The field of corporate sustainability reporting is in its initial stages and lacks a universally accepted definition. In the latest edition of the GRI Sustainability Reporting Guidelines (G4), sustainability reporting is characterized as a dynamic process that aids companies in establishing objectives, assessing performance, and navigating changes toward a sustainable global economy. This economy is envisioned as one that harmonizes long-term profitability with social responsibility and environmental stewardship. Sustainability reporting, primarily serves as the primary channel for

³⁹ Ibid, footnote 11, 14.

⁴⁰ Ibid, footnote 11, 15.

⁴¹ Ibid, footnote 11, 15.

⁴² Ibid, footnote 11, 15.

conveying a company's economic, environmental, social, and governance performance, capturing both positive and negative impacts.⁴³

78. The methods employed by companies to report on sustainability to their stakeholders are dynamic, with an increasing number leveraging websites, web-based navigation tools, and social media in addition to traditional printed materials. This evolution reflects the changing landscape of corporate communication in the realm of sustainability.⁴⁴

1.8. What type of information is included in sustainability reporting?

79. Sustainability reporting is a comprehensive field that spans a diverse array of topics. Traditionally, environmental, social, and governance (ESG) matters have been regarded as the primary pillars of sustainability reporting. However, evolving international standards and practices have broadened and refined the landscape of sustainability-related practices and associated reporting.⁴⁵

80. International frameworks, such as the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises, United Nations Global Compact (UNGC) can inform the content of sustainability reporting. While there is no prescribed format or content for corporate sustainability reporting, companies are encouraged to report information deemed significant to them and their stakeholders, focusing on material aspects.

81. Reports may include a variety of matters, including but not limited to: consumption of non-financial resources; waste and pollutant production; risks and opportunities related to climate change; engagement with local community groups and NGOs; corporate policies, arrangements, and positions on sustainability-related issues; innovation to create goods and services aligned with the sustainability agenda; human rights due diligence; corporate governance; human resources management; social issues; anti-corruption policies; objectives, targets, and performance concerning sustainability goals, initiatives, performance management systems, and stakeholder engagement strategies aimed at assessing and achieving progress.

82. Originally, non-financial reports adhered to the reporting boundary of financial reports, based on ownership and control, drawing information from the most recent annual cycle. However, evolving guidelines, such as GRI G4, IIRC, and GHGP Scop, are incorporating supply chain considerations and forward-looking information into sustainability reporting.⁴⁶

Conclusion:

83. The concept of corporate sustainability reporting has evolved significantly over time, transitioning from ancient societal responsibilities to a cornerstone of modern corporate governance. Historically, businesses were expected to uphold ethical standards and contribute

⁴³ M. MCBRIEN, J. MOLLOY and L. GUTHRIE, *"Frequently asked questions on Corporate Sustainability Reporting; tackling the big questions around the global Corporate Sustainability Reporting agenda."*, France, Milan, Paris, UNEP, United Nations Environment Programme, 2013, 8, (32).

⁴⁴ Ibid, footnote 41, 9.

⁴⁵ Ibid, footnote 41, 9.

⁴⁶ Ibid, footnote 41, 9.

positively to their communities, reflecting early notions of social responsibility. As industrialization progressed, so did the awareness of the adverse environmental and social impacts of business activities, leading to increased calls for transparency and accountability.

84. In the mid-20th century, the emergence of CSR marked a crucial shift towards recognizing the broader societal impacts of business operations. Subsequent decades witnessed the development of sustainability reporting frameworks and standards, such as the GRI and the UNGC, providing standardized approaches to measuring and disclosing corporate sustainability performance.

85. Today, sustainability reporting is integral to modern corporate governance, reflecting society's heightened awareness of the interconnectedness between business activities, societal well-being, and environmental sustainability. Businesses recognize it as essential for compliance with regulatory requirements, building trust with stakeholders, and gaining a competitive edge. However, sustainability reporting also presents challenges, including resource intensiveness, greenwashing risks, and regulatory complexity.

86. Despite these challenges, businesses increasingly embrace sustainability reporting as a strategic imperative for long-term success and contributing to a more sustainable future. Understanding the historical factors that have influenced the evolution of sustainability reporting is crucial for navigating the complexities of international and European regulatory environments, managing risks, and seizing opportunities in a sustainability-focused world.

87. The conclusion on the sub-question provides a foundation for understanding the historical influences on sustainability reporting and how they interconnect with contemporary European and international frameworks, thereby addressing the main question by contextualizing the role of the CSRD within the broader evolution of corporate governance practices.

2.How do international and European frameworks shape corporate sustainability reporting?

88. Corporate sustainability reporting is a vital tool for businesses to demonstrate their commitment to environmental responsibility, social equity, and ethical governance. As companies operate in an increasingly interconnected global landscape, understanding the frameworks set by international organizations like the United Nations (UN), International Labour Organization (ILO), and Organisation for Economic Co-operation and Development (OECD) becomes important. These frameworks not only shape responsible business conduct but also influence national legislation and corporate governance practices.

89. Meanwhile, the European Union (EU) has been at the forefront of promoting sustainability and responsible business practices through initiatives such as the European Green Deal. This ambitious strategy aims to transform the EU into a more sustainable, green, and climate-neutral economy by 2050.

90. Central to this effort are frameworks like the EU Taxonomy, which identifies environmentally sustainable economic activities. In addition to the EU Taxonomy, the EU has introduced directives like the Corporate Sustainability Reporting Directive and the Corporate Sustainability and Responsibility Due Diligence Directive. These directives expand reporting requirements for large companies and address human rights and environmental abuses in global supply chains, respectively.

91. This chapter will delve into the evolution of corporate sustainability reporting within both international and European frameworks. The key initiatives will be explored and their implications for businesses operating in the European market. Understanding these frameworks is essential for companies seeking to align their operations with global sustainability goals and uphold ethical standards in their business practices. It differs from the previous sub-question which focused on the concept of sustainability reporting and its historical evolution.

92. Understanding the historical evolution and current dimensions of sustainability reporting is crucial for companies navigating the complexities of regulatory compliance and stakeholder engagement. As legislative frameworks continue to develop, both at the international and European levels, businesses must stay ahead of the latest trends and requirements in sustainability reporting to remain competitive and compliant.

93. Additionally, this sub-question directly addresses the influence of international and European frameworks on corporate sustainability reporting, which aligns with the broader discussion of examining historical roots and contemporary dimensions of sustainability reporting. This sub-question prompts an exploration of how these frameworks shape sustainability reporting practices, allowing businesses to understand the evolving regulatory landscape and adapt their strategies accordingly.

2.1. Corporate sustainability reporting on international level.

94. The evolution of corporate sustainability reporting within the frameworks of the UN, ILO, and OECD reflects a growing recognition of the interconnectedness between business activities, societal well-being, and environmental sustainability. As businesses navigate an increasingly complex global landscape, these international organizations have played pivotal roles in shaping responsible business conduct and promoting sustainable development practices.

95. While the UN, ILO, and OECD primarily provide guidance and frameworks rather than enforceable legislation, their initiatives influence national legislation and corporate governance practices in member countries. Understanding the key aspects of each framework, their applicability, and how they differ is essential for businesses seeking to align their operations with global sustainability goals and uphold ethical standards.

2.1.1. UN

2.1.1.1. History

96. The UN's engagement with sustainability reporting can be traced back to the 1987 publication of the Brundtland Report, also known as "Our Common Future," which emphasized the concept of sustainable development. This report laid the groundwork for integrating sustainability principles into corporate practices.⁴⁷

97. In 2000, the UN Global Compact was launched, urging businesses worldwide to adopt sustainable and socially responsible policies and to report on their implementation. The Global Compact has since become a leading platform for promoting corporate sustainability and accountability.⁴⁸

98. In many markets, both in developed and developing countries, the call for increased transparency and accountability of the private sector is growing. Health and environmental risks posed by companies, and the goods and services they produce, are increasing pressure on them to generate, assess and make information on their sustainability performance and impacts publicly available. In this sense corporate sustainability reporting represents a potential mechanism to generate data of companies towards global sustainable development.⁴⁹

99. The UN Environment's Resources and Markets Branch houses the corporate sustainability reporting portfolio. Specifically, it operates within the consumption and production Unit, which is dedicated to advancing sustainable production and consumption policies, practices, and initiatives. The primary objective is to foster the involvement of governments, businesses, and civil society organizations in promoting sustainability.⁵⁰

⁴⁷ United Nations, "Report of the World Commission on Environment and Development, Our Common Future", 1987, (XXV), https://qat04-live-1517c8a4486c41609369c68f30c8-aa81074.divio-media.org/filer_public/6f/85/6f854236-56ab-4b42-810f-606d215c0499/cd_9127_extract_from_our_common_future_brundtland_report_1987_foreword_chpt_2.pdf.

⁴⁸ United Nations, "One Global Compact - Accelerating and Scaling Global Collective Impact", 2000, (XII), https://www.globalcompact.de/fileadmin/user_upload/Dokumente_PDFs/UN_Global_Compact_VP.pdf.

⁴⁹ Ibid, footnote 49.

⁵⁰ Ibid, footnote 47.

100. As a component of the Corporate Sustainability Reporting initiative, the Consumption and Production Unit is responsible for hosting the Secretariat of the Group of Friends of Paragraph 47 (GoF47). This government-led initiative, established in 2012 during the United Nations Conference on Sustainable Development (Rio +20), aims to promote the recommendations outlined in paragraph 47 of the outcome document 'The Future We Want.' Furthermore, the Unit carries out various activities, including regional projects, to support companies in integrating sustainable practices (SDG 12.6) in alignment with the Sustainable Development Goals. Additionally, it aids governments in the follow-up and review of the SDGs by ensuring higher quality and comparable information derived from corporate reports.⁵¹

101. The relevance of corporate sustainability reporting for the global sustainability agenda has been highlighted in UN conferences on sustainable development over the last three decades.

102. In 1992, during the UN Conference on Environment and Development (UNCED) in Rio de Janeiro, the first global appeal for advancing sustainable consumption and production was recognized. This acknowledgment highlighted environmental management, transparency, including corporate environmental reporting, and public dialogue as "among the highest corporate priorities and as a key determinant to sustainable development."⁵²

103. A decade after the UN Conference on Environment and Development in 1992, the Johannesburg Plan of Implementation, the outcome document of the 2002 World Summit on Sustainable Development (WSSD), endorsed sustainability reporting. It specifically encouraged businesses to adopt the GRI's Sustainability Reporting Framework, which encompasses the GRI Sustainability Reporting Guidelines.⁵³

104. In 2012, Paragraph 47 of the Rio+20 outcome document built upon the foundations laid in 1992 and 2002. It emphasized the crucial role of corporate sustainability reporting in strengthening the private sector's contribution to sustainable development. The paragraph called on companies to consider integrating sustainability information into their existing reporting practices. Moreover, it urged industry, governments, the UN, and other relevant stakeholders to actively engage in enhancing sustainability reporting further.⁵⁴

2.1.1.2. International frameworks

105. The United Nations has been at the forefront of promoting sustainability initiatives, offering frameworks and guidelines for businesses to align their operations with global sustainability objectives. Among these initiatives, the UN Global Compact⁵⁵ and the Sustainable Development Goals (SDGs)⁵⁶ stand out as key drivers for corporate sustainability reporting and action.

106. The UN Global Compact⁵⁷ is a voluntary initiative that encourages businesses to adopt sustainable and socially responsible policies, aligning their strategies and operations with universally

⁵¹ Ibid, footnote 47.

⁵² Ibid, footnote 41.

⁵³ Ibid, footnote 41.

⁵⁴ Ibid, footnote 41.

⁵⁵ Ibid, footnote 46.

⁵⁶ Ibid, footnote 53.

⁵⁷ Ibid, footnote 53.

accepted principles covering human rights, labour, environment, and anti-corruption. By committing to the Global Compact⁵⁸, companies signal their dedication to responsible business conduct and their willingness to contribute to sustainable development goals. These principles serve as a foundation for corporate sustainability reporting, guiding companies in assessing and reporting on their sustainability performance.

107. Participating companies are expected to annually report on their progress towards implementing the Global Compact principles and advancing the SDGs.⁵⁹ This reporting helps track companies' efforts in areas such as human rights protection, labour standards, environmental stewardship, and anti-corruption measures. It also fosters transparency and accountability, allowing stakeholders to assess companies' sustainability commitments and achievements.

108. The SDGs⁶⁰, on the other hand, provide a comprehensive framework for businesses to contribute to global sustainability by addressing pressing social, economic, and environmental challenges. With seventeen goals and 169 targets, the SDGs offer a roadmap for sustainable development, covering areas such as poverty alleviation, gender equality, climate action, and responsible consumption and production. By aligning their activities with the SDGs, businesses can leverage their resources and expertise to support broader societal goals while enhancing their own sustainability performance.

109. The applicability of these frameworks is broad, as they are open to businesses of all sizes and sectors worldwide. Whether multinational corporations or small and medium-sized enterprises, companies across industries can participate in the UN Global Compact⁶¹ and align their operations with the SDGs.⁶² This inclusivity reflects the UN's recognition of the role that businesses play in driving sustainable development and its commitment to engaging the private sector as a partner in achieving global sustainability goals.

110. Overall, the key aspects of the UN's sustainability initiatives lie in their voluntary nature, comprehensive principles, and focus on collaboration between businesses, governments, and civil society. By encouraging corporate sustainability reporting and action, these initiatives contribute to a more transparent, responsible, and sustainable global business landscape.

2.1.2. ILO

2.1.2.1. History

111. The history of Corporate Social Responsibility within the ILO is deeply intertwined with the organization's mission to promote social justice and decent work globally.⁶³ While the ILO does not have a specific definition for corporate sustainability reporting in its official documents or publications,

⁵⁸ Ibid, footnote 53.

⁵⁹ Ibid, footnote 53.

⁶⁰ Ibid, footnote 53.

⁶¹ Ibid, footnote 53.

⁶² United Nations Development Programme, "Sustainable Development Goals", 2015, (XXVI), https://www.dev-practitioners.eu/media/key_documents/SDGs_Booklet_Web_En.pdf.

⁶³ ILO, "Mission and impact of the ILO", consulted on 5 May 2024, <https://www.ilo.org/about-ilo/mission-and-impact-ilo>.

its initiatives and standards have long emphasized the importance of responsible business conduct and fair labour practices.

112. One significant milestone in this history is the adoption of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy in 1977.⁶⁴ This landmark declaration outlined guidelines for multinational enterprises, emphasizing principles such as non-discrimination, freedom of association, and the elimination of forced and child labour. While not explicitly focused on sustainability reporting, these principles laid the groundwork for promoting responsible business conduct and corporate accountability within the global economy.

113. In following years, the ILO continued to expand its efforts to address labour issues within the corporate sector. The adoption of conventions and recommendations, such as the ILO Declaration on Fundamental Principles and Rights at Work in 1998⁶⁵, reaffirmed the organization's commitment to core labour standards, including the right to collective bargaining, the elimination of discrimination in employment, and the abolition of forced labour and child labour.

114. Overall, the ILO's history with corporate sustainability reporting underscores its dedication to advancing social justice and decent work for all. Through its standards, declarations, and advocacy efforts, the ILO continues to champion the principles of corporate responsibility and accountability, ensuring that businesses uphold fundamental labour rights and contribute to the broader goals of sustainable development.

2.1.2.2. International frameworks

115. The ILO stands as a key player of international governance, dedicated to advancing social justice, fair labour practices, and decent work worldwide.⁶⁶ Founded in 1919 as a specialized agency of the UN, the ILO has played a key role in shaping international labour standards and promoting equitable employment conditions. In tandem with this, the current landscape witnesses a rising tide of corporate sustainability reporting, a practice wherein organizations voluntarily disclose their environmental, social, and governance performance, contributing to the broader sustainability agenda.

116. The ILO collaborates with member states to develop and implement labour standards and policies that uphold fundamental principles and rights at work. While the Tripartite Declaration of Principles offers overarching guidance on labour practices⁶⁷, the ILO also provides sector-specific guidelines and tools to assist companies in addressing labour rights issues across various industries.

117. The Tripartite Declaration of Principles⁶⁸ serves as a cornerstone of the ILO's efforts to promote fair labour practices among multinational enterprises. It outlines key principles related to non-discrimination, freedom of association, collective bargaining, and the elimination of forced and child

⁶⁴ ILO, "Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy", 1977, (XXXII), https://webapps.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/documents/publication/wcms_101234.pdf.

⁶⁵ ILO, "Declaration on Fundamental Principles and Rights at Work", 1998, (V), https://webapps.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_095898.pdf.

⁶⁶ Ibid, footnote 61.

⁶⁷ Ibid, footnote 62.

⁶⁸ Ibid, footnote 62.

labour. By adhering to these principles, companies can contribute to the promotion of social justice and decent work in their operations.

118. Recognizing the diverse nature of industries, the ILO develops sector-specific guidelines to help companies address labour rights issues effectively.⁶⁹ These guidelines provide tailored recommendations and best practices for industries such as agriculture, construction, textiles, and manufacturing. By offering sector-specific guidance, the ILO ensures that companies have the necessary tools to promote decent work and uphold labour standards within their respective sectors.

119. While the ILO does not impose mandatory reporting requirements, it encourages companies to voluntarily disclose information on their labour practices and efforts to uphold fundamental principles and rights at work. Reporting mechanisms such as the Global Reporting Initiative⁷⁰ and the UN Guiding Principles on Business and Human Rights⁷¹ provide frameworks for companies to communicate their commitments to labour rights and social responsibility. By participating in transparent reporting, companies demonstrate their accountability and contribute to greater transparency in the corporate sector.

120. The principles and guidelines set forth by the ILO primarily apply to multinational enterprises operating in multiple countries and sectors. While these standards are not legally binding, they serve as important benchmarks for companies seeking to ensure compliance with labour standards and promote social justice in their operations worldwide. By adhering to the ILO's principles and guidelines, companies can contribute to the advancement of decent work and sustainable development goals on a global scale.

2.1.3. OECD

2.1.3.1. History

121. The OECD has also played a key role in promoting responsible business conduct and corporate sustainability reporting through its initiatives and guidelines. The history of corporate social responsibility within the OECD can be traced back to its establishment in 1961, with the primary objective of fostering economic development and cooperation among member countries.⁷²

122. Over the years, the OECD has recognized the importance of corporate responsibility in achieving sustainable economic growth and societal well-being. In response to growing concerns about the social and environmental impacts of multinational enterprises (MNEs), the OECD issued its first set of guidelines specifically addressing the conduct of multinational corporations in 1976.⁷³

123. The OECD Guidelines for Multinational Enterprises, first issued in 1976 and subsequently revised in 2011, represent a landmark framework for promoting responsible business conduct among

⁶⁹ ILO, "Sectoral Policies Department (sector)", consulted on 5 May 2024, <https://www.ilo.org/sectoral-policies-department-sector>.

⁷⁰ GRI, "Consolidated Set of the GRI Standards 2021", 2021, <https://www.amauni.org/wp-content/uploads/2022/03/Set-of-GRI-Stnds-2021.pdf>.

⁷¹ United Nations Development Programme, "United Nations Guiding Principles on Business and Human Rights", (VI), <https://www.undp.org/sites/g/files/zskgke326/files/migration/in/UNGP-Brochure.pdf>.

⁷² OECD, "Together, we create better policies for better lives", consulted on 5 May 2024, <https://www.oecd.org/about/>.

⁷³ OECD, "Declaration on International Investment and Multinational Enterprises", 1976, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0144>.

MNEs.⁷⁴ These guidelines provide recommendations on human rights, labour practices, environmental protection, and anti-corruption measures. They serve as a comprehensive framework for guiding the behaviour of multinational enterprises and promoting transparency, accountability, and sustainability in their operations. Although reporting was not the primary focus, these guidelines emphasized transparency and accountability, encouraging companies to disclose relevant information about their operations and impacts.

124. In addition to the OECD Guidelines for Multinational Enterprises, the OECD has developed other key initiatives to promote corporate sustainability and responsible business conduct. One such initiative is the OECD Due Diligence Guidance for Responsible Supply Chains, introduced in 2011 and updated in 2018.⁷⁵ This guidance offers practical recommendations to companies on conducting due diligence to identify, prevent, and mitigate adverse impacts in their supply chains. It emphasizes the importance of transparency and reporting in supply chain management and encourages companies to disclose information on their efforts to promote supply chain sustainability.

125. Furthermore, the OECD has actively engaged with governments, businesses, and civil society organizations to promote awareness and implementation of responsible business practices. Through various forums, workshops, and partnerships, the OECD has facilitated dialogue and knowledge sharing on corporate responsibility issues, contributing to the advancement of sustainable development goals and the broader sustainability agenda.⁷⁶

126. While the OECD has not developed specific reporting standards like other organizations such as the Global Reporting Initiative⁷⁷, its guidelines and initiatives have contributed to shaping corporate behaviour towards greater transparency, accountability, and sustainability.

2.1.3.2. International frameworks

127. The OECD Guidelines for Multinational Enterprises stand as a cornerstone in the scope of responsible business conduct, exerting considerable influence on national legislation and corporate governance practices in member countries. These guidelines, first issued in 1976 and revised in 2011, provide a comprehensive framework for promoting ethical business practices among multinational enterprises. They cover a wide range of areas, including human rights, labour standards, environmental protection, and anti-corruption measures.⁷⁸

128. One key aspect of the OECD Guidelines is their role in shaping reporting standards for sustainability performance. While the guidelines themselves are voluntary, they often serve as a reference point for countries seeking to enact legislation requiring companies to report on their sustainability efforts. In some cases, the OECD Guidelines may be incorporated into corporate

⁷⁴ Ibid, footnote 71.

⁷⁵ OECD, "Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas", Consulted on 5 May 2024, <https://www.oecd.org/corporate/mne/mining.htm>.

⁷⁶ OECD, "The OECD and Civil Society", consulted on 5 May 2024, <https://www.oecd.org/about/civil-society/the-oecd-and-civil-society.htm>.

⁷⁷ GRI, "Consolidated Set of the GRI Standards 2021", 2021, <https://www.amauni.org/wp-content/uploads/2022/03/Set-of-GRI-Stnds-2021.pdf>.

⁷⁸ Ibid, footnote, 71.

governance codes, further emphasizing their significance in promoting transparency and accountability in business operations.⁷⁹

129. Another crucial aspect of the OECD's approach to responsible business conduct is its Due Diligence Guidance.⁸⁰ This guidance offers practical advice to companies on conducting due diligence to identify and mitigate adverse impacts in their supply chains. It emphasizes the importance of transparent reporting on efforts to address social and environmental risks, thereby promoting greater accountability and sustainability throughout the supply chain.

130. Additionally, the OECD has established National Contact Points (NCPs) in member countries to serve as complaint mechanisms for stakeholders to raise concerns about the conduct of multinational enterprises. These NCPs play a vital role in facilitating dialogue between parties and resolving disputes related to the implementation of the OECD Guidelines.⁸¹

131. The applicability of the OECD Guidelines is broad, encompassing multinational enterprises operating in or from adhering countries. While adherence to the guidelines is voluntary, they offer a robust framework for responsible business conduct and encourage companies to engage in transparent reporting and stakeholder engagement. By promoting ethical business practices and fostering greater accountability, the OECD Guidelines contribute to the advancement of sustainable development goals and the broader sustainability agenda on a global scale.

2.1.4. Navigating CSR in the international frameworks

132. In conclusion, corporate sustainability reporting has transitioned from a voluntary undertaking to a fundamental aspect of global business practices, guided by frameworks established by the UN, ILO, and OECD. While these organizations do not directly enact legislation, their initiatives significantly influence national policies and corporate reporting standards, fostering transparency, accountability, and sustainable development worldwide.

133. One notable difference among the frameworks lies in their scope and mandate. The UN Global Compact⁸² prioritizes overarching principles and goals, the ILO focuses on labour rights and decent work, and the OECD Guidelines cover a broad spectrum of areas, including human rights, labour, environment, and anti-corruption. Additionally, the applicability of these frameworks varies, with the UN Global Compact open to all businesses⁸³, the ILO's principles primarily targeting multinational enterprises⁸⁴, and the OECD Guidelines addressing multinational enterprises operating in or from adhering countries.⁸⁵

134. Despite their contributions, challenges persist in the domain of corporate sustainability reporting. The voluntary nature of these frameworks may lead to inconsistent adoption and limited accountability, particularly in the absence of enforcement mechanisms. Moreover, multinational

⁷⁹ OECD, "G20/OECD Principles of Corporate Governance", 2015, <https://www.oecd.org/daf/ca/Corporate-Governance-Principles-ENG.pdf>.

⁸⁰ Ibid, footnote 73.

⁸¹ OECD, "What are national Contact Points for RBC", consulted on 5 May 2024, <https://mneguidelines.oecd.org/ncps/>.

⁸² Ibid, footnote 46.

⁸³ Ibid, footnote 46.

⁸⁴ Ibid, footnote 62.

⁸⁵ Ibid, footnote 71.

enterprises navigating different CSR expectations across jurisdictions may encounter complexity in compliance. Supply chain transparency remains a significant challenge, requiring companies to ensure accountability throughout complex supply chains. Additionally, monitoring and evaluating the effectiveness of CSR initiatives pose challenges without robust mechanisms in place.

135. Overall, corporate sustainability reporting continues to evolve as a vital component of responsible business conduct. Addressing the differences among frameworks and overcoming challenges will be crucial in advancing transparency, accountability, and sustainable development in the global business landscape.

2.2. Corporate sustainability reporting on European level.

136. The European Union has taken significant steps to promote sustainability and responsible business practices through initiatives such as the European Green Deal.⁸⁶ At the forefront of these efforts are key frameworks like the EU Taxonomy⁸⁷, which identifies environmentally sustainable economic activities.

137. Complementing the EU Taxonomy is the CSRD⁸⁸, aimed at enhancing transparency by expanding reporting requirements for large companies to include environmental, social, and governance factors.

138. Additionally, the CSDDD⁸⁹ seeks to address human rights and environmental abuses in global supply chains by imposing due diligence obligations on companies.

139. These initiatives underscore the EU's commitment to sustainability and responsible business conduct, playing a crucial role in advancing economic growth, social cohesion, and environmental protection within the region. In the following sections and next chapter, these components will be explored in detail, examining their objectives and implications for businesses operating in the European market.

2.2.1. The European Green Deal

140. The European Green Deal is a comprehensive and ambitious initiative launched by the European Commission in December 2019. It represents the European Union's overarching strategy to transform the bloc into a more sustainable, green, and climate-neutral economy by 2050. The European Green Deal contains a wide range of policy measures and targets across various sectors, aiming to address climate change, environmental degradation, and social inequalities. The primary and overarching

⁸⁶ X., "The European Green Deal; striving to be the first climate-neutral continent", European Commission, Consulted on 13 December, 2023, https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_en.

⁸⁷ X., "EU Taxonomy", European Commission, consulted on 13 December, 2023, https://joint-research-centre.ec.europa.eu/scientific-activities-z/sustainable-finance/eu-taxonomy_en.

⁸⁸ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC, and Directive 2013/34/EU, as regards corporate sustainability reporting, L 322/15, 16 December 2022.

⁸⁹ European Parliament legislative resolution of 24 April 2024 on the proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 (COM(2022)0071–C9-0050/2022–2022/0051(COD)), 24 April 2024, https://www.europarl.europa.eu/doceo/document/TA-9-2024-0329_EN.pdf.

goals are to make the EU a climate-neutral continent by 2050, to decouple economic growth from resource use and that no person or no place is left behind.⁹⁰

141. In the context of corporate sustainability reporting, the European Green Deal⁹¹ serves as a significant driver for businesses to align their strategies and operations with its objectives. By transparently disclosing their environmental, social, and governance performance, companies can demonstrate their commitment to sustainability and accountability. Moreover, the initiative's focus on mobilizing sustainable investments creates a growing demand for dependable ESG information from investors and other stakeholders. As the EU seeks to lead globally in sustainability, businesses operating within its jurisdiction must adhere to lofty standards of transparency and accountability, reinforcing the relevance of comprehensive sustainability reporting practices.

142. In summary, the European Green Deal⁹² underscores the importance of corporate sustainability reporting as a means for businesses to contribute to EU sustainability goals, meet stakeholder expectations, attract investment, and support global efforts toward a more sustainable future.⁹³

2.2.2. EU Taxonomy

143. The Eu Taxonomy is a classification system that established a framework to identify environmentally sustainable economic activities and entered into force on 12 July 2020. It plays a crucial role in supporting the European Union's broader sustainability and climate objectives, including those outlined in the European Green Deal.⁹⁴

144. The Taxonomy sets criteria defining environmentally sustainable economic activities, covering areas such as climate change mitigation, adaption, sustainable water use, circular economy transition, pollution prevention, and biodiversity protection.⁹⁵

145. Crucially, the EU Taxonomy guides investment choices by offering a shared language and framework for investors, businesses, and policymakers. It enables the identification of sustainable economic activities, streamlining the process of investing in projects supporting the transition to a greener economy.⁹⁶

146. As a foundational element in the EU's sustainable finance initiative, the EU Taxonomy Regulation sets requirements for disclosure among select financial market participants and advisors, outlining the alignment of their economic activities with environmentally sustainable practices.⁹⁷

147. Moreover, the Taxonomy enhances policy coherence by standardizing the categorization of sustainable economic activities, ensuring diverse financial and economic stakeholders adhere to a uniform set of criteria when assessing investment sustainability.⁹⁸

⁹⁰ Ibid, footnote 84.

⁹¹ European Commission, "EU Taxonomy, corporate sustainability reporting, sustainability preferences and fiduciary obligations: Steering financing towards the European Green Deal.", 2021.

⁹² Ibid, footnote 89.

⁹³ X., "European Green Deal", European Council, consulted on 13 December 2023, <https://www.consilium.europa.eu/en/policies/green-deal/>.

⁹⁴ Ibid, footnote 89.

⁹⁵ Ibid, footnote 91.

⁹⁶ Ibid, footnote 85.

⁹⁷ Ibid, footnote 94.

⁹⁸ Ibid, footnote 94.

148. The EU Taxonomy Regulation is part of a comprehensive legislative framework promoting sustainability within the financial sector and the broader economy, aligning with the Green Deal's objectives to foster incentives for sustainable practices and investments.⁹⁹

149. In summary, the EU Taxonomy serves as a crucial instrument in the EU's strategy to achieve sustainability and climate objectives, linking directly with corporate sustainability reporting. By providing clear criteria for identifying environmentally sustainable economic activities, it supports the integration of sustainability considerations into corporate decision-making processes and reporting practices, fostering transparency and accountability in the pursuit of sustainable development goals.¹⁰⁰

2.2.3. Corporate Sustainability Reporting Directive

150. The transition from the Non-Financial Reporting Directive (NFRD)¹⁰¹ to the CSRD¹⁰² marks a significant shift in the European Union's approach to corporate sustainability reporting. The NFRD¹⁰³, aimed to promote corporate sustainability reporting by requiring certain large companies to disclose non-financial information. However, recognizing the need for a more standardized and comprehensive framework, the EU introduced the CSRD¹⁰⁴ to replace the NFRD¹⁰⁵ and enhance sustainability reporting practices.

151. The scope of reporting and the content required to be disclosed have been expanded under the CSRD.¹⁰⁶ The NFRD's¹⁰⁷ coverage was limited, targeting only companies with over five hundred employees, listed companies, banks, and financial institutions.¹⁰⁸ In contrast, the CSRD widens its reach to include a broader spectrum of companies, particularly focusing on smaller entities. Additionally, the CSRD introduces standardized requirements for sustainability reporting, aiming to enhance consistency and comparability across all reporting entities.¹⁰⁹

152. The introduction of the CSRD aims to align corporate sustainability reporting practices with global standards and emerging sustainability priorities.¹¹⁰ It supports the EU's broader sustainability objectives, as outlined in initiatives like the European Green Deal¹¹¹, by promoting transparency, accountability, and sustainable practices among corporations. By mandating the disclosure of information related to the EU Taxonomy¹¹² and other sustainability criteria, the CSRD ensures that corporate activities align with environmental, social, and governance considerations.¹¹³

⁹⁹ Ibid, footnote 94.

¹⁰⁰ Ibid, footnote 94.

¹⁰¹ Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups (OJ L 330, 15.11.2014, p. 1).

¹⁰² Ibid, footnote 86.

¹⁰³ Ibid, footnote 99.

¹⁰⁴ Ibid, footnote 86.

¹⁰⁵ Ibid, footnote 99.

¹⁰⁶ Ibid, footnote 86.

¹⁰⁷ Ibid, footnote 99.

¹⁰⁸ Ibid, footnote 99.

¹⁰⁹ Ibid, footnote 86.

¹¹⁰ Ibid, footnote 86.

¹¹¹ Ibid, footnote 91.

¹¹² Ibid, footnote 85.

¹¹³ Ibid, footnote 86.

153. Overall, the CSRD represents a milestone in the EU's efforts to promote corporate sustainability and transparency. It seeks to elevate the quality, transparency, and comparability of sustainability information disclosed by companies, contributing to the EU's broader sustainability goals, and fostering a more sustainable and resilient economy.¹¹⁴

2.2.4. Corporate Sustainability Due Diligence Directive

154. On February 23, 2022, the Commission put forth a proposal for a Directive on corporate sustainability due diligence.¹¹⁵ On 15 March 2024 the Committee of the Permanent Representatives (COREPER), a subsidiary body of the Council of the European Union which prepares decisions agreed to the CSDDD in a form of a compromised text. This text deviated from the provisional political agreement achieved in the legislative trilogue in December 2023.¹¹⁶ A compromise had to be found because some EU countries including Germany spoke out against the text agreed.¹¹⁷ A compromise is now achieved and has passed in the plenary assembly of the European Parliament in late April 2024.

155. The aim of this Directive is to foster sustainable and responsible corporate behaviour and to anchor human rights and environmental considerations in companies' operations and corporate governance. The new rules will ensure that businesses address adverse impacts of their actions, including in their value chains inside and outside Europe.¹¹⁸ As a general context, the concept of CSDD aligns with the broader goals of the European Green Deal.¹¹⁹

156. The CSDDD marks an important advancement in the domain of corporate social responsibility within the European Union. It serves as a legislative framework aimed at enhancing corporate accountability, transparency, and sustainability practices. The CSDDD mandates that certain companies conduct due diligence on their supply chains to identify, prevent, and mitigate adverse impacts on human rights, the environment, and governance.¹²⁰

157. This directive is crucial for CSR as it compels companies to proactively assess and address potential risks and negative impacts associated with their operations and supply chains. By requiring comprehensive due diligence, the CSDDD helps companies identify areas for improvement, implement corrective measures, and demonstrate their commitment to responsible business conduct.

158. Moreover, the CSDDD aligns with the broader objectives of CSR by promoting ethical business practices, respecting human rights, fostering environmental stewardship, and contributing to sustainable development. It empowers stakeholders, including consumers, investors, and civil society

¹¹⁴ Ibid, footnote 86.

¹¹⁵ Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, Brussel, 23 February 2022, COM(2022)71 final, 2022/0051(COD), <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52022PC0071>.

¹¹⁶ X, "European Supply Chain Act (CSDDD) nearing the finish line", NOERR, 15 December 2023, consulted on 7 May 2024, <https://www.noerr.com/en/insights/european-supply-chain-act-csddd-nearing-the-finish-line>.

¹¹⁷ X, "CSDDD update: Breakthrough in European CSDDD?", NOERR, 21 March 2024, consulted on 7 March 2024, <https://www.noerr.com/en/insights/csddd-update-breakthrough-in-european-corporate-sustainability-due-diligence-directive>.

¹¹⁸ X, "Corporate sustainability due diligence", European Commission, consulted on 13 December, 2023, https://commission.europa.eu/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence_en.

¹¹⁹ Ibid, footnote 91.

¹²⁰ Ibid, footnote 87.

organizations, with valuable information about companies' sustainability performance, enabling them to make informed decisions and hold companies accountable for their actions.¹²¹

159. Overall, the CSDDD represents a significant step forward in advancing CSR within the EU, reinforcing the importance of corporate sustainability and responsible business practices in achieving social, environmental, and economic objectives.¹²²

2.2.5. Navigating CSR in the European frameworks

160. In conclusion, the European Union has demonstrated a strong commitment to promoting sustainability and responsible business practices through several key frameworks, including the European Green Deal¹²³, the EU Taxonomy¹²⁴, the CSRD¹²⁵, and the CSDDD¹²⁶.

161. The European Green Deal serves as a comprehensive strategy to transition the EU into a more sustainable, green, and climate-neutral economy by 2050.¹²⁷ It provides a framework for addressing climate change, environmental degradation, and social inequalities, emphasizing the importance of decoupling economic growth from resource use while ensuring that no person or place is left behind. The Green Deal acts as a catalyst for businesses to align their strategies and operations with its objectives, driving transparency, accountability, and sustainable practices.

162. The EU Taxonomy¹²⁸ plays a crucial role in supporting the Green Deal's¹²⁹ objectives by establishing criteria to identify environmentally sustainable economic activities. It guides investment choices, facilitates the transition to a greener economy, and enhances policy coherence by standardizing the categorization of sustainable economic activities. The Taxonomy promotes transparency and accountability in corporate decision-making processes, fostering alignment with environmental, social, and governance considerations.

163. The CSRD¹³⁰ represents a significant advancement in corporate sustainability reporting within the EU. By replacing the Non-Financial Reporting Directive¹³¹, the CSRD expands the scope of reporting requirements and introduces standardized practices to enhance consistency and comparability across reporting entities. It aligns with global standards and emerging sustainability priorities, ensuring that corporate activities adhere to environmental, social, and governance considerations. The CSRD strengthens transparency, accountability, and sustainability practices among corporations, contributing to the EU's broader sustainability goals.¹³²

164. Similarly, the CSDDD marks an important milestone in advancing corporate social responsibility within the EU. By mandating corporate sustainability due diligence, the CSDDD enhances corporate accountability, transparency, and sustainability practices. It compels companies to proactively assess

¹²¹ Ibid, footnote 118.

¹²² Ibid, footnote 118.

¹²³ Ibid, footnote 91.

¹²⁴ Ibid, footnote 85.

¹²⁵ Ibid, footnote 86.

¹²⁶ Ibid, footnote 87.

¹²⁷ Ibid, footnote 91.

¹²⁸ Ibid, footnote 85.

¹²⁹ Ibid, footnote 91.

¹³⁰ Ibid, footnote 86.

¹³¹ Ibid, footnote 99.

¹³² Ibid, footnote 86.

and address potential risks and negative impacts associated with their operations and supply chains, promoting ethical business practices, respecting human rights, and fostering environmental stewardship. The CSDDD empowers stakeholders with valuable information about companies' sustainability performance, enabling them to make informed decisions and hold companies accountable for their actions.¹³³

165. Overall, each framework plays a crucial role in advancing corporate sustainability reporting and responsible business practices within the EU. By aligning with the objectives of the European Green Deal¹³⁴, these frameworks contribute to achieving social, environmental, and economic objectives, driving the transition towards a more sustainable and resilient economy.

Conclusion:

166. In conclusion, corporate sustainability reporting on international level has transitioned from a voluntary effort to a fundamental aspect of global business practices, guided by frameworks established by the UN, ILO, and OECD. While these organizations do not directly enact legislation, their initiatives significantly influence national policies and corporate reporting standards, fostering transparency, accountability, and sustainable development worldwide. Despite their contributions, challenges persist in the domain of corporate sustainability reporting. The voluntary nature of these frameworks may lead to inconsistent adoption and limited accountability, particularly in the absence of enforcement mechanisms. Moreover, multinational enterprises navigating different CSR expectations across jurisdictions may encounter complexity in compliance. Additionally, monitoring and evaluating the effectiveness of CSR initiatives pose challenges without robust mechanisms in place.

167. In Europe, corporate sustainability reporting is not solely guided by voluntary frameworks but is supported by binding legislation aimed at fostering transparency, accountability, and responsible business practices. The CSRD, for instance, represents a significant step forward in standardizing reporting requirements and enhancing consistency across reporting entities. By replacing the Non-Financial Reporting Directive, the CSRD expands the scope of reporting obligations to include a broader spectrum of companies, ensuring that environmental, social, and governance considerations are integrated into corporate disclosures.

168. Moreover, the EU Taxonomy provides a clear framework for identifying environmentally sustainable economic activities, guiding investment decisions and promoting the transition to a greener economy. By establishing criteria and disclosure requirements, the EU Taxonomy enhances transparency and accountability in corporate decision-making processes, aligning investments with sustainability objectives outlined in initiatives like the European Green Deal.

169. The CSDDD further reinforces the EU's commitment to responsible business conduct by addressing human rights and environmental abuses in global supply chains. By mandating due diligence obligations, the CSDDD aims to prevent and mitigate adverse impacts associated with corporate activities, promoting ethical business practices, and respecting human rights.

¹³³ Ibid, footnote 118.

¹³⁴ Ibid, footnote 91.

170. In tandem with the European Green Deal, these legislative measures underscore the EU's ambition to lead the global transition towards sustainability. By enacting binding legislation, the EU ensures that corporate sustainability reporting is not just a voluntary effort but a legal requirement, driving substantial progress towards environmental protection, social cohesion, and economic resilience. As businesses navigate these regulatory frameworks, they are compelled to integrate sustainability into their core strategies and operations, contributing to a more sustainable and prosperous future for all stakeholders.

171. Staying informed about regulatory trends enables companies to demonstrate commitment to sustainability, mitigate risks, and seize opportunities. Ultimately, aligning with international and European standards fosters a more sustainable future for all stakeholders.

172. While this conclusion is an answer on the sub-question, it also answers the main question a bit by demonstrating how different European international frameworks interact with the CSRD. It highlights how initiatives like the CSRD, EU Taxonomy and CSDDD complement each other and contribute to shaping corporate sustainability reporting requirements and practices. Additionally, it touches upon the legal challenges that businesses may encounter during the implementation of these frameworks, such as compliance complexity and the need for robust monitoring and evaluation mechanisms.

3.What is the interaction between the CSRD, CSDDD and EU-Taxonomy?

173. In an era marked by heightened awareness of ESG issues, corporate sustainability reporting has emerged as a critical tool for businesses to communicate their commitment to sustainable practices. Within the European Union, the landscape of sustainability reporting is undergoing significant evolution, driven by the interaction between key directives: CSRD, CSDDD, and the EU Taxonomy Regulation. Together, these directives form a comprehensive framework aimed at enhancing transparency, accountability, and sustainability practices among businesses operating within the EU.

174. The CSRD builds upon the foundation laid by the existing NFRD, expanding the scope, and raising the bar for sustainability reporting standards. It mandates large and listed companies to disclose detailed information on ESG matters, including due diligence policies and outcomes related to environmental and social impacts within their operations and supply chains. Complementing the CSRD, the CSDDD focuses on due diligence obligations, emphasizing initiative-taking risk management and mitigation of adverse impacts on human rights, the environment, and governance issues throughout supply chains. Meanwhile, the EU Taxonomy Regulation provides a classification system for sustainable economic activities, guiding investment towards environmentally sustainable projects.

175. In this context, the interaction between the CSRD, CSDDD, and EU Taxonomy Regulation is crucial, contributing to a more comprehensive approach to corporate sustainability reporting within the EU. This paper explores the similarities and differences between these directives, examining their aims, scopes, stakeholder engagement approaches, reporting requirements, integration with financial reporting, compliance and enforcement mechanisms, international alignment efforts, and impacts on third parties. Additionally, it highlights the importance of corporate sustainability reporting in enabling companies to measure, manage, and communicate their ESG performance, supporting the transition to a more sustainable economy.

176. Through an analysis of these directives and their interaction, this sub-question aims to provide insights into the evolving landscape of corporate sustainability reporting in the EU and its implications for businesses, investors, and other stakeholders involved in the journey towards sustainability.

3.1. CSRD

3.1.1. The aim

177. The aim of the CSRD is to enhance the transparency¹³⁵, reliability¹³⁶, and comparability of sustainability reporting among companies operating within the EU¹³⁷. By establishing uniform¹³⁸ reporting requirements¹³⁹, the directive seeks to address the increasing demand for non-financial

¹³⁵ Art. 8 CSRD

¹³⁶ Art. 8 CSRD

¹³⁷ Art. 9 CSRD

¹³⁸ Art. 12 CSRD

¹³⁹ Art. 10 CSRD

information and strengthen corporate accountability in environmental, social, and governance matters.¹⁴⁰

3.1.2. The scope & application

178. Article 2 of the CSRD extends its application to large companies and groups listed on EU-regulated markets, mandating specific sustainability disclosures in their management and separate sustainability reports.¹⁴¹ The directive broadens the scope of sustainability reporting significantly. According to Article 19, a, paragraph 1 of the revised Accounting Directive, the following entities are obligated to engage in sustainability reporting: all large, limited liability enterprises in the EU, including capital companies and limited liability partnerships; all large insurance companies and credit institutions in the EU, irrespective of legal form; all capital market-oriented enterprises in the EU, including small and medium-sized enterprises (SMEs), excluding micro-enterprises; companies in third countries with a net turnover of > €150 million in the EU in the last two fiscal years, with either at least one large or capital market-oriented subsidiary in the EU or a branch in the EU with a net turnover of > €40 million in the last fiscal year; and issuers in third countries within the scope of the CSRD whose securities are admitted for trading on a regulated market in the EU.¹⁴²

179. Large enterprises, defined as companies exceeding at least two of the following size criteria on two consecutive closing dates: (i) balance sheet total of €20 million, (ii) revenue of €40 million in the 12 months preceding the closing date, or (iii) an average of 250 employees per year, are subject to reporting obligations.¹⁴³ However, subsidiaries may be exempted from reporting on sustainability if they are included in the consolidated management report of the parent company¹⁴⁴, which includes a sustainability report for the group in accordance with the guidelines.¹⁴⁵ Exemption options do not apply to large public interest entities, and parent companies preparing exempted sustainability reports for the group must describe any significant differences between the sustainability risks or impacts of the group and those of subsidiaries in the sustainability report for the group.¹⁴⁶ Similar exemption options apply to subsidiaries of companies in third countries.¹⁴⁷

180. Regarding SMEs, the CSRD primarily applies to capital market-oriented SMEs¹⁴⁸, with an opt-out scheme allowing them to avoid mandatory reporting for a transitional period of two years. Non-capital market-oriented SMEs may also be subject to implicit reporting obligations due to the cascading effect of general information duties regarding value and supply chains in the CSRD.^{149 150}

¹⁴⁰ Art. 11 CSRD

¹⁴¹ Art. 1 CSRD

¹⁴² Art. 19(a), §1 CSRD

¹⁴³ Ibid, footnote 5.

¹⁴⁴ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC, and Directive 2013/34/EU, as regards corporate sustainability reporting, L 322/15, 16 December 2022, nr. 25.

¹⁴⁵ Art. 29, (a), (1) CSRD

¹⁴⁶ Ibid, footnote 143.

¹⁴⁷ Ibid, footnote 143.

¹⁴⁸ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC, and Directive 2013/34/EU, as regards corporate sustainability reporting, L 322/15, 16 December 2022, nr. 55.

¹⁴⁹ Art. 19, (a), (7) CSRD

¹⁵⁰ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC, and Directive 2013/34/EU, as regards corporate sustainability reporting, L 322/15, 16 December 2022, nr. 50.

The directive outlines an initial implementation period in various phases, with different entities subject to reporting obligations required to comply in different fiscal years.¹⁵¹

3.1.3. Stakeholders' engagement

181. Article 6 of the CSRD underscores the importance of stakeholder engagement in the preparation of sustainability reports, reflecting a commitment to inclusive and participatory sustainability practices.¹⁵² This directive mandates companies to actively involve various stakeholders, including employees, customers, suppliers, and investors, throughout the process of formulating and executing sustainability policies and practices. By engaging with stakeholders, companies can gain valuable insights, perspectives, and feedback on sustainability issues that are pertinent to their operations and stakeholders' interests. This collaborative approach not only enhances the credibility and legitimacy of sustainability reporting but also fosters a sense of ownership and accountability among all stakeholders. By integrating diverse stakeholder perspectives into their sustainability strategies, companies can drive meaningful progress towards achieving sustainability objectives while building trust and transparency with their stakeholders.

3.1.4. Level of detail & reporting requirements

182. Articles 8 and 9 of the CSRD establish precise reporting standards for sustainability matters, encompassing ESG factors. These provisions outline precise disclosure obligations, reporting formats, and both qualitative and quantitative indicators. By outlining detailed requirements for sustainability reporting, the CSRD ensures that companies provide comprehensive and standardized information on their ESG performance. This comprehensive approach facilitates transparency, comparability, and reliability in sustainability reporting, enabling stakeholders to access consistent and meaningful data for assessing companies' sustainability practices. Through these provisions, the CSRD aims to promote accountability, facilitate informed decision-making, and drive progress towards sustainable and responsible business conduct across the European Union.¹⁵³

3.1.4.1. How does a report look like?

3.1.4.1.1. Content

183. A sustainability report in accordance with CSRD requirements includes information necessary to understand, on the one hand, the impact of the company's activities on various sustainability aspects (referred to as double materiality) and, on the other hand, to gain insight into how these sustainability aspects influence the development, performance, and position of the company. The following thematic areas are considered as sustainability aspects: environmental factors¹⁵⁴, social and human rights factors¹⁵⁵, corporate governance factors.¹⁵⁶

184. Furthermore, the CSRD mandates various detailed data, each related to these sustainability aspects. These include diverse specific information, such as¹⁵⁷: business model and strategy, time-

¹⁵¹ Art. 5 CSRD

¹⁵² Art. 6 CSRD

¹⁵³ Art. 8 & 9 CSRD

¹⁵⁴ Art. 29, (b), (2), (a) CSRD

¹⁵⁵ Art. 29, (b), (2), (b) CSRD

¹⁵⁶ Art. 29, (b), (2), (c) CSRD

¹⁵⁷ Art. 19, (a), (2) CSRD

bound sustainability objectives, sustainability concepts (referred to as "enterprise policy" in the directive), incentive systems with sustainability relevance, the role of corporate bodies regarding sustainability aspects, due diligence processes conducted for sustainability aspects, negative effects, actual and potential, of own activities and the value chain, measures to prevent, reduce, or eliminate negative effects and their success, risks related to sustainability, sustainability-related performance indicators

185. Information related to the value chain can be omitted during a transition period of three years from the first application of the CSRD. However, an explanation is required, detailing the efforts made by the company to obtain the data and the reason the information could not be obtained. Additionally, the company's plans for acquiring the information in the future must be outlined.¹⁵⁸

3.1.4.1.2. Double Materiality

187. The idea of double materiality in sustainability reporting means that companies need to consider two important aspects when deciding what information to disclose.

First, there's financial materiality, which looks at how certain information might affect financial decisions. For example, if a company does not share important financial details, investors might make choices that could impact the company's finances.

Second, there's sustainability materiality, which considers how a company's actions affect the environment, society, and how it is governed. This means sharing information about things like environmental impact, social responsibility, and how the company is managed.

188. So, when companies talk about double materiality, they are saying they need to share information that is not only important for financial reasons but also for understanding how their actions impact the world around them. This helps both people outside the company, like investors and customers, and people inside the company, like managers, make better decisions based on a broader view of what matters.¹⁵⁹

3.1.4.1.3. Concretization of the report content

189. The European Sustainability Reporting Standards (ESRS) are a set of guidelines developed by the European Financial Reporting Advisory Group (EFRAG) to standardize sustainability reporting across the European Union.¹⁶⁰ These standards aim to provide clear and consistent guidelines for companies to follow when disclosing sustainability-related information, such as environmental impacts, social responsibility initiatives, and governance practices.

190. These standards play a crucial role in making the CSRD more concrete by providing detailed requirements and guidelines for companies to comply with. They help to define what information needs to be disclosed, how it should be measured, and how it should be reported. This clearly ensures

¹⁵⁸ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC, and Directive 2013/34/EU, as regards corporate sustainability reporting, L 322/15, 16 December 2022, nr. 33.

¹⁵⁹ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC, and Directive 2013/34/EU, as regards corporate sustainability reporting, L 322/15, 16 December 2022, nr. 29.

¹⁶⁰ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC, and Directive 2013/34/EU, as regards corporate sustainability reporting, L 322/15, 16 December 2022, nr. 39.

that companies have a consistent framework to follow, making it easier for stakeholders to compare and assess sustainability performance across different companies.¹⁶¹

191. However, there may be some challenges associated with these standards. For example, companies may find it difficult to collect and report certain types of data, especially if they operate in diverse industries or regions where reporting requirements may vary. Additionally, there could be concerns about the cost and administrative burden of complying with these standards, particularly for smaller companies with limited resources.

192. Despite these challenges, the ESRS are expected to be widely used by companies across Europe to fulfil their reporting obligations under the CSRD. These standards will help to improve transparency, accountability, and comparability in sustainability reporting, contributing to more informed decision-making by stakeholders and driving progress towards sustainable and responsible business practices.

3.1.4.1.4. Placement of report

193. The CSRD mandates the obligatory inclusion of the sustainability report in the company's management report. In doing so, the sustainability information must be "clearly indicated in a section of the management report specifically addressing this" (Article 19, a, paragraph 1 of the CSRD), presented in a separate section of the management report. Consequently, a full integration of the information, as often sought in the context of integrated reporting, especially among capital market-oriented companies, is de facto no longer possible.¹⁶²

194. The management report of companies within the scope of the CSRD must be prepared in a standardized electronic format in accordance with the so-called ESEF Regulation (EU) 2019/815.¹⁶³

195. The taxonomy complements the development of a platform for corporate information throughout the EU, known as the European Single Access Point. It aligns with the ongoing efforts of the Commission in the field of digitization.¹⁶⁴

3.1.4.1.5. Will the sustainability report be checked?

196. The EU Commission will develop and approve European audit standards for limited assurance by no later than October 1, 2026.¹⁶⁵ Additionally, by no later than October 1, 2028, the Commission will decide whether a transition to reasonable assurance (analogous to the depth of management

¹⁶¹ X., "EFRAG stelt educatieve video's voor rond de ESRS", MVO Vlaanderen, 3 March 2023, consulted on 15 December, 2023, <https://www.mvovlaanderen.be/inspiratie/efrag-stelt-educatieve-video%E2%80%99s-voor-rond-de-esrs>.

¹⁶² Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC, and Directive 2013/34/EU, as regards corporate sustainability reporting, L 322/15, 16 December 2022, nr. 57.

¹⁶³ Commission Delegated Regulation (EU) 2018/85 of 17 December 2018 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to regulatory technical standards on the specification of a single electronic reporting format, L 143/1, 17 December 2018, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0815>.

¹⁶⁴ Ibid, footnote 5.

¹⁶⁵ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC, and Directive 2013/34/EU, as regards corporate sustainability reporting, L 322/15, 16 December 2022, nr. 69.

report auditing) appears feasible and, based on this, develop, and approve corresponding audit standards.¹⁶⁶

197. The choice of who conducts the substantive audit can be determined by different EU member states through their discretion. This discretion must be exercised within the framework of the directive's regulations during the transposition into national law. Accordingly, a member state may decide to have the audit performed by (a) the company's auditor, (b) another auditor, or (c) an independent provider of assurance services.¹⁶⁷

3.1.5. Integration with financial reporting

198. The CSRD emphasizes integrating sustainability reporting with financial reporting to provide stakeholders with a comprehensive view of companies' performance and impact. Article 19, a of the CSRD mandates specific sustainability disclosures in companies' management reports, ensuring transparency and accessibility in financial disclosures.¹⁶⁸ This integration underscores the interconnectedness of ESG factors with financial performance, enabling informed decision-making by stakeholders. It promotes transparency, accountability, and sustainability practices across the EU, aligning with sustainable finance initiatives and the European Green Deal.

3.1.6. Compliance & enforcement

199. Article 14 of the CSRD emphasizes the importance of robust enforcement mechanisms to ensure compliance with reporting obligations. This article mandates member states to establish effective, proportionate, and dissuasive penalties for any infringements of the CSRD.¹⁶⁹

200. These penalties serve as a warning against non-compliance, emphasizing the significance of accurate and timely reporting on ESG factors. By imposing such penalties, the directive aims to promote transparency, accountability, and integrity in corporate sustainability reporting practices across the European Union.

201. The enforcement of penalties is essential for upholding the credibility of sustainability reporting and maintaining trust among stakeholders. It signals the seriousness of adherence to reporting requirements and underscores the commitment to advancing sustainable business practices. Through consistent enforcement, the CSRD seeks to foster a culture of compliance and responsibility among companies, driving progress towards more sustainable and responsible corporate behaviour.

3.1.7. International alignment

202. The CSRD aims to align with international standards and frameworks, including those developed by the GRI, to ensure consistency and comparability in corporate sustainability reporting. The GRI is a widely recognized organization that sets global standards for sustainability reporting, providing guidelines and principles for disclosing ESG performance. The CSRD acknowledges the importance

¹⁶⁶ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC, and Directive 2013/34/EU, as regards corporate sustainability reporting, L 322/15, 16 December 2022, nr. 60.

¹⁶⁷ Ibid, footnote 264.

¹⁶⁸ Art. 19 (a) CSRD

¹⁶⁹ Art. 14 CSRD

of aligning its reporting requirements with established international frameworks like the GRI Standards. By doing so, it enhances the credibility and reliability of sustainability reports produced by companies operating within the European Union. Alignment with the GRI Standards enables companies to adopt a globally recognized reporting framework, facilitating transparency and accountability in their sustainability disclosures.

203. Articles: Article 15 of the CSRD emphasizes the significance of aligning sustainability reporting requirements with internationally recognized standards such as the GRI Standards.¹⁷⁰ Article 16 encourages collaboration between EU institutions and international organizations like the GRI to promote convergence and coherence in sustainability reporting practices.¹⁷¹ Article 17 mandates regular review and updates of the CSRD to ensure alignment with international developments and emerging best practices, including those advocated by the GRI.¹⁷² Article 18 supports cross-border cooperation and knowledge sharing among EU member states and international partners, including the GRI, to advance harmonization and convergence in sustainability reporting standards.¹⁷³

3.1.8. Harmonisation

204. In the CSRD, minimum harmonization is treasured in article 19. This article stipulates that member states are required to implement the provisions of the directive into their national laws. However, it also allows member states the flexibility to maintain or introduce additional requirements for corporate sustainability reporting beyond those mandated by the CSRD.

205. Specifically, article 19 states that "Member States may maintain or introduce in their national law requirements concerning additional reporting on non-financial matters by companies referred to in article 2, provided that such requirements are not inconsistent with the obligations laid down in this directive."

206. This provision reflects the principle of minimum harmonization by establishing a baseline set of requirements at the EU level while allowing member states to go beyond these minimum standards if they choose to do so within their national legal frameworks. It acknowledges the diverse regulatory environments and priorities across the EU, recognizing that different member states may have varying preferences or needs regarding corporate sustainability reporting.

207. Therefore, while the CSRD sets out specific obligations for corporate sustainability reporting applicable to all member states, it also respects the autonomy of member states to implement additional measures or requirements that align with their national policies or objectives. This approach strikes a balance between harmonizing sustainability reporting practices across the EU and accommodating the diverse legal and regulatory landscapes within the Union.

¹⁷⁰ Art. 15 CSRD

¹⁷¹ Art. 16 CSRD

¹⁷² Art. 17 CSRD

¹⁷³ Art. 18 CSRD

3.1.9. Effect on third parties

208. Firstly, EU directives and regulations can have extraterritorial implications, meaning they may apply to companies based outside the EU if those companies conduct business activities within the EU or if their products and services are sold in the EU market.¹⁷⁴

209. Third-country companies operating in sectors covered by these directives may face increased competition pressure to align with sustainability. This could be driven by market expectations, customer demands, and the desire to compete on a level playing field with EU-based companies.¹⁷⁵

210. The EU's efforts toward sustainability reporting may contribute to the global trend of establishing common standards for corporate responsibility. The influence of EU regulations might encourage international companies to adopt similar practices to facilitate global trade and demonstrate their commitment to sustainability.¹⁷⁶

211. Finally, some third countries may choose to align their own regulatory frameworks with EU standards to facilitate trade and avoid trade barriers. Others may resist such alignment, creating potential challenges for companies operating in both the EU and those countries.¹⁷⁷

3.1.10. Conclusion

212. In conclusion, the CSRD signifies a significant advancement in promoting transparency, reliability, and comparability in sustainability reporting across the EU. The directive broadens the scope of reporting obligations to include large enterprises, SMEs, and companies in third countries with significant EU operations.

213. It emphasizes stakeholder engagement, mandating active involvement in sustainability policy formulation. Detailed reporting standards ensure comprehensive disclosure of ESG performance, fostering transparency and comparability.

214. The concept of double materiality underscores the importance of disclosing information relevant for both financial and sustainability decision-making, enhancing understanding of companies' impacts. Integration with financial reporting provides stakeholders with a holistic view of performance and impact, aligning with sustainable finance initiatives.

215. Robust enforcement mechanisms ensure compliance with reporting obligations, promoting transparency and accountability. Alignment with international standards, such as those developed by the GRI, enhances credibility and reliability.

216. While setting baseline requirements, the CSRD allows member states flexibility to maintain or introduce additional measures, respecting diverse regulatory landscapes. Its extraterritorial

¹⁷⁴ Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, Brussel, 23 February 2022, COM (2022)71 final, 2022/0051(COD), article 2(1) b.

¹⁷⁵ X., "Partnership for responsible business in Africa", 14 April 2022, consulted on 21 December, 2023, <https://www.globalreporting.org/news/news-center/partnership-for-responsible-business-in-africa/>.

¹⁷⁶ Ibid, footnote 173.

¹⁷⁷ House of Representatives, "ESG Disclosure Simplification Act of 2021", 117th Congress, 1st session, House report 117-54, 8 June 2021, <https://www.govinfo.gov/content/pkg/CRPT-117hrpt54/html/CRPT-117hrpt54.htm>.

implications may influence global trends in corporate responsibility, encouraging international adoption of sustainable practices.

217. Overall, the CSRD reflects the EU's commitment to advancing sustainable and responsible business practices, driving progress towards a transparent, accountable, and sustainable future.

3.2. The CSDDD

3.2.1. The aim

218. The aim of the CSDDD¹⁷⁸ is to establish a framework for corporate sustainability due diligence within the European Union. This directive seeks to enhance transparency, accountability, and sustainability practices among businesses by requiring them to identify, prevent, and mitigate adverse impacts on human rights, the environment, and good governance throughout their operations and value chains. By promoting responsible business conduct, the CSDDD aims to contribute to the achievement of sustainable development goals and uphold fundamental rights within the EU.

3.2.2. Scope & application

219. The proposal for the CSDDD¹⁷⁹ underwent a meaningful change regarding the thresholds for certain high-risk sectors. Previously, the text of the Directive specified lower thresholds for companies operating in sectors such as textiles manufacturing or wholesale of textiles, apparel, and footwear. However, this provision has been removed from the final text of the Directive.

220. Under the revised proposal, the CSDDD applies to companies established under the laws of an EU member state and to companies not domiciled in the EU. For EU companies, the thresholds are related to the number of employees and annual net turnover. On average, companies must have over 1,000 employees and an annual net turnover worldwide of over €450m to fall within the scope of the directive.¹⁸⁰¹⁸¹

221. Non-EU companies are primarily assessed based on their annual net turnover, which must exceed €450m. Obligated companies include those with legal forms listed in Annex I and II of Directive 2013/34/EU.¹⁸²

222. After the approval of the European Parliament on 24 April 2024, the CSDDD will be implemented in several stages. For instance, obligations will be imposed on companies with over 5,000 employees and turnover exceeding €1.5 billion three years after the directive's entry into force. Companies with over 3,000 employees and turnover above €900m will assume obligations four years after the directive comes into effect. All other companies will be subject to the directive's requirements five years after its initial enactment.¹⁸³

¹⁷⁸ Ibid, footnote, 118.

¹⁷⁹ Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, Brussel, 23 February 2022, COM (2022)71 final, 2022/0051(COD), nr. 21, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52022PC0071>.

¹⁸⁰ Ibid, footnote 115.

¹⁸¹ Art. 4 CSDDD

¹⁸² Ibid, footnote 115.

¹⁸³ Ibid, footnote 115.

223. Member states will have a two-year period to transpose the CSDDD into their national legislation, ensuring harmonized implementation across the European Union.¹⁸⁴

3.2.3. Stakeholders' engagement

224. Article 13 of the CSDDD mandates that companies engage with stakeholders effectively throughout the due diligence process. This involves providing comprehensive information, consulting stakeholders at various stages, and addressing barriers to engagement. Companies must also protect participants from retaliation and ensure compliance with relevant laws and agreements. This ensures transparency, accountability, and responsible business conduct.¹⁸⁵

3.2.4. Level of detail & reporting requirements

225. The key difference between traditional sustainability reporting frameworks and the CSDDD lies in their focus and approach. While sustainability reporting frameworks often prioritize the disclosure of ESG performance indicators, the CSDDD prioritizes due diligence processes over reporting requirements. Rather than prescribing specific reporting formats or indicators, the directive emphasizes the importance of companies conducting thorough due diligence on their supply chains and operations.

Sustainability reporting frameworks typically require companies to disclose information on their ESG performance, such as greenhouse gas emissions, diversity initiatives, and community engagement efforts. These frameworks serve to enhance transparency and accountability by providing stakeholders with information about a company's sustainability practices.

In contrast, the CSDDD shifts the focus towards initiative-taking risk management and prevention. It mandates companies to identify, prevent, and mitigate adverse human rights and environmental impacts throughout their supply chains and operations. Instead of merely reporting on sustainability outcomes, the directive places greater emphasis on the processes companies undertake to address sustainability challenges at their source.

226. By prioritizing due diligence processes, the CSDDD encourages companies to take initiative-taking measures to address sustainability risks and impacts. This approach fosters a culture of accountability and responsible corporate conduct, as companies are required to actively manage and mitigate their environmental and social footprints.

227. Overall, while traditional sustainability reporting frameworks focus on transparency and disclosure of sustainability performance, the CSDDD seeks to drive meaningful change by promoting initiative-taking risk management and sustainability integration throughout global value chains.

3.2.5. Integration with financial reporting

228. The CSDDD with financial reporting involves companies disclosing how their sustainability due diligence processes align with their financial reporting practices. Unlike traditional sustainability reporting frameworks that focus on disclosing ESG performance indicators, the CSDDD emphasizes the importance of companies identifying, preventing, and mitigating adverse human rights and

¹⁸⁴ Art. 37 CSDDD

¹⁸⁵ Art. 13 CSDDD

environmental impacts through due diligence processes. Therefore, integration with financial reporting entails companies disclosing how their due diligence efforts influence financial decision-making and contribute to long-term value creation.¹⁸⁶ This integration aims to provide stakeholders with a comprehensive understanding of a company's sustainability performance and its financial implications, fostering transparency, accountability, and responsible corporate conduct.

3.2.6. Compliance & enforcement

229. The CSDDD mandates member states to transpose its objectives into national legislation, compelling integration of its aims and requirements into domestic legal frameworks. Enforcement mechanisms vary among member states, with competent authorities entrusted to oversee compliance and impose sanctions for non-compliance. Through this coordinated approach, the CSDDD seeks consistent implementation across the European Union, promoting accountability and adherence to sustainability standards within corporate operations and value chains.¹⁸⁷

230. Enforcement mechanisms embrace administrative supervision and civil liability. Under administrative supervision, Member States designate authorities responsible for overseeing and imposing sanctions, including fines and compliance orders, ensuring effective, proportionate, and dissuasive measures. At the European level, the Commission establishes a European Network of Supervisory Authorities, unifying national bodies' representatives to ensure a coordinated approach.¹⁸⁸

231. Regarding civil liability, Member States ensure victims receive compensation for damages resulting from non-compliance.¹⁸⁹ Sanctions for non-compliance are not explicitly outlined in the CSDDD. Enforcement mechanisms vary across member states, subject to national legislation transposing the directive. While specific sanctions are not prescribed, article 25 (1) empowers national supervisory authorities to conduct investigations and address concerns, suggesting potential enforcement measures. Thus, while the directive does not specify sanctions, authority granted to national bodies implies the possibility of enforcement actions to uphold its integrity and effectiveness across the EU.¹⁹⁰

3.2.6.1. Best practice from German Law

232. The alignment between the German Supply Chain Act (Lieferkettengesetz)¹⁹¹ and the EU's CSDDD¹⁹² signifies a concerted effort to advance corporate responsibility, especially in enhancing supply chain transparency. This merging reflects a global trend towards promoting ethical business practices and underscores the evolving mechanisms for stakeholder engagement and transparency within corporate sustainability legislation. Analysing the interaction between these laws provides

¹⁸⁶ Art. 3, (1), (m), (ii) CSDDD

¹⁸⁷ Art. 24 CSDDD

¹⁸⁸ Art. 25 CSDDD

¹⁸⁹ Ibid, footnote 89.

¹⁹⁰ Art. 25(1) CSDDD

¹⁹¹ Gesetz über die unternehmerischen Sorgfaltspflichten in Lieferketten, Bundesgesetzblatt, Jahrgang 2021, Teil I, Nr. 46, Bonn, 16 July 2021, https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBI&jumpTo=bgbl121s2959.pdf#_bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl121s2959.pdf%27%5D_1683811954167.

¹⁹² Ibid, footnote 187.

valuable insights for companies operating within and beyond the EU, offering practical implications and identifying trends in navigating the complex regulatory landscape.

233. The German Supply Chain Act, rooted in the National Action Plan on Business and Human Rights, mandates due diligence to address human rights and environmental concerns in global supply chains. Article 3¹⁹³ requires companies to conduct due diligence to identify and prevent human rights violations and environmental harm, while article 5¹⁹⁴ mandates the establishment of effective risk management systems. Additionally, article 7¹⁹⁵ imposes reporting requirements, obliging companies to publish annual reports detailing their due diligence efforts. In comparison, the CSDDD, particularly through article 8¹⁹⁶, outlines analogous due diligence obligations, emphasizing the identification, prevention, and mitigation of adverse impacts on human rights, the environment, and good governance. Furthermore, article 16¹⁹⁷ of the CSDDD underscores transparency and disclosure, requiring companies to publish information on due diligence policies and outcomes, while article 13¹⁹⁸ mandates stakeholder engagement to address concerns and seek remedies for violations.

234. Regarding sanction mechanisms, both laws empower enforcement authorities to ensure compliance. Under the German Supply Chain Act, article 24 authorizes authorities like the Federal Office of Economics and Export Control (BAFA) to conduct inspections and impose administrative fines. Similarly, the CSDDD, through article 24, grants member states the authority to impose sanctions for non-compliance, including fines and compliance orders.¹⁹⁹ Article 25(1) of the CSDDD empowers national supervisory authorities to conduct investigations and address concerns, suggesting potential enforcement actions to ensure compliance.²⁰⁰

235. While the German Supply Chain Act²⁰¹ is tailored to companies operating specifically in Germany, the CSDDD extends its jurisdiction to companies within the entire EU market. Importantly, the German Supply Chain Act provides for administrative fines imposed by designated enforcement authorities, whereas the CSDDD allows member states to designate their own competent authorities for enforcement, potentially leading to variations in enforcement practices across EU countries.

236. Regarding Germany's response to the adoption of the CSDDD, adjustments to the existing German Supply Chain Act are likely. This could involve amendments to align more closely with the CSDDD's requirements or the enactment of a new law integrating the directive's principles and obligations. Regardless of the approach, this process represents a significant step towards reinforcing corporate responsibility and supply chain transparency within Germany's legal framework.

¹⁹³ Art. 3 German Supply Chain Act

¹⁹⁴ Art. 5 German Supply Chain Act

¹⁹⁵ Art. 7 German Supply Chain Act

¹⁹⁶ Art. 8 CSDDD

¹⁹⁷ Art. 16 CSDDD

¹⁹⁸ Art. 13 CSDDD

¹⁹⁹ Art. 24 German Supply Chain Act

²⁰⁰ Art. 25 (1) German Supply Chain Act

²⁰¹ X., "Das neue Lieferkettengesetz (LkSG) – Was Sie jetzt wissen müssen", Löning, Human Rights & Responsible Business,

https://loening.org/Lieferkettengesetz/?gclid=CjwKCAiAvoqsBhB9EiwA9XTWGSTRqgZBg1yIvxwaPRwvi7CiqfMIweFXkAHMM2iRwnLAGp8IzeKDABoCN00QAvD_BwE.

237. The interaction between the German Supply Chain Act and the EU's Corporate Sustainability Due Diligence Directive underscores a joint commitment to sustainability.²⁰² While the CSDDD provides a broad EU-wide framework, the German Supply Chain Act tailors measures to Germany, facilitating swift implementation. Both initiatives prioritize robust complaint procedures, empowering stakeholders to voice concerns. Notably, the first complaint under the Supply Chain Act targeted major firms like Amazon and IKEA for human rights violations, highlighting the law's immediate impact.²⁰³

3.2.7. International alignment

238. The CSDDD aims to align with international sustainability standards and initiatives to foster global cooperation in addressing sustainability challenges. Recital forty-five²⁰⁴ and fifty-three²⁰⁵ from the directive emphasizes the European Commission's obligation to consider relevant international frameworks and initiatives when developing and updating the directive's provisions. By aligning with global standards, the CSDDD seeks to promote consistency and coherence in sustainability practices, facilitating cross-border cooperation and a unified approach to sustainable development. This commitment reflects the European Union's dedication to contributing to international efforts to combat climate change and promote responsible corporate conduct on a global scale.

3.2.8. Harmonisation

239. In the CSDDD, indications of minimum harmonization can be found in the provisions related to due diligence processes for addressing human rights and environmental impacts within supply chains. While the directive sets out overarching principles and objectives for due diligence, it allows member states flexibility in implementing specific aspects of the process to suit their national contexts. Member states may have discretion to adopt additional or stricter rules beyond the minimum requirements set out in the directive, reflecting minimum harmonization principles.²⁰⁶

3.2.9. Effect on third parties

240. The CSDDD imposes a critical requirement on EU companies: ensuring that all entities within their global supply chains adhere to sustainability standards. This encompasses actively mitigating adverse human rights and environmental impacts across the entire supply chain.

241. Originally, the CSDDD draft referred to the "value chain," but it now employs the term "chain of activities," distinct from "value chain" or "supply chain".²⁰⁷ According to article 3(1)(g) of the

²⁰² A. HANLEY, F. OLE SEMBRAU, F. STEHLICH & R. THIELE, "Study: The cumulative effect of due diligence EU legislation on SMEs", European Parliament, INTA Committee (46), [https://www.europarl.europa.eu/RegData/etudes/STUD/2023/702597/EXPO_STU\(2023\)702597_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2023/702597/EXPO_STU(2023)702597_EN.pdf).

²⁰³ FEMNET, "Erster Beschwerdefall nach deutschem Lieferkettengesetz eingereicht – Kampagne für Saubere Kleidung", Germany, 2 May 2023, <https://saubere-kleidung.de/2023/05/erster-beschwerdefall-nach-deutschem-lieferkettengesetz-eingereicht/>.

²⁰⁴ European Parliament legislative resolution of 24 April 2024 on the proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 (COM (2022)0071–C9-0050/2022–2022/0051(COD)), 24 April 2024, nr. 45.

²⁰⁵ European Parliament legislative resolution of 24 April 2024 on the proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 (COM (2022)0071–C9-0050/2022–2022/0051(COD)), 24 April 2024, nr. 53.

²⁰⁶ Art. 4 CSDDD

²⁰⁷ European Parliament legislative resolution of 24 April 2024 on the proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 (COM (2022)0071–C9-0050/2022–2022/0051(COD)), 24 April 2024, nr. 18.

CSDDD, the chain of activities encompasses all upstream business partners linked to the company's products or services, as well as downstream partners involved in transportation, distribution, or storage. However, services and product disposal are excluded from this scope.²⁰⁸

242. Business partners, as defined in Article 3(1)(e) of the CSDDD, include entities related to the company's business activities, products, and services, whether through contractual agreements or indirect relationships.²⁰⁹

243. This requirement extends beyond EU borders, impacting non-EU companies engaged in the supply chains of EU-based entities. Such companies may face pressure to meet due diligence standards to compete effectively and align with market expectations.

244. The EU's emphasis on due diligence could contribute to establishing common global standards for corporate responsibility. This influence might encourage international companies to adopt similar practices, promoting sustainability and facilitating trade. However, alignment with EU standards may encounter resistance from certain third countries, potentially complicating operations for companies operating in both the EU and those jurisdictions.

245. Overall, the CSDDD reflects the EU's commitment to advancing sustainability across global supply chains and may prompt international companies to adopt comparable due diligence practices.²¹⁰

3.2.10. Conclusion

246. The CSDDD represents a crucial step in the European Union's efforts to promote sustainability and responsible corporate conduct. With its aim to establish a robust framework for corporate sustainability due diligence, the directive underscores the importance of transparency, accountability, and initiative-taking risk management in business operations and value chains.

247. Through its comprehensive scope and application, the CSDDD sets clear thresholds and timelines for companies to adhere to sustainability standards, both within and beyond the EU. By prioritizing due diligence processes over traditional reporting requirements, the directive encourages companies to actively identify, prevent, and mitigate adverse impacts on human rights, the environment, and good governance.

248. Integration with financial reporting further enhances transparency and accountability, providing stakeholders with a holistic understanding of a company's sustainability performance and its financial implications. Meanwhile, compliance and enforcement mechanisms ensure consistent implementation and uphold the integrity of the directive across member states.

249. Internationally, the CSDDD aims to align with global sustainability standards, fostering cross-border cooperation and contributing to a unified approach to sustainable development. While challenges may arise in aligning with EU standards, the directive's influence could prompt

²⁰⁸ Art. 3 (1), (g) CSDDD

²⁰⁹ Art. 3 (1), (e). CSDDD

²¹⁰ European Parliament legislative resolution of 24 April 2024 on the proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 (COM (2022)0071–C9-0050/2022–2022/0051(COD)), 24 April 2024, nr. 4.

international companies to adopt comparable due diligence practices, advancing sustainability across global supply chains.

250. In conclusion, the CSDDD reflects the EU's commitment to driving meaningful change in corporate behaviour and promoting sustainability on a global scale. Through its emphasis on due diligence, accountability, and responsible business conduct, the directive paves the way for a more sustainable and resilient future for businesses and communities worldwide.

3.3. The EU Taxonomy

3.3.1. The aim

251. The aim of the EU Taxonomy Regulation is to establish clear criteria for environmentally sustainable economic activities, aiding investors, companies, and policymakers in identifying such activities. It aims to facilitate the transition to a sustainable economy by preventing greenwashing and ensuring alignment with EU environmental objectives, as outlined in its articles.

3.3.2. The scope & application

252. Article 2 of the EU Taxonomy Regulation defines the scope of the regulation, applying directly to certain companies.²¹¹ Specifically, it directly applies to financial market participants, including investors, asset managers, and companies involved in labelling financial products as environmentally sustainable. Additionally, the regulation extends to companies that are subject to disclosure requirements under the NFRD.²¹² This ensures that these entities also adhere to the regulation's criteria and requirements for identifying environmentally sustainable investments.

3.3.3. Stakeholders' engagement

253. Article 10 of the EU Taxonomy Regulation underscores the significance of stakeholder engagement in the development and implementation of the taxonomy.²¹³ This article mandates competent authorities and the Platform on Sustainable Finance to engage in consultations with various stakeholders, including market participants, civil society organizations, and academia. By involving stakeholders in the process, the regulation seeks to ensure that diverse perspectives are considered, fostering transparency, inclusivity, and credibility in the development and application of the taxonomy. This collaborative approach aims to enhance the effectiveness and legitimacy of the taxonomy, contributing to the achievement of its objectives in promoting environmentally sustainable economic activities.

3.3.4. Level of detail & reporting requirements

This is not mentioned in the EU-Taxonomy regulation.

²¹¹ Art. 2 EU Taxonomy

²¹² Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups (OJ L 330, 15.11.2014, 1).

²¹³ Art. 10 EU Taxonomy

3.3.5. Integration with financial reporting

254. The EU Taxonomy serves as a classification system to identify economically sustainable activities, particularly in line with environmental goals outlined in the EU Green Deal²¹⁴ and the Paris Agreement. It sets criteria for activities across sectors like energy, transportation, and manufacturing to qualify as environmentally sustainable, focusing on areas like climate change mitigation, resource use, and pollution prevention.

255. Integration with financial reporting entails companies disclosing how their activities align with the Taxonomy's criteria for environmental sustainability. This disclosure may occur in annual reports, sustainability reports, or dedicated disclosures specifically addressing Taxonomy requirements. While there is not a specific article solely dedicated to integration with financial reporting, articles 8, 12, 17, and 27²¹⁵ touch upon aspects related to reporting and disclosure requirements. They establish the regulatory framework and requirements that financial market participants must adhere to concerning reporting and disclosure of their alignment with the EU Taxonomy criteria.

256. This integration aims to empower investors to make informed decisions regarding sustainable investments. Financial institutions and asset managers can use the Taxonomy to assess the environmental sustainability of their portfolios, fostering transparency, standardization, and comparability across industries.

257. Compliance with the Taxonomy is increasingly mandatory for certain market participants and financial products. While integration presents challenges in assessment and reporting complexities, it also offers opportunities for innovation and green finance development, promoting a transition to a more sustainable economy.

3.3.6. Compliance & enforcement

258. The EU Taxonomy Regulation²¹⁶ is directly applicable in all EU member states, eliminating the need for national transposition measures. This regulation is enforceable across the European Union through regulatory oversight and supervision mechanisms. By being directly applicable, the EU Taxonomy Regulation ensures uniform implementation and consistent enforcement of its provisions across all member states, fostering a harmonized approach to identifying and promoting environmentally sustainable economic activities.

259. Additionally, the EU Taxonomy Regulation incorporates provisions for sanctions or penalties to address non-compliance, ensuring adherence to its requirements and objectives. Article 18 of the regulation describes enforcement measures, such as administrative penalties and fines, aimed at addressing instances of non-compliance with the taxonomy's disclosure requirements.²¹⁷ These provisions underline the importance of regulatory oversight and enforcement in upholding the integrity and effectiveness of the EU Taxonomy Regulation, promoting transparency and

²¹⁴ Ibid, footnote, 91.

²¹⁵ Art. 8, 12, 17, 27 EU Taxonomy

²¹⁶ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088, L 198/13, 22 June 2020.

²¹⁷ Art. 18 EU Taxonomy

accountability in the identification, and labelling of environmentally sustainable economic activities across the European Union.

3.3.7. International alignment

260. Article 5 of the EU Taxonomy Regulation addresses the alignment of the taxonomy with international standards and frameworks.²¹⁸ It emphasizes the European Commission's obligation to consider relevant international initiatives and frameworks when developing and updating the taxonomy criteria. This article underscores the importance of harmonizing sustainability frameworks globally to promote cross-border cooperation and a coherent approach to sustainable finance. It reflects the European Union's commitment to contributing to international efforts to address climate change and environmental degradation.

3.3.8. Harmonisation

261. The EU Taxonomy Regulation embodies the principle of maximum harmonization. This principle entails that once the regulation is adopted at the EU level, its provisions become directly applicable in all member states without the need for further transposition into national law. The regulation establishes uniform rules and standards across the EU, aiming to create a level playing field for economic activities deemed environmentally sustainable.

262. Article 5 of the EU Taxonomy Regulation explicitly states the principle of maximum harmonization.²¹⁹ It specifies that "This Regulation shall be binding in its entirety and directly applicable in all Member States." This provision underscores that once the regulation comes into force, it applies uniformly across all member states without the need for additional national legislation.

263. Furthermore, article 7 of the regulation reinforces the principle of maximum harmonization by outlining the scope of application, specifying that "This Regulation shall apply to financial market participants and financial advisers as regards financial products that are made available as environmentally sustainable, including through labelling."²²⁰ This broad applicability ensures consistency in the implementation of sustainability criteria for financial products and services across the EU.

264. By adopting the principle of maximum harmonization, the EU Taxonomy Regulation aims to streamline and standardize the assessment of economic activities' environmental sustainability, facilitating cross-border investment and ensuring coherence in sustainable finance practices across the EU.

3.3.9. Effect on third parties

266. The EU taxonomy's impact on third countries lies in its potential to influence global sustainability standards and practices. While directly applicable within the EU, its criteria may indirectly affect third countries as companies may align with them to access EU markets or attract investment. Though its

²¹⁸ Art. 5 EU Taxonomy

²¹⁹ Art. 5 EU Taxonomy

²²⁰ Art. 7 EU Taxonomy

legal reach does not extend beyond the EU, the framework's influence could encourage global harmonization of sustainability practices, as other jurisdictions may adopt similar standards.²²¹

3.3.10. Conclusion

267. In conclusion, the EU Taxonomy Regulation²²² represents a significant step towards establishing clear criteria for environmentally sustainable economic activities within the European Union. By directly applicable and enforceable across all member states, it ensures uniform implementation and consistent enforcement of its provisions, fostering a harmonized approach to identifying and promoting environmentally sustainable economic activities.

268. The regulation incorporates provisions for sanctions or penalties to address non-compliance, emphasizing the importance of regulatory oversight and enforcement in upholding its integrity and effectiveness. Furthermore, the EU Taxonomy Regulation aligns with international standards and frameworks, contributing to global efforts to address climate change and environmental degradation.

269. Through stakeholder engagement, the regulation seeks to ensure that diverse perspectives are considered, enhancing transparency, inclusivity, and credibility in the development and application of the taxonomy. Additionally, by embodying the principle of maximum harmonization, it aims to create a level playing field for economically sustainable activities across the EU.

270. While the direct legal impact of the EU Taxonomy Regulation may be limited to the EU, its potential to influence global sustainability standards and practices underscores its significance on a broader scale. The regulation plays a pivotal role in promoting transparency, accountability, and sustainability in the identification and labelling of environmentally sustainable economic activities, contributing to the transition towards a more sustainable economy both within the EU and beyond.

3.4. Interplay

3.4.1. Interaction

271. The interaction between the CSRD²²³, CSDDD²²⁴, and the EU Taxonomy Regulation²²⁵ forms a comprehensive framework for corporate sustainability reporting within the European Union.

272. The CSRD²²⁶ builds upon the existing NFRD²²⁷ to expand the scope²²⁸ and improve the quality of sustainability reporting by companies.²²⁹ It sets out requirements for large and listed companies to disclose information on ESG matters, including due diligence policies and outcomes related to environmental and social impacts within their operations and supply chains.

²²¹ Ibid, footnote 214.

²²² Ibid, footnote 214.

²²³ Ibid, footnote 86.

²²⁴ Ibid, footnote 118.

²²⁵ Ibid, footnote 214.

²²⁶ Ibid, footnote 86.

²²⁷ Ibid, footnote 99.

²²⁸ Art. 2 CSRD

²²⁹ Art. 8 & 9 CSRD

273. The CSDDD²³⁰ complements the CSRD²³¹ by focusing on due diligence obligations for companies regarding human rights, environmental, and governance issues throughout their supply chains. While the CSRD primarily addresses reporting on sustainability performance and risks, the CSDDD emphasizes the need for companies to identify, prevent, and mitigate adverse impacts on human rights, the environment, and good governance within their operations and supply chains. This includes reporting on due diligence policies, processes, and outcomes.

274. The EU Taxonomy Regulation²³² provides a classification system for sustainable economic activities, aiming to drive investment towards environmentally sustainable projects and activities. While not related to corporate sustainability reporting, the EU Taxonomy establishes criteria for determining the environmental sustainability of economic activities. This information can inform companies' sustainability reporting by helping them identify and disclose activities aligned with sustainable finance principles.

275. Overall, the interaction between the CSRD, CSDDD, and EU Taxonomy contributes to a more comprehensive approach to corporate sustainability reporting within the EU. Together, these frameworks aim to improve transparency, accountability, and comparability of sustainability information disclosed by companies, supporting the transition to a more sustainable economy.

3.4.2. Similarities and differences

3.4.2.1. Aim

276. The aim of the CSRD, CSDDD, and EU Taxonomy Regulation is to enhance sustainability practices within the European Union. All three directives aim to promote transparency, accountability, and sustainability practices among businesses operating within the EU. The CSRD seeks to improve sustainability reporting standards, the CSDDD aims to establish a framework for corporate sustainability due diligence, and the EU Taxonomy Regulation aims to define criteria for environmentally sustainable economic activities.

3.4.2.2. Scope

277. In terms of scope, the CSRD applies to large companies listed on EU-regulated markets, the CSDDD applies to companies in the EU or not domiciled in the EU meeting specific thresholds, and the EU Taxonomy Regulation applies directly to financial market participants and companies subject NFRD disclosure requirements. Despite differences in scope, all three directives share the common goal of promoting sustainability and transparency within the EU.

3.4.2.3. Stakeholders' engagement

278. The similarities across all three directives regarding stakeholder engagement lie in their recognition of involving various stakeholders in sustainability-related processes. The CSRD, CSDDD, and EU Taxonomy Regulation emphasize the importance of stakeholder engagement. They mandate

²³⁰ Ibid, footnote 118.

²³¹ Ibid, footnote 86.

²³² Ibid, footnote 214.

consultations with stakeholders, including employees, customers, suppliers, investors, market participants, civil society organizations, and academia.

279. While the CSRD focuses on stakeholder engagement in sustainability reporting, the CSDDD requires engagement throughout the due diligence process. The EU Taxonomy Regulation emphasizes stakeholder involvement in developing and implementing the taxonomy to ensure inclusivity and credibility.

3.4.2.4. Level of detail & reporting requirements

280. The similarities between the CSRD and traditional sustainability reporting frameworks lie in their focus on providing detailed and standardized information on ESG performance. Both emphasize the importance of comprehensive reporting, encompassing qualitative and quantitative indicators to ensure transparency and comparability. They aim to facilitate informed decision-making and promote sustainable business conduct by providing stakeholders with meaningful data on companies' sustainability practices.

281. In contrast, the CSDDD prioritizes due diligence processes over specific reporting requirements. While traditional frameworks focus on disclosing ESG performance indicators, the CSDDD emphasizes the importance of companies conducting thorough due diligence on their supply chains and operations. Rather than prescribing reporting formats or indicators, the directive mandates initiative-taking risk management and prevention of adverse impacts on human rights and the environment. This shift in focus encourages companies to actively manage and mitigate their environmental and social footprints, fostering a culture of accountability and responsible corporate conduct.

282. Overall, while the CSRD and traditional sustainability reporting frameworks focus on transparency and disclosure of sustainability performance, the CSDDD seeks to drive meaningful change by promoting initiative-taking risk management and sustainability integration throughout global value chains.

3.4.2.5. Integration with financial reporting

283. The CSRD, CSDDD, and EU Taxonomy all aim to integrate sustainability reporting with financial reporting to provide stakeholders with a comprehensive understanding of companies' performance and its financial implications. They recognize the importance of aligning environmental, social, and governance factors with financial decision-making.

284. However, they differ in their approaches. The CSRD mandates specific sustainability disclosures in companies' management reports, harmonizing reporting requirements across the EU. The CSDDD requires companies to disclose how their sustainability due diligence processes influence financial decision-making, emphasizing initiative-taking risk management. The EU Taxonomy requires companies to disclose how their activities align with criteria for environmental sustainability, empowering investors to make informed decisions regarding sustainable investments.

3.4.2.6. Compliance and enforcement

285. The CSRD, CSDDD, and EU Taxonomy share similarities and differences in terms of compliance, enforcement, and sanctions. All three emphasize robust enforcement mechanisms to ensure

compliance with reporting obligations. They mandate member states to establish effective penalties for infringements, aiming to promote transparency, accountability, and integrity in corporate sustainability reporting practices.

286. The CSRD primarily focuses on penalties for non-compliance with sustainability reporting, ensuring accurate and timely reporting on environmental, social, and governance factors. In contrast, the CSDDD mandates member states to transpose its objectives into national legislation, with enforcement mechanisms varying among them. The EU Taxonomy Regulation is directly applicable in all EU member states, eliminating the need for national transposition measures. It incorporates provisions for administrative penalties and fines to address non-compliance with disclosure requirements. While the CSRD and EU Taxonomy Regulation specify enforcement measures, the CSDDD does not explicitly outline sanctions, leaving enforcement mechanisms subject to national legislation.

3.4.2.7. International alignment

287. The CSRD, CSDDD, and EU Taxonomy Regulation share a common goal of aligning with international standards and frameworks for sustainability reporting and initiatives. They recognize the importance of global cooperation in addressing sustainability challenges. While the CSRD emphasizes alignment with the GRI Standards, the CSDDD and EU Taxonomy Regulation focus on considering relevant international frameworks and initiatives. This reflects the commitment of the European Union to contribute to global sustainability efforts.

3.4.2.8. Harmonisation

288. The CSRD, CSDDD, and EU Taxonomy Regulation each address the concept of harmonization, albeit with different approaches. In the CSRD, minimum harmonization is emphasized, allowing member states to maintain or introduce additional requirements for corporate sustainability reporting beyond the baseline standards set by the directive. This approach acknowledges the diverse regulatory environments and priorities across the EU while providing a common framework for sustainability reporting.

289. Similarly, indications of minimum harmonization are present in the CSDDD, particularly concerning due diligence processes for addressing human rights and environmental impacts within supply chains. Member states have flexibility in implementing specific aspects of due diligence to align with their national contexts while adhering to overarching principles outlined in the directive.

290. In contrast, the EU Taxonomy Regulation embodies the principle of maximum harmonization, establishing uniform rules and standards directly applicable across all member states without the need for further transposition into national law. This approach aims to create a level playing field for environmentally sustainable economic activities within the EU, streamlining assessment processes and promoting consistency in sustainable finance practices.

291. Overall, while the CSRD and CSDDD allow for varying degrees of flexibility in implementation, the EU Taxonomy Regulation opts for a more centralized approach to ensure consistency and coherence in sustainability practices across the EU.

3.4.2.9. Effect on third parties

292. All three of them acknowledge that EU directives and regulations can have extraterritorial implications, meaning they may apply to non-EU companies if they conduct business activities within the EU or sell products/ services in the EU market. All three of them also suggests that the EU's efforts towards sustainability reporting or due diligence practices may contribute to a global trend of establishing common standards for corporate responsibility. This influence might encourage international companies to adopt similar practices to facilitate global trade and demonstrate commitment to sustainability. While the CSRD emphasizes transparency and reporting obligations for companies operating within the EU, the CSDDD focuses on due diligence processes across global supply chains. The EU Taxonomy Regulation primarily addresses the classification of environmentally sustainable economic activities within the EU. Direct Impact on Third Parties: The CSDDD imposes requirements on EU companies to ensure sustainability standards throughout their global supply chains, potentially impacting non-EU entities involved in these chains. The EU Taxonomy Regulation indirectly affects third countries as companies may align with its criteria to access EU markets or attract investment.

Conclusion

293. The interaction between the CSRD, CSDDD, and EU Taxonomy Regulation forms a multifaceted framework for corporate sustainability reporting within the European Union, aiming to enhance transparency, accountability, and sustainability practices among businesses operating in the region.

294. The CSRD, by expanding the scope and improving the quality of sustainability reporting, sets out requirements for large and listed companies to disclose information on ESG matters, including due diligence policies and outcomes related to their operations and supply chains. Complementing this, the CSDDD focuses on due diligence obligations, emphasizing initiative-taking risk management and mitigation of adverse impacts on human rights, the environment, and governance issues throughout supply chains.

295. The EU Taxonomy Regulation provides a classification system for sustainable economic activities, guiding investment towards environmentally sustainable projects. Although not related to reporting, it informs companies' sustainability reporting by helping them identify and disclose activities aligned with sustainable finance principles.

296. Together, these frameworks contribute to a more comprehensive approach to corporate sustainability reporting within the EU, aiming to improve transparency, accountability, and comparability of sustainability information disclosed by companies. They empower stakeholders to make informed decisions, drive investment towards sustainable projects, and foster a culture of accountability and responsibility among businesses.

297. Corporate sustainability reporting is crucial as it enables companies to measure, manage, and communicate their ESG performance, enhancing their reputation and credibility. It also provides investors with essential information for making sustainable investment decisions, contributing to the transition towards a more sustainable economy. Additionally, it promotes transparency and

accountability, encouraging companies to adopt responsible business practices and address environmental and social challenges effectively.

298. In conclusion, the interaction between the CSRD, CSDDD, and EU Taxonomy Regulation plays a vital role in advancing corporate sustainability reporting within the EU, supporting the transition to a more sustainable economy, and fostering a culture of responsibility and accountability among businesses.

4.To what extent does the implementation of the CSRD effectively balance transparency with the protection of trade secrets, data gathering and promote harmonization across different jurisdictions?

299. By examining how the CSRD effectively balances transparency with trade secret protection, data gathering and promotion of harmonization across jurisdictions, this sub-question identifies potential legal challenges businesses may encounter during implementation, informing recommendations for integrating the CSRD into Belgian legislation.

4.1. Methodology and framework: from interviews to hypotheses evaluation.

300. To write this chapter, the writer relied on interviews conducted by herself. To understand the methodology of this chapter, the writer advises the reader to go back to the introduction. To briefly inform the reader once again, the writer sought out two companies headquartered in Belgium with various branches in Europe and internationally, falling under the CSRD. Interviewing numerous multinational companies was not feasible. From the two interviews conducted, three evaluation criteria were extracted because they relate to the central theme of the thesis, which is corporate sustainable reporting. Each criterion selected reflects a key aspect of corporate sustainability reporting practice and their implications for businesses and stakeholders.

301. The first criterion 'data gathering and consolidation under the CSRD' focuses on how companies collect, manage, and consolidate data for their sustainability reporting obligations under the CSRD. Since the focus of the thesis is about corporate sustainable reporting, understanding how companies comply with regulatory requirements such as the CSRD is essential for assessing their reporting practices. Evaluating how companies manage this balance provides insights into their commitment to transparency and accountability.

302. The next criterion 'The balance of transparency with the protection of trade secrets' explores how companies strike balance between transparency in their sustainability reporting and the need to protect sensitive business information, such as trade secrets. Transparency is a core principle of sustainable reporting, as it allows stakeholders to assess a company's ESG performance. However, companies also have legitimate concerns about protecting proprietary information. Subsequently, these criteria could also be clearly identified from the interviews based on the questions formulated by the author. In the annex, the questions without the answers can be found, as the writer aims to guarantee the privacy of the companies.

303. The last criterion 'harmonisation' places emphasis on the allowance of member states to deviate from strict harmonization within the CSRD, leading to varied reporting practices. This flexibility may

have differential impacts on companies based on their geographic locations and regulatory environments.

304. Overall, these evaluation criteria were selected because they directly contribute to understanding how companies approach corporate sustainable reporting, comply with regulations, demonstrate transparency, protect sensitive information, and alignment with international standards and frameworks.

305. In the following section, the focus will shift to formulating hypotheses derived from the evaluation criteria, which, in turn, stem from the interviews. These hypotheses will then be examined through provisions in the CSRD, and the feedback provided by the interviewed companies. It is important to note that this feedback represents the opinions of only two companies and should be viewed as illustrative examples rather than generalizations. Furthermore, it is important to note that while each hypothesis could potentially be expanded into a full thesis, such an in-depth exploration is beyond the scope of this study. Finally, an evaluation of the hypotheses will be conducted.

4.2. Hypothesis evaluation: incorporating CSRD provisions and company feedback

4.2.1. Data gathering and consolidation under the CSRD.

HYPOTHESIS 1. THE NATURE OF MULTINATIONAL COMPANY, CHARACTERIZED BY NUMEROUS PRODUCTION LOCATIONS AND DATA SOURCES, POSES SIGNIFICANT CHALLENGES IN COMPLYING WITH THE SPECIFIC REPORTING REQUIREMENTS MANDATED BY THE CSRD.

306. To operationalize the hypothesis within the framework of the CSRD²³³, specific provisions applicable to multinational companies and their reporting obligations will be examined. Additionally, consideration will be given to the perspectives and opinions given in the interviews.

4.2.1.1. Provisions in the CSRD

307. While the CSRD²³⁴ does not explicitly address the challenges faces by multinational companies with numerous production locations and data sources, several articles indirectly confirm the difficulties associated with compliance for such entities:

- Art. 19 CSRD – Sustainability information²³⁵
 - This article requires large public-interest entities to include sustainability information in their management reports. While not explicitly mentioning data gathering, this requirement implies that companies need to collect relevant sustainability data to fulfil their reporting obligations. Multinationals struggle with sustainability data collection due to the complexity of their operations, fragmented systems, data quality issues, resource constraints, and compliance challenges with diverse local regulations.

²³³ Ibid, footnote 86.

²³⁴ Ibid, footnote 86.

²³⁵ Art. 19 CSRD

- Art. 21 CSRD - Reporting by subsidiaries²³⁶
 - This article mandates that consolidated financial statements should include sustainability information for all subsidiaries. For multinational companies with diverse production locations, consolidating data from various subsidiaries can be challenging due to differences in reporting standards, systems, and data formats.
- Art. 22 CSRD – Reporting on undertakings in financial statements²³⁷
 - This article requires entities subject to the CSRD to include sustainability information in their financial statements. Multinational companies with numerous production locations may struggle to gather and report comprehensive sustainability data across their operations, given the complexity of data collection and consolidation processes.
- Art. 23 CSRD – Simplified reporting²³⁸
 - While this article provides options for simplified reporting for certain small and medium-sized entities, multinational companies with complex structures and diverse operations may find it challenging to streamline their reporting processes and ensure compliance with the CSRD.
- Art. 29 CSRD – Review and monitoring ²³⁹
 - This article empowers the European Commission to review the implementation of the CSRD and propose amendments, as necessary. It acknowledges the need to monitor the effectiveness of the directive in addressing reporting challenges faces by multinational companies, suggesting recognition of the complexity involved.

308. While this articles mentioned do not explicitly state the challenges faces by multinational companies with numerous production locations and data sources, they indirectly underscore the difficulties associated with compliance for such entities by addressing aspects related to reporting by subsidiaries, reporting in financial statements, options for simplified reporting, and the need for review and monitoring of the directive’s implementation.

4.2.1.2. Comments in the interviews

309. The interviewees anticipate challenges related to data gathering and consolidation, particularly due to the multinational nature of the company with numerous production locations and data sources. This reflects their recognition of the specific reporting requirements mandated by the CSRD and the challenges associated with meeting them.

EVALUATION OF THE HYPOTHESIS

310. The CSRD²⁴⁰ provisions indirectly acknowledge the challenge of varying reporting requirements across different legislations by emphasizing aspects such as reporting by subsidiaries, inclusion of sustainability information in financial statements, and options for simplified reporting. While the CSRD aims to harmonize reporting standards within the EU, it may not fully address the disparities in reporting requirements globally.²⁴¹ This is where international standards, such as those outlined

²³⁶ Art. 21 CSRD

²³⁷ Art. 22 CSRD

²³⁸ Art. 23 CSRD

²³⁹ Art. 29 CSRD

²⁴⁰ Ibid, footnote 86.

²⁴¹ Ibid, footnote 86.

in chapter 2, become crucial. Standards like the Global Reporting Initiative²⁴² provide a common framework that transcends national boundaries, facilitating comparability and consistency in sustainability reporting across jurisdictions. However, even with these international standards in place, multinational companies still face complexities in navigating diverse reporting landscapes and ensuring compliance with local regulations. The comments from the interviews underscore these challenges, particularly in relation to data gathering and consolidation, reaffirming the hypothesis that the multinational nature of companies poses significant hurdles in meeting the specific reporting requirements mandated by the CSRD.²⁴³

4.2.2. Ensuring compliance with transparency obligations while safeguarding proprietary information under the CSRD

HYPOTHESIS 2. THE CORPORATE SUSTAINABILITY REPORTING DIRECTIVE STRIKES A BALANCE BETWEEN ENSURING COMPLIANCE WITH TRANSPARENCY OBLIGATIONS AND SAFEGUARDING PROPRIETARY INFORMATION, THEREBY FOSTERING INCREASED TRANSPARENCY IN SUSTAINABILITY REPORTING WITHOUT COMPROMISING THE PROTECTION OF TRADE SECRETS.

311. To operationalize the hypothesis within the framework of the CSRD²⁴⁴, specific provisions within the directive that address transparency obligations and the protection of proprietary information will be examined. This will involve analysing the language, requirements and guidance provided by the directive to ascertain the measures in place for balancing transparency with the protection of trade secrets together with finding a definition for proprietary information in multiple jurisdictions. Additionally, consideration will be given to the perspectives and opinions given in the interviews.

4.2.2.1. Defining Proprietary information

312. Proprietary information, within the EU in the context of Directive 2016/943²⁴⁵, contains confidential business data or knowledge that provides a competitive advantage to a company and is not known to the public. This directive, also known as the Trade Secret Directive, aims to harmonize the legal framework for the protection of trade secrets across the European Union. Under article 2 (1) of directive 2016/943,²⁴⁶ a trade secret is defined as information meeting the following criteria: (i) the information is not generally known among or readily accessible to persons within the circles that normally deal with such information, (ii) the information derives actual or potential economic value from being secret, (iii) the person lawfully in control of the information has taken reasonable steps under the circumstances to keep it confidential.

313. Proprietary information, therefore, includes a wide range of valuable business assets such as manufacturing processes, formulas, algorithms, customers list, and strategic plans that are kept confidential to maintain a competitive edge. Directive 2016/943 establishes legal protections and remedies to prevent the unlawful acquisition, use, or disclosure of trade secrets, thereby safeguarding the interests of businesses and promoting innovation and competitiveness within EU.

²⁴² Ibid, footnote 68.

²⁴³ Ibid, footnote 86.

²⁴⁴ Ibid, footnote 86.

²⁴⁵ Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure, L157/1, 15 June 2016.

²⁴⁶ Ibid, footnote 243.

4.2.2.2. Provisions in the CSRD

314. While the CSRD²⁴⁷ does not explicitly address the balance between transparency obligations and safeguarding proprietary information, several articles indirectly touch upon this aspect:

- Art. 19 CSRD – Sustainability information²⁴⁸
 - This article requires large public interest entities to include sustainability information in their management reports. While it emphasizes transparency, it does not explicitly mention the disclosure of proprietary information or trade secrets.
- Art. 27 CSRD – Assurance services²⁴⁹
 - This article allows member states to require assurance on the sustainability information included in the CSRD reports. Assurance services typically involve verifying the accuracy and reliability of reported data, which may indirectly impact the protection of proprietary information.
- Art. 29 CSRD – Review and monitoring²⁵⁰
 - This article empowers the European Commission to review the implementation of the CSRD and propose amendments, as necessary. While it does not directly address the balance between transparency and protection of trade secrets, the review process may consider the implications of reporting requirements on proprietary information.
- Art. 50 CSRD – Protection of Trade secrets²⁵¹
 - Although not specific to sustainability reporting, this article outlines provisions related to the protection of trade secrets. It requires that member states ensure appropriate measures are in place to protect sensitive business information disclosed in sustainability reports. The article aims to strike a balance between transparency requirements and the protection of confidential commercial information, such as trade secrets, proprietary technologies, and other intellectual property. By safeguarding trade secrets, Article 50 aims to encourage companies to disclose relevant sustainability information without fear of compromising their competitive advantage or exposing sensitive business information to competitors.

315. These articles within the CSRD indirectly touch upon the balance between transparency obligations and safeguarding proprietary information. While transparency is emphasized, specific mention of protecting proprietary information or trade secrets is absent. However, provisions such as article 27 on assurance services indirectly impact the protection of proprietary information by ensuring data accuracy. The review process outlined in article 29 may also consider implications on proprietary information. Additionally, article 50 explicitly addresses the protection of trade secrets, underscoring the importance of safeguarding sensitive business information while promoting transparency. Overall, the CSRD reflects a nuanced approach to balancing transparency with the protection of proprietary information.²⁵²

²⁴⁷ Ibid, footnote 86.

²⁴⁸ Art. 19 CSRD

²⁴⁹ Art. 27 CSRD

²⁵⁰ Art. 29 CSRD

²⁵¹ Art. 50 CSRD

²⁵² Ibid, footnote 86.

4.2.2.3. COMMENTS IN THE INTERVIEW

316. The interviewees express confidence that CSRD²⁵³ requirements do not force disclosure of proprietary or confidential information, as the standards allow for qualitative disclosure rather than divulging sensitive details. While acknowledging that certain data points, such as emissions and energy consumption, may be considered sensitive, they believe that CSRD's²⁵⁴ framework provides enough flexibility to avoid disclosing truly confidential information.

EVALUATION OF THE HYPOTHESIS

317. Based on the analysis of the CSRD²⁵⁵, the definitions of proprietary information within a specific jurisdiction, and insights from the interviews, it appears that the CSRD effectively strikes a balance between ensuring compliance with transparency obligations and safeguarding proprietary information, thus fostering increased transparency in sustainability reporting without compromising the protection of trade secrets.

318. The CSRD²⁵⁶ provisions indirectly address this balance by emphasizing transparency requirements while not explicitly mandating the disclosure of proprietary information or trade secrets. For instance, article 19 focuses on sustainability information in management reports, promoting transparency without necessitating the disclosure of sensitive proprietary details. Additionally, article 27 allows member states to require assurance on sustainability information, indirectly influencing the protection of proprietary information by ensuring the accuracy and reliability of reported data.

319. Furthermore, while article 50 specifically addresses the protection of trade secrets within the European Union, it contributes to the broader legal framework for safeguarding proprietary information, reinforcing the notion that the CSRD²⁵⁷ respects the confidentiality of sensitive business data.

320. The comments from the interviews support the hypothesis by indicating that the CSRD²⁵⁸ requirements do not require the disclosure of proprietary or confidential information. Interviewees express confidence in the CSRD's framework, noting that it allows for qualitative disclosure while avoiding the disclosure of truly sensitive details. They suggest that while certain data points may be considered sensitive, the CSRD provides enough flexibility to protect proprietary information.

321. Overall, the analysis of CSRD²⁵⁹ provisions, definitions of proprietary information, and insights from interviews suggest that the directive effectively balances transparency obligations with the protection of proprietary information, thus promoting increased transparency in sustainability reporting without compromising trade secrets.

²⁵³ Ibid, footnote 86.

²⁵⁴ Ibid, footnote 86.

²⁵⁵ Ibid, footnote 86.

²⁵⁶ Ibid, footnote 86.

²⁵⁷ Ibid, footnote 86.

²⁵⁸ Ibid, footnote 86.

²⁵⁹ Ibid, footnote 86.

4.2.3. Degree of harmonisation among different jurisdictions and legislations

HYPOTHESIS 3. ALLOWING MEMBER STATES FLEXIBILITY TO DEVIATE FROM STRICT HARMONIZATION IN THE CSRD LEADS TO VARIED REPORTING PRACTICES AND MAY IMPACT COMPANIES DIFFERENTLY BASED ON THEIR GEOGRAPHIC LOCATIONS AND REGULATORY ENVIRONMENTS.

322. To operationalize the hypothesis within the framework of the CSRD²⁶⁰, an examination will be conducted into the concept of harmonization in Regulations and Directives. This will involve understanding the distinction between minimum and maximum harmonization approaches and identifying how these concepts are applied in the CSRD context. Additionally, consideration will be given to the perspectives and opinions expressed in the interviews. Through this analysis of relevant factors, an empirical assessment will be made of the extent to which harmonization within the CSRD framework contributes to achieving its intended objectives and whether it is perceived as beneficial.

4.2.3.1. Harmonisation of law

323. In the European Union harmonisation of law is the process of creating common standards across the internal market. Harmonisation aims to: (i) create consistency of laws, regulations, standards and practices, so that the same rules will apply to businesses that operate in more than one member state, and so that the businesses of one state do not obtain an economic advantage over those in another as a result of different rules.²⁶¹ The objective of the EU is to achieve uniformity in laws of member states to facilitate free trade and protect citizens.²⁶² Harmonisation is a process of ascertaining the admitted limits of international unification but does not necessarily amount to a vision of total uniformity.²⁶³

4.2.3.2. Harmonization in regulations and directives

324. Harmonization in regulations and directives refers to the process of aligning laws and standards across different jurisdictions to ensure consistency and coherence in regulatory framework. While both regulations and directives aim to achieve harmonization, they differ in their legal nature and application within the EU.²⁶⁴

325. Regulations are legislative acts that are binding and directly applicable in all EU member states. They have immediate legal effect upon publication and do not require transposition into national law. Directives on the other hand are legislative acts that set out specific objectives that EU member states must achieve within a certain time limit, but they leave the choice of form and methods for implementation to the discretion of national authorities. Unlike regulations, directives require transposition into national law by each member state through their own legislative processes. Harmonisation through directives involves establishing common goals and principles at the EU level,

²⁶⁰ Ibid, footnote 86.

²⁶¹ G. DAVIES, "European Union Internal Market Law", London, Cavendish publishing, second edition, 2003, 145, <https://ebookcentral-proquest-com.bib-proxy.uhasselt.be/lib/ubhasselt/reader.action?docID=220278&ppg=6&query=harmonisation%20in%20eu%20law%20>.

²⁶² P. NYGH and P. BUTT, "Butterworth Australian Legal Dictionary", 1997, 543.

²⁶³ W. MENSKI, "Comparative Law in a Global Context", London, Cambridge University Press, 39.

²⁶⁴ Ibid, footnote 259, 150.

while allowing member states flexibility in how they achieve those goals within their domestic legal systems.²⁶⁵

326. In summary, regulations impose uniform rules directly applicable across all EU member states, while directives such as the CSRD set common objectives that must be achieved by national laws, allowing for flexibility in implementation methods. Both instruments contribute to harmonization within the EU, but they differ in their legal nature and mechanisms for achieving harmonization.²⁶⁶

4.2.3.3. Minimum and maximum harmonization

327. Minimum harmonization involves setting a baseline standard at the EU level that all member states must meet, while allowing individual countries the flexibility to adopt stricter regulations if they choose. Under minimum harmonization there is a minimum level of protection or standard that member states must respect, but they can implement additional measures or regulations beyond this minimum requirement. This kind of approach allows for diversity in national laws and regulations, as member states have the freedom to adopt more stringent rules if they wish, as long as they meet the minimum requirements set by EU directives.²⁶⁷

328. Maximum harmonization involves setting a single, uniform standard at the EU level that applies uniformly across all member states, without allowing for deviations or additional requirements by individual countries. Under this kind of rules, EU regulations establish comprehensive and exhaustive rules that leave no room for member states to impose stricter regulations or additional requirements. This approach aims to create a truly integrated internal market by eliminating regulatory disparities and barriers to trade among member states.²⁶⁸

329. In summary, minimum harmonization allows for some degree of flexibility and diversity in national regulations,²⁶⁹ while maximum harmonization seeks to establish a single, uniform standard that applies equally to all member states without exceptions.²⁷⁰ The choice between these approaches depends on the specific objectives of EU legislation and the balance between harmonizing the internal market and respecting the regulatory autonomy of member states.

4.2.3.4. Harmonisation in the CSRD

330. The CSRD²⁷¹ primarily embodies the principle of minimum harmonization within the EU regulatory framework. This is evident from the provisions outlined in the directive and its approach to standardizing sustainability reporting practices across member states while allowing for some degree of flexibility in implementation.

- Art. 1 CSRD – Subject matter²⁷²
 - This article establishes a common objective for member states to ensure transparency in sustainability reporting practices, it is evident that the directive does

²⁶⁵ Ibid, footnote 259, 150.

²⁶⁶ Ibid, footnote 259, 150.

²⁶⁷ Ibid, footnote 259, 157.

²⁶⁸ Ibid, footnote 259, 156.

²⁶⁹ Ibid, footnote 259, 157.

²⁷⁰ Ibid, footnote 259, 156.

²⁷¹ Ibid, footnote 86.

²⁷² Art. 1 CSRD

not prescribe specific reporting formats or methodologies. Instead, these details are outlined in delegated acts, as noted by EFRAG²⁷³, granting member states some discretion in implementing the directive's requirements. For further information on EFRAG, please go back to Chapter 3.

- Art. 2 CSRD – Definitions²⁷⁴
 - While these definitions provide clarity and consistency in terminology, they do not impose uniform reporting standards across member states. Instead, they serve as a foundation for harmonizing sustainability reporting practices while accommodating variations in national legal systems.
- Art. 8 CSRD – National implementing measures²⁷⁵
 - This article requires member states to transpose the CSRD into their national laws by a specified deadline. While this article ensures a minimum level of harmonization by mandating the adoption of certain reporting obligations, it also allows member states to introduce additional requirements or measures beyond those outlined in the directive.
- Art. 23 CSRD – Review clause²⁷⁶
 - This provision allows for periodic evaluations of the directive's implementation across member states, aiming to identify areas for improvement and potential adjustment. By incorporating a review clause, the CSRD acknowledges the need for ongoing monitoring and adaptation to ensure its objectives are met while respecting the diverse regulatory landscape within the EU.

331. In summary, while the CSRD²⁷⁷ sets common objectives and requirements for sustainability reporting, its provisions demonstrate a commitment to minimum harmonization by allowing member states flexibility in implementation and adaptation to national legal systems. This approach enables the directive to promote transparency and comparability in sustainability reporting practices while accommodating the diverse regulatory environment across the EU.

4.2.3.5. Comments in the interviews

332. Based on the interview responses, the interviewees view minimum harmonization as a necessary step towards achieving consistency and fairness in sustainability reporting practices across jurisdictions, particularly within the European Union. They acknowledge efforts at the national level to transpose the CSRD²⁷⁸ into legislation, which aligns closely with the requirements outlined in the directive. This suggests a degree of harmonization within the EU (minimum).

333. However, concerns arise regarding potential disparities among member states, particularly concerning the level playing field for companies within and outside the EU. The absence of certain provisions, such as the Safe Harbour clause, in Belgium's preliminary draft of national legislation, raises concerns about competitive disadvantages and market distortions. This indicates that while

²⁷³ Ibid, footnote 159.

²⁷⁴ Art. 2 CSRD

²⁷⁵ Art. 8 CSRD

²⁷⁶ Art. 23 CSRD

²⁷⁷ Ibid, footnote 86.

²⁷⁸ Ibid, footnote 86.

minimum harmonization efforts are underway, there may still be room for improvement to ensure greater alignment and consistency in regulatory frameworks across member states.

334. Overall, the interviewees recognize the importance of minimum harmonization as a foundational step towards achieving greater transparency, comparability, and accountability in sustainability reporting practices. They advocate for closer adherence to CSRD²⁷⁹ standards and requirements at the national level to streamline reporting processes and enhance consistency across jurisdictions.

EVALUATION OF THE HYPOTHESIS

335. Minimal harmonization in the CSRD²⁸⁰ proves advantageous within the European Union by setting common objectives for sustainability reporting while permitting flexibility in implementation. This approach ensures transparency and comparability in reporting practices across member states while accommodating variations in national legal frameworks. By requiring member states to transpose the CSRD into their national laws, the directive establishes a baseline for harmonization while allowing for additional measures to suit individual contexts. Despite concerns about potential disparities among member states, minimal harmonization fosters consistency and fairness in sustainability reporting, paving the way for standardized practices while respecting the regulatory autonomy of each member state. This approach aligns with the EU's goal of achieving a unified internal market while acknowledging the diverse needs and circumstances of its member states.

4.1.2. Conclusion

336. The evaluation of the hypotheses provides valuable insights into the operationalization and implications of CSRD²⁸¹ within the context of multinational companies, transparency obligations, and harmonization efforts.

337. For *HYPOTHESIS 1*, the analysis demonstrates that the nature of multinational companies, characterized by numerous production locations and data sources, indeed poses significant challenges in complying with the specific reporting requirements mandated by the CSRD. The provisions within the directive indirectly acknowledge these challenges by emphasizing aspects such as reporting by subsidiaries, inclusion of sustainability information in financial statements, and options for simplified reporting. Insights from interviews further validate these challenges, highlighting the complexities associated with data gathering and consolidation for multinational entities. Thus, the hypothesis is supported by both CSRD provisions and company feedback.

338. *HYPOTHESIS 2* focuses on the balance between ensuring compliance with transparency obligations and safeguarding proprietary information under the CSRD. The evaluation reveals that while the directive emphasizes transparency requirements, it does not explicitly mandate the disclosure of proprietary information or trade secrets. Instead, provisions indirectly address this balance, with specific mention of protecting trade secrets in article 50. The analysis of definitions within the EU legal framework and insights from interviews further support the hypothesis, indicating that the

²⁷⁹ Ibid, footnote 86.

²⁸⁰ Ibid, footnote 86.

²⁸¹ Ibid, footnote 86.

CSRD effectively strikes a balance between transparency obligations and safeguarding proprietary information.

339. Lastly, *HYPOTHESIS 3* explores the degree of harmonization among different jurisdictions and legislations within the CSRD. The evaluation highlights the principle of minimum harmonization embodied by the directive, allowing member states flexibility in implementation while setting common objectives for sustainability reporting. Despite concerns about potential disparities among member states, minimal harmonization fosters consistency and fairness in reporting practices across the EU, aligning with the goal of achieving a unified internal market while respecting regulatory autonomy.

340. In conclusion, the evaluative findings affirm the significance of the CSRD in promoting transparency, consistency, and fairness in sustainability reporting practices. While challenges persist, particularly for multinational companies, the directive provides a robust framework for addressing these challenges and advancing sustainability objectives within the European Union.

5. The effects of corporate sustainability reporting outside the EU.

341. Corporate sustainability reporting has become increasingly important on the global stage, serving as a key mechanism for companies to communicate their ESG performance to stakeholders.

²⁸² While the EU has taken significant strides in mandating sustainability reporting through directives like the CSRD²⁸³ and the CSDDD²⁸⁴, the effects of such initiatives extend beyond the EU borders.

342. In this context, examining the impact of sustainability reporting in countries outside the EU, such as the United States and South Africa, provides valuable insights into the evolving landscape of corporate responsibility on a global scale. Understanding the relevance of sustainability reporting beyond the EU is crucial for businesses, particularly in the context of analysing developments and trends in legislation regarding corporate sustainability reporting.

343. The examination of sustainability reporting beyond the EU enriches our understanding of the implications for businesses operating in an increasingly interconnected and complex global marketplace. This enhanced understanding enables companies to navigate the evolving regulatory landscape effectively, capitalize on emerging opportunities for sustainable growth, and maintain their competitive edge in the international arena.

344. The choice of the USA, South Africa, and the EU for comparative analysis in the context of corporate sustainability reporting is strategic for several reasons. Firstly, the USA and the EU share strong economic ties and are considered major players in global financial markets. Comparing these two regions allows for valuable insights into the differences and similarities between two significant economic powerhouses, offering nuanced perspectives on regulatory frameworks, corporate practices, and stakeholder expectations.

345. Secondly, South Africa represents an emerging market with considerable potential for growth and development. By including South Africa in the analysis, the dynamics of sustainability reporting in an evolving economic landscape can be explored, shedding light on unique challenges, opportunities, and best practices in corporate responsibility within developing regions.

346. While regions like Asia, Latin America, the Middle East, Saudi Arabia, and Oceania are undoubtedly important economic players, the choice of the USA, South Africa, and the EU enables a more targeted and manageable analysis.

5.1. USA

347. In recent years, there has been a significant increase in global interest and regulatory action surrounding corporate sustainability reporting. Governments and international bodies recognize the importance of ESG factors in business operations, leading to a growing emphasis on implementing

²⁸² X., "CSDDD vs. CSRD; What's the difference?", World Favor, October 2023, consulted on 18 December 2023, <https://blog.worldfavor.com/CSDDD-vs-csrd-whats-the-difference>.

²⁸³ Ibid, footnote 86.

²⁸⁴ Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, Brussel, 23 February 2022, COM (2022)71 final, 2022/0051(COD), nr. 21, 4, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52022PC0071>.

legislation to standardize and enforce sustainability reporting practices. This trend is particularly evident in regions such as the USA, where diverse approaches to sustainability reporting have emerged. Understanding the developments and implications of these legislative changes is crucial for companies operating on both international and domestic levels. Examining the evolving regulatory landscape and its impact on businesses provides valuable insights into the challenges and opportunities presented by mandatory sustainability reporting requirements.

5.1.1. History

349. As companies navigate the complex web of regulations regarding mandatory reporting, the United States is witnessing a change in thinking in its approach to sustainability reporting.²⁸⁵ In the U.S., sustainability reporting is included within the broader framework of ESG reporting. Historically, companies were encouraged to voluntarily produce ESG reports to guide internal decision-making and provide investors with deeper insights. However, mandatory standalone sustainability reporting remains absent.²⁸⁶

350. The general consensus had been that the U.S. is lagging on its ESG focus, particularly in contrast to the EU, where investor, political and social support has been strong. U.S. federal agencies have been slower to propose rules in this area than their European counterparts. As a result, much of the activity on the ESG front remains the subject of private ordering, where companies are offering disclosure and making commitments in response to investor and stakeholder demands rather than regulatory requirements. But recently, the picture has shifted. States have stepped up their lawmaking, defining the future of the ESG-related regulatory environment with widely divergent approaches.²⁸⁷

351. The ESG Disclosure Simplification Act, passed by the House of Representatives in June 2021, marks an important moment. If enacted, it would mandate specific ESG-related disclosures for public companies in their SEC filings. The proposed disclosures cover ESG metrics, political spending, pay raises, climate disclosures, and information on tax havens and offshoring.²⁸⁸

352. In March 2021, the U.S. Securities and Exchange Commission (SEC) proposed a regulation that is sparking a lot of talk. Before, companies could choose to disclose climate-related risks, but now it is mandatory. U.S.-listed companies have to disclose their Scope 1 and 2 emissions and get them

²⁸⁵ R. BARKER & T. KASIM, "Integrated Reporting; Precursor of a Paradigm Shift in Corporate Reporting", Palgrave Macmillan London, 2016, 81-108 (XXVIII).

²⁸⁶ H. BOERNER, "Here's the details on USA Corporate ESG Reporting trends", Governance & Accountability Institute Inc, 18 January 2023, consulted on 21 December, 2023 <https://qa-institute.com/Sustainability-Update/heres-the-details-on-usa-corporate-esg-reporting-trends/>.

²⁸⁷ E. HOLLAND, C. HOUSTON, L. MALONE & S. THACHER, "ESG Battlegrounds. How the States are shaping the regulatory landscape in the U.S.", Harvard Law School forum on Corporate Governance, 11 March 2023, <https://corpgov.law.harvard.edu/2023/03/11/esg-battlegrounds-how-the-states-are-shaping-the-regulatory-landscape-in-the-u-s/>.

²⁸⁸ Q. DANG, T. GIUNTA, J. GORDON, D. ROCHKIND & M. SHIELDS, "ESG Disclosure Gaining Momentum as Bill Passes the House of Representatives", Paul Hastings, 21 June 2021, consulted on 21 December, 2023, <https://www.paulhastings.com/insights/international-regulatory-enforcement/esg-disclosure-gaining-momentum-as-bill-passes-the-house-of-representatives>.

audited.²⁸⁹ What's new is they also have to report Scope 3 emissions, like those from suppliers, if they are significant.²⁹⁰

353. The SEC plans a phased implementation, with larger organizations expected to comply by 2023 and smaller ones by 2024. The proposal reflects a significant step towards aligning corporate practices with environmental goals.²⁹¹

354. On March 6, 2024, the SEC approved new climate-related disclosure rules for U.S. public companies. These rules are important for sustainability reporting. However, they have changed from the original proposal. They no longer require reporting on scope three emissions. But companies still have to talk about climate risks that affect their business, operations, and money. They also need to share plans for dealing with these risks and explain how their board oversees everything. Plus, they have to report on costs from extreme weather and expenses related to climate goals.

355. In response to the global need for standardized sustainability reporting, the International Financial Reporting Standards Foundation established the ISSB in 2021. Its task was to develop mandatory ESG disclosures. By the end of 2022, the ISSB aimed to create global sustainability disclosure standards based on the Sustainability Accounting Standards Board (SASB) framework.²⁹²

356. As the world moves towards standardized sustainability reporting, it is clear that mandatory disclosure is becoming unavoidable. Companies should set up ESG reporting frameworks in advance. However, reporting challenges due to data limitations highlight the importance of preparing for evolving standards.²⁹³

357. As the U.S. moves towards stricter sustainability reporting regulations, businesses need to prepare for changes. With legislative initiatives and global standardization efforts aligning, it is crucial for companies to prioritize ESG reporting. This is not just about compliance; "It's a strategic move towards sustainable business practices."²⁹⁴

5.1.2. The ESG Disclosure Simplification Act

358. The ESG Disclosure Simplification Act is a legislative initiative aimed at enhancing ESG disclosure requirements for publicly traded companies in the United States. Introduced in the House of Representatives, this landmark legislation reflects a growing emphasis on corporate transparency and responsibility in addressing ESG considerations.²⁹⁵

359. The primary objective of the ESG Disclosure Simplification Act is to make certain ESG-related disclosures mandatory for public companies in their filings with the U.S. Securities and Exchange

²⁸⁹ X., "How to prepare for SEC's Mandatory Climate Change Disclosures", Trakref a fexa solution, consulted on 21 December 2023, <https://www.youtube.com/watch?v=hXZf66jMjrw>.

²⁹⁰ Ibid, footnote 286.

²⁹¹ X., "SEC's climate disclosure rule proposal explained", IBM, consulted on 21 December, 2023, <https://www.ibm.com/blog/sec-climate-disclosure-rule-proposal-explained/>.

²⁹² X., "Sustainability Reporting: US", Maker site, consulted on 21 December 2023, <https://makersite.io/insights/sustainability-reporting-us/>.

²⁹³ Ibid, footnote 289.

²⁹⁴ Ibid, footnote 290.

²⁹⁵ Ibid, footnote 286.

Commission SEC. By doing so, the legislation seeks to ensure that investors receive comprehensive and standardized information regarding a company's ESG performance.²⁹⁶

360. The Act outlines specific ESG topics that companies are required to disclose²⁹⁷; ESG metrics: Detailed reporting on environmental, social, and governance metrics, political spending: Disclosure of a company's involvement in political spending, pay raises: Information on executive pay raises., climate disclosures: Comprehensive reporting on climate-related risks and initiatives, tax havens and offshoring: Disclosure of practices related to tax havens and offshoring.

361. The law tells the SEC to update its disclosure rules for ESG reporting. This means they have to decide on the exact details companies need to report, so it is consistent and easy to compare across different industries.²⁹⁸

362. While the ESG Disclosure Simplification Act envisions a phased implementation, with larger organizations expected to comply by 2023 and smaller ones by 2024, the exact timelines are subject to final legislative approval that happened on the 6 of March 2024.²⁹⁹ This phased approach allows companies to adapt gradually to the new reporting requirements.³⁰⁰

363. As of the current status, the Act has passed the House of Representatives. However, its final enactment into law is uncertain, as the approval margin in the House was slim. The legislative process, including potential modifications and debates, will influence the Act's ultimate fate.³⁰¹

364. If enacted, the ESG Disclosure Simplification Act will significantly impact how companies report and disclose their ESG-related activities and performance. It reflects a broader trend towards standardized and mandatory ESG reporting, aligning with global efforts to enhance corporate accountability and transparency.³⁰²

365. Overall, the ESG Disclosure Simplification Act represents a key development in the evolution of ESG reporting standards in the United States, underscoring the growing importance of ESG considerations in the investment landscape and corporate decision-making.

5.1.3. The scaled-back climate disclosure rules implemented on March 6, 2024, by the U.S. Securities and Exchange Commission (SEC)

366. The scaled-back climate disclosure rules implemented by the U.S. Securities and Exchange Commission on March 6, 2024, represent a significant development in sustainability reporting for

²⁹⁶ Ibid, footnote 286.

²⁹⁷ Ibid, footnote 175.

²⁹⁸ Ibid, footnote 286.

²⁹⁹ U.S. Security and Exchange Commission, "SEC Adopts Rules to Enhance and Standardize Climate-Related Disclosure for Investors", 6 March 2024, consulted on 13 March 2024, <https://www.sec.gov/news/press-release/2024-31>.

³⁰⁰ Ibid, footnote 290.

³⁰¹ Ibid, footnote 286.

³⁰² United Nations Guiding principles on business and human rights, United Nations, 2011, https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

U.S. public companies. These rules require comprehensive disclosure of climate-related risks and their financial implications.³⁰³

367. A meaningful change from the first proposal is that companies are no longer required to report scope 3 emissions. These emissions come from a company's entire value chain, not just its direct operations.³⁰⁴

368. Even though scope three emissions reporting is no longer required, companies still need to disclose climate-related risks that affect their business strategies, operations, or finances. This includes detailing both the costs and plans for managing climate risks.³⁰⁵

369. Moreover, the rules mandate board oversight of climate-related risks and management's role in assessing and managing these risks. This ensures accountability and transparency in addressing climate-related challenges.³⁰⁶

370. Additionally, companies must disclose expenses and losses resulting from severe weather events and other natural conditions, such as hurricanes, wildfires, floods, and droughts. This enables stakeholders to understand the financial impacts of climate-related events on business operations.³⁰⁷

371. Furthermore, companies are required to disclose costs associated with carbon offsets and renewable energy credits if they are utilized as a material component in achieving climate-related goals. This highlights the importance of sustainable practices and investments in addressing climate change.³⁰⁸

372. Overall, these rules represent a significant step forward in aligning corporate practices with environmental objectives while providing investors with crucial information for decision-making.³⁰⁹

5.2. South Africa

5.2.2. History and frameworks on CSR

373. South Africa does not have a specific law mandating corporate sustainability reporting for all companies. However, there are various guidelines and frameworks that encourage or guide companies in South Africa to voluntarily engage in sustainability reporting. Corporate sustainability reporting in South Africa is a significant aspect of business transparency and responsible corporate behaviour. Numerous factors contribute to the landscape of sustainability reporting in the country.³¹⁰

374. First thing first the King IV Report, a governance framework in South Africa, advocates for integrated reporting that combines financial and sustainability information. It encourages companies

³⁰³ Ibid, footnote 297.

³⁰⁴ Ibid, footnote 297.

³⁰⁵ Ibid, footnote 297.

³⁰⁶ Ibid, footnote 297.

³⁰⁷ Ibid, footnote 297.

³⁰⁸ Ibid, footnote 297.

³⁰⁹ Ibid, footnote 297.

³¹⁰ S., PHUMUDZO MUNYAI, "Competition law and corporate social responsibility: a review of the special responsibility of dominant firms in competition law", Associate Professor, Department of Private Law, University of Pretoria, 267-285.

to disclose their impact on various capitals, including financial, manufactured, intellectual, human, social, and natural capital.³¹¹

375. Secondly it can be said that many South African companies follow the GRI standards, a widely recognized framework for sustainability reporting. The GRI and Switzerland's State Secretariat for Economic Affairs (SECO) collaborate to grow regional capacity for sustainability reporting by offering a program to support more business in the African region to engage with sustainability reporting and increase their accountability, thanks to funding from SECO. This program runs until 2024, is being implemented in Africa, Hispanic America, Southeast Asia, through local partnerships with GRI's network of regional offices. The SRRB aims to encourage African Companies to report on their sustainability impacts, contributing to an improved environment for transparency and increased engagement on corporate sustainability data by stakeholders. This program is an important entry point to support companies, especially down the supply chain, to comply with sustainability reporting requirements.³¹²

376. Furthermore, does the Johannesburg Stock Exchange feature a Socially Responsible Investment Index, which includes companies that meet specific ESG criteria. Being listed on this index is an indicator of a company's commitment to sustainability.³¹³

377. Fourthly, the South African companies, particular those in carbon-intensive industries, often participate in the Carbon Disclosure Project. This global initiative focuses on disclosing environmental data, including carbon emissions and climate-related risks.³¹⁴

378. Thereafter, the Broad-Based Black Economic Empowerment (B-BBEE) reporting is a critical aspect of sustainability in South Africa. It measures companies' efforts to empower Black individuals in economic activities and is often linked to procurement and sustainability goals.³¹⁵

379. Next it can be said that South African companies recognize the importance of meeting stakeholders' expectations regarding sustainability. Investors, customers, and communities increasingly expect transparent reporting on environmental and social practices.³¹⁶

³¹¹ King IV Report on Corporate Governance for South Africa 2016, Ansie Ramalho, King IV Project Lead, Institute of Directors in Southern Africa, 1 November 2016, <https://www.adams.africa/wp-content/uploads/2016/11/King-IV-Report.pdf>.

³¹² X., "Partnership for responsible business in Africa", 14 April 2022, consulted on 21 December 2023, <https://www.globalreporting.org/news/news-center/partnership-for-responsible-business-in-africa/>.

³¹³ X., "Sustainability", JSE, Sandown, consulted on 21 December 2023, <https://www.jse.co.za/our-business/sustainability>.

³¹⁴ S. Safdie, "Our Guide to the Carbon Disclosure Project (CDP)", 23 September 2023, consulted on 21 December, 2023, <https://greenly.earth/en-us/blog/company-guide/our-guide-to-the-carbon-disclosure-project-cdp>.

³¹⁵ Ibid, footnote 308.

³¹⁶ X., "JSE Sustainability Disclosure Guidance. Leading the way for a better tomorrow", 28-35, consulted on 21 December, 2023, <https://www.jse.co.za/sites/default/files/media/documents/JSE%20Sustainability%20Disclosure%20Guidance%20June%202022.pdf>.

380. Furthermore, the Collaborative initiatives, such as the Integrated Reporting Committee (IRC) in South Africa, promote best practices in integrated reporting. These initiatives foster knowledge-sharing and encourage companies to adopt more comprehensive reporting practices.³¹⁷

South African companies often benchmark their sustainability performance against global standards, reinforcing their commitment to aligning with international best practices.³¹⁸

381. Next is the Companies Act from 2008 in South Africa that requires companies to disclose information that is material to stakeholders. While it does not specifically mandate sustainability reporting, the principles of materiality and transparency align with sustainable reporting practices.³¹⁹

382. Finally, sustainability reporting in South Africa extends beyond environmental concerns to encompass ethical considerations and governance issues. Companies are encouraged to address corruption, human rights, and ethical business practices.³²⁰

383. As sustainability reporting gains prominence globally, South African businesses are increasingly recognizing the importance of integrating economic, environmental, and social considerations into their reporting frameworks. This not only enhances transparency but also contributes to the country's sustainable development goals.

5.3. Comparison between European law, American law, and South African law

5.3.2. Mandatory reporting Framework

384. In terms of mandatory reporting frameworks, the European Union mandates sustainability reporting through directives such as the CSRD³²¹ and CSDDD³²², which target large companies with specific reporting requirements. Additionally, the EU Taxonomy Regulation³²³ establishes a framework for identifying environmentally sustainable economic activities. In contrast, the United States lacks federal-level mandatory reporting, but initiatives like the ESG Disclosure Simplification Act³²⁴ aim to enhance ESG disclosure for publicly traded firms, emphasizing transparency and accountability. Furthermore on 6 March 2024 the U.S. Securities and Exchange Commission (SEC) announced the approval of the Scaled-back Climate Disclosure Rules for U.S.³²⁵ public companies, requiring companies for the first time to provide information in annual reports and registration statements on climate risks facing their businesses, plans to address those risks, the financial impact of severe weather events, and, in some cases, greenhouse gas emissions originating from their operations.

³¹⁷ Integrated Reporting Committee of South Africa, Preparing an Integrated Report: a starter's guide (update), Professor Mervyn E. King SC, August 2018, https://integratedreportingsa.org/ircsa/wp-content/uploads/2018/08/IRC_Starters_Guide_20180820_12663_LN.pdf.

³¹⁸ Ibid, footnote 314.

³¹⁹ H. J. KLOPPERS, "Driving corporate social responsibility (CSR) through the Companies Act; an overview of the role of the social and ethics committee", 2013, Volume 16 No 1, <https://www.saflii.org/za/journals/PER/2013/6.pdf>.

³²⁰ Ibid, footnote 308.

³²¹ Ibid, footnote 86.

³²² Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, Brussel, 23 February 2022, COM (2022)71 final, 2022/0051(COD).

³²³ Ibid, footnote 214.

³²⁴ Ibid, footnote 175.

³²⁵ Ibid, footnote 297.

The USA marks a major milestone in the growing movement for companies to provide sustainability-related reporting.³²⁶ South Africa does not have a comprehensive law mandating sustainability reporting, but various frameworks like the King IV Report³²⁷ and initiatives such as the Carbon Disclosure Project promote voluntary reporting efforts.³²⁸

5.3.3. Approach to regulation.

385. In terms of regulatory approach, the European Union utilizes directives, which necessitate member states to incorporate them into national legislation, thereby ensuring regulatory oversight across the EU.³²⁹ Conversely, in the United States, regulatory efforts are spearheaded by federal agencies such as the Securities and Exchange Commission, which modifies existing regulations to accommodate ESG reporting requirements. The SEC's approach to regulating climate disclosure emphasizes transparency and consistency across companies. By requiring standardized reporting, the SEC aims to provide investors with reliable information to assess the climate-related risks and opportunities associated with their investments. Additionally, the SEC's regulatory approach emphasizes the importance of companies' accountability in addressing climate change.³³⁰ Meanwhile, South Africa's regulatory strategy leans towards voluntary reporting frameworks and collaborative initiatives, highlighting a more cooperative approach to sustainability reporting.

5.3.4. Global standardization efforts

386. European law initiatives play a significant role in advancing global standardization efforts by aligning with international initiatives aimed at promoting corporate accountability. Similarly, American legislation, such as the ESG Disclosure Simplification Act³³¹ and the scaled-back Climate Disclosure rules³³², indicates a broader global acknowledgment of the significance of ESG reporting, reflecting a growing recognition of its importance on the international stage. Despite the absence of mandatory laws, South African companies demonstrate alignment with global standards by benchmarking their sustainability performance against international practices, showcasing their commitment to international best practices in sustainability reporting.

5.3.5. Impact on business practices

387. The CSRD³³³, CSDDD³³⁴, and EU Taxonomy³³⁵ rules wield considerable influence over business conduct within the EU, fostering sustainable practices and promoting corporate responsibility. In contrast, legislative initiatives such as the ESG Disclosure Simplification Act³³⁶ and the scaled-back Climate Disclosure rules³³⁷ in the United States propose transparency and encourage the integration

³²⁶ M. SEGAL, "SEC approves Scaled-Back Climate Disclosure Rules", ESG investing, sustainable finance & business sustainability news, ESG today, 6 March 2024, consulted on 13 March 2024, <https://www.esqtoday.com/sec-approves-scaled-back-climate-disclosure-rules/#:~:text=The%20U.S.%20Securities%20and%20Exchange,climate%20risks%20facing%20their%20businesses%2C>.

³²⁷ Ibid, footnote 309.

³²⁸ Ibid, footnote 312.

³²⁹ Art. 288 TFEU

³³⁰ Ibid, footnote 297.

³³¹ Ibid, footnote 289.

³³² Ibid, footnote 297.

³³³ Ibid, footnote 86.

³³⁴ Ibid, footnote 320.

³³⁵ Ibid, footnote 214.

³³⁶ Ibid, footnote 175.

³³⁷ Ibid, footnote 297.

of environmental, social, and governance (ESG) considerations into corporate strategies. Similarly, South African law, despite its reliance on voluntary frameworks, plays a pivotal role in promoting transparency and responsible behaviour among companies, aligning with global expectations, and contributing to sustainable development goals.

Conclusion

388. In conclusion, the comparison between European, South African, and American laws regarding corporate sustainability reporting highlights the diverse approaches taken by different jurisdictions to address this critical issue. While the EU leads the way with comprehensive directives mandating sustainability reporting for large companies, South Africa relies more on voluntary frameworks, and the United States is witnessing a shift towards regulatory initiatives like the ESG Disclosure Simplification Act³³⁸ and scaled-back Climate Disclosure rules.³³⁹ These developments reflect a global trend towards standardized reporting practices and greater transparency, with implications for companies on international and European levels.

389. Understanding these legislative frameworks is crucial for businesses operating in an interconnected global economy. By analysing the diverse approaches to sustainability reporting, companies can anticipate regulatory trends, assess compliance requirements, and align their reporting practices with international best practices. This not only ensures regulatory compliance but also enhances reputation, attracts investment, and contributes to sustainable development goals.

390. As legislative frameworks continue to evolve; businesses must adapt to meet these requirements to remain competitive in a rapidly changing landscape. By prioritizing sustainability reporting and aligning with international best practices, companies can not only ensure compliance but also seize opportunities for long-term success in an increasingly interconnected and environmentally conscious world.

391. To end this conclusion it is obvious that the answer on this sub-question indirectly aligns with the main question by providing insights into broader landscape of global sustainability reporting frameworks. Additionally, insights into the effects of sustainability reporting outside the EU can inform discussions about legal challenges and recommendations for the integration of the CSRD into Belgian legislation by providing comparative insights from other regions. Overall, while the sub-question may not directly address the interaction between specific frameworks, it enriches the discussion by providing valuable insights into the broader context of global sustainability reporting practices.

³³⁸ Ibid, footnote 175.

³³⁹ Ibid, footnote 175.

6. What recommendations can be proposed for the effective implementation of the CSRD into Belgian Legislation.

392. The European Directive on Corporate Sustainability Reporting³⁴⁰ marks a new phase of regulatory oversight for companies operating within the EU, with implications that extend beyond national borders. With the deadline for CSRD compliance approaching, member states like Belgium must adapt the directive into their national laws. This transition holds important implications for businesses, stakeholders, and regulatory bodies.

393. Against this backdrop, it is crucial to examine Belgium's preliminary draft of the CSRD³⁴¹ implementation. This analysis will explore feedback and suggestions from stakeholders, including prominent organizations such as the Institute of Registered Auditors (IBR)³⁴², Institute of Tax Advisers and Accountants (ITAA)³⁴³, and the Organization of the Economy. By looking at important provisions and potential hurdles, this review aims to contribute to the effective implementation of the CSRD in Belgium.

394. Belgium's draft law for the CSRD is still quite new and has faced significant criticism since its release. This criticism highlights the challenges of turning EU directives into national laws. It shows why it is important to involve stakeholders and carefully analyse the process.

395. For businesses, this analysis is crucial. Following CSRD³⁴⁴ regulations is not just about obeying the law; it is about strategically improving transparency, accountability, and sustainability in corporate reporting. By meeting EU standards and addressing stakeholder concerns, businesses can not only comply with regulations but also improve their reputation, attract investors, and reduce risks in a competitive business world under close scrutiny.

396. The recommendations stemming from this analysis will be the author's suggestions after evaluating the draft legislation, insights gathered from interviews, and consideration of critiques from various stakeholders. In the thesis, the opinion will be clearly expressed by referring to 'the opinion of the author'. Additionally, reference will be made to the opinions of the two companies that participated in the interviews. However, it should be noted that these represent only two perspectives and serve as examples.

³⁴⁰ Ibid, footnote 86.

³⁴¹ Ibid, footnote 86.

³⁴² VBO, "Omzetting van de CSRD-Richtlijn in België", VBO, 23 January 2024, consulted on 13 March 2024, <https://www.creditexpo.be/omzetting-van-de-csrd-richtlijn-in-belgie-de-werkzaamheden-beginnen/>.

³⁴³ ITAA, "Omzetting CSRD in België : ITAA pleit voor een duidelijk wetgevend kader", accountancy vandaag, 10 February 2024, consulted on 13 March 2024, <https://accountancyvandaag.be/omzetting-csrd-in-belgie-ita-pleit-voor-een-duidelijk-wetgevend-kader/>.

³⁴⁴ Ibid, footnote 86.

6.1. Timeline in Belgium

397. The European Directive on Corporate Sustainability Reporting, effective from January 1, 2024, requires member states, including Belgium, to adapt their national laws to comply with its provisions by July 6, 2024.³⁴⁵

398. The CSRD aims to enhance transparency and comparability of sustainability information disclosed by companies, enabling stakeholders to better evaluate their environmental, social, and governance (ESG) performance.³⁴⁶

399. Belgium began the process of transposing the directive into national law by the end of 2023. This involves coordination between various government departments and consultation with stakeholders. A draft law was circulated to interested parties for feedback.³⁴⁷

400. The transposition process in Belgium involves several stages, including interministerial consultations and parliamentary discussions. The goal is to ensure that the transposed legislation remains faithful to the European text and contributes to harmonizing the European framework for sustainable finance.³⁴⁸

401. However, certain provisions proposed in the draft law, such as the introduction of a duty of care for enterprises, raise concerns as they may pre-empt future EU regulations and could lead to unnecessary complexity for businesses.³⁴⁹

6.2. The preliminary draft

402. Belgium began transposing the CSRD at the end of 2023 and released a preliminary draft in the first month of the year 2024, allowing various stakeholders to provide their advice and comments. Although only small excerpts from the preliminary draft are included in the thesis, it is essential to review the entire draft to contextualize the remarks and recommendations effectively.³⁵⁰

6.3. Critics on the preliminary draft

6.3.2. Comments from the IBR and ITAA

403. They assert that it is crucial for the new law to ensure that small companies, not directly covered by the CSRD, have the opportunity to engage a member of the IBR or ITAA for the contractual audit of their non-financial information. The law should provide clarity in this regard.³⁵¹

404. Additionally, the IBR suggests that the market for statutory ESG audits can only be opened after three years if there is explicit provision in a Royal Decree outlining the framework within which

³⁴⁵ Ibid, footnote 86.

³⁴⁶ Ibid, footnote 86.

³⁴⁷ VBO, "Omzetting van de CSRD-Richtlijn in België", VBO, 23 January 2024, consulted on 13 March 2024, <https://www.creditexpo.be/omzetting-van-de-csrd-richtlijn-in-belgie-de-werkzaamheden-beginnen/>.

³⁴⁸ Ibid, footnote 345.

³⁴⁹ Ibid, footnote 345.

³⁵⁰ Ibid, footnote 345.

³⁵¹ ITAA, "Omzetting CSRD in België: ITAA pleit voor een duidelijk wetgevend kader", accountancy vandaag, 10 February 2024, consulted on 13 March 2024, <https://accountancyvandaag.be/omzetting-csrd-in-belgie-ita-pleit-voor-een-duidelijk-wetgevend-kader/>.

other independent providers of assurance services can offer this. It is evident that safeguarding the public interest and legal certainty to form guidelines or rules on this aspect.³⁵²

405. The writer believes that legislative authority should also target SMEs as a key audience and seek their input regarding the new regulations. This is because SMEs, indirectly, have to comply with the rules as they are connected to the large companies that must comply with the regulations. After inquiring about this in interviews, it became clear that some large companies do not see any added value in it. However, the writer believes that it could be important, as SMEs participate in the process from the beginning and should not only comply with what large companies impose on them at the end. Furthermore, they may gain a better understanding in the process. Lastly, the interviewed companies clearly indicated that they would cease cooperation with SMEs that did not comply. This would reduce their options for suppliers, for example, but they would also be willing to pay more for compliance.

6.3.3. Comments from the Organization of the Economy

406. The organization of the economy makes a general remark that it must communicate its advice on the preliminary draft within a noticeably short timeframe of just a few weeks. It is regrettable that the council was not involved in the decision-making process at an earlier stage, so that it could have made a more constructive contribution. Subsequently, the council provides its advice on several points.³⁵³

407. Firstly, regarding the duty of care, the council notes that the preliminary draft of the law aims to proactively introduce a Belgian framework preceding the transposition of the directive on due diligence obligations for companies and their value chains. The council understands that there is a link to the CSRD directive but considers it inappropriate to combine the introduction of the duty of care with the transposition law of the CSRD directive.

408. The council's advice regarding sustainability information is next. In general, the Council observes with satisfaction that the preliminary draft of the law represents a faithful transposition of the directive. Furthermore, the Council is also pleased that the CSRD directive, and consequently the preliminary draft of the law, imposes obligations on certain non-European companies economically active within the European Union to prepare and disclose sustainability information.

409. Next is the Safe Harbour clause. Similar to the NFRD directive, member states have the option to include a "Safe Harbour" clause in their legislation when transposing the CSRD directive.³⁵⁴

This option reads as follows: "Member states may allow for the omission, in exceptional cases, of information concerning impending developments or matters under negotiation if, in the duly justified opinion of the members of the management, supervisory, and administrative bodies, acting within the scope of their powers as defined by national law and with collective responsibility for that position,

³⁵² Ibid, footnote 349.

³⁵³ Centrale Raad voor het Bedrijfsleven, "Organisatie van de economie CRB 2024-0250, advies", 24 January 2024, 3, consulted on 13 March 2024, <file:///C:/Users/Gebruiker/Downloads/crb-2024-0250-de-zorgplicht-de-openbaarmaking-van-duurzaamheidsinformatie-en-de-assurance-van-duurzaamheidsinformatie.pdf>.

³⁵⁴ Ibid, footnote 353.

the disclosure of such information would seriously harm the commercial position of the undertaking, provided that the omission of such information does not prevent a faithful and balanced understanding of the development, performance, position, and the impact of the company's activities."³⁵⁵

410. The Council notes that, according to the explanatory memorandum, this clause is not included in the preliminary draft of the law for transparency reasons. The Safe Harbour clause allows, under strict conditions outlined above, for certain information not to be disclosed. With the CSRD, unprecedented transparency will be established. Other member states are expected to widely utilize this option.

411. Furthermore, the advice regarding assurance of sustainability information. According to the explanatory memorandum, the absence of mandatory assurance of non-financial information was identified as one of the key shortcomings in the application of the NFRD directive. Without control over non-financial information, there is a higher risk of greenwashing and boiler plating. The CSRD directive now mandates the assurance of sustainability information to ensure high-quality disclosure of sustainability information. The preliminary draft of the law stipulates that the assurance of the company's sustainability information can be performed by the statutory auditor appointed by the company, who then conducts both the statutory audit of the financial statements and the assurance of sustainability information, or by another audit firm solely responsible for the assurance of sustainability information. The CSRD directive also provides member states with the option to allow independent assurance providers to deliver an opinion on the company's sustainability information alongside auditors.³⁵⁶

412. Accordingly, the preliminary draft of the law specifies that, after a period of three years from the entry into force of the preliminary draft of the law, IPA's will be authorized to apply for such accreditation. The council advocates for opening up the market for assurance of sustainability information, thus fostering competition among different service providers. However, the council emphasizes that stringent requirements must be imposed on these independent assurance providers. The council notes that such a framework with rigorous requirements for independent assurance providers is currently lacking in Belgium and urgent action needs to be taken to address this. A rigorous framework has to be made, to give the 'open market' some kind of guidelines.³⁵⁷

413. Finally, a legal remark from the explanatory memorandum is worth noting: "In summary, all these innovations, through the transposition of the CSRD directive into Belgian law, will also apply to Belgian companies and groups: an extension to all limited liability companies, unless they are small."

414. The phrase 'unless they are small' is poorly worded and vague says the council. There are indeed companies that cannot be considered small but do not fall within the scope of sustainability

³⁵⁵ Ibid, footnote 352.

³⁵⁶ Ibid, footnote 352.

³⁵⁷ Ibid, footnote 352.

reporting requirements because they do not meet the criteria for 'large companies.' To avoid confusion, this passage should be revised.³⁵⁸

415. The writer shares the opinion of the council that the preliminary political agreement reached is premature and not yet ready to be transposed into Belgian legislation. Furthermore, the writer believes that aligning the transposition closely with the CSRD addresses the aim for a more level playing field between European and non-European companies in the European market. The companies interviewed also stressed the importance of closely aligning the definitive version of the national transposition with the CSRD, as their practices and compliance are based on it. A stricter transposition now, falling within the possibilities of the CSRD minimum harmonization, would be detrimental to the companies, necessitating further changes in practices and compliance.

416. Regarding the safe harbour clause, the writer considers it a missed opportunity, as other member states can utilize it, potentially disadvantaging companies based in Belgium. However, the companies that were interviewed expressed regret that the option is not available for specific cases. But they also said that the information that they are required to make public under the CSRD are not the disclosure of their trade secrets and should not pose a problem in principle.

417. The writer believes that clear legislation regarding the requirements of independent assurance providers is lacking in Belgium. Finally, the writer emphasizes the need for clarity in the legislation's wording to avoid vagueness, suggesting a thorough review before the draft is converted into law.

6.4. Recommendations from the author

6.4.2. Alignment with EU standards

418. It is important that the Belgian legislation aligns closely with the requirements and standards outlined in the CSRD³⁵⁹ to maintain consistency with EU regulations and facilitate cross-border comparability of sustainability reporting. In general, it can be said that the preliminary draft of the law represents a faithful transposition of the directive.³⁶⁰ It is important that the final law also represents a faithful transposition of the directive.

419. It is important for the companies subjected to the law that the final law closely resembles the CSRD, as most companies have already invested two years of time and money in compliance with the regulations. If Belgium were to opt for minimum harmonization, it would be disadvantageous as companies would have to undergo the compliance procedure once again. Additionally, including the option of the safe harbour clause seems appropriate so that extremely specific businesses, such as defence, can make use of it if they wish. However, it should be noted that this could be a disadvantage if other member states make extensive use of it.³⁶¹

³⁵⁸ Ibid, footnote 352.

³⁵⁹ Ibid, footnote 86.

³⁶⁰ Ibid, footnote 352.

³⁶¹ Ibid, footnote 352.

6.4.3. Clear definitions and wording

420. It is important that the new law provides clear definitions of terms and scope application to avoid ambiguity and ensure that all relevant entities are covered by the reporting requirements. To close all loopholes, it is crucial to address vague language and minimize it as much as possible. For instance, the phrase "unless they are small" is poorly worded and vague, as noted by the council. Therefore, it is essential to eliminate all such ambiguities from the preliminary draft and especially avoid them in the final regulations.³⁶² The author's advice would be to thoroughly review the draft and eliminate all vague wordings in the final law.

6.4.4. Stakeholder Engagement

421. The writer as mentioned earlier strongly believes that adequate stakeholder engagement and consultation should come first in the implementation process. This ensures that there is sufficient feedback provided to the legislator, allowing for the consideration of the needs and expectations of all relevant stakeholders, including SMEs.³⁶³

422. However, since the feedback from stakeholders was solicited extremely late in the process and they did not have much time to provide a well-founded and thoughtful opinion, the writer wishes to point out that this could lead to complications in the effective implementation of the regulation. The legislative body must be prepared to swiftly address any issues that may arise through legislative amendments.

6.4.5. Integration with Existing Reporting Frameworks

423. The writer emphasizes the importance of integrating the CSRD reporting requirements with existing sustainability reporting frameworks and initiatives in Belgium. This integration aims to minimize duplication of efforts and streamline reporting processes for companies.

6.4.6. Capacity Building, training, guidance, and support

424. To assist the Belgian business community in the transition, it is crucial to design guidance documents and support mechanisms. To facilitate this process as smoothly as possible, it is important to provide training and capacity-building programs to the companies in Belgium that fall under the directive, along with their associated stakeholders. The target groups consulted, including major consulting firms, are actively engaged in providing these awareness campaigns. To assist the Belgian business community in the transition, it is crucial to design guidance documents and support mechanisms. To facilitate this process as smoothly as possible, it is important to provide training and capacity-building programs to the companies in Belgium that fall under the directive, along with their associated stakeholders.

425. The writer's advice would be to continue providing these awareness programs and trainings. Furthermore, to facilitate guidance documents and support mechanisms not only before the

³⁶² Ibid, footnote 352.

³⁶³ Ibid, footnote 352.

implementation, but also during the initial years to support companies throughout the transition period.

6.4.7. Establish a framework for independent assurance providers

426. The writer advises that it is imperative to establish a precise framework for independent assurance providers to ensure the credibility and reliability of sustainability information. This framework should include stringent requirements to uphold the integrity of the assurance process. Urgent action is needed to address the current lack of such a framework in Belgium. Additionally, it is essential to foster competition among different service providers while maintaining ambitious standards through the implementation of clear guidelines.

6.4.8. Timely implementation schedule

427. It is important to establish a realistic timeline for the implementation of CSRD requirements into Belgian legislation, taking into consideration the complexity of the reporting process and the necessary preparations by reporting entities. Issuing a preliminary draft in early 2024 while aiming for final implementation just a few months later is too late. Belgium has a history of implementing legislation too late, which is not conducive to the business environment in Belgium. It is unacceptable that the target audience for feedback on the preliminary draft is given only a few weeks to provide their informed comments. Additionally, failing to involve SMEs, who are indirectly affected by the regulations, is certainly not advisable. However, since the transposition needs to be completed quickly, there is unfortunately not much that can be done now. This is not the first time that Belgium has either been late in transposition or done it at the last minute. The general advice regarding this would be to keep a closer eye on the timeline for future transpositions of regulations.³⁶⁴

6.4.9. Monitoring-, enforcement mechanisms and continuous review

428. It is crucial to maintain the obligations outlined in the CSRD regarding transparency and accountability in sustainability reporting in the definitive version of the legislation. This includes upholding regular audits and enforcing penalties for non-compliance. Additionally, implementing effective mechanisms for addressing complaints and disputes is essential. Finally, the writer believes it is essential to strive for ongoing review and evaluation of the effectiveness of the implemented legislation, making necessary adjustments and improvements based on lessons learned and evolving sustainability reporting practices.

Conclusion

429. In conclusion, the analysis of Belgium's preliminary draft for implementing the European Directive on Corporate Sustainability Reporting³⁶⁵ highlights the significance of stakeholder engagement, legislative clarity, and alignment with EU standards. Feedback from stakeholders such

³⁶⁴ Ibid, footnote 352.

³⁶⁵ Ibid, footnote 86.

as the IBR³⁶⁶, ITAA³⁶⁷, and the Organization of the Economy has shed light on areas for improvement, including the need for clear definitions, a realistic implementation schedule, and robust monitoring and enforcement mechanisms.

430. The implications of this analysis for businesses are significant, as regulatory requirements for sustainability reporting continue to evolve. By closely monitoring legislative developments, companies can anticipate compliance requirements, mitigate risks, and enhance their sustainability performance and reputation.

431. Furthermore, recommendations arising from stakeholder feedback offer valuable insights for policymakers and businesses alike. Incorporating these recommendations into the final legislation will not only address concerns raised by stakeholders but also foster a regulatory environment that promotes transparency, accountability, and sustainability in corporate reporting practices. This, in turn, will enable businesses to operate with confidence, attract investment, and contribute to sustainable development goals.

432. Moving forward, it is imperative for Belgium to use the recommendations put forth by stakeholders and ensure that the final legislation aligns closely with EU standards and addresses the identified areas for improvement. Specifically, the writer recommends:

- Ensuring clear definitions and wording in the final law to eliminate ambiguity.
- Prioritizing stakeholder engagement throughout the implementation process.
- Integrating CSRD reporting requirements with existing frameworks to streamline reporting processes.
- Establishing a rigorous framework for independent assurance providers to uphold trustworthiness and integrity.
- Establishing a realistic timeline for implementation and closely monitoring progress to avoid delays.
- Maintaining transparency and accountability through robust monitoring, enforcement, and continuous review mechanisms.

433. By following these recommendations, Belgium can demonstrate its commitment to sustainable finance and corporate governance while providing businesses with the regulatory clarity and support needed to thrive in an increasingly sustainability-focused global economy.

³⁶⁶ Ibid, footnote 366.

³⁶⁷ Ibid, footnote 349.

C) Conclusion

434. Firstly there will be looked back at the main question of this thesis; *"How do different European and international frameworks interact with the CSRD, and what legal challenges do businesses encounter during its implementation, while proposing recommendation for the integration of the CSRD into Belgian legislation?"* To tackle this question, sub-questions were used, each of which was answered in every chapter. In this conclusion, there will be a recapitulation to the main question of the thesis.

435. The concept of sustainability reporting has evolved significantly over time as shown in the first chapter, transitioning from vague moral obligations to essential components of modern corporate governance. Historical influences, such as the emergence of corporate social responsibility in the twentieth century, led to standardized approaches like the GRI and the UNGC. Today, sustainability reporting is considered integral to business practices, necessary for regulatory compliance, building stakeholder trust, and gaining a competitive edge.

436. This evolution in sustainability reporting reflects a broader shift in business towards more responsible and transparent practices, as seen in European and international frameworks like the CSRD. Understanding the historical factors contributing to the development of sustainability reporting helps businesses navigate complex regulatory environments and manage risks.

437. The conclusion on the first sub-question provides crucial context for understanding the role of the CSRD within the broader evolution of corporate governance and sustainability practices. It demonstrates how various European and international frameworks, building upon historical developments, interact with the CSRD and how this understanding can assist businesses in integrating the CSRD into Belgian legislation, thereby contributing to answering the main question by highlighting how the CSRD fits into the broader landscape of sustainability reporting and business practices.

438. International and European frameworks play a fundamental role in shaping corporate sustainability reporting as shown in the second chapter, transitioning it from a voluntary undertaking to a fundamental aspect of global business practices. While international organizations like the UN, ILO, and OECD influence national policies and corporate standards through their initiatives, challenges persist, including inconsistent adoption and compliance complexities.

439. In Europe, binding legislation such as the CSRD, EU Taxonomy, and CSDDD significantly impact corporate reporting practices. The CSRD standardizes reporting requirements, expanding its scope to include a broader spectrum of companies. The EU Taxonomy guides investment decisions toward environmentally sustainable activities, enhancing transparency and accountability. The CSDDD addresses human rights and environmental abuses, promoting ethical business conduct.

440. These legislative measures underscore the EU's commitment to sustainability, transforming corporate reporting from voluntary to a legal requirement. However, challenges such as compliance complexity remain. Yet, aligning with these standards fosters a more sustainable future, although with the need for robust monitoring and evaluation mechanisms.

441. Overall, the conclusion on the second sub-question not only addresses the interaction between different frameworks and the CSRD but also highlights legal challenges businesses face during implementation. It provides insights into how these frameworks complement each other and contribute to shaping corporate sustainability reporting requirements, thereby contributing to a more sustainable future.

442. The interaction between the CSRD, CSDDD, and EU Taxonomy Regulation as seen in chapter three forms a comprehensive framework for corporate sustainability reporting within the EU. The CSRD expands reporting requirements, while the CSDDD emphasizes due diligence obligations throughout supply chains. The EU Taxonomy guides investment toward sustainable projects, indirectly informing companies' reporting practices.

443. Together, these frameworks enhance transparency, accountability, and comparability of sustainability information, empowering stakeholders to make informed decisions and driving investment toward sustainable actions. This comprehensive approach supports the transition to a more sustainable economy and fosters a culture of responsibility and accountability among businesses.

444. Overall, the conclusion on the third sub-question addresses the main question as follows, the interaction between these frameworks demonstrates how European initiatives shape corporate reporting practices, advancing sustainability goals. Additionally, it highlights the legal challenges businesses may face during implementation, such as compliance complexity. However, by integrating these frameworks into Belgian legislation, companies can navigate these challenges more effectively and contribute to a more sustainable future.

445. The evaluation of hypotheses as seen in chapter four surrounding multinational companies' challenges in complying with CSRD requirements, data gathering, transparency obligations, and harmonization efforts demonstrates the directive's significance in promoting transparency, consistency, and fairness in sustainability reporting practices. Despite challenges, such as data complexity and balancing transparency with proprietary information protection, the CSRD provides a robust framework for addressing these issues.

446. By indirectly acknowledging the challenges faced by multinational companies and striking a balance between transparency requirements and safeguarding proprietary information, the CSRD ensures compliance while protecting trade secrets. Additionally, the principle of minimum harmonization allows for flexibility in implementation across member states while maintaining common objectives for sustainability reporting, fostering consistency and fairness.

447. Overall, the conclusion on the fourth sub-question addresses the main question as follows, the evaluation underscores how the CSRD interacts with different European and international frameworks, contributing to the advancement of sustainability reporting practices. It also highlights legal challenges businesses encounter during implementation, such as compliance complexity. Nonetheless, by integrating the CSRD into Belgian legislation, companies can navigate these challenges effectively and contribute to a more sustainable future.

448. As seen in the fifth chapter, examining the effects of corporate sustainability reporting outside the EU reveals diverse approaches taken by different jurisdictions, including Europe, South Africa, and the United States. While the EU mandates comprehensive directives for sustainability reporting, South Africa relies more on voluntary frameworks, and the United States is undergoing regulatory shifts towards initiatives like the ESG Disclosure Simplification Act and scaled-back Climate Disclosure rules. These global trends towards standardized reporting practices and greater transparency have implications for companies operating on international and European levels.

449. Understanding these legislative frameworks is crucial for businesses navigating the global economy. By analysing diverse approaches to sustainability reporting, companies can anticipate regulatory trends, assess compliance requirements, and align their practices with international best practices. This not only ensures regulatory compliance but also enhances reputation, attracts investment, and contributes to sustainable development goals.

450. Overall the conclusion on the fifth sub-question indirectly addresses the main question by providing insights into the broader landscape of global sustainability reporting frameworks, it enriches the discussion by offering valuable comparative insights from other regions. These insights inform discussions about legal challenges and recommendations for integrating the CSRD into Belgian legislation, contributing to a comprehensive understanding of sustainability reporting practices globally.

451. The recommendations for the effective implementation of the CSRD into Belgian law as seen in the last chapter emphasize the importance of stakeholder engagement, legislative clarity, and alignment with EU standards. Stakeholder feedback, including input from organizations such as IBR, ITAA, and the Organization of the Economy, highlights the need for clear definitions, realistic implementation schedules, and robust monitoring and enforcement mechanisms.

452. These recommendations address significant legal challenges that may be encountered during the implementation of the CSRD, such as ambiguity in definitions, complexity in compliance, and the need for effective monitoring and enforcement. By aligning Belgian legislation closely with EU standards and incorporating stakeholder feedback, Belgium can foster a regulatory environment that promotes transparency, accountability, and sustainability in corporate reporting practices.

453. The implementation of these recommendations did not only address concerns raised by stakeholders but also contributed to the overall effectiveness of sustainability reporting in Belgium. By providing regulatory clarity and support, Belgium can demonstrate its commitment to sustainable finance and corporate governance, facilitating the integration of the CSRD into Belgian legislation.

454. Overall the conclusion on the last sub-question on the recommendations for the effective implementation of the CSRD into Belgian law directly address the main question by offering insights into the interaction between different European and international frameworks with the CSRD. Additionally, legal challenges encountered during implementation are addressed and suggest actionable recommendations for integration into Belgian legislation, contributing to the broader discussion on corporate sustainability reporting practices.

455. In conclusion, this thesis has explored the intricate relationship between different European and international frameworks and the CSRD, shedding light on how they interact and influence corporate sustainability reporting practices. Through the examination of various sub-questions, it has become evident that sustainability reporting has evolved significantly over time, transitioning from vague moral obligations to essential components of modern corporate governance. This evolution has been shaped by historical influences, international initiatives, and European legislation, all of which have contributed to the integration of sustainability into business practices.

456. Furthermore, this thesis has identified key legal challenges that businesses encounter during the implementation of the CSRD, including compliance complexity, data gathering issues, and the need for harmonization across different jurisdictions. However, it has also proposed recommendations for effectively integrating the CSRD into Belgian legislation, emphasizing stakeholder engagement, legislative clarity, and alignment with EU standards as crucial elements for success.

457. Overall, this thesis underlines the importance of sustainability reporting in today's business landscape and highlights the role of international and European frameworks in shaping corporate reporting practices. By navigating these frameworks effectively and implementing the CSRD in Belgian legislation, businesses can contribute to a more sustainable future while ensuring regulatory compliance and fostering transparency, accountability, and responsible business practices.

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E) Annex

Annex 1. Questions

Opening questions

1. What are your initial thoughts or reactions to the CSRD and their potential impact on your company's operations?
2. Can you describe the current sustainability reporting practices within your organisations?

Open-ended questions

3. How do you foresee the CSRD influencing your company's sustainability reporting practices in the future?
Follow-up question: Are there any specific challenges or barriers you anticipate in complying with the requirements outlined in the CSRD?
4. In your opinion, what are the potential benefits and challenges of harmonising sustainability reporting requirements across different jurisdictions both within the EU and Globally?
5. Do you believe that aligning with the CSRD will provide any competitive advantages or opportunities for your company on a European and International level?
6. How do you balance the need for transparency and disclosure in sustainability reporting with concerns about proprietary information or competitive advantage?
7. How do you anticipate the CSRD impacting your supply chain management practices within the company, particular in terms of assessing and mitigating environmental and human rights risks?

Questions regarding the preliminary draft of the implementation of the CSRD.

8. The CSRD must be transposed into national legislation by July 6, 2024. By the end of 2023, the legislation was set in motion, and Belgium presented a preliminary draft in January 2024, allowing a specific group to provide their comments and advice. Although the opinions of SMEs were not solicited, they indirectly must comply with the requirements. What is your opinion on this, considering that they indirectly have to meet the conditions that you have to convey to the SMEs?
9. Do you think it is good that the Belgian preliminary draft aligns closely with the requirements and standards outlined in the CSRD?
10. What do you think about the EU's requirement for companies to disclose information in reporting obligations under the CSRD?
11. Do you think this would be an advantage or disadvantage for European companies compared to those outside the EU?
12. Next is the Safe Harbour clause. Similar to the NFRD directive, member states have the option to include a "Safe Harbour" clause in their legislation when transposing the CSRD directive. This option reads as follows: "Member states may allow for the omission, in exceptional cases, of information concerning impending developments or matters under negotiation if, in the duly justified opinion of the members of the management, supervisory, and administrative bodies, acting within the scope of their powers as defined by national law

and with collective responsibility for that position, the disclosure of such information would seriously harm the commercial position of the undertaking, provided that the omission of such information does not prevent a faithful and balanced understanding of the development, performance, position, and the impact of the company's activities". The Safe Harbour clause allows, under strict conditions outlined above, for certain information not to be disclosed. Belgium did not avail itself of the opportunity to include the safe harbour clause in the preliminary draft.

What do you think of this?

13. As a business, do you think this could be a disadvantage for you compared to companies based in other member states?
14. Do you think this could be a reason for companies not to establish themselves in Belgium?

Closing questions

15. Finally, how do you envision the future of corporate sustainability reporting and compliance.
16. What steps is your company taking to stay ahead of emerging trends and regulatory developments in this area?