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**Private Governance, Sustainable Development, and Corporate Social  
Responsibility: China and Italy in Comparative and Transnational  
Perspectives**

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## **List of Abbreviations**

- BRICS Brazil, Russia, India, China and South Africa
- Cariforum Caribbean Group of African, Caribbean and Pacific States
- CSR Corporate social responsibility
- CSR-SC Corporate Social Responsibility - Social Commitment
- EC European Commission
- EMAS EU Eco-Management and Audit Scheme
- EU European Union
- GDP Gross domestic product
- NAFTA North American Free Trade Agreement
- NGO Non-governmental organisation
- NPO Nonprofit organisation
- OECD Organisation for Economic Co-operation and Development
- SMEs Small and medium-sized enterprises
- TPG Transnational private governance
- TPP Trans-Pacific Partnership
- TIPP Transatlantic Trade and Investment Partnership
- UN United Nations

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# Introduction

## 1. Context, Questions, Methods

Activities by private actors in transnational sphere have been proliferating along with globalisation process. Phenomena of transnational activities already existed for a long time, either before or after the establishment of modern sovereign state. The focus of the thesis is transnational private governance associated with enterprises. As domestic, foreign, or multinational entities, enterprises sometimes generate "transnational" effects and participate in rule-making or rule-compliance processes which are (largely) free of state dominance.

Private governance, either national or transnational, is realised in various ways, one of which closely relates to CSR. Private governance and CSR are partially interwoven but are not the same on the whole. For one thing, some contents of CSR are legally binding rules. For another, some forms of private governance are mainly technical or driven by economic incentives, while CSR is about social values. Nevertheless, both private governance and CSR attract increasing attention, and the two interact or intertwine in various fields and at different levels.

CSR roots deeply in social values, so does some initiatives in form of private governance. As ideology and practice, sustainable development has been influential for decades, and represents one of the mainstream social values. Naturally, sustainable development closely relates to CSR, and often works as a foundation for some initiatives of private governance.

All these happen along with several key development of human

society. First of all, the role of states does not stay still, therefore some questions arise when non-state actors play roles that traditionally belong to the states. Second, diverse societies are connected with different extent or in new forms. In terms of communication, Internet changed the way that information diffuses. In terms of economy, fragmentation of production in different countries raise a broad range of issues. Third, countries around the world are facing common problems, one of which is sustainability. Both causes and solutions of the problem of sustainability are not merely local or national, but are transnational or global instead.

Necessity of more research is based on several reasons. First, the scale of globalisation is large enough to provide space for transnational private governance. Second, the changing North-South relation calls for fresh theoretical inspections. Third, new technologies change the way of generating, accessing, and complying rules.

In the broad area of research on globalisation, there is an institutional perspective, especially those on private governance in transnational sphere, associated with ideas of legal pluralism. There exists some research on specific sectors or pre-defined cultural or geographical regions. As globalisation is an ongoing process, the field is changing fast, and more research is desirable.

The thesis analyses above phenomena in Italy and China mainly, as well as other countries when necessary, with a focus on enterprise. Specifically, CSR, which is intrinsically related to sustainable development and often realised with the involvement of private governance, will be studied by comparing CSR in Italy and CSR in China, and by analysing the connections between the two from a transnational perspective.

The main significance of the study is potential contribution to development of transnational legal theory, by systemically studying current literature and analysing phenomena in a broad range.

## 2. Literature Review

Research on the phenomenon that private actors possess legislative power could be found as early as 1930s.<sup>1</sup> Globalisation has been perceived as a key factor in rethinking traditional legal hierarchy; instead of deconstructive theories, it is the real force that deeply affects the hierarchy.<sup>2</sup>

Among relevant works, terms widely used include “transnational private governance”,<sup>3</sup> “transnational private regulation”,<sup>4</sup> “transnational

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1. Jaffe, Louis L. 1937. “Law Making by Private Groups.” *Harvard Law Review* 51 (2): 201.

2. Teubner, Gunther. 1997. “The King’s Many Bodies: The Self-Deconstruction of Law’s Hierarch.” *Law & Society Review* 31 (4): 763–88.

3. Graz, Jean-Christophe, and Nölke, Andreas. 2007. “Introduction: Beyond The Fragmented Debate On Transnational Private Governance.” In *Transnational Private Governance and its Limits*, edited by Graz, Jean-Christophe, and Nölke, Andreas, 1–26. Routledge.

4. Bartley, Tim. 2007. “Institutional Emergence in an Era of Globalization: The Rise of Transnational Private Regulation of Labor and Environmental Conditions.” *American Journal of Sociology* 113 (2): 297–351.

private regulatory governance”,<sup>5</sup> “transnational regulatory systems”<sup>6</sup> as well as “private transnational governance”,<sup>7</sup> etc. Graz and Nölke explored the meanings of “transnational”, “private”, and “governance” respectively.<sup>8</sup>

Cafaggi summarised models of regimes encompassed by transnational private regulation, namely, industry-driven, NGOs-led, expert-led, and multi-stakeholder model.<sup>9</sup> Case studies on private actors like Wal-Mart have also been conducted.<sup>10</sup>

The context within which transnational private governance develops

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5. Zumbansen, Peer. 2013. “Transnational Private Regulatory Governance: Ambiguities of Public Authority and Private Power.” *Law and Contemporary Problems* 76 (2): 117–38.

6. Meidinger, Errol. 2007. “Beyond Westphalia: Competitive Legalization in Emerging Transnational Regulatory Systems.” In *Law and Legalization in Transnational Relations*, edited by Brüttsch, Christian, and Lehmkuhl, Dirk, 121–43. Routledge.

7. Dingwerth, Klaus. 2008. “Private Transnational Governance and the Developing World: A Comparative Perspective.” *International Studies Quarterly* 52 (3): 607–34.

8. Graz, Jean-Christophe, and Nölke, Andreas. 2007. “Introduction: Beyond The Fragmented Debate On Transnational Private Governance.” In *Transnational Private Governance and its Limits*, edited by Graz, Jean-Christophe, and Nölke, Andreas, 1–26. Routledge.

9. Cafaggi, Fabrizio. 2011. “New Foundations of Transnational Private Regulation.” *Journal of Law and Society* 38 (1): 20–49.

10. Backer, Larry Catá. 2007. “Economic Globalization and the Rise of Efficient Systems of Global Private Law Making: Wal-Mart as Global Legislator.” *Connecticut Law Review* 39 (4): 1739–84.

has been covered. To begin with, Watt stated that “Private international law leaves largely untended the private causes of crisis and injustice affecting such areas as financial markets, environmental protection, pollution, the status of sovereign debt, the bartering (or confiscation) of natural resources and land, the use (and misuse) of development aid, (unequal) access to food, the status of migrant populations, and many more.”<sup>11</sup> Furthermore, Zumbansen emphasised the context of state transformation, where transnational ‘private’ regulatory governance sits.<sup>12</sup> And there are emerging powers, including geographically boundless entities that have transnational, cross-border nature.<sup>13</sup> Besides, new developments associated with transnational private governance, “the new hybrid postmodern forms of decision-making in both domestic and global public-private networks”, cannot be simply subsumed under the existing administrative rules system.<sup>14</sup>

Key attributes of transnational private governance covered by

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11. Watt, Horatia Muir. 2011. “Private International Law Beyond the Schism.” *Transnational Legal Theory* 2 (3): 347–428.

12. Zumbansen, Peer. 2012. “The Ins and Outs of Transnational Private Regulatory Governance: Legitimacy, Accountability, Effectiveness and a New Concept of “Context”.” *German Law Journal* 13 (12): 1269–81.

13. Antonelli, Gilberto. 2011. “Emerging Powers Development, Global Economic Crisis and Value Chains Restructuring.” In *Globalization and Inequality in Emerging Societies*, edited by Rehbein, Boike, 175–93. Palgrave Macmillan.

14. Ladeur, Karl-Heinz. 2012. “The Emergence of Global Administrative Law and Transnational Regulation.” *Transnational Legal Theory* 3 (3): 243–67.

previous research include legitimacy,<sup>15</sup> accountability,<sup>16</sup> effectiveness,<sup>17</sup> and enforcement<sup>18</sup> thereof.

Some research came with defined geographical scope. A typical research question is whether private governance fosters European legal integration.<sup>19</sup> There is also research on the relationship between private governance and state law within one state like Germany.<sup>20</sup>

Previous works demonstrate various methods on research of transnational private governance. For instance, approaches in comparative political economy (CPE) and global political economy

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15. Scott, Colin. 2012. "Beyond Taxonomies of Private Authority in Transnational Regulation." *German Law Journal* 13 (12): 1329–38.

16. Dann, Philipp, and von Engelhardt, Marie. 2012. "Legal Approaches to Global Governance and Accountability: Informal Lawmaking, International Public Authority, and Global Administrative Law Compared." In *Informal International Lawmaking*, edited by Pauwelyn, Joost, Wessel, Ramses, and Wouters, Jan, Oxford University Press.

17. Scheltema, Martijn Willem. 2014. "Assessing Effectiveness of International Private Regulation in the CSR Arena." *Richmond Journal of Global Law and Business* 13 (2): 263–375.

18. Verbruggen, Paul. 2014. *Enforcing Transnational Private Regulation: A Comparative Analysis of Advertising and Food*. Edward Elgar Pub.

19. Cafaggi, Fabrizio. 2014. "Does Private Regulation Foster European Legal Integration?" In *Varieties of European Economic Law and Regulation*, edited by Purnhagen, Kai, and Rott, Peter, 259–84. Springer.

20. Kocher, Eva. 2002. "Private Standards between Soft Law and Hard Law: The German Case." *International Journal of Comparative Labour Law and Industrial Relations* 18 (3): 265–80.

(GPE) have been distinguished because of methodological difference.<sup>21</sup>

There is plenty of literature on the importance of transnational private governance. Leibfried held that transnational private governance is worth normative justification, therefore should not be left out by research on international public authority.<sup>22</sup> Glinski stated that “to a certain extent, private regulation is seen as a way to bridge the gap between the different national protection levels.”<sup>23</sup>

There is plenty of literature on the limits of transnational private governance as well. Riles insisted that “global private law is not a radical departure from state law, but really more of the same”<sup>24</sup> Graz and Nölke concluded two major limits of transnational private governance, one is on definition of the concept, the other is normative limitations on its ability

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21. Graz, Jean-Christophe, and Nölke, Andreas. 2007. “Introduction: Beyond The Fragmented Debate On Transnational Private Governance.” In *Transnational Private Governance and its Limits*, edited by Graz, Jean-Christophe, and Nölke, Andreas, 1–26. Routledge.

22. Leibfried, Stephan. 2010. “To Tame and to Frame.” In *The Exercise of Public Authority by International Institutions*, edited by von, Bogdandy, Armin, Wolfrum, Rüdiger, von, Bernstorff, Jochen, Dann, Philipp, and Goldmann, Matthias, 51–66. Berlin, Heidelberg: Springer Berlin Heidelberg.

23. Glinski, Carola. 2008. “Bridging the Gap: The Legal Potential of Private Regulation.” In *Responsible Business: Self-Governance and Law in Transnational Economic Transactions*, edited by Dilling, Olaf, Herberg, Martin, and Winter, Gerd, 41–66. Hart Publishing.

24. Riles, Annelise. 2008. “The Anti-Network: Private Global Governance, Legal Knowledge, and the Legitimacy of the State.” *The American Journal of Comparative Law* 56 (3): 605–30.

to solve social problems.<sup>25</sup>

Finally, some scholars raised questions for future research. For instance, Cashore, Auld and Renckens listed 8 questions related with “private, industry and transnational civil society regulation”, including the definition of “effectiveness”

Literature on transnational private governance covers different sectors, ranging from labour conditions, finance, to environment. In labour sector, there exists systemic study on the role of private power in promoting labour standards globally.<sup>26</sup> Specific research also focuses on increasing workers’ rights, or demonstrating the limits of current governance system.<sup>27</sup> In finance sector, some research appeared after the recent global financial crisis and takes the crisis as research object.<sup>28</sup> Specific research includes transnational private governance about OTC derivatives,<sup>29</sup> and

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25. Graz, Jean-Christophe, and Nölke, AndreasLocke. 2012. “The Limits of Transnational Private Governance.” In *The Diffusion of Power in Global Governance: International Political Economy meets Foucault*, edited by Guzzini, Stefano, and Neumann, Iver B., 118–40.

26. Locke, Richard M. 2013. *The Promise and Limits of Private Power: Promoting Labor Standards in a Global Economy*. Cambridge University Press.

27. Sukdeo, Vanisha. 2012. “Transnational Governance Models: Codes of Conduct, and Monitoring Agencies as Tools to Increase Workers’ Rights.” *German Law Journal* 13 (12): 1559–70.; Kolben, Kevin. 2011. “Transnational Labor Regulation and the Limits of Governance.” *Theoretical Inquiries in Law* 12 (2): 403–37.

28. Cohen, Edward S. 2013. “Legal Pluralism, Private Power, and the Impact of the Financial Crisis on the Global Political Economy.” *Oñati Socio-Legal Series* 3 (4): 679–701.

29. Biggins, John, and Scott, Colin. 2012. “Public-Private Relations in a Transnational

implementation of the equator principles.<sup>30</sup> In environment sector, there is plenty of research on forestry,<sup>31</sup> some research on climate change and other specific fields.<sup>32</sup> There is also research on general aspects.<sup>33</sup> Besides, there is also literature on other sectors, for instance, corporate governance, private standards, and sport.

Literature on transnational private governance demonstrates several characters. First, literature on transnational private governance covers broad attributes and sectors. There are intersections between attributes and sectors. Second, much research is conducted within explicitly or non-explicitly defined scope. The geographical scopes include European Union,

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Private Regulatory Regime: ISDA, the State and OTC Derivatives Market Reform.” *European Business Organization Law Review* 13 (03): 309–46.

30. Meyerstein, Ariel. 2011. “On the Effectiveness of Global Private Regulation: The Implementation of the Equator Principles by Multinational Banks.” Dissertation, University of California, Berkeley.

31. Meidinger, Errol. 2006. “The Administrative Law of Global Private-Public Regulation: the Case of Forestry.” *European Journal of International Law* 17 (1): 47–87.; Tysiachniouk, Maria S. 2012. *Transnational Governance Through Private Authority: The Case of the Forest Stewardship Council Certification in Russia*. Wageningen Academic Publishers.

32. Godden, Lee, Rochford, Francine, Peel, Jacqueline, Caripis, Lisa, and Carter, Rachel. 2013. “Law, Governance and Risk: Deconstructing the Public-Private Divide in Climate Change Adaptation.” *University of New South Wales Law Journal* 36 (1): 224–55.

33. Perez, Oren. 2013. “International Environmental Law as a Field of Multi-Polar Governance: The Case of Private Transnational Environmental Regulation.” *Santa Clara Journal of International Law* 10 (2): 285–96.

or states sharing cultural similarities. The theoretical scopes include jurisdictions with similar legal traditions, or fundamental concepts widely used by certain cultures. Therefore, with the ongoing process of globalisation, research efforts on broader scope could be worthwhile. Third, transnational private governance has historical roots, though much research was conducted within recent years covering recent phenomenon. Historical materials, like those about *lex mercatoria*, could contribute hugely to the research. Fourth, some research is associated with vagueness of certain terms.<sup>34</sup> “Non-state actors”, for instance, there is certain vagueness of the term itself, its components, and its consequences.<sup>35</sup>

### **3. Overview of the Thesis**

The structure of the thesis will be as follows. The first part will deal with theories. The focus will be reviews of current theories of transnational private governance, clarification of theoretical framework, and analysis of terms in use. Analysis if transnational private governance includes actors, norms, and relationship between private governance and state law.

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34. The conceptual vagueness may affect accountability, while “making it attractive to domestic and international legal discourses and to interdisciplinary debates” Dann, Philipp, and von Engelhardt, Marie. 2012. “Legal Approaches to Global Governance and Accountability: Informal Lawmaking, International Public Authority, and Global Administrative Law Compared.” In *Informal International Lawmaking*, edited by Pauwelyn, Joost, Wessel, Ramses, and Wouters, Jan, Oxford University Press.

35. Grant, John P, and Barker, J.Craig. 2009. *Parry and Grant Encyclopaedic Dictionary of International Law*. Oxford University Press.

The second part will be analysis of sustainable development, in terms of both theory and practice.

The third part and fourth part will be the summary and analysis of CSR as theories and practices, and CSR in Italy and China respectively.

The final part will be conclusion which includes responses to questions like relationships between transnational private governance and public normative orders, role of languages as media of transnational private governance, and how domestic legal traditions affect relevant transnational private governance.

# Chapter One. Private Governance

## 1. The Terminology

### 1.1 Transnational

Terms to be distinguished with "transnational" include "supranational", "international", "global", and "multinational". These terms are correlated with each other, any may appear simultaneously in literature of social science.

To begin with, the difference between "supranational" and "transnational" is relatively clear. Referring to "laws or institutions that supersede the authority of the state",<sup>36</sup> "supranational" distinguishes itself from "transnational" by possessing higher levels than states. The first supranational organisation is considered to be the European Coal and Steel Community (ECSC).<sup>37</sup>

Furthermore, "international" implies a strong focus on states, while "transnational" covers non-state actors as well.<sup>38</sup> "International law" enjoys the status of an established subject.

Besides, "global" and "transnational" are comparable. There is no lack

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36. 2002. "Supranational." *Dictionary of the Social Sciences*, edited by Calhoun, Craig, Oxford University Press.

37. Skordas, Achilles. 2014. "Supranational Law." *Max Planck Encyclopedia of Public International Law*, Oxford University Press.

38. Jessup, Phillip C. 1956. *Transnational Law*. Elliotts Books. P. 1

of widely used terms involving “global”, such as “global governance”, “global warming”, and “global administrative law”, etc. In many cases, “global” means a border range, while “transnational” may refer to situations where as less as 2 countries are involved.

Finally, difference between "multinational" and transnational is ambiguous. Sometimes two terms are used interchangeably.<sup>39</sup> However, in social science context "multinational" usually precedes words representing entities, like "corporation", "firm", or "organisation"; "transnational" usually precedes works representing institutions, like "law", "governance", "regulation".

"Transnational" has been widely used in literature of law, political science, and other fields of social science. In academia, it appears in names of institutes and journals.<sup>40</sup>

In laws, "transnational" is used in EU regulations<sup>41</sup> and UK regulations.<sup>42</sup>

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39. Hamdani, Khalil, and Ruffing, Lorraine. 2015. *United Nations Centre on Transnational Corporations: Corporate Conduct and the Public Interest (Global Institutions)*. Routledge. p.44

40. For example, the institute "Berlin Graduate School for Transnational Studies (BTS)" and the journal "Transnational Legal Theory".

41. European Commission. 2012. “Commission Delegated Regulation (EU) No 880/2012 of 28 June 2012 supplementing Council Regulation (EC) No 1234/2007 as regards transnational cooperation and contractual negotiations of producer organisations in the milk and milk products sector.”

42. The Secretary of State of UK. 2010. “Transnational Information and Consultation of Employees (Amendment) Regulations 2010.”

In Italian and French, counterparts of "transnational" are "transnazionale" and "transnationale" respectively.<sup>43</sup> These words are similar in spelling. Outside Indo-European language family, however, the case is different. An example is School of Transnational Law at Peking University (Shenzhen) and Peking University Transnational Law Review. In Chinese version of names of the law school and the journal, counterparts of "transnational" are "Guoji" and "Kuaguo" respectively, which are different.<sup>44</sup> The inconsistency could be confusing, considering the close relationship between the law school and a journal it holds. The example shows that there is no unique Chinese counterpart of "transnational" so far.

## 1.2 Private

A clear explanation of "private" is fundamental for the thesis.

The division of private and public authority exist in domestic law, comparative law, and international law. In domestic law, taking Italian legal system as an example, there is a distinction or private law and public law, which is reflected by both theories and departmental systems in academic institutions.<sup>45</sup> In the field of comparative law, the Italian academia also demonstrates a clear distinction between comparative

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43. European Commission. 2012. "Commission Delegated Regulation (EU) No 880/2012 of 28 June 2012 supplementing Council Regulation (EC) No 1234/2007 as regards transnational cooperation and contractual negotiations of producer organisations in the milk and milk products sector."

44. 国际, 跨国.

45. For instance, SOE faces both private law and public law. Ibba, Carlo. 2015. "L'impresa pubblica in forma societaria fra diritto privato e diritto pubblico." *Analisi*

private law and comparative public law.<sup>46</sup> In international law, there are sectors of private international law and public international law.

Despite facts above, the boundary between "private" and "public" in domestic law, comparative law, and international law is not clear without doubt in any case. For instance, state-owned enterprises are legal entities registered under company law, they often perform public functions. Another phenomenon is that sometimes legal scholars try in vain to classify a law as "private law" or "public law". The ambiguity raises challenges in conducting research by taking the meaning of "private" for granted without explanation. However, use of the term "private" is hardly avoidable in many discussions.

In transnational sphere, distinction of "private" and "public" is not clearly settled as well. There are different kinds of relations between private authority and public authority. First, there is private/public partnership.<sup>47</sup> Second, there is private-public hybridisation.<sup>48</sup>

It is necessary to compare "non-state" and "private". Both are frequently used in literature about transnational sphere. Taking the use of

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*Giuridica dell'Economia* 2015 (2): 409–20.

46. Grande, Elisabetta. 2012. "Development of Comparative Law in Italy." In *The Oxford Handbook of Comparative Law*, edited by Reimann, Mathias, and Zimmermann, Reinhard, 107–30. Oxford University Press.

47. Schäferhoff, Marco, Campe, Sabine, and Kaan, Christopher. 2009. "Transnational Public-Private Partnerships in International Relations: Making Sense of Concepts, Research Frameworks, and Results." *International Studies Review* 11 (3): 451–74.

48. Cafaggi, Fabrizio. 2011. "New Foundations of Transnational Private Regulation." *Journal of Law and Society* 38 (1): 20–49.

"private actors" and "non-state actors" as an example, in some cases they are used synonymously,<sup>49</sup> while in others distinctively.<sup>50</sup> As perspective differs, scopes of "private actors" and "non-state actors" may vary in transnational sphere or "global" sphere. Therefore in this thesis the key is to define "private actors" and "non-state actors" properly in transnational sphere, where the topic develops.

### 1.3 Regulation

"Regulation" is an evolving term. On one hand, it may refer to rules in a static sense, on the other hand, it may refer to procedures for generating and enforcing rules in a dynamic sense.<sup>51</sup>

Regulation is about relationship; it could be relationships between the public and the private, states and markets.<sup>52</sup>

The regulation relationship is about the regulating actors and the regulated. The public powers and private actors could be both regulation actors or the regulated. Regulation can be enforced by different actors.

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49. Kees, Alexander. 2011. "Responsibility of States for Private Actors." *Max Planck Encyclopedia of Public International Law*, Oxford University Press.

50. Higgott, Richard A., Underhill, Geoffrey R.D., and Bieler, Andreas. 2000. "Introduction: Globalisation and Non-state Actors." In *Non-State Actors and Authority in the Global System*, edited by Higgott, Richard A., Underhill, Geoffrey R.D., and Bieler, Andreas, 1–12. Routledge.

51. 2012. "Regulation." *A Dictionary of Economics*, edited by Black, John, Hashimzade, Nigar, and Myles, Gareth, Oxford University Press.

52. Lange, Bettina. 2008. "Regulation." *The New Oxford Companion to Law*, edited by Cane, Peter, and Conaghan, Joanne, Oxford University Press.

Specifically, there are legal regulation, market regulation, as well as government regulation.

At national level, different with classic definitions that regulation is about imposition by public powers over private actors, both public powers and private actors can be subjects and objects of regulation.<sup>53</sup>

At supranational level, regulation of European Union consists multiple senses, meaning both dynamic procedures and one type of secondary legislation.<sup>54</sup> In the latter sense, the term "regulation" appears in many names of the legislations.

At transnational level, "regulation" is used in both static and dynamic sense as well. Among various inquiries, those of primary importance are subjects and objects of regulation, mechanism of regulation, and particularities of regulation compared with that at national and supranational level.

## 1.4 Governance

Etymology of "governance" is "gouvernance" in old French.<sup>55</sup>

Similar with "regulation", "governance" represents both rules and practices, some understands "governance" as "patterns of rules" or "practices of governing".<sup>56</sup>

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53. Ibid. 2008. "Regulation." *The New Oxford Companion to Law*, edited by Cane, Peter, and Conaghan, Joanne, Oxford University Press.

54. Kaczorowska, Alina. 2013. *European Union Law*. Routledge. p240

55. 2014. "governance, n." *Oxford English Dictionary*, Oxford University Press.

56. Bevir, Mark. 2016. "governance." *Encyclopædia Britannica. Encyclopædia*

As a concept widely in use, the meaning of “governance” is not totally clear yet, the concept is still ambiguous in some sense. There is no signs that “governance” in public administration, international relations, European Union governance share the same meaning.<sup>57</sup> Reasons of “governance” ambiguity include the openness of the concept, and the influence of other concept.<sup>58</sup> In general, “governance” depicts “an empty, still-to-be-defined space for conceptual clarification”.<sup>59</sup>

Meanwhile, the concept has an interdisciplinary character. On one hand, “governance” plays an important role linking different disciplines and contributing to a better understanding of social reality.<sup>60</sup> On the other hand, the concept of governance can not be properly understood without an interdisciplinary approach, as the concept entails boundaries of different disciplines.<sup>61</sup> Corporate governance is an example that shows

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*Britannica Online*, Encyclopædia Britannica Inc.

57. Rhodes, Rod. 2008. “Governance.” *The New Oxford Companion to Law*, edited by Cane, Peter, and Conaghan, Joanne, Oxford University Press.

58. Zumbansen, Peer. 2012. “Governance: An Interdisciplinary Perspective.” In *The Oxford Handbook of Governance*, edited by Levi-Faur, David, 83–96. Oxford University Press.

59. Ibid. 2012. “Governance: An Interdisciplinary Perspective.” In *The Oxford Handbook of Governance*, edited by Levi-Faur, David, 83–96. Oxford University Press.

60. Ibid. 2012. “Governance: An Interdisciplinary Perspective.” In *The Oxford Handbook of Governance*, edited by Levi-Faur, David, 83–96. Oxford University Press.

61. Ibid. 2012. “Governance: An Interdisciplinary Perspective.” In *The Oxford Handbook of Governance*, edited by Levi-Faur, David, 83–96. Oxford University

how legal and economic theory interact with the deep involvement of “governance”. Another example is “global governance”, which is “decidedly interdisciplinary.”<sup>62</sup>

Research on governance is closely associated with the changing role of the state.<sup>63</sup> It relates to both state-based regulation and state-based sovereignty.<sup>64</sup>

On the other hand, the world is witnessing the rise of private actors in globalisation process with various reasons.<sup>65</sup> Private actors are involved in governance process in various fields.<sup>66</sup> Term like “private governance”

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Press.

62. Calliess, Galf-Peter, and Renner, Moritz. 2009. “Between Law and Social Norms: The Evolution of Global Governance.” *Ratio Juris* 22 (2): 260–80.

63. Rhodes, Rod. 2008. “Governance.” *The New Oxford Companion to Law*, edited by Cane, Peter, and Conaghan, Joanne, Oxford University Press.

64. Zumbansen, Peer. 2012. “Governance: An Interdisciplinary Perspective.” In *The Oxford Handbook of Governance*, edited by Levi-Faur, David, 83–96. Oxford University Press.

65. Ladeur, Karl-Heinz. 2010. “Governance, Theory of.” *Max Planck Encyclopedia of Public International Law*, Oxford University Press.

66. Private actors actively participated in the global governance of finance, especially after the global financial crisis of 2008. Backer, Larry Catá. 2011. “Private Actors and Public Governance Beyond the State: The Multinational Corporation, the Financial Stability Board, and the Global Governance Order.” *Indiana Journal of Global Legal Studies* 18 (2): 751–802. Porter, Tony. 2014. “Private actors in the governance of global finance after the global crisis of 2008.” In *Handbook of the International Political Economy of Governance*, edited by Payne, Anthony, and Phillips, Nicola, 124–40. Edward Elgar.

are used to represent decision-making process or binding decisions that affect a larger public.<sup>67</sup> During the last two decades there are innovations of different forms of private governance in economic activities.<sup>68</sup>

### **1.5 Tower of Babel?**

In transnational sphere, there are usually various languages. Some languages belong to same language family therefore share more similarities, like Italian and French. Some languages are official languages of one political entity and there is a coordination system to minimise problems arising from varieties of languages. For instance, the EU has 24 official languages.<sup>69</sup>

For general research involving multiple languages, a problem is inter-translatability.<sup>70</sup> As studies on law and language concerning Chinese law show, legal categories and principles “even if belonging to conceptual frameworks that are circulated between and shared by different legal systems, live a life of their own within the contexts of local taxonomies and legal processes”.<sup>71</sup> Indeed, in case of legal translation, searching for

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67. Rudder, Catherine E. 2008. “Private Governance as Public Policy: A Paradigmatic Shift.” *The Journal of Politics* 70 (04): 899.

68. Mayer, Frederick, and Gereffi, Gary. 2010. “Regulation and Economic Globalization: Prospects and Limits of Private Governance.” *Business and Politics* 12 (3):

69. Luban, David, and Mezey, Naomi. 2014. “Introduction: Law after Babel.” *Kings Law Journal* 25 (2): 223–30.

70. Ibid. 2014. “Introduction: Law after Babel.” *Kings Law Journal* 25 (2): 223–30.

71. Timoteo, Marina. 2014. “Law and language: issues related to legal translation and

absolute equivalence of legal concepts is futile.<sup>72</sup>

For transnational private governance research, there are two potential problems. First, terms in different languages may not correspond with each other. One example is the Chinese counterparts of "transnational". Second, terms in one language may not reflect exactly the same realities in jurisdictions with different languages. "Private" may have different significances in Italy and China.

## **2. The Media of Rules**

### **2.1 From ink to digit**

In certain sense, the media of information covers a rather broad range, including not only information in form of signs, but also objects.

Rules exist in various forms, ranging from oral communication to written regulations. Media of rules is what carries rules. The same as media of information, media of rules has a long history and experienced minor or significant changes in the long run. It is difficult to conclude various forms of media of rules, therefore to decide which are media of rules, which are not. First of all, rules are hard to define. However, some significant developments of media of rules can be summarised and analysed.

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interpretation of Chinese rules on tortious liability of environmental pollution.” *China-EU Law Journal* 4 (2-4): 121–33.

72. Cao, Deborah. 2013. “Legal Translation.” *The encyclopedia of applied linguistics*, edited by Chapelle, Carol A., Blackwell Publishing Ltd.

Though the main media of rules has been materials for a long time. Media of rules is closed linked to writing systems because rules are often expressed by languages. In ancient times writing was done by carving or scratching on objects. There was periods when ink was used for writing. Printing technologies are game changers because texts could be reproduced in large amounts without big difficulties.

In recent years the world has been witnessing a change of rules from paper documents to digital documents. Developments of computer science and wide use of Internet contribute to the proliferation of digital documents, which affected many aspects of human society.

## **2.2 The changing media and private regulation**

Porter argues that three distinctive features of transnational private regulation, namely, "the prominence in transnational private regulation of private actors", "the more robustly transnational character of transnational private regulation relative to traditional public international law", "transnational private regulation's flexibility, speed and informality" are all enabled by the changes in the media of rules.<sup>73</sup>

New media of rules, which boosts wide use of digital documents, affects private governance in several ways. First, the mechanism of creating, diffusing, and complying rules changed. Second, functions of numbers become more important.<sup>74</sup>

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73. Porter, Tony. 2012. "Transnational Private Regulation and the Changing Media of Rules." *German Law Journal* 13 (12): 1511–24.

74. Ibid. 2012. "Transnational Private Regulation and the Changing Media of Rules." *German Law Journal* 13 (12): 1511–24.

In the theoretical discourse over information technology, it is not rare to see the claim that the software controlling access to a website is a form of private regulation.<sup>75</sup>

### **3. Private Governance**

#### **3.1 Private governance**

Private governance is about both social phenomena and the way of perceiving and comprehending the phenomena. One perspective of understanding private governance is focusing on decision-making, regarding private governance as processes of decision-making, the decisions themselves, and effects of these decisions on a larger public, with the decision-making led by private actors.<sup>76</sup> Another perspective is focusing on a specific field like governance of economy, regarding private governance of economy as private actors governing economic activities.<sup>77</sup>

Essential elements of private governance include actors, norms,

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75. Committee on Intellectual Property Rights in the Emerging Information Infrastructure, Computer Science and Telecommunications Board, and Council, National Research. 2000. *The Digital Dilemma: Intellectual Property in the Information Age*. National Academies Press. p.176.

76. Rudder, Catherine E. 2008. "Private Governance as Public Policy: A Paradigmatic Shift." *The Journal of Politics* 70 (04): 899.

77. Mayer, Frederick, and Gereffi, Gary. 2010. "Regulation and Economic Globalization: Prospects and Limits of Private Governance." *Business and Politics* 12 (3):

processes.

Private actors refers to individuals and entities that participate domestic or transnational enterprises as economic and legal unities. Compared with states, private actors are not governmental entities or organs of governments. In enterprises, roles of private actors are hard to ignore. Big companies, as well as other actors like associations, have entrenched in people's daily life and affect the society in many aspects. Private actors could gain big influence through their large scales or importance in certain sectors, especially in developing countries. Globalisation enhances transnational flowing of production factors, hence placing multinational onto supply chains of goods and services. Industries assisted by new technology, or largely based on new technology, gain success at rapid speed and win mass clients. Private actors in these industries do have unprecedented influence. Unsurprisingly, private actors gain considerable rule-making power. Not mentioning the indirect rule-making power through public relations, political donation, etc. Even direct rule-making power flows to private actors. People's awareness of this change is represented in expressions like "Lex Facebook".<sup>78</sup> Though theories of legal pluralism leaves spaces for alternative possibilities, there are still many aspects of private actors' rule-making power to be explored.

Norms are also essential components of private governance. Norms connect different parties involved in private governance and set out roles of them. An example of norms is supplier norms that work through supply chain, including cross-border supply chain.

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78. Bygrave, Lee A. 2015. *Internet Governance by Contract*. Oxford University Press. p.85.

Processes are driven by actors and norms, and could involve various parties.

Specifically, private governance takes different forms, including standards, codes of conduct, labels, self-regulation, etc.<sup>79</sup> Each form is diverse as well. For instance, there are different kinds of standards, made, monitored, or implemented by different actors.

Private governance could serve as a perspective for studying phenomena in specific fields. For instance, the approach of private governance is used for analysing international intellectual property protection.<sup>80</sup>

### **3.2 Private governance and relevant concepts**

Several concepts are closely related to private governance, re therefore highly relevant when analysing private governance.

First of all, “private regulation” is frequently visible in the discourse related with private governance. The two concepts are similar, relevant, and sometimes hard to distinguish. Literature with both titles often appears within the same research on relevant topics. It is even not rare to see two concepts used in one article with no explicit distinction.<sup>81</sup> The

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79. Mayer, Frederick, and Gereffi, Gary. 2010. “Regulation and Economic Globalization: Prospects and Limits of Private Governance.” *Business and Politics* 12 (3):

80. Wielsch, Dan. 2013. “Private Governance of Knowledge: Societally-Crafted Intellectual Properties Regimes.” *Indiana Journal of Global Legal Studies* 20 (2): 907–40.

81. Backer, Larry Catá. 2011. “Private Actors and Public Governance Beyond the

way of understanding and usage of the two terms differs by person. Some regards them as quite similar and do not hold there are significant differences between the two.<sup>82</sup> Some has a preference over one than the other. Some associates the two in some way and uses the term “private regulatory governance”.<sup>83</sup> In the thesis, based on cases above and the understanding that governance holds a border sense than regulation, private governance is predominantly used in order to be more inclusive.

Furthermore, relation between market and private governance is also significant. On one hand, private governance affects market. Private governance could be highly relevant with market access, especially for small suppliers in case of private governance working through the supply chain. Private governance may redress distributive consequences of market activities.<sup>84</sup> Specifically, private governance may have the function of distributing rule-making powers among markets players. There is no doubt that private governance may also facilitate the normal functioning of markets.<sup>85</sup> On the other hand, private governance is not

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State: The Multinational Corporation, the Financial Stability Board, and the Global Governance Order.” *Indiana Journal of Global Legal Studies* 18 (2): 751–802.

82. Mayer, Frederick, and Gereffi, Gary. 2010. “Regulation and Economic Globalization: Prospects and Limits of Private Governance.” *Business and Politics* 12 (3):

83. Riles, Annelise. 2011. *Collateral Knowledge: Legal Reasoning in the Global Financial Markets*. University Of Chicago Press. p. 25.

84. Mayer, Frederick, and Gereffi, Gary. 2010. “Regulation and Economic Globalization: Prospects and Limits of Private Governance.” *Business and Politics* 12 (3):

85. Ibid. 2010. “Regulation and Economic Globalization: Prospects and Limits of

alien to market, it is also an integral part of market exchange.<sup>86</sup>

Besides, private governance distinguishes itself from public governance. Private governance may complement public institutions, and may be internalised by public governance by recognition through legislation or administrative acts.<sup>87</sup> However, there is also a view that for private governance to be effective for solving problems, it is important to be free enough from government interference.<sup>88</sup> In case of corporate social responsibility, there is coordination between private governance and public governance in both Italy and China.

Finally, private governance relates to soft law, especially in terms of transnational or international issues. Soft law is a phenomenon in international law and international relations, referring to guidelines of behaviour, or, in other terms, social rules generated by states or other subjects of international law which are not legally binding but have legal or political relevance.<sup>89</sup> Private governance is relevant but different with soft law. While soft law is a phenomenon of international law and

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Private Governance.” *Business and Politics* 12 (3):

86. Merk, Jeroen. 2007. “The private regulation of labour standards: the case of the apparel and footwear industries.” In *Transnational Private Governance and its Limits*, edited by Graz, Jean-Christophe, and Nölke, Andreas, 115–26. Routledge.

87. Cafaggi, Fabrizio. 2011. “New Foundations of Transnational Private Regulation.” *Journal of Law and Society* 38 (1): 20–49.

88. Stringham, Edward Peter. 2015. *Private Governance: Creating Order in Economic and Social Life*. Oxford University Press. p.205.

89. 2014. “soft law.” *A Dictionary of Law (7 ed.)*, edited by Law, Jonathan, and Martin, Elizabeth A., Oxford University Press. Thürer, Daniel. 2009. “Soft Law.” *Max Planck Encyclopedia of Public International Law*, Oxford University Press.

international relations, private governance works in local, national, transnational, and international sphere. Nevertheless, soft law could be an alternative or a complement to private governance in certain situation.<sup>90</sup>

### **3.3 Transnational private governance**

The phrase “transnational private governance” was coined to represent private governance that extends beyond state borders. Being transnational is because the functioning of private governance is not limited to state borders, but extends across borders through supply chains or other ways.<sup>91</sup>

Transnational private governance exists in various sectors, ranging from food, finance, apparel, etc. The broad range reflects the wide influence of transnational private governance. It is noticeable that TPG is functioning in both real economy and finance. In real economy, TPG is frequently related with trade. In finance, TPG also relates with the ideology of responsible finance, which means the flowing of value with capital.

Mechanisms of TPG include contracts, voluntary codes, etc. Some mechanisms are enabled or enhanced by convenience of new models of communication. Meanwhile, subtle legal instruments, such as those in contract law, play key roles in supporting TPG.

The significance of TPG is multiple folds. First of all, it poses

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90. Cafaggi, Fabrizio. 2011. “New Foundations of Transnational Private Regulation.” *Journal of Law and Society* 38 (1): 20–49.

91. Auld, Graeme, Renckens, Stefan, and Cashore, Benjamin. 2015. “Transnational private governance between the logics of empowerment and control: Logics of empowerment and control.” *Regulation & Governance* 9 (2): 108–24.

questions in current nation-state system and reminds scholars of the *lex mercatoria* in old times.

### 3.4 Transnational private governance and relevant concepts

A relevant phrase is transnational private regulation. Some defines transnational private regulation as "the sustained efforts of non-state, private actors to steer and influence business activities across territorial borders".<sup>92</sup> Key elements include private actors, norms, and effects (transnational). The two phrases "transnational private governance" and "transnational private regulation" are both in use in relevant literature. No specific works on distinguishing the two phrases are found. Some scholar uses both in works of different years,<sup>93</sup> though there is no explicit statement whether the two phrases in different works share the same meaning or not.

Relationship between TPG and domestic law is vital in comprehending how TPG works. There may be little or much interactions between TPG and domestic legal orders. Laws or regulations may endorse or "mention" certain rules of TPG. The issue of enforcement can

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92. Verbruggen, Paul. 2014. *Enforcing Transnational Private Regulation: A Comparative Analysis of Advertising and Food*. Edward Elgar Pub. p. 12.

93. For instance, Jean-Christophe Graz. Graz, Jean-Christophe, and Nölke, AndreasLocke. 2012. "The Limits of Transnational Private Governance." In *The Diffusion of Power in Global Governance: International Political Economy meets Foucault*, edited by Guzzini, Stefano, and Neumann, Iver B., 118–40. Cradden, Conor, and Graz, Jean-Christophe. 2016. "Is Transnational Private Regulation potentially an Effective Means of Promoting Collective Industrial Relations?" *Global Labour Journal* 7 (1): 3–19.

be found in sectors like advertising or food safety.<sup>94</sup>

Relationship between TPG and international law is important as some claims that TPG takes the place that both private international law and public international law do not cope well with. It is undeniable that international law plays extremely important roles in interactions among states. Meanwhile, the rise of private governance pushes the phenomenon into the domain of private international law and provides fresh materials for the subject. The same happens to public international law, with private actors playing increasing roles in transnational affairs.

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94. Verbruggen, Paul. 2014. *Enforcing Transnational Private Regulation: A Comparative Analysis of Advertising and Food*. Edward Elgar Pub.

## **Chapter Two. Sustainable Development**

### **1. Developments of Sustainable Development**

#### **1.1 Origin of sustainable development**

Sustainable development is a concept widely discussed, well appreciated, yet not defined with consensus. It is a concept relevant with multiple actors, ranging from corporates, governments, expertise, to other governmental or non-governmental actors. It entails both tempo and spatial dimension, and is complex because of its broad coverage.

Its values are widely appreciated as it's generally accepted that intergenerational perspective shall be held in the decision making process of social affairs. Sustainability should be an integral part of economic and social goals in all countries.<sup>95</sup>

Usage of “sustainable development” can trace back to as early as 1987, when a UN report claims that “humanity has the ability to make development sustainable to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs.”<sup>96</sup> Afterwards, there are many other definitions of “sustainable development” or “sustainability” by various actors from various

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95. World Commission on Environment and Development. 1987. “Our Common Future, From One Earth to One World.”

96. Ibid. 1987. “Our Common Future, From One Earth to One World.” Mrs Gro Harlem Brundtland who led the draft of the UN Report won Tang Prize for her contribution to sustainable development.

perspectives. Statement of “sustainable development” in the UN Report is well appreciated even many years later.

The term of “sustainable development” is widely used in other languages. It’s *sviluppo sostenibile* in Italian and *ke chi xu fa zhan*<sup>97</sup> in Chinese.

Definitions of sustainability have changed over time.<sup>98</sup> At first, it was often understood as a simple trade-off between environment and economic development.<sup>99</sup> Later on social and institutional aspects were taken into consideration.<sup>100</sup> Sustainability is not only about developments by generation within certain nation-state, it’s also matters among different countries, especially among developed countries and developing countries.<sup>101</sup> As Björn Stigson puts it, “The developing world faces the most daunting challenges in pursuing sustainable economic growth.”<sup>102</sup>

Fundamentally, the concept of sustainable development is based on

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97. 可持续发展.

98. Ross-Robertson, Andrea. 2008. “Sustainable development.” *The New Oxford Companion to Law*, edited by Cane, Peter, and Conaghan, Joanne, Oxford University Press.

99. Ibid. 2008. “Sustainable development.” *The New Oxford Companion to Law*, edited by Cane, Peter, and Conaghan, Joanne, Oxford University Press.

100. Ibid. 2008. “Sustainable development.” *The New Oxford Companion to Law*, edited by Cane, Peter, and Conaghan, Joanne, Oxford University Press.

101. Martens, Jens, and Schilder, Klaus. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

102. Stigson, Björn. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

several pillars, including economic growth, environmental improvement, and social responsibility.<sup>103</sup> Great varieties exist over the definitions of sustainable development nevertheless. As an objective, sustainable development varies from country to country.<sup>104</sup> Even the definition by Brundtland Report, which is considered by some as the most appropriate,<sup>105</sup> remained vague, allowing for possibilities of misconception.<sup>106</sup> Therefore, there are different or even contradictory definitions of sustainable development, some even call it “typically an empty phrase”.<sup>107</sup>

During several important international initiatives, contents of sustainability were discussed or even debated. Domestically, public authorities or private actors act accordingly based on the social context, therefore giving meanings to sustainability in different societies.

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103. Ibid. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

104. Ibid. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

105. Ciegis, Remigijus, and Ramanauskiene, Jolita Martinkus, Bronislovas. 2009. “The Concept of Sustainable Development and its Use for Sustainability Scenarios.” *Engineering Economics* 62 (2): 28–37.

106. Martens, Jens, and Schilder, Klaus. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

107. Ibid. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

## 1.2 Sustainable development in national strategies

The idea of sustainable development gains recognition in both Italy and China and is part of national strategies through statements of public authorities, especially by being recognised and stated by law.

In Italy, for instance, sustainable development is an important part of green economy and proper use of natural resources.<sup>108</sup> On one hand, it is an abstract principle, “a strategy”<sup>109</sup>, on the other hand, it also relates to specific activities like “sustainable development of productive activity”.<sup>110</sup>

In China, sustainable development is one of objectives of enacting several laws, such as Circular Economy Promotion Law,<sup>111</sup> and Environmental Protection Law.<sup>112</sup>

## 2. Contents of Sustainable Development

After the Brundtland Report, there came hundreds of concepts of sustainable development. The theme becomes greatly enriched, though many concepts are perceived as not providing satisfactory understanding

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108. Il Presidente della repubblica Italiana. 2015. “Disposizioni in materia ambientale per promuovere misure di green economy e per il contenimento dell’uso eccessivo di risorse naturali.” Legge 28 dicembre 2015, n. 221

109. La strategia dello sviluppo sostenibile.

110. Sviluppo sostenibile delle attività produttive (zero waste production).

111. Article 1, 全国人民代表大会常务委员会. 2008. “中华人民共和国循环经济促进法.” Circular Economy Promotion Law of the People's Republic of China, 2008.

112. Article 1, 全国人民代表大会常务委员会. 2014. “中华人民共和国环境保护法.” Environmental Protection Law of the People's Republic of China, 2014.

of sustainable development.<sup>113</sup> It shows the varieties of contents of sustainability. On the other hand, it demonstrates the priority of sustainable development in discussion though the concept has not obtained a consensus over its meaning.

Sustainability does not only entail environmental aspects. It is not only about relationships between human and nature, but also issues within human societies.

Sustainability therefore extends beyond natural environment and covers economic, social, institutional aspects as well.

Though the meaning of sustainability is unclear, the concept does have positive effects through sustainability-oriented initiatives. The world witnessed discussions over sustainability, as well as activities in name of sustainability, though sometimes the concept was mentioned without being decently explained. On one hand, sustainability inspired non-legal binding initiatives widely. Many enterprises claim to appreciate the value of sustainability and are not reluctant to show their commitments on sustainable development. On the other hand, sustainability obviously affected legislation and was incorporated within laws in some countries. For instance, sustainability was reflected in UK and Scottish statutes, as “a duty on an agency”, “an objective for a regime or agency” or “a procedural requirement”.<sup>114</sup>

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113. Ciegis, Remigijus, and Ramanauskiene, Jolita Martinkus, Bronislovas. 2009. “The Concept of Sustainable Development and its Use for Sustainability Scenarios.” *Engineering Economics* 62 (2): 28–37.

114. Ross-Robertson, Andrea. 2008. “Sustainable development.” *The New Oxford Companion to Law*, edited by Cane, Peter, and Conaghan, Joanne, Oxford University Press.

A proper manner for dealing with sustainability is to analyse the concept on system levels and comprehend the concept as a integrated part.<sup>115</sup> The methodological argument is significant when analysing sustainability from each perspective, in order to fully grasp the complexity of the concept and not to simplify it as highly independent components.

## 2.1 Economic aspects

Economic aspects of human society and the nonhuman environment are among the core elements of sustainability.<sup>116</sup> Not to mention that people's awareness of sustainability is partial due to the undesirable results of "improper" economic developments, especially the industrial process. New technologies greatly enhanced the production and caused harm or potential harm to natural environment. Social mechanisms, often termed as "capitalism" or "free market", contribute to the process by improving production efficiency. Needless to say, so far these processes are not perfect and many phenomena continuously remind us how important it is the economic sustainability.

First, the "financial crisis", often described as global, hinders economic sustainability. In modern history financial crisis already happened several times. Except for the latest one around 2008, whose effects are still to be scrutinised in the future, each crisis does not provide

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115. Ciegis, Remigijus, and Ramanauskiene, Jolita Martinkus, Bronislovas. 2009. "The Concept of Sustainable Development and its Use for Sustainability Scenarios." *Engineering Economics* 62 (2): 28–37.

116. 2014. "Sustainability." *A Dictionary of Epidemiology*, edited by Porta, Miquel, 276. Oxford University Press.

enough lessons for how to avoid next ones (or people did not learned enough, as some claims<sup>117</sup>). Taking the 2008 crisis as an example, GDP in many countries obviously slowed down and the public suffered more or less in different ways. Effects are broad and long-lasting. Therefore financial crisis is one of real threats of economic sustainability. Both prevention in advance and remedies afterwards proved to be difficult.

Second, economic inequality, which is generally considered as negative, is wide around the world. It is an unpleasant mark over the course of human being's pursuit of a better world. Research has shown the graveness of this problem that social inequality generates wide socioeconomic impact.<sup>118</sup> Results of economic inequality include extreme poverty, which leads to lack of opportunities for development. Systemically, poverty increases the priority of economic achievements and decreases that of natural environment.

Putting aside the problems associated with economic sustainability, another fundamental issue is attitudes towards material wellness, namely wealth. Different perspectives generate different theories. Private properties are under legal protection and will not be lost except on special cases. Individualism means people enjoy great freedom within normative orders. All these related directly or indirectly the materialism. Though research shows that materialism does not necessarily bring people happiness.<sup>119</sup> Around this topic any call on rethinking wealth may be

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117. Reinhart, Carmen M., and Rogoff, Kenneth S. 2009. *This Time Is Different: Eight Centuries of Financial Folly*. Princeton University Press. p.292.

118. Thorbecke, Erik, and Charumilind, Chutatong. 2002. "Economic Inequality and Its Socioeconomic Impact." *World Development* 30 (9): 1477–95.

119. Van Boven, Leaf. 2005. "Experientialism, materialism, and the pursuit of

classified as non-mainstream.

## 2.2 Ecological aspects

Ecological aspects of sustainability are about the earth.

Human interventions on natural systems are huge in scale and impact.<sup>120</sup> However, the compounding impacts of human activities on environment have often missed because research and management usually isolate components of the Earth system.<sup>121</sup>

People's respect, affection, and even fear of the nature is reflected in many cultures. The theory of people and nature as one is an important part of Eastern philosophy.

Deterioration almost happens at the same pace with industrialisation of human society around the world. Worsening off of the environment can be confirmed with many, many figures. Some phenomena are directly related with sustainability.

The climate change is one of vital issues of human society. It is about sustainable development is several aspects. First, it's effects take many years to appear. Second, potential hazards of climate change could be very grave as to hinder normal activities of human societies. Third, due to human's limited capabilities of predicting the future, uncertainties we have to face in the future are big concerns.

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happiness." *Review of General Psychology* 9 (2): 132–42.

120. World Commission on Environment and Development. 1987. "Our Common Future, From One Earth to One World."

121. Liu, J, Mooney, H, Hull, V, Davis, SJ, Gaskell, J, Hertel, T, Lubchenco, J, Seto, KC, Gleick, P, Kremen, C, and Li, S. 2015. "Sustainability. Systems integration for global sustainability." *Science* 347 (6225): 1258832.

Other challenges of ecological sustainability include air pollution, biodiversity loss, energy and food security, disease spread, species invasion, and water shortages and pollution.<sup>122</sup>

### **2.3 Social aspects**

The social dimension of sustainability itself is a response to the narrow definition of sustainable development that is fixed on only ecological aspects. The broad sense of sustainability changes the discussion and initiatives of sustainability significantly, because it exposes structural problems worldwide and pays attentions to wellness of people in developing countries.

While “social” might be broad as well as ambiguous, some concludes that social concept of sustainability include stability of social and cultural systems, intragenerational and intergenerational equity, and cultural diversity.<sup>123</sup> It is noticeable that authors do imply a worldwide context for discussion over social concept of sustainability. The worldwide context contrasts discussions within domestic context.

To begin with, to maintain stability of social and cultural systems has been a big concern even after the Second World War. International Organisations like United Nations has worked a lot for this goal. Reduction of destructive conflicts is part of stability of social and cultural

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122. Ibid. 2015. “Sustainability. Systems integration for global sustainability.” *Science* 347 (6225): 1258832.

123. Munasinghe, Mohan, McNeely, Jeffrey A., and Schwab, Adelaida. 1994. *Protected Area Economics and Policy: Linking Conservation and Sustainable Development*. World Bank.

systems.<sup>124</sup>

Furthermore, intergenerational equity and intragenerational equity are both important at the social dimension of sustainability. Perspective of intergenerational equity and intragenerational equity is used not only in environmental sustainability,<sup>125</sup> but also cultural dimension of sustainability.<sup>126</sup> Put it simply, intergenerational equity is about “fairness to posterity”, and intragenerational equity is about “fairness to contemporary persons”.<sup>127</sup> There is a conflict between intergenerational equity and intragenerational equity,<sup>128</sup> especially for people in developing countries, who often have to give priority to current generation for basic needs of life.

Finally, cultural diversity is part of social dimension of sustainability. The significance of cultural diversity can be seen through the

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124. Ibid. 1994. *Protected Area Economics and Policy: Linking Conservation and Sustainable Development*. World Bank.

125. Martin, Edward J. 2011. “Economic Rights, Sustainable Development, and Environmental Management.” *Public Administration & Management* 16 (2): 121–44.

126. Throsby, David. 2012. “Article 13: Integration of Culture in Sustainable Development.” In *The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions: Explanatory Notes*, edited by von Schorlemer, Sabine, and Stoll, Peter-Tobias, 361–70. Berlin, Heidelberg: Springer Berlin Heidelberg.

127. Martin, Edward J. 2011. “Economic Rights, Sustainable Development, and Environmental Management.” *Public Administration & Management* 16 (2): 121–44.

128. Jallow, Kumba. 2008. “Sustainability and its Place in CSR Research.” In *The Ashgate Research Companion to Corporate Social Responsibility*, edited by Crowther, David, and Capaldi, Nicholas, 31–46. Ashgate.

integration of culture in sustainable development, claimed in Article 13 of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions.<sup>129</sup> The Operational Guide states that “The diversity of cultural expressions must be taken into account in the development process because it contributes to the strengthening of identity and social cohesion and to the building of inclusive societies that uphold the equal dignity of and respect for all cultures.”<sup>130</sup>

## 2.4 Institutional aspects

The institutional dimension of sustainability is an important yet often ignored aspect. Some use “institutional dimension” and “organisation dimension” interchangeably.<sup>131</sup>

The significance of institutional dimension is based on several aspects.

First, the estimation of sustainable development requires the involvement of institutional level.<sup>132</sup>

Second, the implementation of various policies entails institutional

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129. 2005. “Convention on the Protection and Promotion of the Diversity of Cultural Expressions.”

130. 2009. “Article 13 of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions Operational guidelines: Integration of Culture in Sustainable Development.”

131. Ciegis, Remigijus, and Ramanauskiene, Jolita Martinkus, Bronislovas. 2009. “The Concept of Sustainable Development and its Use for Sustainability Scenarios.” *Engineering Economics* 62 (2): 28–37.

132. Ibid. 2009. “The Concept of Sustainable Development and its Use for Sustainability Scenarios.” *Engineering Economics* 62 (2): 28–37.

level.<sup>133</sup>

Third, without consideration of institutional dimension and institutional capital, the management and implementation of society sustainable development is incomplete and therefore problematic.<sup>134</sup>

The institutional dimension is helpful in both domestic and transnational sphere, as growing international trade and the mechanisms thereof affect sustainability by various institutions.

The wording “governance of sustainability” also largely reflects the importance of institutional dimension in the discussion of sustainability.

### **3. Different Types of Sustainable Development**

Perceptions of sustainability are based on different models. Among the summaries, some conclude that there are 4 types of sustainability, namely pseudo-sustainability, weak Sustainability, Strong Sustainability, and Ultra Sustainability.<sup>135</sup> Though no classification on sustainability can be perfect, the four-type differentiation provides a route for understanding the past and current trends of ideas on sustainability.

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133. Helm, Dieter. 1998. “The assessment: environmental policy objectives, instruments, and institutions.” *Oxford Review of Economic Policy* 14 (4): 1–19.

134. Platje, Joost. 2008. ““Institutional capital” as a factor of sustainable development - the importance of an institutional equilibrium.” *Technological and Economic Development of Economy* 14 (2): 144–50.

135. Martens, Jens, and Schilder, Klaus. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

### 3.1 Pseudo-sustainability

Pseudo-sustainability, as the name suggests, is considered to be not in accordance with spirit of sustainability. “It assumes that the market will come up with solutions to resource depletion, pollution, or other disruption of the ecosystem.”<sup>136</sup> Therefore it puts expectation on the market and justify the sole function of market by the assumption that market is able to solve issues related with sustainability. However, the approach is viewed as not feasible and immoral because it creates an illusion of perfect function of market, but could not eliminate the fact that pseudo-sustainability “arises from the shifting of environmental burdens onto others in the interest of a clean backyard at home.”<sup>137</sup>

Therefore, pseudo-sustainability is even weaker than the weak sustainability and is deemed as the most unrealistic one of the four.

### 3.2 Weak sustainability

Weak sustainability incorporate environmental concerns into the framework of business system, with its roots dating back to the modern environmental movement since mid 1960s.<sup>138</sup> It is based on an

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136. Ibid. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

137. Zu, Liangrong. 2013. “Sustainable Production and Consumption.” *Encyclopedia of Corporate Social Responsibility*, edited by Idowu, Samuel O., Capaldi, Nicholas, Zu, Liangrong, and Das Gupta, Ananda, 2474–82. Springer.

138. Roome, Nigel. 2011. “Looking Back, Thinking Forward: Distinguishing Between Weak and Strong Sustainability.” In *The Oxford Handbook of Business and the Natural Environment*, edited by Bansal, Pratima, and Hoffman, Andrew J., Oxford University Press.

“instrumental interpretation of nature as natural capital”.<sup>139</sup> It seems to be driven by public relations thinking, and gives priority to economic growth.<sup>140</sup>

Advocators of weak sustainability include the “enlightened” wing of business community, its allies in governmental and academic institutions, as well as the right wing of the environmental movement.<sup>141</sup> Advocators of weak sustainability distinguish essential components and nonessential components of natural environment.<sup>142</sup>

Weak sustainability does not pay enough attention to the social dimension of sustainability and it is a narrow perception of nature.<sup>143</sup> It is therefore deemed as not sufficient to lead a successful transition to sustainable development.<sup>144</sup>

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139. Stumpf, Klara, Baumgärtner, Stefan, Becker, Christian, and Sievers-Glotzbach, Stefanie. 2015. “The Justice Dimension of Sustainability: A Systematic and General Conceptual Framework.” *Sustainability* 7 (6): 7438–72.

140. Supporters of weak sustainability do not “don't think that fundamental economic changes are necessary”, and they insist on the primacy of economic growth even though admits the limits of the ecological system. Martens, Jens, and Schilder, Klaus. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

141. Ibid. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

142. Ibid. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

143. Ibid. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

144. Roome, Nigel. 2011. “Looking Back, Thinking Forward: Distinguishing Between Weak and Strong Sustainability.” In *The Oxford Handbook of Business and*

### 3.3 Strong sustainability

Simply put, strong sustainability holds the view that “the existing stock of natural resources must be maintained for future generations”.<sup>145</sup> Strong sustainability put focus on not only intergenerational equity, but also intragenerational equity. The distributive effects are seriously taken into consideration, there are even proposals that economic growth in developed should be reduced to zero in order to offer more opportunities for developing countries.<sup>146</sup> The concept of strong sustainability even contains the idea that we must re-consider the thinking on wealth and wellness, in order to achieve sustainability. Such bold ideas show how the concept of strong sustainability touches the fundamental issues.

Distinction of strong and weak sustainability is significant. Lack of the distinction in analysing sustainability may be problematic as different scholars have different conclusions with same analysis of same examples.<sup>147</sup>

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*the Natural Environment*, edited by Bansal, Pratima, and Hoffman, Andrew J., Oxford University Press.

145. Martens, Jens, and Schilder, Klaus. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

146. Ibid. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

147. Roome, Nigel. 2011. “Looking Back, Thinking Forward: Distinguishing Between Weak and Strong Sustainability.” In *The Oxford Handbook of Business and the Natural Environment*, edited by Bansal, Pratima, and Hoffman, Andrew J., Oxford University Press.

To be specific, strong and weak sustainability can be distinguished by various analytical frames, including mental, decision, organizational/institutional, time, values, and change/innovation frames.<sup>148</sup>

A key feature of strong sustainability is the consideration for future generations on natural resources.<sup>149</sup> Therefore objectives of business shall include fitting business into capacities of the planet. Advocators of strong sustainability are in favour of limited natural resources uses.<sup>150</sup>

Another feature, relevant with the necessity of rethinking fundamental social issues, is that business to promote strong sustainability will need to possess systemic perspectives and focus on social and organisational learning.

### **3.4 Ultra sustainability**

Another type of sustainability with extreme eco-centric view could be coined as “Ultra sustainability”.

In this view, resource reservation is of vital importance with intrinsic values of all natural objects, therefore natural resources should not be used.<sup>151</sup>

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148. Ibid. 2011. “Looking Back, Thinking Forward: Distinguishing Between Weak and Strong Sustainability.” In *The Oxford Handbook of Business and the Natural Environment*, edited by Bansal, Pratima, and Hoffman, Andrew J., Oxford University Press.

149. Martens, Jens, and Schilder, Klaus. 2001. “Sustainable Development.” *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

150. Kysar, Douglas A. 2005. “Sustainable Development and Private Global Governance.” *Texas Law Review* 83 (7): 2109–66.

However, ultra sustainability is regarded as not feasible because the social dimension is not given enough consideration, therefore the concept misses the core spirit of sustainability.<sup>152</sup>

## **4. Transnational Character of Sustainable Development**

### **4.1 Significance**

The phenomenon of initiatives of sustainability on transnational sphere is obvious and demonstrated by various events and researches. While there are regional, national, initiatives on sustainability, there are transnational ones as well.

Yet analysis on the mechanisms of sustainability on transnational sphere is significant for several reasons.

First, though sustainability is transnational, domestic laws do have limits. The interactions of the two are worth researching. For many countries multiple processes, namely national, transnational, and hybrid initiatives of sustainability are going on. Those national initiatives are not necessarily the same with others.

Second, there are different types of transnationality, which are distinctive towards each other.

In Europe, for example, the European Union functions as a social, political, and economic entity. It unifies or coordinates sustainability in

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151. Martens, Jens, and Schilder, Klaus. 2001. "Sustainable Development." *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

152. Ibid. 2001. "Sustainable Development." *The Oxford Companion to Politics of the World*, edited by Krieger, Joel, Oxford University Press.

Europe through legal and political efforts. Other than European Union, the currency of euro, the economic agreements, or even the cultural ties, all contribute to the transnationality of sustainability in Europe. It is not only sustainability that are attracting the discussion and reducing. There are also theoretical discussions of transnational solidarity, for instance.<sup>153</sup>

Worldwide, traditionally there is the division of North-South. Though the North and South have showed different visions on sustainability in some occasions, sustainability in many aspects are common for the North and South. Due to different societies and common goals, coordination are indispensable. And coordination are part of the transnational mechanism. However, the division of North and South are facing new developments, as “emerging” economies, especially BRICS countries, earning more attention. Whether they fit into the North camp of the traditional division still remains to be seen. Meanwhile there are already signs that they are participating sustainability discourses with manners different with traditional South. The development model of BRICS countries, are even similar with the North in some aspects. This even raises concerns, mainly on resource consuming issues.

The trade, or economic ties centred on trade, also contributes to the classification of transnational type of sustainability. Trading activities around the world form complex networks among different regions. While trades within EU subject to normative orders of EU, trades among EU members and non-EU members are different. There are free-trade agreements worldwide, with each agreement affecting agreement parties or even non-parties. The world is witnessing an increasing trend of

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153. Witte, Floris de. 2012. “Transnational Solidarity and the Mediation of Conflicts of Justice in Europe.” *European Law Journal* 18 (5): 694–710.

regional or bilateral free trade agreements like TPP, TIPP, and NAFTA.<sup>154</sup> Supply chains driven by trades incorporate different actors and affect sustainability in transnational scales. For instance, the production of textile and apparel do affect environment of places where factories locate, though the branding house as well as consumers are operating in other countries.

Transnational effects may be also under effects of cultural ties. Countries with similar cultural backgrounds may share similar views on sustainability and hold initiatives on sustainability.

All in all, a full comprehension of different types of transnationality of sustainability is important.

## **4.2 Actors**

One major reason that sustainability is transnational is that actors associated with sustainability are transnational. For instance, transnational companies have been active actors in both affecting sustainability in different places and participating in norm-building of sustainability initiatives. Another case is transnational non-governmental organisations.

It's not rare that a "domestic" actor possesses power of affecting transnational sustainability. Taking the certification system as an example, if one domestic company chooses to use a certification system on products' effects on environment, companies abroad on the supply chain have to comply in theory and thus affect the local environment. Though this is only an ideal situation, as in reality choices of companies

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154. Rodríguez-Barocio, Raúl. 2014. "NAFTA and the New Regionalism: The case for coordinated TTIP and TPP negotiations." *Americas Quarterly* 8 (3): 124–25.

may be heavily influenced by various factors, especially economic factors.

### **4.3 Activities**

Various activities also have transnational effects on sustainability. First of all, transnational supply chain link different actors and activities in different countries. Transnational supply chain is a non-state market mechanism, a new form of corporate social responsibility.<sup>155</sup> The production, marketing, and consumption in different countries affect sustainability. Second, the financing, especially transnational financing, affects sustainability. There are investment projects like “green financing”, which are associated with sustainability requirements. Third, non-economic activities also have transnational effects. Concerns over sustainability goes beyond economic activities to fields like sports, education, etc. An example is “code of conduct” adopted by universities in order to contribute to public good (even abroad) through code guided educational activities. Though effects of code of conducts adopted by universities are hard to measure, they form a possibility that domestic universities contribute directly to transnational sustainability.

### **4.4 Effects**

Effects of many economic and non-economic activities, though sometimes happen in domestic sphere, are transnational. For instance, companies in Europe and China purchased soya beans in Brazil and

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155. Auld, Graeme, Bernstein, Steven, and Cashore, Benjamin. 2008. “The New Corporate Social Responsibility.” *Annual Review of Environment and Resources* 33 (1): 413–35.

affects the choices of local farms and therefore affects local ecological situation as soy are different from other products in terms of sustainability.<sup>156</sup>

## **5. Private Governance and Sustainable Development**

### **5.1 Multiple actors**

Efforts for sustainable development are processes involving multiple actors, not only because sustainability affects various actors, but also because a broad range of actors participate in the process. Besides public actors like states, international organisations, non-state actors also make significant influence of the sustainability process. It happens when some claims that there is a change of “from government to governance” in general.<sup>157</sup> Despite this observation and regardless of the extent of the change, the public actors’ roles are still very important in many discourses. Meanwhile, roles of non-state actors, viewed as both positive and negative, are attracting more attention.

One reason for such attention is both private actors and activities of private actors are increasingly transnational. It is understandable that

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156. Lathuillière, Michael J, Johnson, Mark S, Galford, Gillian L, and Couto, Eduardo G. 2014. “Environmental footprints show China and Europe’s evolving resource appropriation for soybean production in Mato Grosso, Brazil.” *Environmental Research Letters* 9 (7): 074001.

157. Liddle, Joyce. 2013. “FROM GOVERNMENT TO GOVERNANCE, THE LIBRARY OF CONTEMPORARY ESSAYS IN POLITICAL THEORY AND PUBLIC POLICY - edited by Richard Bellamy and Antonino Palumbo.” *Public Admin* 91 (1): 243–45.

public actors have been heavily involved in international affairs. Now transnational companies are viewed as possessing huge norm-building power. Even domestic private actors may have transnational effects through many channels.

Another reason for such attention is the feasibility of private actors' participating in sustainability discourses. Technologies, for instance those applied in industry, enable private actors to affect sustainability in profound ways. A huge difference will be made if the automobile industry succeeds to adopt more efficient or more environment-friendly energy. Another factor is the public's awareness or concern over the discourse of sustainability, partially due to the quick and easy flowing of information. This allows private actors to communicate with each other well to form private governance. Without efficient and effective information mechanism a system of private governance would be much more difficult to form. Even though there are observations that some actors make use of the public's concern over sustainability and do greenwash and window dressing instead of really contributing to sustainability initiatives. Examples include corporate social responsibility reports with focus on advertising products and services and without negative information. On the other hand, the public's attention enables private governance to get motivations and support from the public, in some cases even direct contribution from the public, for example, consumers' choices play a role on the supply chain and may give positive feedbacks to products and services which are more environmental friendly or more socially responsible. Therefore, the public's concern over sustainability provides incentives as well as direct contributions to private governance on sustainability discourses. Finally, another factor that makes the multiple actors' participation possible is the urgency of the sustainability issue. On

ecological issue, there are threats resulted from climate change and natural disasters. For economic issue, even in Europe where there are many developed economies people are using the word “crisis” to describe the long-lasting and painful period after 2008. Sustainability in many aspects are hampered and responsive mechanisms are desired to make things better. In this background, private governance is an option for resolving urgent problems.

## **5.2 Private governance**

Not all private governance aims directly at sustainability. Some initiatives are largely technical, for instance, some private governance mechanisms in internet technology. Some initiatives aim other values or goals other than sustainability, at least not directly related to sustainability, for instance, there are initiatives aiming at protecting workers’ safety and health. Private governance may be formed for participants’ interests as well, and their interests may be on the conflicting with sustainability.

Therefore, relations between private governance and sustainability are complex. Among mechanisms of private governance that are closely related with sustainability, there are some typical examples.

The first example is Forest Stewardship Council,<sup>158</sup> which aims at the protection of forest and thus maintain sustainability through the forests’

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158. Forest Stewardship Council is a non-state certification program started from 1993. It’s a broad coalition of NGOs and companies, with the policy goal of responsible forestry practices. Gulbrandsen, Lars H. 2010. *Transnational Environmental Governance: The Emergence and Effects of the Certification of Forests and Fisheries*. Edward Elgar Pub. p.14.

multiple functions. The mechanism is largely private and transnational, and is therefore perceived as one kind of transnational private governance.

Another example is corporate's attitudes towards sustainability as a responsibility. The profits, while important for shareholders and corporate itself, do not enjoy absolute priority compared with social responsibilities. Corporate's commitment to sustainability is demonstrated by some companies' choice of "sustainability report" as the name of their reports on social responsibility. The reports might be voluntary or mandatory, but to choose "sustainability" as title shows corporates' appreciation of sustainability. Reports named with sustainability exists in many industries. And it is no surprise that an increasing number of reports, either named as sustainability report or corporate social responsibility report.

### **5.3 Sustainable development and market liberalism**

Behind the scene of private governance and sustainability, there are tensions between different ideologies. A major tension exists between market liberalism and sustainability, especially of strong sustainability.

Out of various discussions and practices, core contents that gained broad recognition are intergenerational sustainability and intragenerational sustainability, efficiency and equity, ecological and economic wellness. However, regarding specific manners of achieving sustainability, there are thoughts that may conflict with each other. The differences even entail fundamental aspects of the society such as the way of consumption. The differences are also reflections of divergence of ideas towards social issues.

Market liberalism is an idea that focuses on private property and

heavy reliance on markets and free trade.<sup>159</sup> Proponents of market liberalism hold that market plays a good role in generating wealth and allocation resources, therefore governmental intervention and relevant collective judgement or decision-making shall be minimised.

Trade liberalisation is one of core elements of market liberalism. Practically, trade liberalisation allows for more fluent flowing the capital, labour, and resources on both domestic and transnational sphere. The production process is often transnational, providing the capital with favourable labour and resources. Proponents of market liberalism do not view trade liberalisation as a fatal threat to sustainability, as the mechanism of market will do the work to sustainability, even if not the strongest sustainability.

However, proponents of strong sustainability raise doubts on trade liberalisation as it may conflict with sustainability.<sup>160</sup> Therefore, market liberalism casts influence on sustainability in different aspects.

First of all, for intergenerational sustainability, markets liberalisms proposes efficient use of resources, including environmental resources, if the gains from the use of resources are high enough for compensation the loss for future generations.<sup>161</sup> One justification of the claim is that current generation may make better use out of the resources and therefore enable

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159. Driesen, David M. 2008. "Sustainable Development and Market Liberalism's Shotgun Wedding: Emissions Trading Under the Kyoto Protocol." *Indiana Law Journal* 83 (1): 21–69.

160. Kysar, Douglas A. 2005. "Sustainable Development and Private Global Governance." *Texas Law Review* 83 (7): 2109–66.

161. Ibid. 2005. "Sustainable Development and Private Global Governance." *Texas Law Review* 83 (7): 2109–66.

future generations to have more gains.<sup>162</sup> Proponents of strong sustainability, however, do not see the claim as justified. One reason is that preservation of natural resources is of high priority.<sup>163</sup> Another reason is that the difficulty of measuring utilities for current generation and future generations prevent effective implementation of the comparison of distribution of utilities among generations.<sup>164</sup> A third is that equity is of high value and shall not be omitted.<sup>165</sup>

Second, intragenerational sustainability also contradicts with market liberalism in several aspects. An example is the relationship between big corporations and the poor. Mechanism of market liberalism does not always bring the poor benefits in terms of sustainability. Use of basic resources by big corporations could worsen the environment while hamper the economic conditions of the poor.

Therefore, there is tension between strong sustainability and market liberalism.

Not all mechanisms of private governance are backed by the ideology of market liberalism. Of those private governance closely related to market liberalism, examples include production standards influenced by corporates in order to achieve better profits of other types of economic

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162. Ibid. 2005. "Sustainable Development and Private Global Governance." *Texas Law Review* 83 (7): 2109–66.

163. Ibid. 2005. "Sustainable Development and Private Global Governance." *Texas Law Review* 83 (7): 2109–66.

164. Ibid. 2005. "Sustainable Development and Private Global Governance." *Texas Law Review* 83 (7): 2109–66.

165. Ibid. 2005. "Sustainable Development and Private Global Governance." *Texas Law Review* 83 (7): 2109–66.

benefits, even it may damage sustainability. Meanwhile, participants of private governance include a wide range of actors; among the same types of actors, there are actors holding different values; even for the same actors, there may be different choices based on occasions. Not surprisingly, there are private governance mechanisms with strong inclination of sustainability and a distance with market liberalism. The situation is private governance does not equally coordinates with market liberalism.

#### **5.4 (Lack of) coordination**

A character of private governance regarding sustainability is the lack of coordination of private governance mechanisms. It does not mean that there is no coordination at all. Actually it means more coordination will be better.

A comparison with intergovernmental initiatives over sustainability provides a peek on how coordination matters. During the history of international sustainability initiatives, there are several key conferences where concepts, norms, and values are proposed, such as The United Nations Conference on Environment and Development at Rio de Janeiro, in 1992. By name, these initiatives are coordinated. Actually, disputes are not rare, especially among the South and the North. And the results are far from excellent.

While there are conferences and other events as coordination for intergovernmental initiatives on sustainability, for private governance worldwide, similar coordination does not exist. Without sufficient coordination, what exist are mechanisms of private governance on various issues backed by different ideologies. Whether such a situation will lead to good sustainability remains to be seen.

Of course there are views that coordination may not be necessary, or even not possible. Various mechanisms of private governance may co-exist and achieve desirable results collectively. If high degree of coordination is impossible, there is no necessity to talk about the positive aspects of coordination.

## **6. Challenges**

Though the value of sustainability is well appreciated and many initiatives are undergoing, challenges to achieve goals of sustainability are huge.

First of all, ecological conditions of the earth are already under serious problems and are difficult to recover. Threats are consistent and are very probable of affecting future generations. The climate change has already brought out serious results, and many feel the pressure of relieving the effects of climate change. Worldwide there are still many people in poverty and are there in need for economic development for material wellness.

Second, developing world is facing huge difficulties as need for economic development, while the North do possess much power in defining the sustainability paradigm. The history already shows how the South and the North held different views on sustainability, with the South feeling uneasy about the multiple tasks of economic development, resource reservation, and good governance.

Third, sustainability is also about the participation and responsibility of the business. On one hand, goals of sustainability may be seen as affecting profit-seeking mechanism of corporates. In contemporary legal and economic context, corporates seek profits and operate worldwide, often consider themselves as legal entities what comply with domestic

and international laws, therefore deserve legal profits. On the other, corporates actively participated the process of sustainability initiatives, including several international conferences and have their stake expressed in norms of sustainability. Some corporates are viewed as seemingly doing greenwash or window dressing with existing norms to legitimise their profit-seeking activities. For instance, a growing number of corporate social responsibility reports published yearly can be observed. However, there are a certain percentage of reports with only a few pages and no negative information. With any professional standard, doubts can be cast on these reports and efforts behind them.

## Chapter Three. CSR in Italy

### 1. Introduction

CSR in Italy is a complex picture collectively driven by local initiatives, national initiatives, various European efforts, and effects of globalisation. For a clear sight of the picture, this part consists first of all CSR in Italy of national scope, as well as CSR of regional scope, including both regional thoughts and practices, and inter-regional CSR. The Tuscany Region offers an example of Regional CSR in Italy.

#### 1.1 CSR in general

There is no consensus on the definition of CSR.<sup>166</sup> It is generally agreed that concepts and practices derive from the United States.<sup>167</sup> Literature frequently refers the initial evolvments of CSR to first half of 20 century in United States, when Professor Berle and Professor Dodd debated over roles of corporates.<sup>168</sup> Over the course, the social dimension

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166. An author found and analysed 37 definitions of CSR. Dahlsrud, Alexander. 2008. "How Corporate Social Responsibility is Defined: an Analysis of 37 Definitions." *Corporate Social Responsibility and Environmental Management* 15 (1): 1–13.

167. Carroll, Archie B. 2009. "A History of Corporate Social Responsibility: Concepts and Practices." In *The Oxford Handbook of Corporate Social Responsibility*, edited by Crane, Andrew, Matten, Dirk, McWilliams, Abigail, Moon, Jeremy, and Siegel, Donald S., 19–48. Oxford University Press.

168. Marens, Richard. 2013. "What comes around: the early 20th century American roots of legitimating corporate social responsibility." *Organization* 20 (3): 454–76.

of corporations was emphasised more,<sup>169</sup> with external impetus like boom in corporate takeovers gaining importance.<sup>170</sup>

Along with the developments of CSR, there has been the crisis of the welfare state. Relevant concepts such as “corporate citizenship” is viewed as partially due to the crisis of welfare state.<sup>171</sup> CSR is also viewed as one of possible answers to “the gradual erosion of the welfare state”.<sup>172</sup> This is especially relevant for countries like Italy, that has been a welfare state and is undergoing reform.<sup>173</sup>

Though the idea of CSR has been receiving criticisms,<sup>174</sup> it gradually

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169. Shestack, Jerome J. 2010. “Corporate Social Responsibility in a Changing Corporate World.” In *Corporate Social Responsibility: The Corporate Governance of the 21st Century*, edited by Mullerat, Ramon, 113–26. Kluwer Law International.

170. Ibid. 2010. “Corporate Social Responsibility in a Changing Corporate World.” In *Corporate Social Responsibility: The Corporate Governance of the 21st Century*, edited by Mullerat, Ramon, 113–26. Kluwer Law International.

171. Melé, Domènec. 2009. “Corporate Social Responsibility Theories.” In *The Oxford Handbook of Corporate Social Responsibility*, edited by Crane, Andrew, Matten, Dirk, McWilliams, Abigail, Moon, Jeremy, and Siegel, Donald S., 47–82. Oxford University Press.

172. Alpa, Guido. 2011. “Responsabilità sociale dell’impresa, enti non profit, etica degli affari.” *Economia e diritto del terziario* 2 199–227.

173. Simonazzi, Annamaria. 2015. “Italy: Continuity and change in welfare state retrenchment.” In *The European Social Model in Crisis: Is Europe Losing Its Soul?*, edited by Vaughan-Whitehead, Daniel, 339–85. Edward Elgar.

174. Friedman, Milton. 1970. “The social responsibility of business is to increase its profits.” *New York Times Magazine* 122–26. Reich, Robert B. 1998. “The New Meaning of Corporate Social Responsibility.” *California Management Review* 40 (2):

gains wide acceptance around the world. Unsurprisingly, CSR exists in different manners. In Western Europe, social responsibility of enterprises has been "implicit" because it was "embedded in wider systems of responsibility for regulation of economic activity, working lives, communities, and the environment."<sup>175</sup>

## 1.2 Foreign and domestic elements

In Italy, the establishment of the concept CSR and the business' responsible practices are two correlated yet distinctive matters.

CSR is a foreign concept coined abroad in the language of English. Some scholars regard the United States as the origin of the concept.<sup>176</sup> Italy and the United States share similarities in some aspects, including social context and business activities. In Italy, the acceptance of the concept CSR does not come with difficulties. However, there are significant differences between two societies, especially in economic aspects. CSR in Italy do have Italian characters.

Compared with the CSR in United States, both CSR in Italy and CSR in China demonstrate obvious local characters. This confirms the view that CSR is a pluralistic concept, and there is no universal understanding

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175. Moon, Jeremy. 2014. *Corporate Social Responsibility: A Very Short Introduction*. Oxford University Press.

176. Crane, Andrew, McWilliams, Abigail, Matten, Dirk, Moon, Jeremy, and Siegel, Donald S. 2008. "The Corporate Social Responsibility Agenda." In *The Oxford Handbook of Corporate Social Responsibility*, edited by Crane, Andrew, McWilliams, Abigail, Matten, Dirk, Moon, Jeremy, and Siegel, Donald S., Oxford University Press.

and practice.

Local characters of CSR in Italy are associated with some fundamental elements of Italy, though not all these elements are unique for Italy. They influence the society of Italy in many ways.

First, the religious factor influence business in Italy.<sup>177</sup> Italy is a country with strong catholic tradition, both in the past and today. The religious ideas affect individual activities as well as business practices. Kindness to others and responsibility to the community are in accordance with the religious doctrine, and partially contribute to the formation of CSR in Italy. Actually, the church system actually does participate social life in Italy, although these activities are usually not regarded as CSR.

Second, the unique history of Italy affects people's views on the world, and further affect practices of business. Between the fall of Roman Empire and the establishment of Kingdom of Italy, for most time Italy was not a unified country, consisted of several individual entities instead. Meanwhile, ancient Italy had been key place of commercial activities and industrial productions. Therefore business had local identities, local practices, and local commitment. Even today, localism, not only in business, is pretty strong in Italy. In business, in different places there are clusters which are scattered in different zones in Italy.

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177. Canarutto, Gheula, and Nidasio, Claudio. 2005. "Italy: Mapping a New Business Landscape." In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

### 1.3 European elements

One significant aspect of CSR in Italy is that it also relates to European rules of practices of CSR.

Culturally, CSR in Italy belongs to that of European continent, especially Mediterranean style CSR.<sup>178</sup>

Institutionally, CSR in Italy also subject to European institutions through EU and other approaches. There are already documents issued by EC aiming at promoting CSR. A representative effort at EU level to promote CSR is the publication of “Green Paper: Promoting a European framework for Corporate Social Responsibility” in 2001.<sup>179</sup> The Green Paper explains CSR with internal and external dimension, and proposes a holistic approach towards CSR. In the Green Paper, socially responsible means “means not only fulfilling legal expectations, but also going beyond compliance and investing “more” into human capital, the environment and the relations with stakeholders.”<sup>180</sup>

The Green Paper was largely welcomed by Council of the European Union. The Council further calls on member states to promote CSR at national level, to integrate CSR into national policies, and, even to integrate CSR principles into their own management where appropriate.<sup>181</sup>

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178. Moon, Jeremy. 2014. *Corporate Social Responsibility: A Very Short Introduction*. Oxford University Press. P. 59

179. European Commission. 2001. “Green Paper: Promoting a European framework for Corporate Social Responsibility.”

180. Ibid. 2001. “Green Paper: Promoting a European framework for Corporate Social Responsibility.”

181. Council of the European Union. 2003. “Council Resolution on the follow-up

The Green Paper influenced CSR initiatives in Italy. It works as a reference for the CSR-SC project.<sup>182</sup>

Public authorities of Italy also participate in European initiatives and make contributions to common values and norms regarding CSR. As for EU, political and legal arrangements lay foundations for the European sense of CSR.

In such situation, it is meaningful to analyse which contents of CSR in Italy are in accordance with European entities, which contents of CSR in Italy remain obviously Italian, and which are transnational that entails other countries inside or outside Europe.

#### **1.4 Development of CSR in Italy**

Roots of CSR in Italy can be traced back long ago.<sup>183</sup> The roots include both thoughts and practices, some indirectly related to CSR, some existed before the term CSR was coined or the idea of CSR became popular. As far as the first decades of 20<sup>th</sup> century, there were already theoretical contributions seen as preludes of CSR.<sup>184</sup>

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to the Green Paper on corporate social responsibility.”

182. Ministro del Lavoro e delle Politiche Sociali. 2002. “Il Progetto CSR-SC: Il contributo italiano alla campagna di diffusione della CSR in Europa.”

183. Torrecchia, Patrizia. 2013. “CSR in Italy.” *Encyclopedia of Corporate Social Responsibility*, edited by Idowu, Samuel O., Capaldi, Nicholas, Zu, Liangrong, and Das Gupta, Ananda, 710–15. Springer.; Canarutto, Gheula, and Nidasio, Claudio. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

184. Torrecchia, Patrizia. 2013. “CSR in Italy.” *Encyclopedia of Corporate Social*

Drivers of the development of CSR in Italy include NGOs, voluntary activities, as well as religious factors.<sup>185</sup>

However, the path of development of CSR in Italy is not universal and there is debate over CSR among the academia, the media, and the business world.<sup>186</sup>

There were remarkable events during the development of CSR in Italy. One such event is the scandal of Parmalat.

The case of Parmalat was a shock and raised the issue of links between business and ethics in Italy.<sup>187</sup> Parmalat was founded in 1961, underwent rapid developments and gained huge success later on.<sup>188</sup> In 2003, a big scandal was exposed, entailing 14 million euro and as many as 40.000 investors.<sup>189</sup> The impact of Parmalat extends far partially because the case is not considered simply as a matter of law, though the

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*Responsibility*, edited by Idowu, Samuel O., Capaldi, Nicholas, Zu, Liangrong, and Das Gupta, Ananda, 710–15. Springer.

185. Canarutto, Gheula, and Nidasio, Claudio. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

186. Ibid. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

187. Ibid. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

188. 2013. “Parmalat.” *Lessico del XXI Secolo*,

189. 2013. “Parmalat.” *Lessico del XXI Secolo*,

legal process was underway after the scandal. Meanwhile, it entails many stakeholders.

The promotion of CSR was also conducted on supply chain.<sup>190</sup> This is not rare worldwide though. Supply chains may wholly or partly exist in Italy.

Developments of CSR in Italy was a gradual process. Since the end of 1970s, wider attention to CSR already started in Italy.<sup>191</sup> Afterwards, developments with periodical features can be figured out. First, the formation of the Sodalitas association represents the first wave of CSR, beginning in the middle of 1990s; the study of CSR increased among students and researchers.<sup>192</sup> Second, the issuance of EC Green Paper on promoting CSR marked another wave of CSR.<sup>193</sup> It was under the influence of the Green Paper. After years of development, CSR in Italy is seen by some to have developed systemically and with greater attention.

In terms of investments in CSR, the trend is clear as well. As

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190. Ministro del Lavoro e delle Politiche Sociali, and Ministro dello Sviluppo Economico. 2012. “Piano d’Azione Nazionale sulla Responsabilità Sociale d’Impresa 2012-2014.”

191. Torrecchia, Patrizia. 2013. “CSR in Italy.” *Encyclopedia of Corporate Social Responsibility*, edited by Idowu, Samuel O., Capaldi, Nicholas, Zu, Liangrong, and Das Gupta, Ananda, 710–15. Springer.

192. Canarutto, Gheula, and Nidasio, Claudio. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

193. Ibid. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

mentioned above, the EC Green Paper on promoting CSR effectively influenced Italy in different ways, one of which is changes in investments in CSR. Between 2002 and 2003, right after the publication of the EC Green Paper, investments in CSR in Italy increased; the trend of increase went on after after 2003 as well.<sup>194</sup>

Surveys demonstrate the use of CSR actions and tools also increased.<sup>195</sup>

## **2. CSR and the Legal System**

In Italy, the idea that CSR is voluntary practice is shaping the relationship between CSR and law. Though not all “responsibilities” stated in legal documents are mandatory because they may be suggestive or meant to show declaration, explicit enforcement by law of CSR is not in accordance with the deep belief that CSR is voluntary.

Strong sense of local belonging contributes to the developments of local CSR initiatives. Therefore many initiatives are conducted within local territories with the name “territorial social responsibility”. There are inter-regional, national, and European level CSR initiatives, though. Strong local initiatives reduce the necessity of state law backed CSR.

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194. Del Baldo, Mara. 2015. “A State of the Art of Corporate Social Responsibility Diffusion in Italy: Limits and Potentials.” In *Corporate Social Responsibility in Europe*, edited by Idowu, Samuel O., Schmidpeter, René, and Fifka, Matthias S., 435–68. Cham: Springer International Publishing.

195. Ibid. 2015. “A State of the Art of Corporate Social Responsibility Diffusion in Italy: Limits and Potentials.” In *Corporate Social Responsibility in Europe*, edited by Idowu, Samuel O., Schmidpeter, René, and Fifka, Matthias S., 435–68. Cham: Springer International Publishing.

CSR is endorsed in some regional laws. Some CSR initiatives or specific measures of CSR are realised through regional laws.

Law as instruments of endorsing, managing CSR initiatives also exists at EU level. Several documents clearly demonstrate EU's concern over CSR, and its valuing of CSR.

## 2.1 Constitutional foundation

Contents on CSR exist in laws at different levels. CSR is mentioned, defined, or backed in laws.

CSR in Italy does not lack constitutional base. Article 41 of the Constitution provides a base for CSR for several reasons.<sup>196</sup> Article 41 puts it:

*Private-sector economic initiative is freely exercised.*

*It cannot be conducted in conflict with social usefulness or in such a manner that could damage safety, liberty and human dignity.*

*The law shall provide for appropriate programmes and controls so that public and private-sector economic activity may be oriented and coordinated for social purposes.*<sup>197</sup>

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196. Canarutto, Gheula, and Nidasio, Claudio. 2005. "Italy: Mapping a New Business Landscape." In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

197. Assemblea Costituente della Repubblica Italiana. 1947. "Costituzione della Repubblica Italiana." "L'iniziativa economica privata è libera. Non può svolgersi in contrasto con l'utilità sociale o in modo da recare danno alla sicurezza, alla libertà, alla dignità umana. La legge determina i programmi e i controlli opportuni perché l'attività economica pubblica e privata possa essere indirizzata e coordinata a fini sociali."

Article 41 of the Constitution is deemed as highly relevant with CSR, the government shall implement constitutional rule to effectively prevent irresponsible corporate behaviour without being oppressive.<sup>198</sup>

The Constitutional entails relations between economy and social good from two aspects. Private economy shall not be in control of social good. For both public economy and private economy, the law shall provide framework for social purposes.

## 2.2 National laws

At the institutional level, Italian laws create organisations devoting or relating to CSR.

Within the Ministry of Labour and Social Affairs, which has a role in promoting a more structured CSR approach within a common framework,<sup>199</sup> at least two organisations were created. The Directorate General for the Family, Social Rights, and Corporate Social Responsibility (CSR) was created in 2004<sup>200</sup>. It bears the task of diffusing CSR, developing and coordination initiatives of CSR and relations with

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198. Ricci, Paolo. 2011. "Article 41 of the Italian Constitution and the Italian Model of Corporate Social Responsibility." *Review of International Comparative Management* 12 (3): 497–506.

199. Perrini, Francesco, Pogutz, Stefano, and Tencati, Antonio. 2006. "Corporate Social Responsibility in Italy: State of the Art." *Journal of Business Strategies* 23 (1): 65–91.

200. *Direzione generale per la famiglia, i diritti sociali e la responsabilità sociale delle imprese*. Article 2, Il Presidente della Repubblica Italiana. 2004. "Decreto del Presidente della Repubblica 29 Luglio 2004, n. 244."

international organisations and the European Union.<sup>201</sup> In 2014, another organisation within the Ministry was created, namely the Directorate General of the Third Sector and Corporate Social Responsibility,<sup>202</sup> which bears the responsibility of promoting, developing, and coordinating initiatives and activities of CSR.<sup>203</sup>

Within the Ministry of Economic Development, the Directorate General for Industrial Policy, Competitiveness and Small and Medium-sized Enterprises<sup>204</sup> was created, with CSR as one of its functions.<sup>205</sup>

Except for organs within two Ministries, Italian Centre for Social Responsibility was created as well, with founding members, Ministry of Employment and Social Policies, and other public and private subjects as participants. The Centre is subject to Civil Code, specific laws, and the charter. In 2005 alone the Centre was granted a subsidy of one million euros.<sup>206</sup> The Centre was dissolved in 2015.<sup>207</sup>

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201. Article 2, Ibid. 2004. “Decreto del Presidente della Repubblica 29 Luglio 2004, n. 244.”

202. *Direzione Generale del Terzo Settore e della Responsabilità Sociale delle Imprese.*

203. Il Presidente del Consiglio dei Ministri. 2014. “Decreto del Presidente del Consiglio dei Ministri 14 febbraio 2014, n. 121.”

204. *Direzione Generale per la Politica Industriale, la Competitività e le Piccole e Medie Imprese.*

205. Ibid. 2013. “Decreto del Presidente del Consiglio dei Ministri 5 Dicembre 2013, n. 158.”

206. Il Presidente della Repubblica Italiana. 2004. “Legge 30 dicembre 2004, n. 311.”

207. “Liquidazione della Fondazione I-CSR” <http://www.i-csr.org/home/>

A legal document defines CSR as “voluntary integration of social and ecological concern over enterprises, organisation of their commercial activities, and their relations with stakeholders.”<sup>208</sup> While there are various definitions of CSR by laws and non-legal documents, the one in this law is consistent with definitions in mainstream expressions. It covers social and ecological aspects of and business activities, and has a focus on stakeholders. Though the way of defining CSR explicitly in law is rare in Italian legal system, the contents of the definition do not contrast sharply with relevant, implicit contents in laws.

Other than setting rules for organisations for CSR and providing definition of CSR, in some cases, laws refer to other documents concerning CSR, including international guidelines and treaties. In some cases, legal obligations fall onto enterprises when the law refers to other documents and the documents referred do have legal effects on certain enterprises. In other cases, no specific subjects bear obligations; it is the state that signed the treaty that follow clauses on CSR in general terms. On such referred documents is OECD Guidelines for Multinational Enterprises. OECD Guidelines are non-binding recommendations by governments to multinational enterprises for responsible business related to adhering countries.<sup>209</sup> As a requisite for some advantages, enterprises

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[index.php?option=com\\_content&view=article&id=185&catid=7&Itemid=101&lang=](http://index.php?option=com_content&view=article&id=185&catid=7&Itemid=101&lang=)  
it visited on 04/03/2015.

208. *"responsabilità sociale delle imprese": integrazione volontaria delle preoccupazioni sociali ed ecologiche delle aziende e organizzazioni nelle loro attività commerciali e nei loro rapporti con le parti interessate.* Article 2 of Governo della Repubblica Italiana. 2008. “Testo Unico sulla Sicurezza sul Lavoro.”

209. OECD. 2011. *OECD Guidelines for Multinational Enterprises.* OECD

are required to follow the Guideline in certain situations.<sup>210</sup>

In other cases, some treaties and agreements containing contents of CSR were ratified in form of law. Among these treaties and agreements are “Free trade Agreement between EU and Republic of Korea”,<sup>211</sup> “Economic Partnership Agreement between the CARIFORUM States, of the one part, and the European Community and its Member States, of the other part”<sup>212</sup>, and “Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part”.<sup>213</sup> Relevant clauses in these treaties and agreements are about

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Publishing.

210. Il Presidente della Repubblica Italiana. 2013. “Decreto legge 21 giugno 2013, n. 69.”

211. Accordo di libero scambio tra l'Unione europea e i suoi Stati membri, da una parte, e la Repubblica di Corea dall'altra Council of the European Union. 2011. “Council Decision of 16 September 2010 on the signing, on behalf of the European Union, and provisional application of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part.”

212. Accordo di partenariato economico tra gli Stati del Cariforum, da una parte, e la Comunità europea e i suoi Stati membri, dall'altra, con Allegati, Protocolli, Dichiarazioni e Atto finale, fatto a Bridgetown, Barbados. Il Presidente della Repubblica Italiana. 2011. “Ratifica ed esecuzione dell'Accordo di partenariato economico tra gli Stati del Cariforum, da una parte, e la Comunità europea e i suoi Stati membri, dall'altra, con Allegati, Protocolli, Dichiarazioni e Atto finale, fatto a Bridgetown, Barbados, il 15 ottobre 2008.” 2008. “Economic Partnership Agreement between the CARIFORUM States, of the one part, and the European Community and its Member States, of the other part.”

213. Accordo commerciale tra l'Unione europea e i suoi Stati membri, da una parte, e la Repubblica di Colombia e la Repubblica di Perù, dall'altra. Il Presidente della

promotion and reporting of CSR, as well as exchange of information and experience of CSR. Signers of these treaties and agreements, while are EU and its member states on one hand, are Republic of Colombia, Republic of Peru, countries of Cariforum, and Republic of Korea. Through these treaties and agreements, Italy shares some common grounds regarding CSR with states other than EU member states.

Besides, in laws, there is attention to CSR in institutional design. One example is società cooperativa europea, within which the labour union is connected with initiatives of CSR.<sup>214</sup> Another example is Osservatorio nazionale sulla condizione delle persone con disabilità,<sup>215</sup> which is equipped with human resources and proper instruments for CSR.

### **2.3 Regional laws**

Institutional frameworks exist in regional or provincial laws, especially after 2005.<sup>216</sup>

Various aspects of CSR are covered in regional laws, including

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Repubblica. 2012. “Ratifica ed esecuzione dell’Accordo commerciale tra l’Unione europea e i suoi Stati membri, da una parte, e la Repubblica di Colombia e la Repubblica di Perù, dall’altra, fatto a Bruxelles il 26 giugno 2012.” 2012. “Council Decision of 31 May 2012 on the signing, on behalf of the Union, and provisional application of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part.”

214. Il Presidente della Repubblica Italiana. 2007. “Decreto legislativo 6 febbraio 2007, n. 48.”

215. Ministero del Lavoro e delle Politiche Sociali. 2010. “Decreto ministeriale 6 luglio 2010, n. 167.”

216. Ministro del Lavoro e delle Politiche Sociali, and Ministro dello Sviluppo Economico. 2012. “Piano d’Azione Nazionale sulla Responsabilità Sociale d’Impresa

growth, regional development, value of craftsmanship, promotion of cooperation, as well as social service systems.<sup>217</sup>

In several regions, like Tuscany, Emilia Romagna, and Lombardy, CSR is priority aims as endorsed by regional Statutes.<sup>218</sup>

In some regions, like Tuscany and Umbria, there are ad hoc rules for CSR.<sup>219</sup> Umbria Region created a register mechanism for SA8000 certified companies by a regional act.<sup>220</sup>

## **2.4 CSR and regional laws of Tuscany**

CSR in regional laws of Tuscany provides a typical example of how CSR interacts with regional laws.

The Statute of Tuscany Region makes it clear that “The Region pursues following priority aims: ... the valuation of liberty of public and private economic initiatives, and the role of corporate social responsibility.”<sup>221</sup> Given that the current Statute was passed in 2005,

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2012-2014.”

217. Ibid. 2012. “Piano d’Azione Nazionale sulla Responsabilità Sociale d’Impresa 2012-2014.”

218. Ibid. 2012. “Piano d’Azione Nazionale sulla Responsabilità Sociale d’Impresa 2012-2014.”

219. Ibid. 2012. “Piano d’Azione Nazionale sulla Responsabilità Sociale d’Impresa 2012-2014.”

220. Regione Umbria. 2002. “Istituzione dell’Albo delle imprese certificate SA 8000.” Legge regionale 12 novembre 2002, n. 20

221. Article 4, La Regione Toscana. 2005. “Statuto della Regione Toscana.” *Bollettino Ufficiale* 12 “1. La Regione persegue, tra le finalità prioritarie: ... o) la valorizzazione della libertà di iniziativa economica pubblica e privata, del ruolo e

about 10 years ago, there is no wonder that after the Statute several initiatives of CSR in Tuscany took place.

A milestone regional law is Regional Law n. 17/2006, namely “Provisions of Corporate Social Responsibility”.<sup>222</sup> It emphasised the Region’s recognition of corporate social responsibility. It sets out both the framework and specific contents of CSR initiatives in Tuscany, laying out a foundation for subsequent laws, regulations, and CSR practices.

Indeed, Regional Law n. 17/2006 is referred to by other regional laws of Tuscany for several times.<sup>223</sup>

The “social traceability”<sup>224</sup> is viewed as important since it helps to guarantee the respect the human, social, and economic rights recognised in international, European, and national norms in production and distribution of goods and services. The Tuscany Region promotes social traceability also for reasons of valuation, innovation, and competitiveness of the economic system, as well as strengthening employment.<sup>225</sup> Social traceability of production has become a distinctive element of industrial

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della responsabilità sociale delle imprese”.

222. Ibid. 2006. “Disposizioni in Materia di Responsabilità Sociale delle Imprese.” *Bollettino Ufficiale* 13

223. Article 15, Ibid. 2009. “Norme sul Procedimento Amministrativo, per la Semplificazione e la Trasparenza dell’Attività Amministrativa.” *Bollettino Ufficiale* 27 ; Preambolo Il Presidente della Giunta. 2009. “Regolamento in Materia di Aree Produttive Ecologicamente Attrezzate (Apea) in Attuazione dell’ Articolo 18 della Legge Regionale 10 Dicembre 1998, n. 87.” *Bollettino Ufficiale* 53

224. Tracciabilità sociale.

225. Article 1, La Regione Toscana. 2006. “Disposizioni in Materia di Responsabilità Sociale delle Imprese.” *Bollettino Ufficiale* 13

polity in Tuscany.<sup>226</sup>

Participants of CSR initiatives in Tuscany include a variety of entities, both individually and collectively, public or private. A wide range of subjects could be consultant of CSR initiatives in Tuscany.<sup>227</sup>

In regional laws of Tuscany, CSR is valued in different ways. CSR is regarded as a natural propensity and an integral part of cooperative system of Tuscany Region.<sup>228</sup> CSR is also one of tasks of Osservatorio Regionale sui Contratti Pubblici.<sup>229</sup> Besides, certain enterprises that bear merits of CSR enjoy reduction in administrative procedures, according to the law.<sup>230</sup>

CSR related with SMEs is also emphasised in laws of Tuscany Region. There are favourable treatments towards SMEs that meet some CSR criteria like adoption of management of certification, integration of quality, environment, social responsibility and security into workplace, as well as adoption of financial reporting with social concern based on

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226. Paloscia, Fabrizia. 2010. "Fabbrica Ethica, un'utopia applicata. Linguaggi insoliti nello scenario dei comportamenti globali." *Economia Aziendale Online* 243–48.

227. La Regione Toscana. 2006. "Disposizioni in Materia di Responsabilità Sociale delle Imprese." *Bollettino Ufficiale* 13

228. Article 1, Ibid. 2005. "Norme per la promozione e lo sviluppo del sistema cooperativo della Toscana." *Bollettino Ufficiale*

229. Ibid. 2007. "Norme in materia di contratti pubblici e relative disposizioni sulla sicurezza e regolarità del lavoro." *Bollettino Ufficiale* 20

230. Article 15, Ibid. 2009. "Norme sul Procedimento Amministrativo, per la Semplificazione e la Trasparenza dell'Attività Amministrativa." *Bollettino Ufficiale* 27

regional, national, or international standards.<sup>231</sup> Determination of SMEs are based on national or EU rules.<sup>232</sup>

Financial support is also available for promoting CSR.<sup>233</sup> Tuscany Region provides financial supports to initiatives of promoting culture and instruments of CSR.<sup>234</sup>

### **3. Practice**

#### **3.1 Actors**

In literature of economics regarding Italian economy, big firms and SMEs are often distinguished. The distinction is based on essential facts of the Italian economy. SMEs contribute to economy of Italy in significant ways. In some cases SMEs exist in form of clusters, which means even where there are resources supporting certain sectors, companies exist in small size instead of huge ones. Networks of SMEs in Italy significantly contribute to the good reputation of “Made in Italy”.<sup>235</sup> With more efficient transportation and communication, European

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231. Article 3, paragraph 1, letter b), Ibid. 2006. “Disposizioni in Materia di Responsabilità Sociale delle Imprese.” *Bollettino Ufficiale* 13

232. Article 4, paragraph 2, Ibid. 2006. “Disposizioni in Materia di Responsabilità Sociale delle Imprese.” *Bollettino Ufficiale* 13

233. Article 3, letter a), Ibid. 2006. “Disposizioni in Materia di Responsabilità Sociale delle Imprese.” *Bollettino Ufficiale* 13

234. articolo 2 della legge regionale 20 marzo 2000, n. 35; Article 5, Article 7 Ibid. 2006. “Disposizioni in Materia di Responsabilità Sociale delle Imprese.” *Bollettino Ufficiale* 13

235. Coppa, Marcello, and Sriramesh, Krishnamurthy. 2013. “Corporate social

integration, and globalisation, economic effects exerted and received by SMEs cover a large scope.

SMEs are crucial actors for CSR in Italy, though the perception and practice of CSR are generally different between SMEs and big firms. SMEs play important roles in shaping, promoting, and implementing CSR in Italy. For the National Action Plan on Corporate Social Responsibility, SMEs received special attention because of “their number, their roots in the communities, their links with large enterprises in the supply chain and the growing role they take on in the internationalisation of productions.”<sup>236</sup>

SMEs in Italy are involved in CSR often realised through informal manners. A survey reveals that in general CSR was not a strategic tool for SMEs in Italy.<sup>237</sup> Sharing of information, management of CSR are often practiced informally by SMEs in Italy.<sup>238</sup>

In Italy SMEs are perceived as an embedded part of local community.<sup>239</sup> The claim, of course, is based on general conditions and

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responsibility among SMEs in Italy.” *Public Relations Review* 39 (1): 30–39.

236. Ministro del Lavoro e delle Politiche Sociali, and Ministro dello Sviluppo Economico. 2012. “Piano d’Azione Nazionale sulla Responsabilità Sociale d’Impresa 2012-2014.”

237. Coppa, Marcello, and Sriramesh, Krishnamurthy. 2013. “Corporate social responsibility among SMEs in Italy.” *Public Relations Review* 39 (1): 30–39.

238. Ibid. 2013. “Corporate social responsibility among SMEs in Italy.” *Public Relations Review* 39 (1): 30–39.

239. Russo, Angeloantonio, and Perrini, Francesco. 2010. “Investigating Stakeholder Theory and Social Capital: CSR in Large Firms and SMEs.” *Journal of Business Ethics* 91 (2): 207–21.

does not apply to each SME or community, as there are industrial zones where SMEs do not enjoy perfect harmonious relations with local communities. However, the claim still stands firmly in general sense. It's a tradition that some SMEs in Italy operate in clusters and form cooperatives for better production.<sup>240</sup> Besides, supportive attitudes of local stakeholders are vital for SMEs because of close ties among SMEs, employees, market participants, and local citizens.<sup>241</sup>

In terms of CSR, SMEs use social capital for carrying on socially responsible activities.<sup>242</sup> Social capital, represented by reputation, trust, legitimacy, norms and networks, correlates with SMEs' characteristics and helps SMEs' commitment to CSR. SMEs' leveraging on social capital may have effects including long-term results, cultural change towards responsibility and sustainability, and enrichment of tools in implementing CSR.<sup>243</sup>

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240. Canarutto, Gheula, and Nidasio, Claudio. 2005. "Italy: Mapping a New Business Landscape." In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

241. Perrini, Francesco. 2006. "SMEs and CSR theory: Evidence and implications from an Italian perspective." *Journal of business ethics* 67 (3): 305–16.

242. Del Baldo, Mara. 2015. "A State of the Art of Corporate Social Responsibility Diffusion in Italy: Limits and Potentials." In *Corporate Social Responsibility in Europe*, edited by Idowu, Samuel O., Schmidpeter, René, and Fifka, Matthias S., 435–68. Cham: Springer International Publishing.

243. Ibid. 2015. "A State of the Art of Corporate Social Responsibility Diffusion in Italy: Limits and Potentials." In *Corporate Social Responsibility in Europe*, edited by Idowu, Samuel O., Schmidpeter, René, and Fifka, Matthias S., 435–68. Cham: Springer International Publishing.

Therefore, SMEs are socially embedded in the local community and leverage on social capital for CSR activities. Other than the social dimension, SMEs and CSR for SMEs have different relations with local community and broader scopes.

Technically, SMEs are affected by codes, standards, and other forms of rules of various sources. On one hand, some rules are generated and complied within local communities. On the other hand, SMEs share rules with other firms operates in other places.

SMEs are bonded closely with some stakeholders like local communities and employees. This correlates with the family business culture in Italy. Even today some businesses are family run. This in turn provides foundations for responsible practices. SMEs also allow for closer relationships between employers and employees.<sup>244</sup> It is all natural that workers' rights are valued. Meanwhile it seems SMEs in Italy do not regard activists and media as important stakeholders.<sup>245</sup>

Big companies in Italy have undergone changes of orientation towards CSR.

In the years rights after WWII, big companies are almost absent from CSR practices, though there are some exceptions.<sup>246</sup> Those who actively practiced social responsibilities were not driven by formal CSR theory,

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244. Russo, Angeloantonio, and Perrini, Francesco. 2010. "Investigating Stakeholder Theory and Social Capital: CSR in Large Firms and SMEs." *Journal of Business Ethics* 91 (2): 207–21.

245. Coppa, Marcello, and Sriramesh, Krishnamurthy. 2013. "Corporate social responsibility among SMEs in Italy." *Public Relations Review* 39 (1): 30–39.

246. Canarutto, Gheula, and Nidasio, Claudio. 2005. "Italy: Mapping a New Business Landscape." In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88.

but based on “personal mission and values of the management” instead.<sup>247</sup>

Among big companies, public and private ones differ in some aspects. For instance, some big public companies have the social function of helping the development of the south of Italy, as well as the development of managerial competencies.<sup>248</sup>

Companies show diverse attitudes towards CSR. Classifications of companies’ orientation can be as many as 5. According to a survey,<sup>249</sup> companies are into following groups.

First, “sceptical companies” amount to 15% and have infrequent commitment to stakeholders. Second, there are “mobilisable companies” who are passive towards CSR. This type of companies account for 54%. Both “sceptical” and “mobilisable” companies are mainly SMEs. Third, 9% are “aware enterprises” who interact with stakeholders, though with less frequency and limited areas. Fourth, about 10% are “multi certificate companies” who comply with standards related to CSR. Fifth, “cohesive

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Springer.

247. Ibid. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

248. Ibid. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

249. Unioncamere. 2004. *I modelli di responsabilità sociale nelle imprese italiane*. FrancoAngeli. Del Baldo, Mara. 2015. “A State of the Art of Corporate Social Responsibility Diffusion in Italy: Limits and Potentials.” In *Corporate Social Responsibility in Europe*, edited by Idowu, Samuel O., Schmidpeter, René, and Fifka, Matthias S., 435–68. Cham: Springer International Publishing.

companies” regard CSR as a fundamental element and integral part of business. They amount to 11% of all companies surveyed.

Another kind of crucial actors of CSR in Italy is the “third sector”.<sup>250</sup>

In general, “third sector” is a phrase representing the part of society or economy that are non-state, voluntary, and non-profit making.<sup>251</sup> The third sector is often distinguished with the governmental sector or public sector, and the profit-making or private sector.<sup>252</sup> Third sector includes voluntary organisations, community groups, associations of social promotion, foundations, cooperatives, social enterprises, and NPOs.<sup>253</sup>

The third sector is a key component of CSR in Italy. The National Plan of Corporate Social Responsibility regards organisations of the third sector as important actors for the Plan.<sup>254</sup>

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250. “Terzo settore” in Italian.

251. 2013. “third sector.” *A Dictionary of Social Work and Social Care*, edited by Harris, John, and White, Vicky, Oxford University Press. 2016. “third sector.” *A Dictionary of Business and Management*, edited by Law, Jonathan, Oxford University Press.

252. 2016. “third sector.” *A Dictionary of Business and Management*, edited by Law, Jonathan, Oxford University Press.

253. 2013. “third sector.” *A Dictionary of Social Work and Social Care*, edited by Harris, John, and White, Vicky, Oxford University Press. Zamagni, Stefano. 2012. “terzo settore, economia del.” *Dizionario di Economia e Finanza*,

254. “Il Piano d’Azione nazionale è attuato sotto l’indirizzo delle due Amministrazioni capofila, ossia il Ministero del Lavoro e delle Politiche Sociali e il Ministero dello Sviluppo Economico, nel rispetto delle autonomie e prerogative delle Amministrazioni pubbliche (centrali, regionali e locali) e dei soggetti imprenditoriali, sindacali, delle organizzazioni di terzo settore e della società civile che contribuiscono al raggiungimento dei suoi obiettivi.” Ministro del Lavoro e delle Politiche Sociali,

The close relation between the third sector and CSR in Italy could be observed through the formation of a public organ, the General Director of Third Sector and Corporate Social Responsibility.<sup>255</sup> The name of the organ, which contains “third sector” and “corporate social responsibility” at the same time, says a lot. The General Director consists of three divisions, one is directly related with the third sector, two are directly related with corporate social responsibility.<sup>256</sup> Some of the functions of the General Director are to promote, development, and manage activities by the third sector, as well as to diffuse information about the third sector.<sup>257</sup>

There are organisations in various forms that belong to the third sector actively involved in CSR. These associations include industry-driven associations, as well as NGOs-led associations. Some of these organisations are endorsed by public authorities, or have cooperation with public authorities.

The direct involvement of public actors in CSR affairs is an obvious feature of CSR in Italy.

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and Ministro dello Sviluppo Economico. 2012. “Piano d’Azione Nazionale sulla Responsabilità Sociale d’Impresa 2012-2014.”

255. Direzione generale del terzo settore e della responsabilità sociale delle imprese. It is an organ within the Ministero del lavoro e delle politiche sociali.

256. Article 12, Ministero del Lavoro e delle Politiche Sociali. 2014. “Attuazione del DPCM 14 febbraio 2014, n. 121, in materia di uffici dirigenziali non generali del Ministero del lavoro e delle politiche sociali.” *Gazzetta Ufficiale Repubblica Italiana*

257. Il Presidente del Consiglio dei Ministri. 2014. “Decreto del Presidente del Consiglio dei Ministri 14 febbraio 2014, n. 121.”

### 3.2 Practice at national level

There are explicit, formal national initiatives of CSR, as well as implicit, informal involvement of state actors in CSR.

The importance of CSR for Italy was clearly stated in public documents. Given the global economic crisis has shadowed economy of Italy, CSR is also regarded as responses to the crisis.

National initiatives are not promoted by a single state actor. On the contrary, it is led jointly by 2 Ministries, with the collaborations of administrations at different levels, enterprises, trade unions, and civil society.<sup>258</sup>

The CSR-SC initiative is a very early one among systemic and influential initiatives in Italy. It was publicly presented in 2002.<sup>259</sup> The CSR-SC project is led by the Ministry of Welfare, with the participation of Bocconi University; research on major international reporting tools provides support for the project.<sup>260</sup> It is a type of voluntary tool with the impact on business management processes.<sup>261</sup>

The aims of CSR-SC are multi-fold. According to the text of CSR-SC

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258. Innovation Norway. 2014. "CSR Country Report 2014 Italy."

259. Canarutto, Gheula, and Nidasio, Claudio. 2005. "Italy: Mapping a New Business Landscape." In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

260. Ibid. 2005. "Italy: Mapping a New Business Landscape." In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

261. Brohier, Joelle. 2010. "CSR Frameworks in China and the European Union: Insights for CSR Workshops."

project, it aims to promote the culture of CSR within the industrial system and increase the degree of awareness of enterprises over social and environmental issues, as well as relevant responsibility.<sup>262</sup> Another aim of CSR-SC relates to the information, especially information highly relevant with various stakeholders; through the CSR-SC project, the Italian public authority would like to guarantee the clearness and transparency of the business communication over CSR matters, and to protect the proper rights and consumers and citizens.<sup>263</sup> Besides, though the CSR-SC project is an Italian one, it naturally relates to CSR on the European level. On one hand, it was proposed to create a standard consistent with “EU’s position on CSR”,<sup>264</sup> on the other hand, it intends to contribute to the ongoing debates over CSR matters of EU.<sup>265</sup> The connection to EU’s position on CSR is also reflected by the relation between CSR-SC project and the Green Paper on promoting CSR, issued by European Commission in 2001. The Green Paper is an important reference for the CSR-SC project, especially the the definition of CSR made by the Green Paper.<sup>266</sup>

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262. Ministro del Lavoro e delle Politiche Sociali. 2002. “Il Progetto CSR-SC: Il contributo italiano alla campagna di diffusione della CSR in Europa.”

263. Ibid. 2002. “Il Progetto CSR-SC: Il contributo italiano alla campagna di diffusione della CSR in Europa.”

264. Torrecchia, Patrizia. 2013. “CSR in Italy.” *Encyclopedia of Corporate Social Responsibility*, edited by Idowu, Samuel O., Capaldi, Nicholas, Zu, Liangrong, and Das Gupta, Ananda, 710–15. Springer.

265. Ministro del Lavoro e delle Politiche Sociali. 2002. “Il Progetto CSR-SC: Il contributo italiano alla campagna di diffusione della CSR in Europa.”

266. Ibid. 2002. “Il Progetto CSR-SC: Il contributo italiano alla campagna di diffusione della CSR in Europa.”

The definition of CSR in the Green Paper extends the social responsibility of enterprises beyond norms in force, to a broader scope like human capital, environment, and relations among stakeholders.<sup>267</sup>

The core elements of CSR-SC are its contents in terms of rules and mechanisms, and its actors. Its contents include the Social Statement and the set of indicators, the procedure of verifying the Social Statement, the system of fiscal reduction, and the mechanism of *moral suasion*.<sup>268</sup> The main actors are enterprises, the Ministry of Labour and Social Affairs, and the CSR Forum. Key traits of the CSR-SC project are voluntary approach, corporate self-assessment, non-traditional certification mechanisms, and performance indicators.<sup>269</sup>

The CSR-SC project presents a set of performance indicators. It serves as an optimal reference for generating the Social Statement.<sup>270</sup> It is a three-level framework including stakeholders groups affected by clusters of indicators as categories, thematic areas monitored by groups of performance indicators as aspects, and measurements as indicators.<sup>271</sup>

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267. Ibid. 2002. "Il Progetto CSR-SC: Il contributo italiano alla campagna di diffusione della CSR in Europa."

268. Ibid. 2002. "Il Progetto CSR-SC: Il contributo italiano alla campagna di diffusione della CSR in Europa."

269. Perrini, Francesco, Pogutz, Stefano, and Tencati, Antonio. 2006. "Corporate Social Responsibility in Italy: State of the Art." *Journal of Business Strategies* 23 (1): 65–91.

270. Ibid. 2006. "Corporate Social Responsibility in Italy: State of the Art." *Journal of Business Strategies* 23 (1): 65–91.

271. Ibid. 2006. "Corporate Social Responsibility in Italy: State of the Art." *Journal of Business Strategies* 23 (1): 65–91.

Sector characteristics will be taken into consideration as well.<sup>272</sup> These indicators will be used by three categories of companies in general, namely, listed companies, large private companies, and small and medium-sized private companies.<sup>273</sup> For listed companies, the implementation of indicators shall follow a strict rule and disclose information broadly; for private companies, adoption of indicators shall be in accordance with their capacities.<sup>274</sup>

Identifying stakeholders in the CSR-SC project is a basic job. In the project, stakeholders are broad categories including human resources, financial community, clients, suppliers, financial partners, governmental actors, community, and environment.<sup>275</sup> Behind the structure of stakeholder categories, there are the thought that companies' external relationships and related performance matter a lot, and the fact that In Italy, networks between companies and local stakeholders affect corporate performance.<sup>276</sup> In the design of the Ministry of Labour and Social Affairs, the implementation the CSR-SC relies on many

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272. Ibid. 2006. "Corporate Social Responsibility in Italy: State of the Art." *Journal of Business Strategies* 23 (1): 65–91.

273. Ibid. 2006. "Corporate Social Responsibility in Italy: State of the Art." *Journal of Business Strategies* 23 (1): 65–91.

274. Ibid. 2006. "Corporate Social Responsibility in Italy: State of the Art." *Journal of Business Strategies* 23 (1): 65–91.

275. Ibid. 2006. "Corporate Social Responsibility in Italy: State of the Art." *Journal of Business Strategies* 23 (1): 65–91.

276. Ibid. 2006. "Corporate Social Responsibility in Italy: State of the Art." *Journal of Business Strategies* 23 (1): 65–91.

stakeholders and the network of Unioncamere.<sup>277</sup>

The National Action Plan on Corporate Social Responsibility 2012-2014,<sup>278</sup> issued by 2 Ministries,<sup>279</sup> sets out a systemic picture of the national initiative.

Its major contents are projects and actions now and goals and guidelines for the future.<sup>280</sup> The Action Plan has multiple objectives, relating to enterprises, citizenship and civil society organisations, as well the cultural aspects of CSR, CSR reporting, and instruments and cooperation of CSR at international level.<sup>281</sup>

The Action Plan is based on experience and social conditions in the past, well looking into the future.<sup>282</sup> It will contribute to European initiatives within the big framework.<sup>283</sup>

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277. Ibid. 2006. "Corporate Social Responsibility in Italy: State of the Art." *Journal of Business Strategies* 23 (1): 65–91.

278. Ministro del Lavoro e delle Politiche Sociali, and Ministro dello Sviluppo Economico. 2012. "Piano d'Azione Nazionale sulla Responsabilità Sociale d'Impresa 2012-2014."

279. Ministry of Labour and Social Affairs, Ministry of Economic Development.

280. Innovation Norway. 2014. "CSR Country Report 2014 Italy."

281. Ibid. 2014. "CSR Country Report 2014 Italy."

282. Ministro del Lavoro e delle Politiche Sociali, and Ministro dello Sviluppo Economico. 2012. "Piano d'Azione Nazionale sulla Responsabilità Sociale d'Impresa 2012-2014."

283. Ibid. 2012. "Piano d'Azione Nazionale sulla Responsabilità Sociale d'Impresa 2012-2014."

### 3.3 Tools

Different kinds of tools are used by various actors in the practice of CSR in Italy. Among them typical ones include codes of conducts, CSR management system, CSR report, CSR-related standards, ethical financing, cause-related marketing.<sup>284</sup>

Sociale Report<sup>285</sup> is viewed as the most leading tool of CSR in Italy.<sup>286</sup> The first social report in Italy was issued by group Merloni in as early as 1978.<sup>287</sup>

Besides, some international standards are adopted. Typical ones are

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284. Marketing sociale.

285. Bilancio sociale. It's a system of social reporting standards introduced in 2001. It's updated in 2013. Gruppo di Studio per il Bilancio Sociale. 2013. *Il Bilancio Sociale GBS 2013 Standard – Principi di redazione del bilancio sociale*. Giuffrè Editore. Some uses “social balance” as the English counterpart of “bilancio sociale”, see Torrecchia, Patrizia. 2013. “CSR in Italy.” *Encyclopedia of Corporate Social Responsibility*, edited by Idowu, Samuel O., Capaldi, Nicholas, Zu, Liangrong, and Das Gupta, Ananda, 710–15. Springer. English version of the standards issued by Gruppo di Studio per il Bilancio Sociale uses “social report”. The thesis uses “social report”.

286. Ibid. 2013. “CSR in Italy.” *Encyclopedia of Corporate Social Responsibility*, edited by Idowu, Samuel O., Capaldi, Nicholas, Zu, Liangrong, and Das Gupta, Ananda, 710–15. Springer.

287. Ibid. 2013. “CSR in Italy.” *Encyclopedia of Corporate Social Responsibility*, edited by Idowu, Samuel O., Capaldi, Nicholas, Zu, Liangrong, and Das Gupta, Ananda, 710–15. Springer.

SA8000,<sup>288</sup> ISO14001,<sup>289</sup> and (EMAS).<sup>290</sup>

## **4. CSR at Regional Level**

### **4.1 Regional difference**

Like other countries, there is regional difference among regions in Italy. The regional difference in Italy also affects CSR in Italy, including the perception of CSR, practices of CSR.

It's general understanding that Italy consists of various regions that

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288. SA8000 refers to Social Accountability 8000 International Standard made by Social Accountability International. It is “a voluntary standard for auditable third-party verification, setting out the requirements to be met by organisations, including the establishment or improvement of workers’ rights, workplace conditions and an effective management system.” Social Accountability International. 2014. “SA8000: 2014 Standard.”

289. ISO refers to “Environmental management systems -- Requirements with guidance for use. As a voluntary environmental regime, it is widely adopted in the world. Prakash, Aseem, and Potoski, Matthew. 2014. “Global Private Regimes, Domestic Public Law: ISO 14001 and Pollution Reduction.” *Comparative Political Studies* 47 (3): 369–94.

290. EMAS is a tool of environmental management created by EU, with the objective of establishment and implementation of environmental management systems. The participation is voluntary. The European Parliament, and The Council Of The Euro Pean Union. 2009. “Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC.” 1221/2009

differ from each other in terms of history, culture, economy, etc.

To begin with, one type of regional difference is varieties of industries in different regions. Economic sectors also play a role in shaping CSR. Therefore, regional differences regarding CSR matter. Industrial districts, due to their importance in society of Italy, are key elements in forming perspectives on social and economic issues in Italy. As a matter of fact, industrial districts are not evenly scattered in Italy.<sup>291</sup>

Furthermore, another significant regional difference which are often taken into consideration in research related with Italian society is the distinction of northern Italy and southern Italy. In reality, the North-South division is made in a general sense, there are other ways of distinguishing regional differences as well. For instance, terms like “central-north”, “northern east”, “north west”, “isles” are sometimes used in discussing regional differences of CSR practices in Italy. Unless explicitly stated, discussion of regional differences of CSR in this part will be the differences between northern and southern Italy, which is one of the most important regional differences.

In general, northern Italy pays more attention towards environmental and social issues, taking in considerations of elements such as energy and water consumption, waste recycling, and environmental firms.<sup>292</sup>

In northern Italy, there is a relatively higher presence of non-profit and

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291. There are more industrial districts in North-East and North-West than other parts of Italy. Istituto Nazionale di Statistica. 2015. “I Distretti Industriali Anno 2011.”

292. Canarutto, Gheula, and Nidasio, Claudio. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

volunteer organisations, while in southern Italy the culture of clan is strong, therefore the role of society is “more present” in northern Italy.<sup>293</sup> Regarding CSR, the north and the south are considered to be different also in terms of ethical values.<sup>294</sup>

In terms of CSR commitment, southern Italy has limited time and resources for socially responsible activities.<sup>295</sup>

In contrast, northern Italy is perceived to have more CSR commitment in many aspects. Consciousness and awareness of social and environmental issues seem to be higher in northern Italy, a phenomenon confirmed by much data.<sup>296</sup> Besides, horizontal subsidiarity is being widely practiced in some northern regions, with civil society organisations providing public services.<sup>297</sup> Horizontal subsidiarity, together with reciprocity, are two vital characteristics of social goods (in

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293. Ibid. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

294. Ibid. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

295. Ibid. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

296. Perrini, Francesco, Pogutz, Stefano, and Tencatì, Antonio. 2006. “Corporate Social Responsibility in Italy: State of the Art.” *Journal of Business Strategies* 23 (1): 65–91.

297. Ibid. 2006. “Corporate Social Responsibility in Italy: State of the Art.” *Journal of Business Strategies* 23 (1): 65–91.

comparison with private goods and public goods).<sup>298</sup> Besides, companies in northern Italy are more interested in advanced tools for CSR initiatives; typical tools include corporate campaigning and codes of conduct.<sup>299</sup>

Effects of regional differences in CSR can be observed. For instance, cultural expectations of companies' behaviour are related to regional differences in CSR.<sup>300</sup> In Italy, the regional differences in CSR are significant enough not only to be crucial elements taken into consideration by research, but also reflected by policies. In National Plan on CSR 2012-2014, regional differences in CSR between the South and Central-North are taken into consideration.<sup>301</sup>

Deal with diversities in CSR on the regional bases is part of the Italian experience of CSR. Exchange of experience in CSR between the the South and Central-North is viewed as valuable.<sup>302</sup>

First, economy of Northern Italy and Southern Italy are different in

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298. Antonelli, Gilberto. 2011. "Global Economic Crisis and Systemic Failure." *Economia Politica* 28 (3): 403–34.

299. Perrini, Francesco, Pogutz, Stefano, and Tencati, Antonio. 2006. "Corporate Social Responsibility in Italy: State of the Art." *Journal of Business Strategies* 23 (1): 65–91.

300. Canarutto, Gheula, and Nidasio, Claudio. 2005. "Italy: Mapping a New Business Landscape." In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

301. Ministro del Lavoro e delle Politiche Sociali, and Ministro dello Sviluppo Economico. 2012. "Piano d'Azione Nazionale sulla Responsabilità Sociale d'Impresa 2012-2014."

302. Ibid. 2012. "Piano d'Azione Nazionale sulla Responsabilità Sociale d'Impresa

both scale and richness. Second, the difference also exists in institutional aspects, including legal institutions. No wonder why some scholar makes the distinction of central and peripheral within Europe in terms of legal institutions and legal thinking, Italy is regarded as a half central half peripheral country, with its sharp North-South divide. Third, a survey shows that entrepreneurs' perceptions and awareness of CSR also differs significantly in Northern and Southern Italy.

#### **4.2 Territorial social responsibility**

CSR in Italy is largely based on structural and historical reasons<sup>303</sup>, which contribute to territorial models of social responsibility. The Italian counterpart of the term “territorial social responsibility” is “responsabilità sociale del territorio”, which appears in both academic works and public documents.<sup>304</sup>

There is already brief definition of “territorial social responsibility” out of scholars' efforts of analysing this concept. “Territorial Social Responsibility is a form of governance cultivated through the diffusion of

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2012-2014.”

303. Del Baldo, Mara. 2015. “A State of the Art of Corporate Social Responsibility Diffusion in Italy: Limits and Potentials.” In *Corporate Social Responsibility in Europe*, edited by Idowu, Samuel O., Schmidpeter, René, and Fifka, Matthias S., 435–68. Cham: Springer International Publishing.

304. For usage of “responsabilità sociale del territorio” in public documents, see Ministro del Lavoro e delle Politiche Sociali, and Ministro dello Sviluppo Economico. 2012. “Piano d’Azione Nazionale sulla Responsabilità Sociale d’Impresa 2012-2014.” . “Possiamo parlare in questo caso di Responsabilità Sociale del Territorio (RST) dove le politiche pubbliche promuovono sinergie e partenariati.”

CSR and sustainability-oriented strategies that are promoted by networks of local actors—public and private, for-profit and not-for-profit (institutions, trade union associations, universities, chambers of commerce, businesses, non-profit organizations, social enterprises, foundations, banks, professional orders, civil society) who come from the same territory and whose policies are oriented toward sustainable development.”<sup>305</sup> In this definition, the key is “networks of local actors”. Depending on the specific situations in different places, the scope of actors could be quite broad. For example, in terms of nationality, both domestic and foreign actors (no matter organisations or individuals) who are relevant are part of the network of local actors.

The contents of territorial social responsibility are broad. In some work about the analysis of territorial social responsibility it includes identification of common values of the territorial community, resources and requirements of territorial community, and management and control of the financial report of projects, etc.<sup>306</sup>

Studies on territorial social responsibility in Italy has great potential. The book published in 2007 *Responsabilità sociale del territorio. Manuale operativo di sviluppo sostenibile e best practices* is viewed as the pioneer of systemic research on territorial social responsibility.<sup>307</sup>

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305. Del Baldo, Mara. 2015. “Territorial Social Responsibility.” *Dictionary of Corporate Social Responsibility: CSR, Sustainability, Ethics and Governance*, edited by O. Idowu, Samuel, 538–39.

306. Peraro, G. Vecchiato F. 2007. *Responsabilità sociale del territorio. Manuale operativo di sviluppo sostenibile e best practices*. Franco Angeli.

307. Ibid. 2007. *Responsabilità sociale del territorio. Manuale operativo di sviluppo sostenibile e best practices*. Franco Angeli.

Some holds that the concept of territorial social responsibility has not been “adequately studies” yet.<sup>308</sup>

Shared values are essential for territorial social responsibility. These values could be the value of participation, respect, and the recognition of roles.<sup>309</sup> Territorial social responsibility is enabled by shared value,<sup>310</sup> though multiple actors may hold different views during the decision-making process.

It also relates to the cultural dimension of CSR,<sup>311</sup> giving weight to the importance of cultural aspects of social responsibility.

A core element of territorial social responsibility is it’s multi-stakeholders initiative.<sup>312</sup> First, it takes place within a network of actors. Second, the decision-making process is collaborative and uses tools like

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308. Del Baldo, Mara. 2015. “Territorial Social Responsibility.” *Dictionary of Corporate Social Responsibility: CSR, Sustainability, Ethics and Governance*, edited by O. Idowu, Samuel, 538–39.

309. Ibid. 2015. “Territorial Social Responsibility.” *Dictionary of Corporate Social Responsibility: CSR, Sustainability, Ethics and Governance*, edited by O. Idowu, Samuel, 538–39.

310. Ibid. 2015. “Territorial Social Responsibility.” *Dictionary of Corporate Social Responsibility: CSR, Sustainability, Ethics and Governance*, edited by O. Idowu, Samuel, 538–39.

311. Ibid. 2015. “Territorial Social Responsibility.” *Dictionary of Corporate Social Responsibility: CSR, Sustainability, Ethics and Governance*, edited by O. Idowu, Samuel, 538–39.

312. Ibid. 2015. “Territorial Social Responsibility.” *Dictionary of Corporate Social Responsibility: CSR, Sustainability, Ethics and Governance*, edited by O. Idowu, Samuel, 538–39.

round tables, multi-stakeholder forums, focus groups, assemblies, and formal planning mechanisms.<sup>313</sup> Third, a goal of territorial social responsibility is the balance of needs among different actors, ranging from local community, the enterprises, and the public actors.<sup>314</sup> Forth, while the central government does not play a major role in central role in territorial social responsibility, the local governments often play this role.<sup>315</sup> SMEs as core participants play primary role.<sup>316</sup>

The merits of territorial social responsibility are multi-fold. It responds to needs of the community as it is local focused; It also helps long-term vision on sustainability; it helps to construct partnerships with local actors; it enables evaluation of concrete results.<sup>317</sup>

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313. Jamal, Tazim B., and Getz, Donald. 1996. "Does strategic planning pay? Lessons for destinations from corporate planning experience." *Progress in Tourism and Hospitality Research* 2 (1): 59–78.

314. Del Baldo, Mara. 2015. "A State of the Art of Corporate Social Responsibility Diffusion in Italy: Limits and Potentials." In *Corporate Social Responsibility in Europe*, edited by Idowu, Samuel O., Schmidpeter, René, and Fifka, Matthias S., 435–68. Cham: Springer International Publishing.

315. Ibid. 2015. "A State of the Art of Corporate Social Responsibility Diffusion in Italy: Limits and Potentials." In *Corporate Social Responsibility in Europe*, edited by Idowu, Samuel O., Schmidpeter, René, and Fifka, Matthias S., 435–68. Cham: Springer International Publishing.

316. Ibid. 2015. "A State of the Art of Corporate Social Responsibility Diffusion in Italy: Limits and Potentials." In *Corporate Social Responsibility in Europe*, edited by Idowu, Samuel O., Schmidpeter, René, and Fifka, Matthias S., 435–68. Cham: Springer International Publishing.

317. Ibid. 2015. "A State of the Art of Corporate Social Responsibility Diffusion in Italy: Limits and Potentials." In *Corporate Social Responsibility in Europe*, edited by

### 4.3 Regional initiatives

Unsurprisingly, regional initiatives of CSR in Italy are active. Despite the regional differences in terms of activeness and contents of CSR practice, many regions have their own picture of CSR, many have participated in inter-regional, national, transnational, or international CSR initiatives.

While the state public authorities in CSR are supportive for CSR, it is interesting to see how regional and local deal with CSR. In promoting CSR, regional and local governments have been active.<sup>318</sup> They understood that public sector strategies are important for CSR initiatives to be effective.<sup>319</sup>

There are intense CSR policies and various CSR initiatives and the regional and provincial level.<sup>320</sup> CSR affects regional planning acts.

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Idowu, Samuel O., Schmidpeter, René, and Fifka, Matthias S., 435–68. Cham: Springer International Publishing.

318. Canarutto, Gheula, and Nidasio, Claudio. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

319. Ibid. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

320. Del Baldo, Mara. 2015. “A State of the Art of Corporate Social Responsibility Diffusion in Italy: Limits and Potentials.” In *Corporate Social Responsibility in Europe*, edited by Idowu, Samuel O., Schmidpeter, René, and Fifka, Matthias S., 435–68. Cham: Springer International Publishing.

Based on the count in the National Action Plan, at least in 8 regions CSR is explicitly quoted in regional operational programmes, at least in 7 regions CSR is explicitly quoted in other documents like “annual or multi-annual plans and programmes of economic and productive development; annual or multi-annual plans on labour policies, strategic documents, action plans, regional green papers, memoranda of intents”.<sup>321</sup>

Regions adopt various standards in CSR initiatives. Some regional standards are quite general and do not adopt sector specific standards; other standards are in accordance with international ones.<sup>322</sup> In terms of forms of standards, varieties can be observed. Some regions organise a kind of social report with indicators to monitor; some made operational manual and software for companies’ self-assessment; some adopts the approach of good practices.<sup>323</sup>

Specifically, regions and provinces started different initiatives. Region of Umbria promoted certification mechanism of Umbrian companies on quality, environment, etc.<sup>324</sup> Umbria is also the region with regional law

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321. Ministro del Lavoro e delle Politiche Sociali, and Ministro dello Sviluppo Economico. 2012. “Piano d’Azione Nazionale sulla Responsabilità Sociale d’Impresa 2012-2014.”

322. Del Baldo, Mara. 2015. “A State of the Art of Corporate Social Responsibility Diffusion in Italy: Limits and Potentials.” In *Corporate Social Responsibility in Europe*, edited by Idowu, Samuel O., Schmidpeter, René, and Fifka, Matthias S., 435–68. Cham: Springer International Publishing.

323. Ibid. 2015. “A State of the Art of Corporate Social Responsibility Diffusion in Italy: Limits and Potentials.” In *Corporate Social Responsibility in Europe*, edited by Idowu, Samuel O., Schmidpeter, René, and Fifka, Matthias S., 435–68. Cham: Springer International Publishing.

324. Canarutto, Gheula, and Nidasio, Claudio. 2005. “Italy: Mapping a New

regarding the usage of SA8000.<sup>325</sup> Region of Abruzzo also has certification mechanism on environment and CSR, but the targets are “the administrative procedures of the Region of Abruzzo, local territorial bodies and other public bodies working in the Region”.<sup>326</sup> Region Emilia Romagna has a system of “Label of Social Quality”. Region Emilia Romagna also has a programme “Clear, Safe, Regular”,<sup>327</sup> regarding working safety and quality.<sup>328</sup>

#### 4.4 CSR at Tuscany Region

One of the most important actors of regional CSR in Tuscany is the Regional Ethic Committee for Corporate Social Responsibility.<sup>329</sup> It was

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Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

325. Ministro del Lavoro e delle Politiche Sociali, and Ministro dello Sviluppo Economico. 2012. “Piano d’Azione Nazionale sulla Responsabilità Sociale d’Impresa 2012-2014.”

326. Canarutto, Gheula, and Nidasio, Claudio. 2005. “Italy: Mapping a New Business Landscape.” In *Corporate Social Responsibility Across Europe*, edited by Habisch, André, Jonker, Jan, Wegner, Martina, and Schmidpeter, René, 275–88. Springer.

327. “Chiaro, Sicuro, Regolare”, whose abbreviation CSR coincides with the abbreviation of “corporate social responsibility”.

328. Perrini, Francesco, Pogutz, Stefano, and Tencati, Antonio. 2006. “Corporate Social Responsibility in Italy: State of the Art.” *Journal of Business Strategies* 23 (1): 65–91.

329. Commissione Etica regionale per la responsabilità sociale delle imprese.

founded by the regional committee, consisting of representatives from stakeholders like commercial system, local organisations, non-profit organisations, consumer associations, trade unions, employers' associations.<sup>330</sup> For instance, it also consists of a member from University of Florence.<sup>331</sup> The regional committee of could consult the Ethic Committee over CSR matters.<sup>332</sup> For the Congress "Corporate Social Responsibility for an Europe of Rights" in 2004, the Ethic Committee was divided into three working groups.<sup>333</sup>

Other actors also play important roles in CSR initiatives in Tuscany. Within the General Director of Economic Development,<sup>334</sup> there is a sector "Social Responsibility and Equal Opportunity in Enterprises" whose function is to promote and inform enterprises and citizens the theme of CSR, as well as to assist the research, survey, and planning on CSR matters.<sup>335</sup> There is also actors in financial fields, like Microcredit

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330. Brenna, Ambrogio. 2003. "Il progetto "Fabbrica Ethica"." *Impresa & Stato* 2003 (65):

331. Commissione Etica regionale per la responsabilità sociale delle imprese [www.regione.toscana.it/impresedi/controlli-e-sicurezza/responsabilita-sociale/-/asset\\_publisher/eonjZadAbVH6/content/commissione-etica-regionale-per-la-responsabilita-sociale-delle-impresedi](http://www.regione.toscana.it/impresedi/controlli-e-sicurezza/responsabilita-sociale/-/asset_publisher/eonjZadAbVH6/content/commissione-etica-regionale-per-la-responsabilita-sociale-delle-impresedi), visited on 22/02/2016.

332. Ibid. 2003. "Il progetto "Fabbrica Ethica"." *Impresa & Stato* 2003 (65):

333. Commissione Etica regionale per la responsabilità sociale delle imprese [www.regione.toscana.it/impresedi/controlli-e-sicurezza/responsabilita-sociale/-/asset\\_publisher/eonjZadAbVH6/content/commissione-etica-regionale-per-la-responsabilita-sociale-delle-impresedi](http://www.regione.toscana.it/impresedi/controlli-e-sicurezza/responsabilita-sociale/-/asset_publisher/eonjZadAbVH6/content/commissione-etica-regionale-per-la-responsabilita-sociale-delle-impresedi), visited on 22/02/2016.

334. Direzione Generale Sviluppo Economico.

335. Ibid. 2003. "Il progetto "Fabbrica Ethica"." *Impresa & Stato* 2003 (65):

System For Assistance in Tuscany (SMOAT). It provides assistance to “non-bankable” clients so as to contribute to local development.<sup>336</sup>

One of the most important initiatives of regional CSR in Tuscany is *Fabric Ethic*. It is a project started by the regional committee for promoting CSR, with the strategy of improving the competitiveness of enterprises, contributing to the social inclusion, and limiting and preventing the social costs of irresponsibility.<sup>337</sup> The essential objective of *Fabric Ethic* is to construct a process of economic growth with social cohesion.<sup>338</sup> *Fabric Ethic* is the first formal CSR initiative that Tuscany Region started.<sup>339</sup> The international congress in 2002 is a remarkable event to start up the *Fabric Ethic* project; there are theoretical debates and discussion on the congress.<sup>340</sup>

SA8000 has a big influence in Tuscany, it affects different stakeholders. SA8000 is adopted Tuscany Region in different ways. For instance, SA8000 is part of the awarding criteria for some public tenders, it works as an incentive; this mechanism affects both public sector

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336. Del Baldo, Mara. 2015. “A State of the Art of Corporate Social Responsibility Diffusion in Italy: Limits and Potentials.” In *Corporate Social Responsibility in Europe*, edited by Idowu, Samuel O., Schmidpeter, René, and Fifka, Matthias S., 435–68. Cham: Springer International Publishing.

337. Ministro del Lavoro e delle Politiche Sociali, and Ministro dello Sviluppo Economico. 2012. “Piano d’Azione Nazionale sulla Responsabilità Sociale d’Impresa 2012-2014.”

338. Brenna, Ambrogio. 2003. “Il progetto “Fabrica Ethica”.” *Impresa & Stato* 2003 (65):

339. Ibid. 2003. “Il progetto “Fabrica Ethica”.” *Impresa & Stato* 2003 (65):

340. Ibid. 2003. “Il progetto “Fabrica Ethica”.” *Impresa & Stato* 2003 (65):

responsible conduct, and business management processes.<sup>341</sup>

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341. Brohier, Joelle. 2010. "CSR Frameworks in China and the European Union: Insights for CSR Workshops."

## Chapter Four. CSR in China

### 1. Introduction

This chapter aims to summarise the developments of CRS in China<sup>342</sup> during 1978-2016. The year 1978 marks the start of the Chinese economic reforms, known as "Reform and Opening-up".<sup>343</sup> Economic reforms gradually transformed planned economy into socialist market economy. State-owned enterprises, private enterprises, and foreign-owned enterprises play important roles. Consistent economic growth shapes contemporary China.

The institutional environment of economy evolves as well. The legal system develops steadily. Important laws are amended or enacted. The judicial system adapts to social developments by measures such as the establishment of intellectual courts.

China's relation with outside world changed as well, with rich cultural, social, and economic ties. On the economic aspect, China joined World Trade Organisation in 2001. China signed 14 free trade agreements with 22 countries and regions.<sup>344</sup>

Meanwhile, China is facing and aiming to resolve various problems. The Government's report puts it in a strait manner, states that among several kinds of difficulties and challenges on the road ahead, one is

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342. Mainland China.

343. 改革开放.

344. <http://fta.mofcom.gov.cn>, visited on 22 June 2015.

"there are still many problems of public concern in medical services, elderly care, housing, transport, education, income distribution, food safety, and law and order. Environmental pollution is serious in some localities, and major accidents in the workplace are not uncommon."<sup>345</sup>

Therefore, CSR develops in China among achievements and challenges. It carries contents from abroad and combines characters of Chinese society. In terms of CSR, there are both connections and contrasts between China and other parts of the world.

CSR in China is a dynamic process involving multiple actors. Its rapid developments closely relate to societal changes of China. Various actors, including both public authorities and private actors, participate in the process.

CSR is a conceptual platform functioning in domestic and transnational sphere. Domestically, it gathers existing (often implicit) socially responsible norms and practices of enterprises and welcomes the coming norms and practices in name of CSR. In transnational sphere, CSR bridges different jurisdictions through the sharing of same or similar norms.

Specific norms contribute to the institutionalisation and enrichment of CSR, though there is no consensus over the definition of CSR.

While evaluation of CSR goes on widely, the effects of CSR are not easy to measure. There are researches on relation between CSR activities and firm performance. Measurement of CSR's effects on society, on the

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345. 政府工作报告 (Report on the Work of the government), Delivered at the Third Session of the 12th National People's Congress on March 5, 2015, Li Keqiang, Premier of the State Council.

other hand, will become easier with the arising of more measurement models and the accumulation of data.

Structure of this chapter is as follows. First part is CSR in laws and regulations of China. Second part is about social practice of CSR in China. Third part is thematic analysis of CSR in China. Final part will be the conclusion.

## **2. CSR and the Legal System**

### **2.1 Overview**

In the legal system, most frequently used terms referring to CSR are "social responsibility"<sup>346</sup> and "social responsibility of enterprises".<sup>347</sup>

The legal system mainly consists of laws, regulations, and judicial decisions. The National People's Congress and its Standing Committee enact and amend laws.<sup>348</sup> The State Council and organs with administrative functions directly under the State Council enact administrative regulations and administrative rules respectively.<sup>349</sup> The Supreme People's Court may make interpretation of the application of specific laws in the judicial work,<sup>350</sup> courts at different levels make

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346. 社会责任.

347. 企业社会责任.

348. Article 7, 全国人民代表大会. 2015. “中华人民共和国立法法.”

349. Article 65, Article 80, Ibid. 2015. “中华人民共和国立法法.”

350. Article 104, Ibid. 2015. “中华人民共和国立法法.”

judgements by force of law. Organs of the State Council and other governmental organisations may issue normative documents.

CSR explicitly exist in laws. CSR exist in normative documents with a wide range. The State Council and its organs take measures in promoting CSR. There are traces of CSR in judicial activities, with claims of CSR coming from various parties.

Legal foundations of CSR, though sometimes relate to CSR implicitly and do not contain the phrase “corporate social responsibility” or “social responsibility”, are obvious. Article 15 of the Constitution states that “the state implements a socialist market economy”.<sup>351</sup> Therefore CSR has a constitutional foundation.

## 2.2 Laws

In 2005, it is the Company Law that introduced CSR into law for the first time.<sup>352</sup> Article 5 of Company Law states "In conducting its business operations, a company shall abide by laws and administrative regulations, observe social ethics and business ethics, act in good faith, accept the supervision of the government and the general public, and bear social responsibility."<sup>353</sup> The Company received another revision in 2013, but the article about CSR remains unchanged.

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351. Ibid. 2004. “中华人民共和国宪法.”

352. The inclusion of CSR into Company law is realised by revision. 全国人民代表大会常务委员会. 2013. “中华人民共和国公司法.” (Company Law of the People's Republic of China), revised in 2013.

353. Article 5, Ibid. 2013. “中华人民共和国公司法.”

Other than "mentioning" CSR, the Company Law does not offer further explicit explanations of CSR. The inclusion of CSR in Company Law is significant in several aspects. Ideologically, recognition of CSR by Company Law demonstrates the legislature's standpoint, given that the idea of CSR was not indisputable at that moment.<sup>354</sup> Practically, the article about CSR in Company Law serves as a legal base for regulations and judicial activities. Actually, since 2006,<sup>355</sup> regulations regarding CSR were issued, and Article 5 of Company Law has been cited directly in judgement.

It is noticeable that the content of CSR in Company Law, determined by its essence, is legally binding for "a company", a legal person. However, in both theory and practice of CSR, subjects to bear CSR are not limited to a company. Since 2006, several laws extended CSR to broader subjects to include "partnership enterprise and its partners",<sup>356</sup> "State-invested enterprises that engage in operating activities",<sup>357</sup> "food

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354. 甘培忠. 2009. "论我国公司法语境中的社会责任价值导向." 清华法学 3 (6): 17-27. Gan Peizhong. 2009. "CSR Value in Company Law." *Tsinghua Law Review* 3 (6): 17-27.

355. The revision of Company Law in 2005 came into effect in 1 January 2006.

356. Article 7, 全国人民代表大会常务委员会. 2006. "中华人民共和国合伙企业法." (Partnership Enterprise Law of the People's Republic of China), revised in 2006.

357. Article 17, Ibid. 2008. "中华人民共和国企业国有资产法." (Enterprise State-owned Assets Law of the People's Republic of China), enacted in 2008.

producers and traders",<sup>358</sup> and "tourism operators".<sup>359</sup> In these subsequent laws, the way to include CSR is highly similar with that of Company Law, with requirement to certain subjects to bear social responsibility and no further explicit definition of CSR.

There have been proposals of enacting legislation specifically for CSR or further enriching contents about CSR in the Company Law. These proposals are brought out by representatives of the yearly National People's Congress, with the efforts in 2007,<sup>360</sup> 2009,<sup>361</sup> and 2013.<sup>362</sup> So far

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358. Article 4, Ibid. 2015. "中华人民共和国食品安全法." (Food Safety Law of the People's Republic of China), revised in 2015. Inclusion of CSR was made by the revision in 2009 and remained unchanged in the revision in 2015.

359. Article 6, 全国人民代表大会. 2013. "中华人民共和国旅游法." (Tourism Law of the People's Republic of China), enacted in 2013.

360. 全国人民代表大会财政经济委员会. 2007. "全国人大财政经济委员会关于第十届全国人民代表大会第五次会议主席团交付审议的代表提出的议案审议结果的报告." (Financial and Economic Committee's Report on Reviews of Proposals of Legislation Submitted by Representatives to the Fifth Session of Tenth National People's Congress, Commissioned by Presidium of the Congress), 2007.

361. Ibid. 2009. "全国人民代表大会财政经济委员会关于第十一届全国人民代表大会第二次会议主席团交付审议的代表提出的议案审议结果的报告." (Financial and Economic Committee's Report on Reviews of Proposals of Legislation Submitted by Representatives to the Second Session of Eleventh National People's Congress, Commissioned by Presidium of the Congress), 2009.

362. Ibid. 2013. "全国人民代表大会财政经济委员会关于第十二届全国人民代表大会第一次会议主席团交付审议的代表提出的议案审议结果的报告." (Financial and Economic Committee's Report on Reviews of Proposals of Legislation Submitted by Representatives to the First Session of Twelfth National People's Congress, Commissioned by Presidium of the Congress), 2013

these proposals did not become law.

CSR also implicitly exists in law. Implicit contents of CSR can be found in Food Security Law, Production Safety Law, etc. Article 5 of Company Law summarised and confirmed the scattered contents.

### **2.3 Normative documents**

With the legal base of CSR in laws, organs of the State Council issued several normative documents specifically on social responsibilities of different types of enterprises aiming at promoting CSR. These documents are guidelines and are not mandatory for enterprises. However, they do influence enterprises over fulfilment of CSR because enterprises will not totally ignore suggestions organs of the State Council,<sup>363</sup> and some social practice of CSR derive from these guidelines.

One of the earliest such guidelines is Guidelines to the State-owned Enterprises Directly under the Central Government on Fulfilling Corporate Social Responsibilities, issued in 2007 by State-owned Assets Supervision and Administration Commission (SASAC). For state-owned enterprises, especially those directly under the central government, social responsibilities are not novelties. Dating back to times of planned economy, state-owned enterprises were associated with a mechanism called "enterprises running society",<sup>364</sup> which means those enterprises

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363. For instance, China Aviation Oil Supply Corporation uses Guidelines to the State-owned Enterprises Directly under the Central Government on Fulfilling Corporate Social Responsibilities as one of reference standards in its 2013 CSR Report.

364. 企业办社会.

were responsible for employee's welfare to a large extent, evening including enterprises-run kindergarten, schools, hospitals, and crematorium.<sup>365</sup>

The Guidelines sets forth main contents of CSR for state-owned enterprises directly under the central government (CSOEs), including mainstream themes like community, labours' rights, quality of product and service, and environment. Meanwhile, unlike the idea that CSR may possibly hamper corporate's profit, the Guidelines deems "constantly improving ability of making sustainable profits" as a social responsibility of CSOEs.<sup>366</sup> It relates to the background that state-owned enterprises eventually perform for the people, and proper profits are good for the society, instead of shareholders in a narrow sense.

In 2012, 5 years after the issuance of the Guidelines, SASAC established a Guiding Committee to the State-owned Enterprises Directly under the Central Government on Corporate Social Responsibilities.<sup>367</sup>

Besides, there are guidelines about social responsibilities of banking

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365. 刘俊海. 2010. “论全球金融危机背景下的公司社会责任的正当性与可操作性.” 社会科学 2010 (2): 70–79. Liu Junhai (2010), On Legitimacy and Operability of Corporate Social Responsibility in the Background of Global Financial Crises, in *She Hui Ke Xue* (Social Science) 2010 (2), pp. 70-79.

366. Article (9), 国务院国有资产监督管理委员会. 2007. “关于中央企业履行社会责任的指导意见.” (Guidelines to the State-owned Enterprises Directly under the Central Government on Fulfilling Corporate Social Responsibilities), by State-owned Assets Supervision and Administration Commission of the State Council, 2007.

367. Ibid. 2012. “关于成立国资委中央企业社会责任指导委员会的通知.” (Notification on the Establishment of Guiding Committee to the State-owned Enterprises Directly under the Central Government on Corporate Social Responsibilities), by State-owned Assets Supervision and Administration Commission

financial institutions,<sup>368</sup> certification agencies,<sup>369</sup> direct selling companies,<sup>370</sup> online trading platform operators,<sup>371</sup> enterprises<sup>372</sup>, and the insurance industry.<sup>373</sup>

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of the State Council, 2012.

368. 中国银行业监督管理委员会. 2007. “中国银监会办公厅关于加强银行业金融机构社会责任的意见.” (Opinions of the General Office of China Banking Regulatory Commission on Strengthening the Social Responsibility of Banking Financial Institutions), by General Administration Department of China Banking Regulatory Commission, 2007.

369. 国家认证认可监督管理委员会. 2012. “认证机构履行社会责任指导意见.” (Guidelines to Accreditation Agencies on Fulfilling Corporate Social Responsibilities), by Certification and Accreditation Administration of the People's Republic of China, 2012.

370. 国家工商行政管理总局. 2013. “直销企业履行社会责任指引.” (Guidelines to Direct Selling Companies on Fulfilling Corporate Social Responsibilities), by State Administration for Industry & Commerce of the People's Republic of China, 2013.

371. Ibid. 2014. “网络交易平台经营者履行社会责任指引.” (Guidelines for the Performance of Social Responsibilities by Online Trading Platform Operators), by State Administration for Industry & Commerce of the People's Republic of China, 2014.

372. 财政部, 中国证券监督管理委员会, 审计署, 中国银行业监督管理委员会, and 中国保险监督管理委员会. 2010. “企业内部控制应用指引第4号——社会责任.” (No. 4 of the Application Guidelines for Enterprise Internal Control: Social Responsibilities), by Ministry of Finance, China Securities Regulatory Commission, National Audit Office, China Banking Regulatory Commission, and China Insurance Regulatory Commission, 2010.

373. 中国保险监督管理委员会. 2015. “中国保监会关于保险业履行社会责任的指导意见.” (Guiding Opinions of the China Insurance Regulatory Commission on

## 2.4 Judicial activities

CSR leaves traces in judicial activities.

Legal cases, especially civil actions, reflect the public's awareness of CSR. In some civil actions, the parties cite CSR to support their claims. Sometimes the parties to a civil action claim CSR is or not fulfilled. In a labour dispute, an employee laid off (the plaintiff) claimed that the layoff demonstrates the firm was not willing to fulfil corporate social responsibility. Though the claim was denied by the firm (the defendant) and the evidence supporting the claim was not accepted by the court in this case, the claim shows the plaintiff's awareness of CSR and readiness to use it in order to defend legal rights.<sup>374</sup> In another dispute of house lease, the firm (the defendant) claimed that it already fulfilled contractual obligations and corporate social responsibility.<sup>375</sup>

In other cases, the parties to a civil action tend to justify their accused conducts by claiming the conducts are out of intention of bearing social

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the Performance of Social Responsibilities in the Insurance Industry), by China Insurance Regulatory Commission, 2015.

374. 2012. “李红诉长沙电机厂有限责任公司劳动争议纠纷一案民事判决书。” 天民初字第 1968 号 Li Hong v. Changsha Motor Factory Co., Ltd. (2012) *Tian Min Chu Zi Di 1968 Hao* (2012, Civil Judgement of People's Court at Tianxin District, Changsha City, No. 1986).

375. 2013. “梁志活与深圳市保利城实业有限公司房屋租赁合同纠纷一案判决书。” 深南法民三初字第 579、580 号 Liang Zhihuo & Li Dongmei v. *Shen Zhen Shi Bao Li Cheng Shi Ye You Xian Gong Si* (Shenzhen Baolicheng Industry Co, Ltd.) (2013) *Shen Nan Fa Min San Chu Zi Di 579, 580 Hao* (2013, Civil Judgement of People's Court at Nan Shan District, Shenzhen City, No. 579 & 580).

responsibility. In a dispute over contract of telecommunication service, the firm (the defendant) claimed that its action of suspending the text message function of the plaintiff's telecommunication service, based on the firm's understanding that the plaintiff's action has triggered the clause in the contract about prohibiting commercial advertisement, is to maintain the proper order of telecommunication market and therefore an action of fulfilling corporate social responsibility.<sup>376</sup>

In *Siemens AG & Simens Ltd. (China) v. He Chaoming*, the Court takes note of the honour "Annual Best CSR Company" that Simens Ltd. (China) obtained.<sup>377</sup> In this case the honour is a fact in favour of Siemens, not only because it is a piece of basic information about the company, but also because the honour reinforces the status of Siemens' trademark as "well-known trademark", which is protected by law. Since it is a legal dispute over intellectual property, moreover, trademark, the Court regards Siemens' honour about CSR as relevant information.

There are cases in which courts cite legal clause regarding CSR in support of courts decisions. In one case, the court attached Article 5 of Company Law as one of legal bases.<sup>378</sup> In another case, except for

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376. 2015. “中国移动通信集团广东有限公司东莞分公司诉戴亮等电信服务合同纠纷案。”东中法民二终字第 46 号 (China Mobile Group Guangdong Limited Dongguan Co, Ltd.) v. Dai Liang. (2015) *Dong Zhong Fa Min Er Zhong Zi Di 46 Hao* (Civil Judgement of Dongguan Intermediate People's Court, No. 46).

377. 2014. “西门子股份公司等诉何焯明侵害商标权及不正当竞争纠纷案。”中二法知民初字第 614 号 Siemens AG & Simens Ltd. (China) v. He Chaoming. (2014) *Zhong Er Fa Zhi Min Chu Zi Di 614 Hao* (2014, Civil Judgement of Zhongshan Second Intermediate People's Court, No. 614).

378. 2014. “吴永华、张玉平与黄发祥、张家港市润坤耐磨材料有限公司等损

attaching Article 5 of Company Law, the court emphasised in the written judgement that the defendant as a company shall "abide by laws and administrative regulations, and bear social responsibility".<sup>379</sup>

In other case, the effects of CSR extent even further. In a dispute over corporate affairs, the court uses CSR as argument.<sup>380</sup> It is a dispute whether to dissolve the company. The court is in favour of not dissolution the company. CSR works in at least two arguments. First, while the court admits that the current case is similar with a guiding case<sup>381</sup> issued by Supreme People's Court therefore the guiding case shall be taken into consideration, the current are distinctive because products provided by the company in current case are commercial houses, which entail wide social effects and social responsibilities. Therefore, more

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害公司利益责任纠纷、民间借贷纠纷一审民事判决书。”张商初字第 00789 号 Wu Yonghua, Zhang Duping v. Huang Faxiang, Zhangjiagang Runkun Wear-resistant Materials Co. Ltd, *Zhang Shang Chu Zi Di 00789 Hao* (2014, Civil Judgement of Zhangjiagang People's Court, No. 00789).

379. 2014. “袁杨与上海奈尔秀化妆品有限公司其他与公司有关的纠纷一审民事判决书。”长民二(商): Yuan Yang v. *Shang Hai Nai Er Xiu Hua Zhuang Pin You Xian Gong Si* (Shanghai Nai Er Xiu Cosmetics Co. Ltd.), (2014) *Chang Min Er (Shang) Chu Zi Di 4002 Hao* (Civil Judgement of People's Court of Changning District, Shanghai City, No. 4002).

380. 2015. “李秀针与青岛杰盛置业有限公司、薛晓明公司解散纠纷再审民事判决书。”鲁民再字第 5 号 Li Xiuzhen v. Qingdao Jiesheng Property Co. Ltd., Xue Xiaoming (2015) *Lu Min Zai Zi Di 5 Hao* (2015, Retrial of Civil Case of Shandong Higher People's Court, No. 5).

381. “... 但其股东个人权利的行使应当受到公司承担的社会责任的约束。” (... but his/her rights of a individual shareholder shall be restrained by the social responsibility that the company assumes.)

elements of social responsibility makes the current case distinctive from a similar guiding case in some sense.<sup>382</sup> Second, the court holds that the individual rights of the shareholder who requested the dissolution of the company are limited by social responsibilities that the company bears. All in all, in this case, CSR and Article 5 of Company effectively affected the judgement.

### **3. Social Practice**

Enterprises carry on their own initiatives of responsible business. Collective actions of companies, often in form of associations, represents joint efforts in bearing social responsibility. Research institutes, media, and other actors together make CSR a multi-actor social movement.

The private initiatives of CSR, which involves norm-making and norm-compliance, CSR reporting, and CSR evaluation, contribute to the trend of institutionalisation of CSR.

#### **3.1 Rules**

The building and compliance of rules regarding CSR constitutes is a multi-actor process. The rules are compulsory or voluntary. They can be classified into different categories. There are rules regarding listed companies, industrial economics, and rules made by third parties.

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382. “但本案又存在一定特殊性,杰盛公司经营的房地产项目相比凯莱实业有限公司经营的普通产品而言承担着更大的社会责任。” (but this case is particular to some extent, because the real estate projects that Jiesheng Co Ltd. manages assume greater social responsibility than common products that Kailai Co. Ltd. deals with.)

Social responsibilities of listed companies are embedded in the rules built by stock exchange. Shanghai Stock Exchange and Shenzhen Stock Exchange, two stock exchanges operating independently in Mainland China, have built voluntary or compulsory rules regarding CSR for listed companies.

First of all, the mechanism of information disclosure, especially key environmental information disclosure, has a key position in two Stock Exchange's efforts in promoting CSR among listed companies. According to the Guideline by Shanghai Stock Exchange, listed companies shall disclose certain important events related to environmental protection within two days since the events happen, listed companies could disclose some types of environmental information in their CSR reports.<sup>383</sup> According the guidelines issued by Shenzhen Stock Exchange, when big environmental pollution problems occurred, listed companies, regardless listed on the growth enterprise board, the small and medium-sized enterprise board, or the main board, shall disclose in time reasons of the environmental pollution, effects to corporate performance, effects of the environmental pollution, correcting measures companies are ready to take, etc.<sup>384</sup>

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383. 上海证券交易所. 2008. “上海证券交易所关于加强上市公司社会责任承担工作暨发布《上海证券交易所上市公司环境信息披露指引》的通知.” (Shanghai Stock Exchange Guidelines on Environmental Information Disclosure), by Shanghai Stock Exchange, 2008.

384. Article 10.12, 深圳证券交易所. 2015. “深圳证券交易所创业板上市公司规范运作指引.” (Guidelines of the Shenzhen Stock Exchange for the Standardized Operation of Companies Listed on the Growth Enterprise Board), revised in 2015;

Furthermore, listed companies are encouraged or required to publish CSR reports. Shanghai Stock Exchange, while requires some types of listed companies to publish CSR reports alone with annual reports in 2013, encourages other listed companies to publish CSR reports.<sup>385</sup> Except for requiring and encouraging listed companies to publish CSR reports, Shenzhen Stock Exchange encourages listed companies to hire third parties to review their CSR reports, and asks listed companies to respond in CSR reports questions raised by public media regarding fulfilment of CSR.<sup>386</sup> Shanghai Stock Exchange issued guidelines on drafting CSR reports. The guideline holds that board of directors and directors shall state explicitly that they guarantee the contents of CSR are real, accurate, and complete.<sup>387</sup>

Finally, there are CSR index in both two Stock Exchange to encourage

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Article 10.12, Ibid. 2015. “深圳证券交易所中小板上市公司规范运作指引.” (Guidelines of the Shenzhen Stock Exchange for the Standardized Operation of Companies Listed on the Small and Medium-Sized Enterprise Board), revised in 2015; Article 10.12, Ibid. 2015. “深圳证券交易所主板上市公司规范运作指引.” (Guidelines of the Shenzhen Stock Exchange for the Standardized Operation of Companies Listed on the Main Board), revised in 2015.

385. Article 2.6.4, 上海证券交易所. 2013. “关于做好上市公司2013年年度报告披露工作的通知.” (Notification on 2013 Annual Reports of Listed Companies), by Shanghai Stock Exchange, 2013.

386. Article 18, 深圳证券交易所. 2012. “关于做好上市公司2012年年度报告披露工作的通知.” (Notification on 2012 Annual Reports Disclosure of Listed Companies), by Shenzhen Stock Exchange, 2012.

387. 上海证券交易所. 2009. “上海证券交易所《公司履行社会责任的报告》编制指引.” (Guidelines on Drafting CSR Reports), by Shanghai Stock Exchange, 2008.

and promote social responsibilities in listed companies. Shanghai Stock Exchange started SSE Social Responsibility index, aiming to encourage and promote listed companies to actively fulfil CSR, to provide new indexes to investors, and to enhance the development of social responsibility investment.<sup>388</sup> Shenzhen Stock Exchange started the SZSE CSR Price Index.<sup>389</sup>

China Federation of Industrial Economics plays a key role in rule-building of CSR in Industry. The Federation is a social organisation composed of national industrial associations, leading industrial enterprises, and provincial and municipal associations. Being influential to industry of China, the Federation has been actively promoting CSR.

In 2010, the Federation issued Guidelines on the Social Responsibility for Industries of China (Second edition, GSRI-CHINA 2.0) jointly with 10 national industrial associations.<sup>390</sup> Though not mandatory, the

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388. 上海证券交易所, and 中证指数有限公司. 2009. “上海证券交易所、中证指数有限公司关于发布上证社会责任指数的公告.” (Announcement on Publishing SSE Social Responsibility index), by Shanghai Stock Exchange & China Securities Index Co.,Ltd, 2009

389. 深圳证券交易所. 2014. “深证企业社会责任指数编制方案.” (Methodology of Compiling SZSE CSR Price Index), by Shenzhen Stock Exchange, 2014.

390. 中国工业经济联合会, 中国煤炭工业协会, 中国机械工业联合会, 中国钢铁工业协会, 中国石油和化学工业联合会, 中国轻工业联合会, 中国纺织工业协会, 中国建筑材料联合会, 中国有色金属工业协会, 中国电力企业联合会, and 中国矿业联合会. 2010. “中国工业企业及工业协会社会责任指南 (第二版).” Ten industrial associations are China National Coal Association, China Machinery Industry Federation, China Iron and Steel Association, China’s Petroleum and Chemical Industry Association, China National Light Industry Council, China

Guidelines includes rules for both industrial associations and industrial enterprises. The section in the Guidelines regarding industrial associations is "meta-rules" of CSR because it entails not only the social responsibility of industrial associations themselves, but also how industrial associations manage the social responsibility of industries. In accordance with the Guidelines, The Federation issued two handbooks for industrial associations and industrial enterprises respectively.<sup>391</sup> In 2015, the Federation issued Guidelines on Management of Social Responsibility for Industries of China, in which indicators of CSR are divided into two parts: those regarding products, and those regarding the process of production.<sup>392</sup>

Individual national industrial associations issue guidelines as well. A representative one is CSC9000T by China National Textile and Apparel Council.<sup>393</sup>

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National Textile and Apparel Council, China Building Materials Federation, China Nonferrous Metal Industry Association, China Electricity Council, and China Mining Cooperation Center.

391. 中国工业经济联合会. 2012. “中国工业企业社会责任指南实施手册.” (Handbook of Social Responsibility for Industrial Enterprises), by China Federation of Industrial Economics, 2012; Ibid. 2012. “中国工业协会社会责任指南实施手册.” (Handbook of Social Responsibility for Industrial Associations), by China Federation of Industrial Economics, 2012.

392. Ibid. 2015. “中国工业企业社会责任管理指南.” (Guideline for Industrial Enterprises on Management of Corporate Social Responsibility), by China Federation of Industrial Economics, 2015.

393. 中国纺织工业协会. 2008. “CSC9000T 中国纺织服装企业社会责任管理体系.” (China Social Compliance 9000 for Textile and Apparel Industry), by China

Different with rules by stock exchange for listed companies, and rules by federation or association for member companies, rules by third party are built by actors with no affiliation relations with companies. In some cases enterprises choose to adopt these rules.

A representative case of such rules is built by Research Centre for Corporate Social Responsibility at Chinese Academy of Social Sciences. The center issues and updates Chinese CSR Reporting Guide (CASS-CSR).<sup>394</sup> Enterprises adopting the Guideline include Aluminum Corporation of China,<sup>395</sup> Sinopec Corp.,<sup>396</sup> etc.

### **3.2 An example: CSC9000T**

A typical system of norms is China Social Compliance 9000 for Textile and Apparel Industry (CSC9000T) in 2008 by China National Textile and Apparel Council. It covers wide themes including forced labour, working hours , and workers' health and safety. It is based on domestic laws and regulations, as well as international treaties and standards. It is a private norm system in the sense that it does not increase

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National Textile and Apparel Council, 2008.

394. 中国社会科学院经济学部企业社会责任研究中心. 2014. 中国企业社会责任报告编写指南之一般框架. 经济管理出版社. Version 1.0 in 2009, version 2.0 in 2011, version 3.0 in 2013.

395. 中国铝业公司2013年社会责任报告 Aluminum Corporation of China Social Responsibility Report 2013.

396. 中国石油化工集团公司2013年社会责任报告 Sinopec Corp. Social Responsibility Report 2013.

or change firms' obligations or responsibilities.<sup>397</sup> Zhejiang Textile & Apparel Association pilots CSC9000T in selected textile and apparel clusters.<sup>398</sup>

Several aspects of CSC9000T are worth noticing. First, CSC9000T rules that in any case firms and workers shall sign written labour contracts. It is significant because a written labour contract explicitly incorporate workers into better legal protection. Second, while there are rules on the maximum working hours per day and per week, there is still a flexible mechanism considering characters of the industry. Based on this mechanism, firms can apply to use "total working time" in certain period, especially during busy seasons, as long as the total amount is less than the normal legal standards. These are examples of how CSC9000T takes characters of Chinese society into consideration and promotes labour's rights while allowing for flexible production.

Before CSC9000T came into existence, some suppliers in textile and apparel industries had the desire of using their own standards instead of foreign ones, CSC9000T reflects an effort of achieving balance between responsible production and business reality.<sup>399</sup>

CSC9000T refers to some international treaties and standards,

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397. 中国纺织工业协会. 2008. "CSC9000T 中国纺织服装企业社会责任管理体系." China Social Compliance 9000 for Textile and Apparel Industry.

398. Yin, Juelin, and Zhang, Yuli. 2012. "Institutional Dynamics and Corporate Social Responsibility (CSR) in an Emerging Country Context: Evidence from China." *Journal of Business Ethics* 111 (2): 301–16.

399. Lin, Li-Wen. 2010. "Corporate Social Responsibility in China: Window Dressing or Structural Change?" *Berkeley Journal of International Law* 28 (1): 64–100.

including ISO 14001:2004 Environmental Management Systems.<sup>400</sup>

Some holds that CSC9000T has the "potential" of improving labour rights in China and accuracy of auditing reports of Chinese factories, though there are weaknesses for lack of accreditation.<sup>401</sup>

### 3.3 Nations standards of CSR

There are three newly made national standards of CSR, Guidance on Social Responsibility,<sup>402</sup> Guidance on Social Responsibility Reporting,<sup>403</sup> and Guidance on Classifying Social Responsibility Performance.<sup>404</sup>

Three standards were made by same organisations within, were issued on the same date, and will take effect on the same date.

Several objectives were taken into consideration while drafting the standard GB/T36000-2015. One is to keep up with the developments of international standards and to facilitate international communication, the other is to make a standard in accordance with real situations of CSR in China.<sup>405</sup> GB/T36000-2015 is based on ISO 26000:2010, it is a

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400. 中国纺织工业协会. 2008. “CSC9000T 中国纺织服装企业社会责任管理体系.”

401. Harpur, Paul. 2011. “New Governance and the Role of Public and Private Monitoring of Labor Conditions: Sweatshops and China Social Compliance for Textile and Apparel Industry/CSC9000T.” *Rutgers Law Record* 38 49–73.

402. 国家质量监督检验检疫总局, and 国家标准化管理委员会. 2015. “社会责任指南.” GB/T 36000-2015

403. Ibid. 2015. “社会责任报告编写指南.” GB/T 36001-2015

404. Ibid. 2015. “社会责任绩效分类指引.” GB/T 36002-2015

405. 于帆, and 陈元桥. 2015. “GB/T36000-2015 《社会责任指南》国家标准解

“reduction” of the latter, with some parts deleted or adjusted.<sup>406</sup>

The other two standards, about social responsibility reporting and classifying social responsibility performance, are in accordance with GB/T36000-2015 Guidance on Social Responsibility.<sup>407</sup>

### 3.4 Reporting

The number of CSR reports by companies in China has been growing in the last decade. Data from different sources confirmed the trend.

Companies publish CSR reports individually or collectively. There are various forms of collective publishing of CSR reports. Since 2009, China Federation of Industrial Economics holds annual Conference as a platform for companies to publish CSR reports collectively. Besides, some companies within one province publish CSR reports collectively.<sup>408</sup>

CSR reports differ in certain aspects according to ownership of

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读.” 标准科学 2015 (10): 6–10. Yu Fan, Chen Yuanqiao, Interpretation of GB/T36000-2015, Guidance on Social Responsibility, Standard Science, 2015 (10).

406. Ibid. 2015. “GB/T36000-2015 《社会责任指南》 国家标准解读.” 标准科学 2015 (10): 6–10. Yu Fan, Chen Yuanqiao, Interpretation of GB/T36000-2015, Guidance on Social Responsibility, Standard Science, 2015 (10).

407. 于帆. 2015. “GB/T36001-2015 《社会责任报告编写指南》 国家标准解读.” 标准科学 2015 (10): 11–13. Yu Fan, nterpretation of GB/T36001-2015, Guidance on Social Responsibility Reporting, Standard Science, 2015 (10). 陈元桥. 2015. “GB/T36002-2015 《社会责任绩效分类指引》 国家标准解读.” 标准科学 2015 (10): 14–16. Chen Yuanqiao, Interpretation of GB/T36002-2015, Guidance on Classifying Social Responsibility Performance, Standard Science, 2015 (10).

408. (Some Enterprises in Guangxi Province Publish CSR Reports Collectively for the First Time), in *Guang Xi Ri Bao* (Guangxi Daily), 7 June 2014.

enterprises, regions, and industries.<sup>409</sup> Listed companies and SOEs are more active in publishing CSR reports.<sup>410</sup>

Private norms, especially domestic and international standards, influence CSR reports. One research indicates that of the 1082 CSR reports analysed, 630 reports have used some standards to draft the reports.<sup>411</sup>

There are concerns over CSR reports. Certain percentage of CSR reports are less than 30 or even 10 pages.<sup>412</sup> Lack of third-party involvement in drafting CSR reports cast doubts over neutrality of the reports.<sup>413</sup> Percentage of CSR reports with no negative information is hard

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409. WTO 经济导刊, and 责扬天下(北京)管理顾问有限公司. 2014. “金蜜蜂中国企业社会责任报告指数 (2009-2014).” (GoldenBee Index on Corporate Social Responsibility Reporting in China, 2009-2014), by China WTO Tribune & GoldenBee (Beijing) Management Consulting Co., Ltd., 2014.

410. Ibid. 2014. “金蜜蜂中国企业社会责任报告指数 (2009-2014).” (GoldenBee Index on Corporate Social Responsibility Reporting in China, 2009-2014), by China WTO Tribune & GoldenBee (Beijing) Management Consulting Co., Ltd., 2014.

411. 钟宏武, 魏紫川, 张蕊, and 孙孝文. 2013. 中国企业社会责任报告白皮书 (2013). 经济管理出版社. (White Book of Chinese CSR Reports 2013), by Zhong Hongwu, Wei Zichuan, Zhang En.

412. 2014. “2013中国企业社会责任报告研究十大发现.” *WTO 经济导刊* 2014 (1): 49–51. (Ten Main Findings in 2013 Research on CSR Reporting in China), Guang Zhusun, Yi Wenting, Deng Wenjie, in *China WTO Tribune*, 2014 (1), pp. 49-51.

413. 2014. “2013中国企业社会责任报告研究十大发现.” *WTO 经济导刊* 2014 (1): 49–51. (Ten Main Findings in 2013 Research on CSR Reporting in China), Guang Zhusun, Yi Wenting, Deng Wenjie, in *China WTO Tribune*, 2014 (1), pp.

to ignore.<sup>414</sup>

### 3.5 Evaluation

The evaluation of CSR mainly include ranking and awarding of CSR performance, and research and investigation related to CSR.

In the recent decade, ranking and awarding of CSR practice has been active. There are different initiatives with multiple participants. In some cases, ranking and awarding parallels norm-building and CSR reporting process. There are plenty of examples, like 2015 Corporate Social Responsibility Top 500, 2014 Most Responsible Enterprises, and 2013 Social Responsibility of Listed Companies Top 100.

Research and investigation related to CSR covers a wide range. Examples include Blue Book of Corporate Social Responsibility, Report on Corporate Social Responsibility of Private Enterprises, Research Report on Corporate Social Responsibility of Enterprises in Sichuan Province 2013-2014, and A Report on the Corporate Social Responsibility of Suzhou Industrial Park.

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49-51.

414. 2014. “2013中国企业社会责任报告研究十大发现.” *WTO 经济导刊* 2014 (1): 49–51. (Ten Main Findings in 2013 Research on CSR Reporting in China), Guang Zhusun, Yi Wenting, Deng Wenjie, in *China WTO Tribune*, 2014 (1), pp. 49-51.

## 4. Thematic Analysis

A thematic analysis illustrates that among the contents of CSR, there are common elements, as well as special ones. A typical common content is and resource conservation and environment protection. An example of special theme, which is part of CSR of state-owned enterprises directly under the central government, is to improve ability of making sustainable profits.<sup>415</sup>

Social expectations play important roles in shaping CSR in China. Legal operation as CSR is in accordance with the public's expectation that companies should respect laws and do goodness to the society. Innovation as CSR is consistent with the society's desire for innovative forces.

While CSR is largely a social practice, some specific contents of CSR are indirectly contained in the legal system.

### 4.1 Community

Community is regarded as stakeholders of corporate. Community involvement is one of the fundamental contents of CSR.<sup>416</sup>

Companies do goodness to communities in various ways, like compensations of using local resources, promoting local economic

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415. Article (9), 国务院国有资产监督管理委员会. 2007. “关于中央企业履行社会责任的指导意见.” (Guidelines to the State-owned Enterprises Directly under the Central Government on Fulfilling Corporate Social Responsibilities), by State-owned Assets Supervision and Administration Commission of the State Council, 2007.

416. For instance, part 6.8 of ISO 26000:2010.

development, poverty reduction, and donation and voluntary service.<sup>417</sup>

Some companies contribute to the community by protecting cultural relics. For instance, the protection of ancient city zone.<sup>418</sup>

## 4.2 Workplace

Workplace is another important theme of CSR. Laws and regulations lay out basic rules regarding workplace, companies take social responsibility by promoting, implementing, and doing more than the rules.

As part of CSR in workplace, production safety is valued by laws, regulations, and private norms. For companies who face production safety issues, to guarantee production safety is a social responsibility which may require active investment. For instance, China National Chemical Corporation pays special attention to mortality rate of production accident, as well as annual investment in production safety.<sup>419</sup>

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417. WTO经济导刊, 责扬天下(北京)管理顾问有限公司, and 北京大学社会责任与可持续发展国际研究中心. 2012. “金蜜蜂中国企业社会责任报告研究2012.” (GoldenBee Research on Corporate Social Responsibility Reporting in China 2012), by China WTO Tribune, GoldenBee (Beijing) Management Consulting Co., Ltd., and International Research Center for Social Responsibility & Sustainable Development of Peking University, 2012.

418. 远洋地产控股有限公司. 2012. “精细的伙伴最可靠——远洋地产企业社会责任报告2011.” Sino-Ocean Land Holdings Ltd. Corporate Social Responsibility Report 2011.

419. 中国化工集团公司. 2014. “中国化工集团公司2013年可持续发展报告.” China National Chemical Corporation Sustainability Report 2013.

Labour's rights, which are under legal protection by Labour Law and Labor Contract Law, are emphasised by most guidelines. As employee's fundamental rights, some companies reveal data about percentage of labour contract signing, social insurance coverage.<sup>420</sup> Some companies regard promotion of labour law as a social responsibility.<sup>421</sup>

Wellness of migrant workers<sup>422</sup> is regarded as an important part of social responsibility. In 2014, there were 273.95 million migrant workers, of which 168.21 million left hometown and worked in other places.<sup>423</sup> Migrant workers receive wide public sympathy. The government has been working on guaranteeing fundamental rights of migrant workers, including formal labour contracts, timely payment of salary, social insurance, etc.<sup>424</sup> Some enterprise states in CSR reports that these rights

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420. 新誉集团有限公司. 2014. “新誉集团有限公司2013年企业社会责任报告.” New United Group Corporate Social Responsibility Report 2013.

421. China Minmetals Corporation. 2013. “China Minmetals 2012 Sustainability Report.”

422. 农民工, in some contexts.

423. 中华人民共和国国家统计局. 2015. “2014年国民经济和社会发展统计公报.” Statistical Communiqué of the People's Republic of China on the 2014 National Economic and Social Development, by National Bureau of Statistics of China, 2015. In the Statistical Communiqué, "The number of migrant workers includes those who are employed outside their villages and towns for more than six months in the year and those who do non-agricultural work in their villages and towns for more than six months in the year."

424. A recent document is Opinions of the State Council on Further Effectively Implementing the Task of Serving Migrant Workers, 2014. 国务院. 2014. “国务院关于进一步做好为农民工服务工作的意见.” 国发[2014]40号

of migrant workers are fulfilled.<sup>425</sup> Some goes beyond material wellness. An example is to avoid using the phrase "migrant workers"<sup>426</sup> and uses "non-native young employees"<sup>427</sup> instead when referring to migrant workers in the management system, in order to appreciate migrant workers' contribution and respect their dignity.<sup>428</sup> Some help families of migrant workers through various projects.

### 4.3 Marketplace

CSR in marketplace concerns firm's upstream and downstream activities.<sup>429</sup> The former relates to suppliers of firms, the latter relates to consumers and issues of products like disposal of certain products.

On the "upstream" side, essential CSR practice regarding suppliers is to do business with responsible suppliers in aspects of labour's rights, environment, etc. Some firm explicitly states in CSR report that it does not cooperate with suppliers who conduct irresponsible business.<sup>430</sup>

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425. 贵州开磷(集团)有限责任公司. 2014. “贵州开磷(集团)有限责任公司2013年度社会责任报告.” Guizhou Kailin (Group) Co.,Ltd Corporate Social Responsibility Report 2013.

426. 农民工, which literally means farmer workers.

427. 外来青工.

428. 杭州娃哈哈集团有限公司. 2013. “杭州娃哈哈集团有限公司2012年度企业社会责任报告.” Hangzhou Wahaha Group Co., Ltd. Corporate Social Responsibility Report 2012.

429. Moon, Jeremy. 2014. *Corporate Social Responsibility: A Very Short Introduction*. Oxford University Press.

430. 协鑫(集团)控股有限公司. 2014. “协鑫(集团)控股有限公司2013年企

On one hand, some firms are suppliers, to both domestic firms and firms abroad. If they deal with firms who have concern on "upstream" marketplace, they have to face rules laid out by contractors about socially responsible activities by suppliers. One example is suppliers in China of Apple Inc.. Apple Inc. runs a project named "Supplier Responsibility" with requirements over suppliers in aspects of "empowering workers", "labor & human rights", "health & safety", and "Environment". It conducts compliance audits in various facilities.<sup>431</sup>

On the other hand, some firms have suppliers abroad and therefore value responsible procurement. China International Contractors Association proposes that "raise clear social responsibility requirements" and "incorporate social responsibility standards on ethics and environmental protection into procurement" when dealing with suppliers.<sup>432</sup>

On the "downstream" side, consumers are stakeholders of CSR.<sup>433</sup> Enterprises belonging to certain categories, like direct selling companies, online trading platform operators, are closely related to consumers. Guidelines on CSR of those firms emphasise explicitly the responsibility

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业社会责任报告。” Golden Concord Holdings Limited Corporate Social Responsibility Report 2013.

431. Apple Inc. 2015. "Supplier Responsibility 2015 Progress Report."

432. 中国对外承包工程商会. 2012. "中国对外承包工程行业社会责任指引." Guide on Social Responsibility for Chinese International Contractors, by China International Contractors Association, 2012.

433. Andersen, Mette, and Skjoett-Larsen, Tage. 2009. "Corporate social responsibility in global supply chains." *Supp Chain Mngmnt* 14 (2): 75–86.

to consumers, and cite laws like Law on the Protection of Consumer Rights and Interests<sup>434</sup> to demonstrate the soundness of consumers' rights.<sup>435</sup> Besides, consumers express views on corporations in various ways, influencing corporations in terms of reputation.

#### 4.4 Environment

CSR regarding environment and resources is of huge importance in both domestic and global contexts. Domestically, environmental protection and resources saving are goals at national level, and ecological civilisation has been embedded in the economic reform.<sup>436</sup> Globally, there are joint efforts in coping with environmental issues like climate change.<sup>437</sup> Enterprises' bearing social responsibilities in environment is helpful for China to achieve specific goals in environmental protection

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434. 全国人民代表大会常务委员会. 2013. “中华人民共和国消费者权益保护法.” (Law of the People's Republic of China on the Protection of Consumer Rights and Interests), Revised in 2013.

435. 国家工商行政管理总局. 2013. “直销企业履行社会责任指引.” (Guidelines to Direct Selling Companies on Fulfilling Corporate Social Responsibilities), by State Administration for Industry & Commerce of the People's Republic of China, 2013; Ibid. 2014. “网络交易平台经营者履行社会责任指引.” (Guidelines for the Performance of Social Responsibilities by Online Trading Platform Operators), by State Administration for Industry & Commerce of the People's Republic of China, 2014.

436. 国家发展和改革委员会. 2015. “关于2015年深化经济体制改革重点工作的意见.” (Opinions on Deepening Core Tasks of Economic Reform in 2015), by National Development and Reform Commission, 2015.

437. 2014. “U.S.-China Joint Announcement on Climate Change.”

and resources saving.

From the viewpoint of the State, corporate environmental behaviour includes enterprises' performance in compliance with environmental laws, regulations, and technical standards, as well as performance in bearing environmental social responsibility.<sup>438</sup>

The national standard on CSR (Draft for Comment) indicates that major contents of CSR regarding environment and resources include prevention of pollution, sustainable usage of resources, slowing down and adaptation to climate change, and environmental protection, biodiversity and natural habitat restoration<sup>439</sup>

There are various mechanisms of environmental social responsibility.

First, environmental information disclosure is an important measure. Law and regulations already set out legal frameworks of mandatory information disclosure. Meanwhile, firms are encouraged to disclose relevant information, as Ministry of Environmental Protection states: "The State encourages enterprises and public institutions to voluntarily disclose relevant information that is conducive to ecological protection,

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438. 环境保护部, 国家发展和改革委员会, 中国银行业监督管理委员会, and 中国人民银行. 2013. “企业环境信用评价办法（试行）.” (Methods of Reviewing Enterprises' Environmental Credit, Trial Implementation), by Ministry of Environmental Protection, State Administration for Industry & Commerce of the People's Republic of China, China Banking Regulatory Commission, and People's Bank of China, 2013.

439. 国家质量监督检验检疫总局, and 国家标准化管理委员会. 2015. “社会责任指南.” GB/T 36000-2015 (Guidance on Social Responsibility), by General Administration of Quality Supervision, Inspection and Quarantine, Standardization Administration, 2015.

pollution prevention and control, and the fulfilment of social environmental responsibilities."<sup>440</sup>

Second, environmental social responsibility also extends to supply chain. Other than enterprises' voluntary conducts in protecting environment on the supply chain, there is also a guideline jointly issued by several Ministries encouraging and guiding firms to do "green procurement". The Guideline on Green Procurement of Enterprises (for Trial Implementation) encourages firms to favour suppliers who possess several qualifications, one of which is suppliers who "disclose environmental information timely, fully, accurately, take social responsibility actively, accept supervision from relevant institutes and the public voluntarily."<sup>441</sup>

Third, firms may get rewarded by taking social environmental responsibilities through the to-be-established "corporate environmental credit system".<sup>442</sup>

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440. Article 13, 环境保护部. 2014. “企业事业单位环境信息公开办法.” (Measures for the Disclosure of Environmental Information by Enterprises and Public Institutions), Ministry of Environmental Protection, 2014.

441. Article 19, 商务部, 环境保护部, and 工业和信息化部. 2014. “企业绿色采购指南（试行）.” (Guideline on Green Procurement of Enterprises, for Trial Implementation), by Ministry of Commerce, Ministry of Environmental Protection, and Ministry of Industry and Information Technology, 2014.

442. 环境保护部, 国家发展和改革委员会, 中国银行业监督管理委员会, and 中国人民银行. 2013. “企业环境信用评价办法（试行）.” (Methods of Reviewing Enterprises' Environmental Credit, Trial Implementation), by Ministry of Environmental Protection, State Administration for Industry & Commerce of the People's Republic of China, China Banking Regulatory Commission, and People's Bank of China, 2013; 环境保护部, and 国家发展和改革委员会. 2015. “关于加强企

Fourth, the relation between relevant social organisations and firms is re-adjusted by the revision of Environmental Protection Law in 2014. The mechanism of "environment-related civil public interest lawsuits" was introduced. "For the acts that pollute the environment, damage ecology and harm the public social interests", a social organisation that meets certain requisites and does not seek for economic profits through the lawsuit is qualified to appeal to the court, and the court "shall accept the case in accordance with the law".<sup>443</sup>

Fifth, there is also guideline on taking social environmental responsibility abroad. The Guidelines for Environmental Protection in Foreign Investment and Cooperation suggests enterprises to take the responsibility abroad.<sup>444</sup>

Enterprises' commitments to environmental responsibility are realised in various ways. Taking FAW Group Corporation as example, its CSR report shows the varieties of measures enterprises could take for environmental.<sup>445</sup> FAW produces cars of domestic brands as well as

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业环境信用体系建设的指导意见。” (Guiding Opinions on Strengthening the Construction of Enterprise Environmental Credit System), by Ministry of Environmental Protection, and National Development and Reform Commission, 2015.

443. Article 58, 全国人民代表大会常务委员会. 2014. “中华人民共和国环境保护法.” (Environmental Protection Law of the People's Republic of China), revised in 2014.

444. 商务部, and 环境保护部. 2013. “对外投资合作环境保护指南.” (Guidelines for Environmental Protection in Foreign Investment and Cooperation), by Ministry of Commerce, and Ministry of Environmental Protection, 2013.

445. 中国第一汽车集团公司. 2014. “2013年社会责任报告.” FAW Group

foreign brands (through collaboration with foreign car producers). Key points include: (1) management, monitor, and rewarding system of energy saving and emission reduction; (2) low carbon emission for climate change; (3) investment in new energy; (4) management of the waste; (5) recycle of products; (6) green supply chain; (7) green office with efforts of paperless office.

## **5. CSR and Sustainability**

CSR and sustainability share the ideology that companies and investors broaden the concern from economic issues to environmental, social, and governance aspects.<sup>446</sup> In some cases they are used in an interchangeable manner. For instance, in CSR reporting, some enterprises publish reports with title of "CSR report", some use "Sustainability report". However, in some cases, the two terms differ, especially when "sustainability" is used beyond the scope of enterprises.

In China, need for the sustainability is merely with doubt, either in social or environmental aspects. Family is of vital importance and people consider a lot for future generation. In some places economic developments are achieved with environmental costs, therefore environmental sustainability is highly desired, especially for local communities. Public authorities express in various ways the appreciation of sustainability and determination to achieve sustainable development. Private forces from individuals to enterprises widely participate as well.

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Corporation Social Responsibility Report of 2013.

446. Duan, Peijun, and Eccles, Robert G. 2014. "The State of Sustainability in China." *Journal of Applied Corporate Finance* 26 (3): 76–84.

For sustainability, enterprises play important roles. While SOEs are usually large in size and do business in some key sectors, private enterprises, both large and small, are huge in number and contribute a lot to the economy. Different types of enterprises all are related with sustainability.

In some sense, sustainability is a broader range and entails various actors including enterprises. "Responsible business is a necessary but not sufficient condition of sustainable development."<sup>447</sup> Several national projects show this point very well.

Sustainable agriculture, for example, largely depends on efforts by farmers, social organisations, governments, and enterprises. The *National Sustainable Agriculture Development Plan (2015-2030)* confirmed the importance of market mechanism and enterprises in developing sustainable agriculture.<sup>448</sup>

Sustainable cities, especially resource-based cities, is another example of how CSR contribute to national projects of sustainability. *Sustainable Development Planning for National Resource-based Cities (2013-2020)* emphasised the importance of resources exploitation

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447. Moon, Jeremy. 2007. "The contribution of corporate social responsibility to sustainable development." *Sustainable Development* 15 (5): 296–306.

448. 农业部, 国家发展改革委, 科技部, 财政部, 国土资源部, 环境保护部, 水利部, and 国家林业局. 2015. "全国农业可持续发展规划(2015—2030年)." [National Sustainable Agriculture Development Plan (2015-2030)], by Ministry of Agriculture, State Development Planning Commission, Ministry of Science and Technology, Ministry of Finance, Ministry of Land and Resources, Ministry of Environmental Protection, Ministry of Water Resources, and State Forestry Administration, 2015.

enterprise's social responsibility.<sup>449</sup>

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449. 国务院. 2013. “全国资源型城市可持续发展规划（2013- 2020年）.”  
[Sustainable Development Planning for National Resource-based Cities (2013-2020)],  
by State Council, 2013.

## **Chapter Five. Conclusion**

In terms of methodology, the research confirms the necessity of interdisciplinary approaches for studying the topic of this thesis. Materials analysed are of fields of law, economics, international relations, natural science, etc.

In terms of research results, below are major conclusions.

### **1. Solid Connections**

Private governance, sustainable development, and corporate social responsibility are closely connected.

While three field are all important in theory and practice, they all have ambiguous and changing meanings. There is no lack of definitions of these concepts, but consensus on the definitions is out of sight so far, and potential changes to these fields are to come due to the developments of these fields. Nevertheless, analysis over these fields could be based on the rich soil of relevant social phenomena and growing research, to get general comprehensions on these fields.

Without definite meanings of these fields, the subtle relations among them could be understood not by comparing, but by observing their connections, interactions, and foundations supporting these connections and interactions. From the opposite perspective, a comprehensive understanding of each field is impossible if the scope of research is limited to each field in an isolate manner.

Sustainable development is an idea that drives many initiatives in the world. As a general idea, it gained wide acceptance and inspired many specific initiatives. Sustainable development provides two other fields an

ideology foundation, though the concept of sustainable development comes with ambiguities and debates.

It is fair to say that value plays key role in both private governance and corporate social responsibility. Corporate social responsibility is without any doubt value-oriented. Social responsibility itself represents a value. Not all forms of private governance are value-oriented. Some exist mainly for economic or technical reasons. Since the focus of this thesis is mainly private governance related with public interests, the private governance discussed in this thesis is mostly value-oriented. Sustainable development is one of the most important values of the private governance and corporate social responsibility. Without the contribution of sustainable development worldwide, transnational private governance and corporate social responsibility with transnational effects could not gain wide influence in different countries, especially among very different countries.

## **2. Private Governance in Action**

### **2.1 The relationship between private governance and the law**

One element that fundamentally shapes the developments of private governance is the relationship with private governance and law.

Developments of private governance may be due to the functions of law on the society. These functions are understood as imperfect in nature or improper in performance, according to different views. When or where private governance grows strong enough, its interactions with law become an issue.

Private governance produces legal effects through contract, codes,

standards, etc. Parties affected may take legal obligations or receive legal sanctions. These legal effects have to be realised with the involvement of laws.

One of the important aspects regarding the relation with private governance and international law is that the private governance approach serves as an alternative to international law for perceiving and governing social realities, especially in the business world. As for public international law, private governance stands out when it comes to transnational matters. The term “transnational law” was coined no later than 1950s in order to with regard to transnational matters which public international law does not deal with perfectly. As for private international law, traditionally it deals with the cross-border economic activities, but gradually was not highly involved in the global governance debates.<sup>450</sup> Which these debates were carried out by interdisciplinary approaches with wording “governance”, “regulation”, private international law alone is not sufficient.

## **2.2 The relevance of public/private distinction**

The public/private distinction exists at several dimensions, including institutional structure, interests in different forms,<sup>451</sup> and theoretical approaches. The distinction of public and private in this thesis is not a normative one, but a positive one. It is an observation on a phenomenon.

First of all, distinction between private and public are not clear in every case, though the two terms are widely used. In different sectors, in

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450. Watt, Horatia Muir. 2011. “Private International Law Beyond the Schism.” *Transnational Legal Theory* 2 (3): 347–428.

451. Social, environmental, economic, etc.

different societies, and from different perspectives, the distinction between be different.

While private norms aiming at public goods is nothing new, there were remarkable developments in terms of theories and practices. The rise of corporate social responsibility is one of these remarkable developments. With the trend of corporate social responsibility, those private enterprises shoulder social responsibilities, with endorsement from public authorities or even the binding orders from public authorities.

There is complementarity between private governance and public institutions. For example, while state laws endorse corporate social responsibility in principle, private governance plays key role in specific rules. Another case is complementarity between transnational private governance and national public regimes, as well as between international public regimes and private governance within one state, in terms of implementation.

### **3. Localisation vs. Globalization of Private Governance**

Among different countries, while there are common values and practices such as sustainable development and specific measures thereof, while there are shared normative orders such as transnational private governance, there are subtle differences besides these common grounds. One of such differences is the way that private governance interacts with societies of different countries.

In terms of corporate social responsibility, Italy and China each has their own initiatives. In case of Italy, the systems of standards Social Report is widely used. In case of China, there are guidelines for actors in industrial economics, including both industrial associations and industrial

corporations.<sup>452</sup>

Some transnational rules, such as ISO14001, SA8000, are in use both in Italy and China. Meanwhile, some localised rules are developed based on these transnational ones. Therefore, there is the phenomenon that both transnational rules and derived local ones are functioning in one country.

However, the coexistence of transnational rules and derived local rules does not happen evenly in Italy and China. Study of the thesis reveals that in Italy direct adoption and use of transnational rules is popular;<sup>453</sup> in China there are significant local rules as well.

In Tuscany of Italy, companies with certification of ISO14001 or SA8000 may receive economic benefits.<sup>454</sup> Umbria of Italy promotes SA8000 with regional law.<sup>455</sup> They are common, among practices of corporate social responsibility in Italy.

In China, one of the most mentioned local rules regarding corporate social responsibility is CSC9000T, a system of rules related to ISO14001 and other transnational and international rules, and meanwhile made for Chinese society. Another development is the taking effect of three national standards of corporate social responsibility, GB/T36000-2015,

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452. As, for example, the Guideline by Shanghai Stock Exchange analyzed in chapter 4, paragraph 3.1.

453. On this aspect see chapter 3, paragraph 3.

454. Reduction of regional tax on productive activity (Imposta regionale sulle attività produttive, IRAP). Attachment 1, Ministro del Lavoro e delle Politiche Sociali, and Ministro dello Sviluppo Economico. 2012. “Piano d’Azione Nazionale sulla Responsabilità Sociale d’Impresa 2012-2014.”

455. Regione Umbria. 2002. “Istituzione dell’Albo delle imprese certificate SA 8000.” Legge regionale 12 novembre 2002, n. 20

GB/T36001-2015, and GB/T36002-2015. Again, they are based on ISO 26000:2010, while shaped for Chinese society.

All in all, transnational private governance can be localised in different ways. One way is total adoption. Another way is incorporating transnational rules fully or partially into local systems. Besides, there is also the way of deriving local rules from transnational rules to form a local systems.

There is profound significance of distinguishing different forms of localisation of private governance and of comprehending the underlying reasons.

Growing transnational activities and globalisation process create an impression that countries interact more with each other and may even become similar, or differences among them are less significant. As far as the topic of this thesis concerned, it is difficult to ignore national differences, because the they are obvious in theory and real in practice.

Since the world is highly diverse and effects of globalisation extend widely, questions remain: among which countries transnational activities take place or transnational normative orders take effect? It is almost self-evident that situations could be quite different when different countries are connected by transnational activities or transnational norms, say between Italy and Spain or between Italy and Malaysia. A further question is are there “universal” or “common” principles of transnational private governance, when very different countries are involved? Not to say the division of the North and the South, or the West and the Non-West, even in the West, there are different understanding of key concepts that may hinder initiatives like global governance.<sup>456</sup>

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456. “Even in the west, we may find that differing concepts of sovereignty and the value of multilateral action may stand in the way of the public authority approach to

The progress of fields like private governance and corporate social responsibility has arrived at a point that there are common institutional frameworks for member states belonging to the same group. In case of Italy, its membership of OECD and EU means it share common principles and specific rules in corporate social responsibility with members of OECD and EU respectively, because both OECD and EU issued documents on this issue. An example of this interaction is represented by the Italian CSR-SC<sup>457</sup> project whose main aims are, on the one hand, to create a standard consistent with “EU’s position on CSR”, and, on the other hand, to contribute to the ongoing debates over CSR matters of EU.

Nevertheless national differences are not only evident on paper, but also highly relevant in reality. Such differences are emphasized if one consider that the regional level of a state is a driving force in the implementation and the promotion of CSR: as shown in chapter 3, for example, the “territorial social responsibility” is a key aspect of CSR in Italy, and in several regions, like Tuscany, Emilia Romagna, and Lombardy, CSR is a priority endorsed by regional statutes.<sup>458</sup>

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global governance.” Leibfried, Stephan. 2010. “To Tame and to Frame.” In *The Exercise of Public Authority by International Institutions*, edited by von, Bogdandy, Armin, Wolfrum, Rüdiger, von, Bernstorff, Jochen, Dann, Philipp, and Goldmann, Matthias, 51–66. Berlin, Heidelberg: Springer Berlin Heidelberg.

457. See chapter 3, paragraph 3.2.

458. As noted in this chapter, for example, the Statute of Tuscany Region specifically states that “The Region pursues following priority aims: ... the valuation of liberty of public and private economic initiatives, and the role of corporate social responsibility”. In addition it is also worth to remember that the National Action Plan counts at least in 8 regions operational programmes regarding the CSR, and at least in

Moreover it has been many years that production are fragmented worldwide, resulting in transnational economic activities. As for Italy, there are some cases that catch wide attention, one of which is the apparel industry by Chinese in Prato. The scale of the industry and the ethnic Chinese community, together with the distinctive way of production and life of the Chinese community make the community an “enclave”. The production is conducted on Italian territory therefore is subject to the law of Italy. Private governance is also in work for production activities in economic terms as well as for public goods. However, the situation is viewed as not ideal because of social issues. In this case, national differences in terms of business culture, life style, and social organisation already effectively influence the transnational production activities between Italy and China. If any solution are to be proposed in response of social problems out of these transnational activities, national differences have to be taken into serious consideration and properly dealt with.

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7 regions CSR is explicitly quoted in other documents like “annual or multi-annual plans and programmes of economic and productive development; annual or multi-annual plans on labour policies, strategic documents, action plans, regional green papers, memoranda of intents”.

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