

# the private life of public affairs

Simon Caulkin and Joanna Collins



“green alliance...”

We are grateful to the Greenpeace Environmental Trust and the Esmée Fairbairn Foundation for their support of this work

**GREENPEACE**  
ENVIRONMENTAL TRUST

'The Private Life of Public Affairs'  
by Simon Caulkin and Joanna Collins  
Design by Carruthers and Hobbs Ltd  
Published by Green Alliance, August 2003  
£10.00  
© 2003 Green Alliance  
ISBN 0 9543813 2 7

**ef** Esmée  
Fairbairn  
FOUNDATION

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Green Alliance is a registered charity number 1045395.  
Company Limited by guarantee, registered number 3037633

## acknowledgements

We would like to thank Blake Lee Harwood, Guy Thompson, Jiggy Lloyd, John McElroy, Jules Peck, Matthew Gorman, Peter Hinchcliffe, Russell Marsh, Seb Beloe, Robin Bidwell, Nigel Haigh and Rebecca Willis for their guidance and comments on drafts. Many others gave their time to discuss this complex issue, and our thanks go to them also.

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## Green Alliance

Green Alliance is one of the UK's foremost environmental groups. An independent charity, its mission is to promote sustainable development by ensuring that the environment is at the heart of decision-making. It works with senior people in government, parliament, business and the environmental movement to encourage new ideas, dialogue and constructive solutions.

Green Alliance's pamphlets provide a platform for eminent thinkers to examine interactions between current political debate and environmental thinking. The views expressed are those of the authors.

Other pamphlets include:

- *Brand Green: Mainstream or forever niche?*  
by Wendy Gordon, May 2002
- *Mind Over Matter: Greening the new economy*  
by Charles Leadbeater, September 2000

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“It is in Chief Executives’ interests to advocate societal and governmental changes in the right direction to speed up the trends. Thus smart CEOs are not only going to orient their companies toward sustainability, but also are going to try to orient society toward sustainability”

**Sir Phil Watts**  
Chair  
International Chamber  
of Commerce

“The most important social responsibility incumbent on business is not, I believe, that of voluntarily going beyond the requirements which government imposes - but rather of engaging in a debate which recognises the importance and legitimacy of government action, engaging in that debate honestly, eschewing scare stories and bad economics - and recognising indeed that government action can sometimes helpfully remove from businesses the complexity of a responsibility which they are ill-equipped to meet”

**Adair Turner**  
former Director-General  
CBI

“Governments could honour society’s and consumers’ desire for greater business ethics by positively discriminating in favour of ethically sound companies... they could define and articulate a more robust ethical framework in which corporations should operate”

**Andrew Mackenzie  
and David Rice**  
BP

“As a rough rule of thumb, there is an indisputable case for regulation on all occasions where companies are tempted to make money by taking short cuts and dumping costs on others for which they should be responsible themselves”

**Will Hutton**

“We see it as a real risk for companies which are doing extensive reporting and engagement if they are unaware of lobbying activity, or are not imposing quality control”

**John Elkington**  
Chair  
SustainAbility

“I think that we are getting a very strong signal now from all sorts of quarters that people are really disgusted by the institutionalised hypocrisy in large companies. They say one thing when they are on their own turf and then license their trade associations or indeed other people in the company to go out and say something completely different as and when it suits them on that occasion”

**Jonathon Porritt**  
Director  
Forum for the Future

“One of the largest reputational risks a company can face is exposure as a hypocrite. The current gulf between corporate greenspeak and the behaviour of trade associations is just such a risk, and exposure will not be long in coming”

**Stephen Tindale**  
Director  
Greenpeace

## summary

At the 2002 World Summit on Sustainable Development, all the talk was of the role that the corporate sector could play in solving the world's pressing problems – from climate change to clean water. The Summit seemed to mark a high point in corporate commitment to sustainable development. But it is easy to be sceptical about the potential for real change. Whilst leading companies have taken on board the language of corporate social responsibility (CSR), they have stopped short of turning it into a commitment to put sustainability in action. Is this due to the reluctance of individual companies – or is it because of the limited room for manoeuvre in a competitive marketplace?

Many companies argue that the ball is now in government's court. An individual company's ability to act is constrained by the way that markets are shaped and regulated. The enlightened few that

**“Many companies argue that the ball is now in government's court”**

invest for the long term risk being undercut by the indifferent majority. If government were to shape markets to make

sustainability sell, companies would then oblige. As Jonathan Porritt and Roger Cowe put it: “Companies that want to make significant investments in sustainable development, or to make serious strategic switches, need to be able

to show that this will benefit the share price in the medium term”<sup>1</sup>. Bold political leadership, company leaders say, is needed. Government must provide a framework of incentives that rewards the corporate good guys and punishes the bad ones. It is up to government to make the business case for sustainability relevant and urgent to more than the leading minority of firms.

Political will is indeed of critical importance. But unpacking this proposition reveals a more complicated picture. There is a considerable core of resistance toward such political will or action by government – and it comes from companies themselves. Public affairs advocates in companies routinely lobby against the very legislation that would make sustainability a going concern. Some companies appear to speak with forked tongues, calling for political bravery in public but undermining it in private. Sometimes the gap may be cock-up rather than conspiracy — the left hand not knowing what the right hand is doing. But the result is the same. Trade associations, largely unregulated and highly variable in competence and transparency, unwittingly or not play a pivotal role in the process. They allow companies to air progressive policies in annual reports and the media, whilst distancing their brands from more reactionary views put forward, through trade

associations, in the name of the industry as a whole.

These discrepancies call into question the commitment to corporate social responsibility. Examples abound. Individual companies are vocal contributors to the debates about how to achieve carbon reductions to tackle climate change, as our case history of the climate change levy shows. At the same time, the Confederation of British Industry (CBI), while accepting the need to address climate change, has actively opposed attempts to use economic instruments such as the climate change levy and the fuel-duty escalator, to alter the price of carbon to reflect its environmental damage.

The problems are especially marked at EU and international level, where more and more regulation is likely to, and should, originate. European and international sector bodies are even more distanced than national ones from the industries that they supposedly represent. Their membership is often a diverse collection of large individual firms, national trade associations and affiliates in related industries, so different that their only common ground is attachment to the status quo – which translates into opposition to new regulation on principle.

CEFIC, the European chemicals trade association, has 40,000 members. The political vacuum in which such bodies operate makes it easy for them to be led by one interest at the

expense of another. For example, downstream customers of chemical producers such as retailers have good reason to welcome many aspects of the proposed European chemicals policy, as we discuss in the next section. But CEFIC has consistently played down the positive voices, delaying the process and using questionable research to demand ever more compromises that threaten to turn it into the bureaucratic monster that the association indignantly opposes.

As we will show, the arguments commonly employed by lobbying groups against the use of economic instruments to encourage environmental improvement are highly questionable. At European and often national level, for example, arguments about ‘competitiveness’ assume far more importance than they deserve. Far from costing jobs and holding business back, constructive intervention can provide powerful incentives for innovation to enhance environmental performance.

Companies are then well placed to develop new markets and exploit first-mover advantage overseas. Perversely, this means that some trade associations, who oppose such intervention, are working against the long-term interests of their members. And resources directed toward lobbying could instead be used to help the sector develop a strategy for sustainability. “They’ve had their head in the sand for the last ten years”, says one frustrated retailer of Europe’s chemical industry.

A recent report by The Janus Programme, a joint venture between SustainAbility and

**“These discrepancies call into question the commitment to corporate social responsibility”**

Government Policy Consultants (GPC), highlights this issue<sup>2</sup>. The report argued that the gap between the public stance of progressive companies and their tacit endorsement of hostile lobbying by trade associations creates serious business issues. It undermines companies' CSR aspirations and reputation, and holds up informed debate. These risks can only grow with time, ultimately affecting credit-ratings, cost of capital and direct shareholder interests. In the US, lawyers, scientists and civil groups have formed a Climate Justice Programme (CJP) to use the courts to combat climate change. Two cases have been launched, and more are in the pipeline. "The potential compensation for climate change impacts would make the tobacco payouts look like peanuts", says a CJP lawyer<sup>3</sup>. James Cameron of Baker & McKenzie, the international law firm, says that, for now, the prospects of successfully suing an individual company on the basis of its greenhouse gas emissions are low. "But if companies can be shown to have increased risk to a defined group through their conduct, for instance the spending of company money on lobbying against action which would reduce risk, then the chances of successful litigation increase". Importantly, insurance companies are beginning to count the potential cost of their clients' environmental policies and the risks that their public policy stances may cause them to incur.

As these examples make clear, there is an emerging business case for a constructive approach to public policy on issues of sustainability. The same is true at both company and national

level. Indiscriminate lobbying against regulation perversely puts the short-term interests of the vocal underperformers before the long-term economic and environmental interests of enlightened companies, and of the country as a whole.

Economic and environmental interests come together in the need for innovation-friendly, market-based tax and policy instruments. Framing such instruments is one of government's most important tasks, and requires the positive engagement of business and NGOs. There is currently no systematic forum for this interchange.

**“a level playing field would be created, disqualifying free riders”**

Some companies are showing signs of discontent with trade associations that do not adequately represent their interests. BP, Shell, GM and Ford all pulled out of the Global Climate Coalition when its aggressive lobbying against action to reduce greenhouse-gas emissions overtly ran counter to their environmental initiatives. Pioneering companies see that environmental regulation and green taxes would strengthen their competitive position. By pushing other companies to internalise more of their environmental costs, a level playing field would be created, disqualifying free riders. Leading companies are forming informal alliances with like-minded firms in other industries to advance their cause. Yet, while many companies are happy to campaign negatively, few will ask for government to take action. With the exception of a very few vociferous champions such as The Body Shop and the Cooperative Bank, they are extremely uncomfortable about breaking ranks

to push for more interventionist policy, even when they are far ahead of the pack.

It is clear that there is a pressing need for public policy to embed sustainability. This will not happen unless public policy lobbying is brought out into the open, and seen as a positive dialogue between government and business. In the final section of this report we show how government, trade associations and business should change the rules of the game.

Governments must grasp the nettle of political leadership. They must accept that “granting a company licence to create income for shareholders at the expense of other stakeholders is not wealth creation in any true sense of the word”, as Wilson and Olsen have written<sup>4</sup>. Reliance on companies’ voluntary CSR efforts is inadequate to today’s challenges. Governments must also accept that traditional industry associations face constraints that make them unreliable guides to the national economic interest. Systematic mechanisms are needed for listening to companies that see opportunities in innovation, rather than those that resist all regulation on principle. To enable them to stand up to negative campaigning, governments must demonstrate clear leadership and consistency in their environmental and taxation policies.

Companies must reassess their public policy activities. They should bring them under the umbrella of corporate social responsibility, and look for the market opportunities that a level playing field on sustainability might bring to the advance guard. Their lobbying and donations

policies should be transparent and reported, and they should require the same of their trade associations. They should calculate the risks to their brands and reputational assets of contradictions in their public policy stance. They should seriously consider how far they can afford to outsource responsibility for an important part of their destiny to third-party associations.

Trade associations must accept that rearguard actions against sustainable development will undermine their sector’s license to operate. Their approach should be cooperative rather than adversarial, in order to ensure that policy is well designed, and can yield win-win outcomes for innovation and sustainability. By representing the leading edge and building capacity in their smaller members, associations can build sector credibility with government and consumers. Resources traditionally diverted into fighting funds against regulation should be used to develop medium-term strategies for sector sustainability, with which short term lobbying should be aligned.

The World Summit on Sustainable Development should have marked a turning point in the history of industrial development. For it truly to signal the end of the old economic orthodoxy and the arrival of a ‘new paradigm’ of sustainability, we need another new paradigm: an open and sustainable public-policy interface between governments, corporations and trade associations and NGOs. It is time to put an end to the private life of public affairs.

## two cases in point

Climate change and the toxic impacts of chemicals are two of the most pressing issues for sustainable development. They are also highly complex challenges for governance. Strong political leadership is needed, to avoid potential harm. Innovation and ingenuity will be required of companies to generate alternative products and processes. Business, governments and NGOs need to work together to optimise economic outcomes without compromising on the goals of sustainability. However, the lobbying that has taken place around two precedent-setting policies for tackling these issues, the new EU chemicals policy (REACH) and the UK's climate change levy, suggests that current engagement by industry in these challenges is not as constructive as it might be.

### REACH: new challenges, old reactions

The European chemicals policy currently under discussion in Brussels was intended to be “a textbook example of innovation-friendly regulation”, designed in the framework of the Lisbon resolution to marry environmental protection with establishing Europe as the most competitive business environment in the world. As a first attempt at developing a new kind of industrial policy, it inevitably left something to

be desired. Aspects of the policy needed careful scrutiny and adjustment, to improve both environmental and economic outcomes. Yet the vision of creating a different approach to regulation has been undermined by repeated challenges to the spirit of the policy by national and international lobbying groups. These challenges threaten to remove the potential advantages of the new legislation and turn it into something scarcely less cumbersome and time consuming than what has gone before.

**“The burden of proof is on the authorities to show damage”**

The stakes are high. European producers form the world's biggest chemicals industry and the EU's third largest manufacturing sector. Nearly five million EU jobs depend directly or indirectly on chemicals, and they are a critical input for almost every other sector. Industrial and commercial life would be unthinkable without them.

Yet the current regime is acknowledged by business to be unsatisfactory in every sense. The burden of proof is on the authorities to show damage, rather than on companies to demonstrate that products are safe. This makes risk assessment time-consuming and unwieldy, and has generated practically no useful knowledge about all but a tiny

minority of the 100,000 substances registered on the European market.

As a report of the UK Royal Commission on Environmental Pollution (RCEP) concluded: “It is unacceptable that after more than a century of chemicals production, and decades of legislation attempting to deliver environmental safety from these chemicals, we still do not have a good understanding of their fate and effects in the environment: nor do we even have much information upon which such understanding might be derived”.<sup>6</sup>

The current regime penalises innovation. Since new chemicals have to be risk-assessed and existing ones don't, companies have little economic incentive to phase out hazardous chemicals or substitute safer ones. Despite its size, the European chemical industry introduces fewer new chemical products than its US competitors. Innovation is further discouraged by the long-windedness of official procedures. Of 140 chemicals on the European priority list, just eleven assessments have been completed in ten years, and none has reached the stage of agreement about action.

Lack of knowledge and poor monitoring means that problems only come to light many years after the impact has begun. This makes remedies harder and more costly. DDT, PCBs, dioxins and benzene are examples of problem chemicals that have been very difficult to deal with under the existing regime. Chemical companies have also plunged in consumer confidence and esteem. The 2003

Eurobarometer survey found that over 40 per cent of citizens are ‘very worried’ about the diffuse threat to health and the environment from chemical pollution, a sharp increase from the last survey in 1999<sup>7</sup>. The recent DTI-sponsored and industry-led Innovation and Growth Team inquiry into the challenges facing the UK chemical industry concluded that poor reputation was a major factor undermining recruitment and credibility with customers and government. Lord Sainsbury summarised the challenge at the report launch: “The industry needs to be innovative and creative in designing new products and processes, and be at the cutting edge of sustainable development”.<sup>8</sup>

These are the shortcomings that the new European policy aims to overcome. Known as REACH (Registration, Evaluation and Authorisation of Chemicals), the new policy is based on the precautionary principle and explicitly aims at innovation for sustainability. It proposes that from 2012 both new and existing substances should be placed on the same test and assessment footing, levelling the playing field between them. Small-volume substances used in research and development will be exempt from notification. Critically, REACH reverses the burden of proof, putting the onus on companies to provide information on properties, exposure and use. The most hazardous chemicals will require prior authorisation before use.

REACH will intentionally have far-reaching implications. But although firms will inevitably

**“The current regime penalises innovation”**

face short-term costs in compliance, the policy should create the opportunities to offset regulatory costs through product and process innovation, actually benefiting firm competitiveness. Crucially, it will create a level playing field in a single EU market of 550 million people, the biggest in the world. Other benefits will accrue to European firms - reduced risks of liability and reputational damage; improved public confidence; better employee recruitment and customer loyalty; and the rationalisation of complex existing legislation.

However, if REACH represents the first attempt at a 'new paradigm', the chemical lobby remains obstinately entrenched in the old. While repeatedly professing support for the policy's objectives, it has made little attempt to engage with its positive intent, instead taking a uniformly adversarial stance.

CEFIC, the European Chemical Industry Council, has consistently used its 150 full-time Brussels staff to try to undermine the main pillars of reform. "There is comprehensive EC legislation already in place for the control of chemicals and there is little direct scientific evidence of

**"if REACH represents the first attempt at a 'new paradigm', the chemical lobby remains obstinately entrenched in the old"**

represents large corporations such as Shell, and smaller companies through the national chemical industry federations of 25 European countries.

widespread ill health or ecosystem damage being caused by the use of man-made chemicals", it told MEPs nonchalantly in a letter last year.<sup>9</sup> CEFIC

CEFIC has recently stepped up its campaign. "We are in effect going to de-industrialise Europe [with these proposals]", president Eggert Voscherau told a Brussels press conference in July 2003, demanding nothing less than that the Commission "should review the whole thing and redraft the whole project. European industry, including the chemicals industry, must not be a test laboratory for a bureaucratic regulatory experiment".<sup>10</sup>

Dr Tony Bastock, chair of the UK's Chemical Industries Association (CIA), told senior civil servants at a CIA Reception: "When I read and hear what is being proposed as the new system for the regulation of chemical substances in the EU ... I seriously doubt whether in five years' time, I will be celebrating my company's 30th birthday. It is more likely that I will be planning to relocate outside the EU".<sup>11</sup>

The American Chemistry Council has launched a \$50 million PR program<sup>12</sup> against REACH, aiming at what its CEO called "aggressive advocacy efforts across international borders to stave off attempts to curtail the responsible use of essential chemical products".

The CBI announced at the beginning of August that it was launching a campaign to reduce the scope of REACH. Deputy Director John Cridland said "An extra burden on this scale will drive jobs away to countries such as China", and he argued that "these new rules threaten the research and innovation on which the future of our world-class chemicals industry depends".<sup>13</sup>

Lobby groups have used exaggerated figures on animal testing to whip up opposition to REACH, while lobbying against data sharing requirements that would reduce the need for tests. The CIA preferred to quote a worst-case figure of “up to 12.8 million” laboratory animals needed to carry out full-scale testing of 30,000 substances rather than the more realistic 2.8 million subsequently established. A new report by the Royal Commission on Environmental Pollution has proposed a different testing regime based on advanced computational techniques rather than animal testing. But the CIA has already dismissed the RCEP proposals as “completely unworkable”.

Central to the lobbying toolkit are ‘business impact assessments’. Impact assessments are heavily dependent on their underlying assumptions. Industry-commissioned studies tend to focus on static costs. They neglect the potential for dynamic benefits – in other words, innovation and efficiency gains prompted by new regulation – which are hard to predict, but are often substantial. A focus on static costs has the advantage of generating media-worthy figures on job losses and the threat to competitiveness.

The most widely cited chemical assessment was carried out for the German employers’ association BDI by consultants Arthur D Little<sup>14</sup>. The framing of the study is evident in the names given to its three scenarios: ‘Cloud’, ‘Storm’, and ‘Hurricane’. The BDI report duly claimed that implementing REACH would cost the German economy between

150,000 and 2.35 million jobs and between one and three per cent of GDP. It claimed that “manufacturers and importers may prefer to stop supplying European customers rather than having to reveal know-how that is essential for their companies success”.

**“A focus on static costs has the advantage of generating media-worthy figures on job losses”**

The headline findings were widely seized on by lobbyists. Welcoming the study, the CIA “renewed its call for the UK

Government to conduct a similar study, and for the European commission’s own business impact study... to be equally thorough”<sup>15</sup>.

However, in February 2003 a group of leading German research institutes cast serious doubt on the BDI findings. Being “based on a static model that does not take into account the dynamics and innovative drive of the economy”, the model was methodologically unsound, the institutes argued<sup>16</sup> – a conclusion that has been accepted by the German government.

This has not prevented Mercer Management Consulting from using a similar static model on behalf of French chemical industry association UIC, with similar dire predictions for the French economy. Mercer claims that environmental and health benefits are not quantifiable at this stage but confidently asserts that the policy will be counterproductive in terms of health protection.

Germany’s council of environmental experts (SRU) in July said the studies omitted the

considerable advantages REACH will bring to companies in terms of competition and innovation, adding that other recent studies showed that the benefits to human health far outweighed the costs. German environment minister Jürgen Trittin welcomed the SRU's defence of REACH as an "important contribution in keeping the debate rational". He said that industry lobbies would now have to stop depicting "scare scenarios".

The Commission's own impact assessment might have been expected to redress this negative bias. But officials say that potential opportunities were not within the scope of the study; neither will they be addressed in the further impact assessment of indirect costs requested by CEFIC. It has been left to a WWF-sponsored report by two British researchers to estimate that the European Union could be £180 billion (Euro 260 billion) better off by 2020 as a result of adopting REACH, even after taking into account the business costs. It finds little evidence that environmental regulations have significant effects on employment or competitiveness.<sup>17</sup>

Once formulated, negative assumptions are hard to dislodge. This is partly because many positive voices go unheard in the chemicals debate. Environmentally advanced industries, such as the Swedish, reportedly see no threat to jobs in the new policy. Among downstream users, retailers and construction firms would clearly benefit from better information about the properties of the chemicals they use. Small and medium-sized enterprises (SMEs) favour chemical data sharing, opposed by CEFIC on grounds of commercial

confidentiality, which would reveal new product and service niches. Few would guess the existence of such views. This is no accident, since dissenters are often quietly sidelined or asked to modify their claims.

The Dutch chemicals industry initially supported its government's 'Quick Scan' proposal, which could have provided a Europe-wide model for speeding up action by prioritising data provision for chemicals of highest concern. At the last minute the industry refused to ratify the proposal - as a result of pressure brought to bear by CEFIC, according to sources in the Dutch environment ministry. The UK Royal Commission on Environmental Pollution has also put forward proposals for speeding up preliminary scanning of existing substances, arguing that REACH is insufficiently radical and far too slow<sup>18</sup>. It remains to be seen how CEFIC will react. The CIA has already decided that the proposals are 'unrealistic'.

**“dissenters are often quietly sidelined or asked to modify their claims”**

Rhodia, a leading manufacturer of specialty chemicals, was president of CEFIC at the time of the European Parliament vote on REACH. The company circulated a memo to MEPs endorsing the parliament proposal that registration be applied to low-volume chemicals, but almost immediately withdrew it, allegedly due to CEFIC pressure.

Upstream producers, perceiving REACH as a threat, have been interpreting its implications on behalf of downstream users and trade unions,

which lack good information. According to a CIA press release: “The CIA, supported by the trade unions and more recently, through the Confederation of British Industry (CBI), the chemical industry’s downstream customers, has been lobbying heavily in the UK and the EU on this issue”.<sup>19</sup> The British Chemicals Distributors and Traders Association (BCDTA) proudly claims that it has played “a pivotal role in coordinating the position of downstream chemical users”.<sup>20</sup> Paradoxically, the job losses threatened by CEFIC and others have persuaded trade unions into opposing REACH, despite its importance for occupational health. Meanwhile, between 1,500 and 3,000 new cases of chemical-related occupational asthma are reported in the UK every year.

Lobbying continues even within the Commission, where Environment and Enterprise directorates are notoriously at odds over chemical policy. With no official, transparent mechanism for seeking views and coordinating evidence, the brave new chemicals policy risks becoming a bad old example of horse-trading, offering little extra protection to consumers and running counter to the industry’s own long-term interests.

### **the climate change levy: competitiveness and the media**

The climate change levy is a central pillar of the Government’s programme for addressing the issues of climate change. Likewise, climate change commitments have become a litmus test of corporate social responsibility. BP and Shell,

for instance, broke with the powerful Global Climate Coalition lobby over its blanket opposition to climate change countermeasures and both companies have committed themselves to substantial reductions in greenhouse gas emissions.

But when the Treasury proposed the levy on business energy use in 1999, influential trade associations launched the biggest attack on New Labour’s business credentials since it came to power. This was despite the fact that the levy recommendation came out of a comprehensive business impact review of energy taxation by British Airways chairman and former CBI president Lord Marshall. As Marshall had recommended, the levy was designed to be revenue-neutral, since it promised an equivalent reduction in companies’ national insurance contributions (NICs). The majority of finance directors in UK businesses supported plans for the climate change levy (including 60 per cent of finance directors in the manufacturing sector) according to a survey by the Chartered Institute of Management Accountants<sup>21</sup>.

But trade associations were allowed to negotiate 80 per cent (up from 50 per cent) exemptions for the most energy-intensive industries - through negotiated agreements that took up 29,000 government man-hours<sup>22</sup> - and the levy was reduced from £1.75 billion to £1 billion. Following a renewed burst of criticism by the CBI, just before the Treasury was due to restate its commitment to environmental tax reform, the levy was frozen in the 2003 Budget.

**letter to Stephen Byers, Secretary  
of State for Trade and Industry,  
25 October 1999**

“If it appears that, actually, when the chips are down, sufficient corporate pressure will cause government to withdraw proposed unpopular measures of environmental protection, companies may be expected to put more efforts into such pressure in the future, rather than finding creative and innovative ways to improve their environmental performance”.

**Paul Ekins, then Director,  
Forum for the Future**

The proposed climate change levy was never a perfect instrument. In Green Alliance’s 2002 report *Next Steps for Energy Taxation*, a wide range of surveyed businesses supported the principle of environmental taxation while criticising the levy for being a tax on energy rather than carbon.<sup>23</sup> The NICs reduction made the package revenue-neutral overall, but inevitably involved a transfer of resources out of energy-intensive industries into other sectors. NGOs acknowledged this as a concern at the time and proposed ring-fencing the revenue from energy-intensive traded sectors so that this could be recycled in the form of support for energy efficiency and low-carbon technology<sup>24</sup>.

But the Government’s decision to weaken and later freeze the levy was in response to a far less nuanced argument than this. A few major trade associations, most notably the CBI, focussed their efforts on arguments about the threat to competitiveness and jobs. They were so effective that a measure which would in fact have been a net benefit to companies responsible for two-thirds of GDP and 70 per cent of UK exports<sup>25</sup> was presented in the media as ‘bad for business’. The call was for near-total exemptions across as wide a sphere of industry as possible, regardless of whether they were genuinely exposed to international competition, or of the significance of their net payments in relation to turnover or other costs.

In his 2001 book, *Just Capital*, Adair Turner sets out to destroy the illegitimate use of ‘competitiveness’ as an argument against social and environmental policies. Such a concept is meaningful at the level of an individual company but “almost totally devoid of meaning” at the level of a national economy. “All that matters is our absolute productivity, prosperity and employment prospects”.<sup>26</sup>

**“The call was for near-total exemptions”**

There is no defined and limited pool of prosperity and jobs out there that all countries must compete for by cutting costs. Only externally traded sectors may need to be cost-competitive relative to their equivalents in other countries. Floating exchange rate adjustments mean that even traded sectors can only become temporarily, not inherently, uncompetitive, and such adjustments make real wages fall, rather than employment.

So why the constant threats from trade associations about job losses from the ‘impact on competitiveness’ whenever environmental taxes are proposed?

“Lobby groups reach for the threat to competitiveness as the easiest weapon with which to beat off unwanted government actions.”

The speaker should know. Adair Turner was director-general of the CBI at the time that the climate change levy was proposed.

#### Financial Times, 23 April 1999

The Confederation of British Industry last night renewed its attack on the government’s proposed energy tax, which it said would place unnecessary burdens on the struggling manufacturing sector. Adair Turner, the CBI director-general, said government proposals would hit manufacturing competitiveness when companies were suffering from the high level of sterling.

“There is little the government can do about the strong pound but they must refrain from piling any unnecessary burdens on to manufacturers”, he said.

The levy design complies with Turner’s prescription for energy taxes in *Just Capital*: “If matched by payroll tax reductions they will not have any adverse long-term employment consequences. But the debate will be conducted in terms of a supposed threat to jobs if simplistic notions of competitiveness are allowed to dominate”. Any deviation from a systematic rising price signal on carbon, he argues, will make the necessary transition far less cost-effective.

But when it came to the levy, the CBI pushed for widespread 90 to 95 per cent exemptions from the rising price signal because “the levy as currently proposed would inflict significant damage on the competitiveness of large and small companies in both the service and the manufacturing sectors”.<sup>27</sup>

Revenue recycling to the small group of truly energy-intensive and traded industries to help them adjust in the short-term would indeed have been consistent with the arguments in *Just Capital*. But the CBI, a pan-industry association that should be capable of an economy-wide perspective, used competitiveness arguments to push for large-scale exemptions across the whole manufacturing sector.

#### Financial Times, 10 June 1999

“Tony Blair is believed to have accepted the case put forward by the CBI and other industry organisations that the levy would seriously damage competitiveness.”

Despite securing those exemptions, in return for confidential agreements on ‘cost-effective’ efficiency improvements, the Engineering Employers Federation and the CBI in October 2002 again claimed that “to continue with the climate change levy as currently designed makes a mockery of any commitment to support manufacturing”.<sup>28</sup> This argument was made in spite of the fact that wholesale electricity prices had fallen by 40 per cent since the levy was proposed.

### Financial Times, 1 November 2002

#### Industry hit by ‘flawed’ climate change levy

More than half of manufacturers have been damaged by the government’s ‘flawed’ climate change levy, which has caused job losses and forced companies to consider moving production abroad, according to a report by the country’s two biggest employers’ organisations.

Digby Jones, CBI director-general, said: “It’s crazy to pile on extra costs when manufacturers are struggling to remain competitive, and all employers are bracing themselves for next April’s increase in national insurance contributions”.

The government had not been elected to create unemployment in manufacturing areas “and that is precisely what the levy has achieved”.

Turner does seek to explain the competitiveness-speak emitting from the CBI at the time of his directorship. “If we omitted the competitiveness spin, journalists would encourage us to provide one or add one of their own, so used have they become to the language”.<sup>29</sup>

Michael Roberts, director of environment at the CBI, insists that the media has consistently misrepresented CBI critiques of the levy, exaggerating and generalising when the critiques have been specific and technical. This may well be the case, but a series of direct quotes about the levy from leading CBI figures have certainly aided the press in their quest for sound bites.

The CBI has argued that the failure of the US to ratify the Kyoto Protocol demands reform of the levy<sup>30</sup>. It has often presented environmental tax reforms as simply increases in tax, without acknowledging the associated cuts in other taxes<sup>31</sup>. The Government has not helped itself here: having reduced national insurance contributions when the levy was introduced, it put them up again less than a year later to help pay for the NHS. Business trust in environmental tax reform was significantly damaged by this move. However, a recent in-depth survey by Green Alliance of twenty four businesses from manufacturing and service industries identified taxation as the measure preferred by business for tackling climate change and found the majority already could see positive effects of the climate change levy.<sup>32</sup>

Just as with REACH, business impact assessments assumed an influential role in the

battle over the levy. A key weapon in the armoury of the anti-levy lobby was a report commissioned by energy-intensive industry groups, which claimed that the levy would cost 156,000 manufacturing and service jobs and reduce GDP by £11 billion over the following decade. According to Business Strategies, the consultancy that produced the report, the figures were so high because the analysis took into account the effect on “industrial competitiveness” and the prospect of jobs being lost abroad.

By contrast, analysis by the forecasting group Cambridge Econometrics predicted that employment would be boosted by 14,000 across the economy as a whole in 2002, the first full year of the levy. “In the chemicals industry, which announced that thousands of jobs would be lost if the Government went ahead with the levy, a modest increase in employment is forecast”.<sup>33</sup>

#### Financial Times, 10 November 1999

“Mr Brown was praised by the Chemical Industries Association, which said the proposal to cut the climate change levy removed a “big threat to the competitiveness of our wealth-creating industry.””

All such predictions are based on assumptions that tend to deliver the desired conclusions. Business impact surveys, through their design, tend to encourage ‘strategic interview behaviour’,

where interviewees respond with a view to influencing the outcome. They also fail to isolate the impacts of a policy from anticipated background trends, and they rarely deal with the fundamental fact of a dynamic economy.

#### Letter to the Financial Times, 2 October 1999

“We have vigorously lobbied the government, from the prime minister down, on the impact of the levy on the basis of data from companies and sectoral associations”

**Peter Agar, chair, CBI**

It is crucial that the Government funds independent research into the retrospective impacts of such contested environmental and social policy to ensure that there is some empirical basis on which to judge the inevitable claims and counter-claims, and ensure that media-oriented surveys do not command undue influence in the policy-making process.

The climate change levy is not isolated as an example of the gauntlet run by governments attempting to introduce climate change policies. The Economist described the campaign against the EU carbon tax in the early 1990s as the “most powerful offensive against a European Commission proposal ever mounted by Europe’s industrialists”.<sup>34</sup>

# an outdated system

## the rule, not the exception

Again and again, on issues of crucial importance for sustainable development, industry associations have taken uncompromising stances that have undermined environmental outcomes.

When a pesticide tax was proposed in 1999 the National Farmers Union (NFU) and the Crop Protection Association (CPA) had the opportunity to negotiate measures to support industry adjustment to the long-term direction of pesticides policy. Systematic reduction in the unnecessary use of pesticides is in the clear interest of the public, the water industry and the NHS. A shift to pesticides management services could reconcile the pesticides industry to reducing pesticide use. Denmark and Sweden have used pesticide taxes to provide a financial incentive for farmers to reduce use in the most appropriate way, and funding to support them in making these changes. But the NFU was under pressure to show members, through the media, that it was fighting on their behalf. Knee-jerk opposition to the tax ruled out consideration of revenue recycling to farmers, which could have been on the agenda. The voluntary scheme pushed by the

**“the NFU was under pressure to show members, through the media, that it was fighting on their behalf”**

CPA, by contrast, leaves participating farmers with estimated costs of £11 million, without a level playing field, advice or revenue support. Its administration is a significant financial burden on the CPA. An inquiry by the Environmental Audit Committee concluded that the voluntary initiative is no substitute for a “strong regulatory framework” and fiscal incentives. “To persuade farmers to change their behaviour you need a mixture of carrots and sticks - neither of which the initiative seems to have”.<sup>35</sup>

Vigorous lobbying by airport expansion lobby group “Freedom to Fly”, representing British Airways, Virgin, BAA, the CBI and some trade unions, has been influential in confining the Government’s consultation on the future of aviation to a predict-and-provide approach. Chris Mullin MP gave this account to the House of Commons: “During my eighteen undistinguished months as aviation minister, I learned two lessons about the aviation industry. First, its demands are insatiable; secondly, successive governments have always given way to them”<sup>36</sup>. Government forecasts show that by 2030, if unconstrained, demand for flights will be growing at a rate of a new Gatwick every eighteen months.

But according to Digby Jones, CBI Director-General, “What we need is to have a system where the inquiry – the local democratic participation – happens after the decision is made”<sup>37</sup>. The CBI asserts that “British business believes that more aviation capacity is vital to the UK’s future competitiveness, wealth creation and jobs”<sup>38</sup>. But the Oxford Economic Forecasting study into the economic benefits of aviation conceded “This does not mean that these additional jobs [from aviation] would not exist in the long run without the aviation sector”<sup>39</sup>. Transport Secretary Alastair Darling dismissed the recommendation of the Royal Commission on Environmental Pollution to use taxes to take account of the environmental costs of aviation, saying: “The Commission’s remedy was to try to price people off planes. I think they might have some difficulty selling that proposition”<sup>40</sup>. The Commission had proposed that the revenues from aviation emissions charges be used to invest in high-speed inter-city rail links. Through its affiliation to Freedom to Fly, Virgin was in effect lobbying against proposed investment in Virgin Trains.

Meanwhile, the EU White Paper on corporate social responsibility failed to introduce a level playing field to kick-start what Jonathon Porritt terms the “voluntary-do-sod-all-ers”. CSR journal Ethical Performance has confirmed that the voluntary approach to CSR “is not working”<sup>41</sup>. But the CBI announced that “The European Parliament Industry Committee has decided to reject calls for legislation requiring EU firms to release annual reports assessing the sustainability of their activities. The Committee decided that CSR should

remain largely voluntary, in response to lobbying by the CBI and other EU business organisations”.

Also at the European level, the Environmental Liability Directive was conceived as a way to incorporate the “Polluter Pays Principle” into EU law. The CBI said it could be “the final nail in the coffin of manufacturing...making companies responsible for assessing and managing risks that may be unimaginable”<sup>42</sup>. Pan-industry lobby groups, led by UNICE, succeeded in obtaining wide-ranging exemptions from liability for disasters such as oil spills. These exemptions had not featured in DG Environment’s earlier drafts and were inserted into the proposal late in the decision-making process, thanks to heavy lobbying of individual Commissioners. Compulsory financial security for companies, to avoid the taxpayer picking up the bill for disasters, was waived because industry groups claimed it was unworkable. The RSPB had some discussions ‘off the record’ with several City of London environmental insurers, who had taken a fairly positive approach to insuring under the Directive. However, they would not ‘go public’ with their position, as it was not the view of their industry federation.

## the lobbyist's toolkit

Deny the problem, deny the solution, exaggerate costs, ignore benefits, suppress dissenting voices, argue for more research and if all else fails propose lowest-common-denominator voluntarism. These are the weapons in the lobbyist's toolkit.

Arguments of choice against policies for sustainability include:

- *Cost.* Cost estimates in business impact assessments are highly imprecise and inevitably depend on (usually negative) assumptions. They invariably measure only static compliance costs and omit dynamic offsetting benefits, let alone social and environmental gains.
- *National interest.* The underlying assumption is that the national interest is the same as the interest of an industry's least dynamic members. It also assumes nations are in competition for fixed amounts of work or prosperity. Both pretexts are false.
- *Threats to jobs and competitiveness.* These are often overstated due to the flawed use of impact assessments and misapplication of the competitiveness concept. A recent report found "little evidence" that environmental regulation has any effect on jobs<sup>43</sup>. Adair Turner points out that "'competitiveness' is a meaningful concept at the level of an individual company, it is totally meaningless at the level of the world, and it loses its meaning as we progress along that spectrum".
- *Red tape kills innovation.* Michael Porter and others have shown that creative, market-based regulation stimulates innovation, benefiting firm competitiveness.
- *It's unworkable.* Sometimes true, but often because polarised positions and arbitrary political compromises have made it so.
- *Voluntary self-regulation will promote better outcomes than mandatory requirements.* A recent OECD report shows that voluntary agreements on environmental policy tend to weaken steps towards sustainability and some even harm it<sup>44</sup>.
- *Third party support.* The above arguments are often used to influence the positions of other stakeholders, to lend strength or legitimacy to industry opposition. Fear of job losses caused trade unions to oppose REACH despite the clear interest they have in worker health.

Today's environmental policy-making methods are broken — ineffective and wasteful of time and resources at best, deeply harmful, not least of business's own best interests, at worst. They were born of the outdated assumption that there is a fundamental incompatibility between the needs of the environment and those of business. Firms and environmentalists have believed that they are

**“The process privileges the loudest rather than the best-qualified voices”**

playing a zero-sum game in which social benefits can only be made at business expense, and vice

versa. In this situation, decision-making is essentially a matter of political brokering and horse-trading, which leads to policy that is arbitrary and inconsistent. The lack of transparency encourages exaggeration, bluff and counter-bluff, entrenched positions and stereotypical thinking. The process privileges the loudest rather than the best-qualified voices, and leaves many stakeholders unrepresented. These qualities are the opposite of those urgently required for evidence-based policy.

The problem is similar in the US. The existence of unaccountable bodies such as The Transatlantic Business Dialogue (TABD), according to its website “an informal process whereby European and American companies and business associations develop joint EU-US trade policy recommendations, working together with the European Commission and US Administration”, suggests that improved accountability is important for the legitimacy of European political institutions also.

Lobbying activity raises important questions about the meaningfulness of companies' own CSR agendas and the direction of economic development. The arguments over European chemical policy show just how high the stakes are.

Why have corporate attitudes toward public policy suddenly become so important? The answer lies in the changing roles of governments, corporations, trade associations and NGOs under sustainable development - economic growth that meets the needs of business, society and the environment.

### **the economics of opportunity**

The sustainable development agenda is a challenge, but also an opportunity. The greater the environmental imperative, the more the interests of the stakeholders converge. After all, it is in no-one's long-term interest to deplete natural resources and increase pollution to levels which threaten our way of life. In the long term, sustainability is as essential to business as to any other stakeholder. But even in the short term, sustainable development has become the subject of serious discussion in company boardrooms. It is an increasingly important aim of national and EU industrial policies.

The opportunity is nothing less than to jolt capitalism on to a new and less destructive path. The instrument: that quintessential capitalist phenomenon, the market. By this we do not mean,

**“The opportunity is nothing less than to jolt capitalism on to a new and less destructive path”**

however, the free market worshipped as an end in itself by neo-liberal ideologues. We know well enough that “laissez-faire markets, unmanaged and unmoderated by political intervention, are incapable of satisfying the full range of human aspirations”, as Adair Turner has put it<sup>45</sup>. There are glaring market failures in the area of public goods, like clean air and a stable climate, which are owned by no one but needed by all. But we have also learned that the market can be carefully crafted as a tool to deliver important environmental and social improvements. Petrol is lead-free, bathing water and rivers are cleaner, ‘peasoupers’ in London town are no more, sulphur and nitrogen dioxide emissions are down and substitutes have been found for some highly noxious chemicals. Regulated markets work.

What’s more, despite dire predictions, the economic impact of these social improvements has been minimal. Lee Iacocca, then president of Ford, predicted that the Clean Air Act of 1970 would end US car manufacturing within five years. Wolf has been cried many times by other industries

**“despite dire predictions, the economic impact of these social improvements has been minimal”**

since. But a new generation of business economists such as Paul Krugman in the US, John Kay, Sam Brittan and Adair Turner in the UK, do not approve<sup>46</sup>. They point out

that arguments against such measures, on the grounds that they will harm competitiveness or employment, are misleading. They fundamentally misunderstand the way that markets work. Turner is blunt: “There is no evidence that increasing

environmental constraints have slowed overall growth rates, and no evidence that higher environmental standards in some developed countries have disadvantaged them economically versus others. Nor evidence that environmental standards have had any impact on our ability to create jobs”.<sup>47</sup>

But it’s even better than that. Harvard Business School’s Professor Michael Porter is another strong supporter of market-based regulation for environmental ends. “The data clearly show that the costs of addressing environmental regulations can be minimised, if not eliminated, through innovation that delivers other benefits”, he says<sup>48</sup>. One of the benefits is productivity and innovative capability of the firm itself.

## the power of resource productivity

Environmental regulation and business success are not incompatible. Quite the reverse. Positive regulation can be a powerful stimulus to competitive innovation and technological advance, offsetting many or all the costs and benefiting both citizens and companies.

The key concept here is resource productivity, the efficiency with which companies and their customers use resources - a topic which is now the subject of a growing body of academic and business

literature. Broadly, the argument is that the most economical use of resources - minimising inputs for any level of output - is in the direct interests of a firm's shareholders as well as the environment. Any firm applying lean manufacturing or Total Quality Management (TQM) techniques is familiar with the slogan 'right first time' - meaning that it is always more cost-effective to redesign processes to prevent quality failures happening in the first place than to rework faulty products at the end of the line. The same is true of pollution. Pollution is the manifestation of unnecessary, inefficient or incomplete use of resources, and is a form of economic waste: literally money going up the chimney.

Cutting waste through lean manufacturing obviously benefits shareholders. But lean is also green. Resource productivity is an environmental imperative too. "At the level of resource productivity, environmental improvement and competitiveness come together. The imperative for resource productivity rests on the private costs that companies bear because of pollution, not on mitigating pollution's social costs. In addressing those costs, it highlights the opportunity costs of pollution - wasted resources, wasted efforts and diminished product value to the customer - not its actual costs"<sup>49</sup>. Resource productivity applies the invisible hand of the market to sustainable development goals.

As our case histories and many other examples show, the corporate lobby always overstates the costs of environmental regulation. The reason is that the lobbyists only take the static costs of complying with the regulations into account - as if there were no more technology or new methods to be discovered. They ignore the offsetting innovation that is triggered by well-designed rules. Such innovation is hard to predict, but will inevitably appear. Price signals and resulting adjustments in business practice work together to produce a virtuous circle of increasing efficiency.

Many of these adjustments and innovations are surprisingly simple. When Porter looked at waste reduction activities in the chemical industry, he found that one-quarter of cases involved no capital investment at all, and in two-thirds payback was within six months<sup>50</sup>. Simply directing attention to resource inefficiencies can have an important effect, shocking companies into action. Redesigning products and processes can not only offset environmental costs; it can also reduce processing and handling time, increase yields and boost quality. Further improvements follow as the company exploits the learning curve.

These effects explain why, despite the warnings, there is no evidence that tightening environmental controls has slowed economic growth rates or damaged the ability to create jobs. On the contrary: in a world which increasingly values sustainable products and

**“the corporate lobby always overstates the costs of environmental regulation”**

companies, early adoption of high environmental standards can yield companies real competitive edge. Well-known examples are Japanese and European manufacturers of small fuel-efficient cars, the Swedish pulp and paper industry and German packaging companies. All these industries have used the stimulus of high environmental standards to innovate in ways that have positioned them ahead of unregulated competitors.

These findings alter the entire nature of the debate about sustainability and about the environmental regulation needed to foster it. The choice now is not between free markets and central planning, or between regulation and non-regulation, as in the old paradigm. The need for regulation, used in its widest sense, will inevitably

**“early adoption of high environmental standards can yield companies real competitive edge”**

increase in all advanced countries, as the pressures on collective goods intensify. The choice is between good regulation and bad. In turn, the heightened stakes around that choice mean that public policy needs to become an overt and central concern for companies as well as government. This shifts both the terms and the terrain of engagement.

## the roles of the game

Rethinking the rules of the public policy game means rethinking the roles of governments, leading companies and industry associations within that process. Currently, the incentives acting on trade associations bias them towards defensive rejection of policy for sustainability. Adversarial tactics and the use of the media help polarise the debate on policy between NGOs and the apparent ‘voice of business’. While leading companies remain silent on the market opportunities that lie in minimum standards for the environment, governments are often cowed into granting piecemeal exemptions that undermine the consistency and cost-effectiveness of policy. This Government sets much store by sound, evidence-based policy, and by innovation. The current system is not conducive to achieving either.

### government: sponsor or arbiter?

“As business struggles with the complexities of understanding corporate responsibility at the systemic level by rethinking its role, so too are government responsibilities changing”, write Andrew Wilson and Leon Olsen of the Ashridge Centre for Business and Society<sup>51</sup>. “We believe that

government needs to reinvent its role. Part of this will involve enacting legislation to create a normative framework that will ensure business behaviour delivers the desired outcomes to meet the systemic challenges facing societies. Governments should also work with business to create the incentives that will encourage companies to take further action for the mutual benefit of business and society”.

**“governments are often cowed into granting piecemeal exemptions that undermine the consistency and cost-effectiveness of policy”**

The frustrating thing is that in opposition New Labour appeared to have accepted much of this analysis. Thus, before the 1997 election, Tony Blair agreed with Anita Roddick that the big challenge was to enable businesses to be “truly competitive, genuinely sustainable, and capable of becoming world class”. This challenge would require a new public policy framework. A project, grandly called the ‘New Vision for Business’, was set up to explore the agenda, involving ten willing corporates<sup>52</sup>. But despite much political rhetoric, the Government’s only action as a result of this initiative was to appoint a minister for corporate social responsibility. It failed to address the more difficult, but ultimately more rewarding, question of how to embed a new ethos across the civil service, which would use policy to reward

sustainability and innovation. The initiative should have been groundbreaking, but the public policy dimension was never adequately addressed. “By the time we reached the summit, most things of substance had been thrown out of the rucksack”, says one participant ruefully.

So why in office did the Government draw back? Habit and rigid structures play a large part. There is a culture of passivity in the civil service, which awaits representations of interest rather than seeking them out according to a strategic plan. This favours the most active and well-resourced groups that defend threatened interests.

**“It would take a more proactive approach by civil servants to engage with potential ‘winners’”**

It would take a more proactive approach by civil servants to engage with potential ‘winners’ that could exploit the cutting edge policy needed to drive innovation for sustainability. The route of least resistance, by contrast, favours voluntarism.

However, a recent OECD report concludes that voluntary agreements on environmental policy tend to weaken steps towards sustainability - and some even harm it. The report argues that “economy-wide economic instruments in many cases can be a better policy option than voluntary approaches, both from the point of view of environmental effectiveness and economic efficiency. A broader application of economic instruments is, however, frequently hampered by – in particular – a fear of loss of international competitiveness of the most affected (and most

polluting) sectors. Providing tax exemptions to the sectors in question in return for ‘voluntary’ abatement commitments can be one way to overcome ‘the competitiveness obstacle’. However, the environmental and economic costs of applying this option could be high. Increased international co-operation to facilitate use of economic instruments would seem to be a better option”.<sup>53</sup>

The final report of ‘Mining, Minerals and Sustainable Development’ (MMSD), an inquiry into the prospects for sustainability in the mining sector, also concluded that “voluntary approaches alone are insufficient where there is a compelling priority but little or no business case... There are then two options: collective action on a voluntary basis that is enforced internally by a group, or governmental intervention or regulation to achieve the same result”.<sup>54</sup> The report was commissioned by the World Business Council for Sustainable Development and the Global Mining Initiative.

Alongside economic instruments there is potential for the application of ‘soft law’ (codes and guidelines, such as the Combined Codes on corporate governance) and ‘light-touch’ regulation. Mandating disclosure of information can have a profound effect. In the case of the UK pension disclosure regulation, pension funds are required to disclose whether they take social and environmental factors into account in their investment portfolio. This approach works because it has embarrassed pension funds into taking action.

Policy measures can be a diverse package, as long as they are coordinated to meet a clear aim, not chosen to meet the line of least resistance. Currently, paper-based consultation is followed by opaque policy judgements that do not have to be accounted for. This encourages interest groups to make extreme negative claims in the media, to force political rather than evidence-based decision-making.

Government fails to provide opportunities for all stakeholders to come together and work jointly on solutions, rather than fighting from entrenched

**“paper-based consultation is followed by opaque policy judgements”**

positions over basic pretexts. This is well illustrated by the debate within the Company Law Review over whether social and environmental reporting should be made mandatory for large companies. Many companies already have sophisticated reporting systems, and an interest in seeing competitors obliged to invest in a minimum level of transparency over their social and environmental impacts. But only the Cooperative Bank was willing to speak out publicly in favour of mandatory reporting. The debate had become polarised between the demands of the Corporate Responsibility (CORE) coalition of NGOs and the ‘anti’ stance of the CBI. In the absence of alternative propositions from leading companies, the Review concluded in favour of discretionary reporting, without clarification of government expectations in this area. A vexed CSR professional resorted to an anonymous appeal for rationality in Ethical Corporation’s Janus column. “The

‘mandatory-versus-voluntary’ debate on social and environmental reporting is being undermined by the huge divide between the choices on offer. Where are the workable proposals? Has anyone actually got together with business and asked, in a constructive manner, “what would a mandatory reporting framework look like?””<sup>55</sup> In a safe forum for debate, other strong drivers for compliance might also have been identified, such as public procurement, or policies to disclose and embarrass laggard companies.

Another important constraint on evidence-based policy is the structure and aims of enterprise departments. At least since Margaret Thatcher, the DTI has debated its dual role as sponsor as well as overseer of industry sectors. In an ideal world, the department would be consulting business at arm’s length, before framing objective decisions on sustainability issues. But officials privately concede that the matter is complicated by its other role as industry sponsor and promoter. As a result, despite its espoused commitment to resource productivity and environmental improvement, the DTI in some cases finds itself under the same pressures to lobby for the dilution of environmental legislation as the trade associations. This is particularly the case where its counterparts in the EU are playing the ‘competitiveness’ card for their own national industries in Brussels.

**“the DTI finds itself under the same pressures to lobby for the dilution of environmental legislation as the trade associations”**

## trade associations - a brake on progress?

Unlike in other European countries, where membership of an association is either legally or practically compulsory, UK trade associations are the perennial Cinderella of the economic scene. Everyone agrees that there are too many of them - twenty-three for the chemicals sector alone. Unlike trade unions, there is no requirement for trade associations to disclose information about their activities or even their membership. Member companies resent paying for membership, seeing it as an overhead rather than an investment, but nor have they used their muscle to push through changes.

As a result, the quality and depth of sector body resources vary widely. Not surprisingly, they tend to work best where a non-competitive industry structure eases collaboration. Water UK, for instance was set up five years ago to replace

**“rearguard actions against sustainable development will not help an industry sector sustain its license to operate”**

a previous industry grouping which members felt was not representing members positively to government and regulators. The current association has just issued a report on industry CSR. “We want to contribute positively as a player to policy”, says director of communication Barrie Clarke. “We think we push our members quite hard”. Even an organisation such as Water UK has yet to produce an annual report - “a bit of a gap”, Clarke admits.

However, Water UK is an exception. More typical are organisations made up of an advance guard of larger, sophisticated companies and a long tail of “dark satanic mills in Lancashire and Yorkshire”, as one DTI official puts it. In those cases, even where organisations maintain codes of practice and sanction backsliders, “it’s hard to pull everyone along at the same pace”, he says. For example, when the Quarry Products Association tried to avert the Aggregates Levy by proposing a voluntary scheme instead, they failed on two counts due to resistance by more backward members. The scheme was too weak to be credible with Treasury, but too strong for smaller firms, which split off to form a separate trade body.

As some associations are aware, rearguard actions against sustainable development will not help an industry sector sustain its license to operate. The Chemical Industries Association, under the leadership of Judith Hackitt, has been determined to tackle the sector’s bad image. They have endeavoured to push sustainable development up the industry’s agenda through ‘Responsible Care’, the industry’s own self-imposed code of practice. While ‘Responsible Care’ has been criticised as inadequate by outsiders, it has performed a vital educational and informational role within the sector. The CIA was an important contributor to the DTI-sponsored chemicals innovation and growth strategy, which issued challenging conclusions about the need for improved reputation and innovation. But as we have seen, when it came to the proposed EU Chemicals Policy, aiming to drive innovation of less hazardous chemicals and restore consumer

confidence, the CIA felt unable to endorse any part of it, and their lobbying has contributed to rendering it too cumbersome and complex to achieve its goals.

While a few sector bodies are strong and focused, too many do a poor job of drawing up constructive sector strategies or developing progressive codes of practice. Ironically, in many cases this is at least partly because a large proportion of their resources goes into lobbying and playing the column-inches game –

**“Some trade associations see their chief selling hook as the desire of companies to fight off all regulation and political intervention”**

the easiest option, but by no means the cheapest or arguably in the best interests of their members.

Some trade associations see their chief selling hook as the desire of companies to fight off all regulation and political intervention. As membership organisations entirely dependent on subscription fees, “you don’t make many converts by pushing for positive regulation”, as one previous association chief puts it.

On the contrary some associations deliberately use scare-mongering as a sales drive.

### scare-mongering as a sales drive

“Dear BCDTA Member

YOUR LIVELIHOOD IS UNDER THREAT

You are facing the probability of unacceptable margins, weak or non-existent profitability and a product portfolio that will be decimated.

These are some of the consequences of the European Union’s radical White Paper proposals to create a new regime for chemicals. If they become law in their current form – your business will be damaged, perhaps irreparably.

Industry estimates show that registering a substance under the EU’s current proposals will cost £80,000 for every product and up to £800,000 for each more hazardous product

We need your help to fund this campaign. These extra resources will build a fighting-fund that will protect the long-term interests of your business”.<sup>56</sup>

**Mike Smith, Chair, The British Chemicals Distributors and Traders Association**

Media coverage is the best means for associations to show members they are fighting on their behalf. The media expect and encourage the exaggerated language of job losses and red tape. As Adair Turner confirmed, if there was no competitiveness spin on a CBI policy statement, the press would ask for one.

Delivery agents, not strategic thinkers, populate working groups and committees. They are there to react to proposals and ensure the trade association makes an appropriate response on their company's behalf. Typically, these representatives are very well informed about the way their company currently operates; rarely are they briefed or empowered to place proposals in the context of long-term change for their business. As Jiggy Lloyd of AWG points out, "This is a good arrangement for formulating thorough and professional responses - but not good for thinking about how the world might operate differently".

In fact, all the incentives conspire to bias associations to defensive policies which work to protect the least progressive members. But these

**“The temptation is to seek the ‘voice of business’ by asking the CBI”**

leave many interests disenfranchised. For instance, one leading retailer complains that the British Retail Consortium has been “hijacked by a few large companies that just want to buy and sell as cheaply as possible”, and are intent on keeping sustainable development at the level of words alone.

Pan-industry bodies such as the CBI and the Institute of Directors have the most severe issues when it comes to representing the full cross-section of their members. Both press and government see these bodies as convenient one-stop shops on a wide range of policy matters. The temptation is to seek the ‘voice of business’ by asking the CBI. This gives them an all-encompassing authority they don’t deserve. In the absence of formal practices for consulting their members, there is nothing to prevent the line they take being at odds with what parts of the membership really thinks.

### letter to the Financial Times, 20 June 2003

#### Red tape? The least of our worries...

“Sir, We have heard a lot from the Institute of Directors, the CBI, chambers of commerce and other institutions lately about the problem of red tape for small businesses. The latest was the IoD’s report into the cost of red tape.

“This a populist press topic and a hot political potato and I do not question the figures. However, I must point out that red tape, regulation and legislation are not, in our experience, the real issues occupying the minds of the managing directors and finance directors of small businesses.

“I manage a SME that serves other SMEs and day in, day out the problems I encounter and hear about from my customers are far simpler: lack of skills, lack of resources, lack of time. This was backed up by our own research into the hassles SMEs face, where legislation and red tape was identified as a significant problem by only 6 per cent of the 100 SME directors questioned.

“The leaders of business organisations may enjoy their lobbying on topics such as red tape, but the SMEs we spoke to identified gritty, everyday problems such as cost control, people management and computer problems as the things at the top of their ‘worry list’. So let’s hear more about how to deal with those!”

Almost everyone believes that reform is needed, but over the years, attempts at reform have produced little result<sup>57</sup>. The DTI launched a best practice guide for the model trade association,<sup>58</sup> in 1996, which sets an aspiration that associations should be well-resourced and professional in approach, attracting and retaining high calibre staff and pulling in the services of high level people from member companies for representation and policy development purposes when necessary. Little has happened as a result of the initiative, indicating that incentives and sanctions may be needed. And while this model targets known areas of operational deficiency, it needs updating to

take account of the strategic deficiencies shown by trade associations in planning for the opportunities and challenges of sustainable development.

### companies - the culture of caution

Business leaders rightly assert that they cannot operate far outside of a business case for sustainable development, and it is up to government to generate that case through the public policy framework. But it is disingenuous for leading businesses to pass the buck. The buck stays with business, because business lobbying currently, as we have seen, plays a significant role in watering down the political bravery necessary to impose that ethical framework.

But progressive companies are reluctant to quit trade associations, even when these are lobbying in the interests of the free riders. One reason is that they serve wider functions than lobbying — for example, keeping members up to date on general employment issues, networking, operating codes of conduct and building databases of best practice. According to Jiggy Lloyd of AWG, trade association membership for large

companies may also be driven by a sense of responsibility as leaders towards the long tail of smaller, more family-based businesses. In addition, many companies insist that it is better to seek to steer trade association policy from the inside than to quit and leave one less progressive company in the membership. The strength and validity of this argument, of course, is dependent on the company

**“it is disingenuous for leading businesses to pass the buck”**

making absolutely clear the areas where it disagrees with the association's lobbying positions and what it is doing to alter them.

Companies are also loath to speak out in favour of progressive policy. NGOs, seeking to expose government to the voice of potential business 'winners' from environmental policy, encounter extreme reluctance from companies to signal their public support for such measures. Part of the reason may be pragmatic, relating to supplier and customer relations. But it also has its roots deep in business culture and its strong collective mindset and values built around the defence of free enterprise, often defined in opposition to government 'meddling'. Such 'groupthink' fuels an instinctive aversion to market intervention of any kind. Many in business resentfully feel that they are left to shoulder the whole 'weight' of

**“This mixture of solidarity and caution sometimes causes companies to forego first-mover advantage”**

environmental policy, which should rightfully fall on consumers and the public sector too.

This mixture of solidarity and caution sometimes causes companies to forego first-mover advantage over sector competitors rather than speak out. For instance, Sony's policy against hazardous substances in its products could give it a lead over competitors in the marketplace — if consumers were aware of it. But Sony has declined to draw attention to the policy.

Sources at Mercedes-Benz say that there was a gentleman's agreement in the car industry not to

advertise or lobby on PVC-free seats, even though some companies including Mercedes had invested in alternatives. Mercedes reportedly renounced the associated advertising benefits. They were worried that such advocacy would concede that there had been a problem in past, and that it would antagonise the powerful PVC industry. (Interestingly General Motors later broke the agreement). The latter fear is well founded. Dutch sportswear firm Asics was ordered to stop advertising its products as 'PVC-free' following a complaint brought by lobby group Chlorophiles to the Netherlands advertising authority. The PVC industry won a similar ruling from Britain's advertising authorities in 1999.

Electrolux, the Swedish-based white goods manufacturer, stopped lobbying for cadmium-free batteries following strong objections from the cadmium industry. In fact, “I have never seen any company actively lobbying for a phase-out of hazardous substances”, says Axel Singhofen of the European Parliament Green Group. “They fear a backlash from the strong industry lobbies”.

The boardroom aversion to endorsing policy interventions is also founded on deep distrust of government. Founded on bitter experience of decades of 'stop-go' economic policies, U-turns and violent differences between the political parties, it also reflects perceptions that ministers' application of policy cannot be relied on to factor in business needs for stability and certainty. This explains why even favourable regulation is sometimes resisted in case it heralds more

generalised intervention, which must be nipped in the bud.

Sometimes, of course, businesses have an interest in keeping quiet about their business plans for exploiting an opportunity generated by impending policy. Chemical companies developing substitutes for hazardous chemicals targeted by REACH will avoid alerting other companies to their plans if they can. One UK retailer says it will “no longer act as a consultant” to other members of the British Retail Consortium by informing them of its sustainability advances.

What of the opportunities that lie in speaking out? Environmental regulation obliges companies to internalise at least part of their environmental costs. This should give advanced companies an incentive to push for environmental policy to penalise competitors. In other words, if they are doing it voluntarily and at their own expense, then they will benefit by legislation which forces other companies to follow suit. However, some companies enjoy brand advantage from corporate social responsibility. Chris Tuppen of BT cautions that “when companies perceive a competitive advantage from their actions - they are quite unlikely to call for legislation that erodes that advantage”.

But brand advantage is still compatible with raising the regulatory floor to reduce some of the cost gap with ‘free loaders’. The minimum wage has not reduced the ability of the best employers to attract discerning graduates. And a reputation

**“a reputation as a leader of the pack requires some evidence of trying to bring the pack forwards”**

as a leader of the pack requires some evidence of trying to bring the pack forwards. Having invested heavily in responsible practice, Nike has called for a regulatory floor on supply chain management standards. Understandably, they want to ensure that they are not undercut by less scrupulous competitors. A UK retailer that we spoke to wants others in the industry to be obliged to push the sustainability message, thus helping to educate the public, but always intends to keep ahead of the game. Brand-led companies like The Body Shop or the Cooperative Bank feel the same way.

However, as Professor Tom Cannon, a former dean of Manchester Business School, has cautioned, the thinking in companies and business schools about policy-led opportunities is still not well developed, and the culture of caution and collectivism still applies.

If opportunity doesn’t do the trick, what about the threat of reputational risk? Don’t companies who lobby against policy face accusations of double standards? Not necessarily. Perversely, in the absence of scrutiny and codes of conduct on this issue, companies can perceive a greater reputational risk in taking a positive stance. This raises a company’s profile, and cautious companies fear criticism for the gap between positive rhetoric and the actual reality of that company’s activities. Big, complex companies with large ‘legacy’ assets are understandably reluctant to hold themselves up as ‘perfect’.

But lobbying for real change is not just PR, and will not be seen as such. Public advocacy of environmental and social policy, in line with company CSR commitments, will be seen as the desired evidence that the company is serious about developing the business case to pursue a responsible course. It is the absence of such positive advocacy, or indeed the evidence of directly contradictory lobbying, that makes CSR look like empty PR claims.

# new terms of engagement

The status quo is not fixed in stone. Momentum is building among leading companies for a more proactive approach to public policy on sustainability. At the root of this is a desire to develop a company voice that is credible with both government and the public on issues, like climate change, that are not going to go away. But the immediate business case for breaking ranks comes in no small measure from the rising risk profile of this issue, due to the threat of NGO exposés or future litigation.

## risk

Under the proposals in the Government's White Paper on 'Modernising Company Law'<sup>59</sup>, factors with a material bearing on a company's future prospects will have to be accounted for in an Operating and Financial Review. Where significant environmental risk is involved, this should concentrate corporate minds on pushing government to make the division of responsibilities clear. According to Seb Beloe of SustainAbility,

### The business case for a proactive approach to public policy on sustainability issues:

- Protects and builds reputation for responsible corporate behaviour by aligning internal position and values with lobbying position and external memberships
- Safeguards credit-rating and privileged access to financial markets by limiting risk of a) environmental litigation and b) reputational damage
- Builds better long-term relationships with government based on trust and understanding of real needs, reducing games-playing around policy issues
- Contributes to consistent positive, evidence-based policy and regulation, enhancing competitive position versus less advanced industry rivals
- Helps promote a more innovative, sustainable UK plc.

“Where companies can demonstrate that they are actively attempting to get government to take responsibility for driving public policy on sustainability issues, it is harder to pin the responsibility on them. Such companies are, in effect, deflecting these risks towards government”.

The latest ‘Risk Management Survey’ of UK companies by Aon finds that companies rank loss of reputation as the greatest risk to business<sup>60</sup>, and the linkage between a good reputation and the ability to influence government or EU policy is explicitly made. The Lifeworth Annual Review of Corporate Responsibility 2002 made a headline statement that “Corporate lobbying is becoming a key business risk”.

**“companies rank loss of reputation as the greatest risk to business”**

“NGOs are gearing-up to place the political activities of corporations and their associations firmly on top of the corporate responsibility agenda”, said lead author Jem Bendell.

Tony Juniper, Director of Friends of the Earth, warns that “It is a high risk situation for companies to be saying one thing and lobbying for quite another through their trade associations”. According to Corporates Campaigner, Craig Bennett, Friends of the Earth is planning to undertake more systematic scrutiny of lobbying by individual companies: “Any company that identifies itself closely with regressive lobby groups, while engaging in misleading greenwash, will become the focus of Friends of the Earth’s attention”. A recent dossier on BAA by the campaign group, for instance, argued that the

company’s affiliations undermine its credibility: “Much of BAA’s work is superficially impressive... but through its membership of lobby groups the multinational promotes relentless air travel growth and lobbies for more UK airports”. Friends of the Earth campaigners protested outside the 2002 CBI conference about CBI lobbying positions against environmental measures, including liability for oil spills, and called on ministers attending the conference to toughen up on corporate accountability law.

Greenpeace is also focusing in on this issue, according to Director, Stephen Tindale: “It’s become common practice for companies to pick up CSR plaudits for green thinking while letting their trade associations do the dirty work of sabotaging progressive regulations and lobbying against environmental initiatives. These kind of double standards are frankly begging to be exposed”.

The European Environmental Bureau and the Swedish Society for Nature Conservation went to press early this year blaming Unilever for undermining European legislation to phase out phosphate in detergents.

Even more directly, as already noted, NGOs and lawyers in the US have been exploring the possibility of exposing recalcitrant companies to litigation for their part in lobbying against climate change policy. James Cameron of Baker and Mackenzie advises that

**“NGOs and lawyers in the US have been exploring the possibility of exposing recalcitrant companies to litigation”**

“Tobacco litigation, and the asbestos litigation before that, show that over time arguments can crystallise and attach to wilfully obstructive behaviour. The question becomes what is a company deciding to do, through its senior management, which causes a higher level of risk. The prospect of litigation is beginning to register in the minds of US corporations”.

### breaking ranks

It takes a lot to make progressive companies break ranks with trade associations on CSR issues. But it does happen. In 1997 BP, Shell, DuPont and Ford pulled out of the Global Climate Coalition (GCC) because of the latter’s refusal to acknowledge the existence of global warming and its aggressive campaign against US ratification of the Kyoto protocol. By March 2000, so many companies had deserted that it was obliged to turn itself into a coalition of trade associations that disqualified individual companies from membership. The GCC has also softened its public stance, at least accepting the case for voluntary emission-reduction measures to reduce emissions. As a footnote, however, BP and Shell remain members of the American Petroleum Institute, a US trade association which has challenged the science of climate change and opposes mandatory cuts in emissions.

BP has also withdrawn from Arctic Power, a group that lobbies for oil drilling access in the

**“Innogy... and Wessex Water... felt that their affiliations were not advancing their leadership agendas”**

Alaskan Arctic National Wildlife Refuge. This was widely seen as underlining the growing concern among oil companies that the matter has become a public relations liability, although BP has still not ruled out drilling in the refuge.

In the UK, Innogy left the Electricity Association and Wessex Water opted out of the then water industry grouping because each felt that their affiliations were not advancing their leadership agendas. Wessex’s move subsequently triggered the dissolution of the existing association and the formation of Water UK as a more positive, outward-looking face of the industry.

### speaking out

Responsible business engagement in public policy is not just about bringing an end to negative lobbying on environmental policy. It is about crossing the assumed barrier between business and public interest.

Responsible businesses should send out positive signals that business is capable of translating policies into opportunity, rather than resisting them as a threat. This is what is required to enable government to create the business case for sustainability that companies rightly say they need.

**“It is about crossing the assumed barrier between business and public interest”**

Here, too, positive examples are rare. An exception to the rule is BP, whose senior advisor

Charles Nicholson told the Environment Select Committee of the House of Commons in April 1999 that the company believed taxes such as the climate change levy could play a part in achieving climate change targets. He insisted: “If we start addressing the issue now we will come up with better solutions than if we wait”. BP’s endorsement of the levy was a significant factor in the Government’s decision to push ahead with it, despite vitriolic opposition from the CBI and other trade associations. John Browne, CEO of BP, said this year “We need the help of governments to establish the appropriate framework of incentives to move toward climate stabilisation”.<sup>61</sup> Shell put an ‘advertorial’ in EU Parliament magazine in June 2002 calling on governments to support mandatory emissions trading with absolute emission caps.

### letter to The Independent, 16 September 2002

#### Shell urges government to support renewable energy

“Shell has warned the Government that new tax and planning policies must be put in place if the country is to make the transition towards renewable energy. In its submission to the Department of Trade and Industry’s Energy Review, Shell threw its weight behind a target suggested by the Government’s think-tank, the Performance and Innovation Unit, that renewable sources should provide 20 per cent of our energy needs by 2020.”

At an auto industry summit in Paris in October 2002, the heads of thirteen car companies called for policy measures to increase demand for cleaner fuels and make them more widely available. Ford has lobbied for higher

gasoline taxes in the US, as reported in the company’s 1999 Corporate Citizenship Report. Electrolux publicly endorses the need for individual producer

responsibility for electrical goods, something that industry colleagues have lobbied fiercely against. Biffa, the UK-based waste-management branch of Severn Trent, speaks out in favour of banning hazardous waste disposal at landfill sites.

The company produced a report in January 2000, *A Question of Balance*, in which it promotes the concept of producer responsibility, and encourages government to use economic instruments to reduce the volume of solid waste produced by society.

“Electrolux publicly endorses the need for individual producer responsibility for electrical goods”

### letter to the Daily Telegraph, 8 November 2001

“Sir,

The CBI’s boss, Digby Jones, seems to pay more attention to the vested interests of big British polluters, than to future generations (Business News, 6 November). Its constant attempts to undermine the climate change levy are indicative of a lack of focus on the world’s most serious environmental problem.

“Mr Jones believes that the Government is ‘in thrall’ to the environmental lobby. The CBI is in thrall to the big polluters, who would rather shirk their responsibilities on climate change. Rather than an annual attempt to whittle down the responsibilities that business faces, Digby Jones should be championing a visionary approach to corporate responsibility.”

**Anita Roddick, The Body Shop**

### progressive alliances

How can leading companies and policy-makers engage to drive forward new public policy that harnesses the business opportunities in sustainable development? There is real potential for linking up with like-minded pressure groups and other businesses to push a common position. The role of progressive alliances, guided by independent secretariats with a long-term mandate and broad perspective, is becoming ever more salient.

In the lead-up to the Gothenburg Summit on Sustainable Development in 2001, a group of companies including Ikea, Poseidon, the Scandinavian Leisure Group, Body Shop and Voerman International, founded ‘Respect Table – a business leader initiative for a corporate social and environmental responsibility’. They issued a Draft for a New Vision for Business in Europe, which addresses the policy dimension of the

business responsibility challenge with unprecedented clarity.

### Draft for a New Vision for Business in Europe

We feel that it is urgent for business leaders to come together and push the policy agenda in a proactive direction. Governments need to change the incentive structures so that acting in an environmentally responsible way carries positive economic awards. Economic incentives (ie prices) must work in line with sustainability — not against it.

The aim of this draft and follow-up work is also to inspire political governance that enhances sustainable development. We strongly support governments who develop guidelines and a framework within which socially and environmentally proactive business can succeed.

We want to be proactive for several reasons:

It makes us better prepared to meet future more stringent regulation.

It is in line with expectations of proactive customers, a market segment that is growing.

It is part of our core values as human beings and as business leaders”.

Through their *Business Leaders Initiative on Climate Change*, they have recommended ‘more stringent policy measures’ to the European Commission, giving senior management good opportunities for policy engagement, at the same time as ramping up corporate commitments and running development workshops to embed these throughout the company. Ongoing collaboration with the European Commission’s environment directorate helps enable Commissioner Wallström to make policy measures both challenging and business-friendly, while driving a virtuous circle in the participating businesses.

The UK Business Council for Sustainable Energy (UKBCSE) is another example of a positive alliance. It was created by energy companies from all stages of the supply chain, currently Innogy, BP, Shell UK, Powergen, National Grid Transco, United Utilities, Scottish and Southern Energy and Scottish Power, who felt ill-served by the constrained focus of their respective trade associations. They wanted to articulate a credible and effective voice on the policy-led transition to a low-carbon economy. Their motivation helps ensure that the Council can achieve consensus between companies on an agenda that is challenging. The UKBCSE worked alongside NGOs in the lead-in to the Energy White Paper to promote the policies, investment and commitment needed to secure market growth and sustain long-term business planning for sustainable energy.

The Portland Group is a self-regulating organisation set up by large alcohol companies concerned about the implications of alcohol-

related social problems for their long-term license to operate. The Group acts as an intermediary with government on public policy issues relating to alcohol, and is challenging in its recommendations, by contrast with the sector-specific trade associations, which continue to take a defensive stance.

### joint advocacy

Joint advocacy between leading companies and NGOs, think-tanks or public sector organisations helps break down some of the perceived polarisation between business interest and social benefit. Using the media to convey shared messages of support for challenging policy proposals enables government to advance these with less fear of being branded as anti-business. The association with NGOs boosts public confidence in the integrity of companies when it comes to CSR. In 2002, as the Treasury were about to publish a strategy paper on the use of taxation for environment, Severn Trent joined with Green Alliance and WWF-UK in advocating an increased role for environmental taxation – and in Brussels, NGOs and leading companies have teamed up to show their support for legislation on recycling electrical and electronic equipment.

### sector sustainability

Within trade associations, too, there are encouraging signs. The Pioneers Group, sponsored by the DTI, consists of over twenty associations which aim to develop and implement sector sustainability strategies. According to the

Sustainable Development Commission, which has published self-assessment guidance for the Pioneers, these strategies should provide business sectors with a framework to identify threats to the sector from unsustainable practices, and opportunities for the sector to benefit from more sustainable ways of working. This horizon scanning for opportunities is crucial if the strategies are to help steer members in a direction that will sustain the sector's license to operate.

So far, though, these strategies are lacking in one important respect. A link has yet to be made between the sustainability strategies and what is, after all, the main function of trade associations: representation to government on policies that affect the sector. This risks sector sustainability becoming no more than gesture politics - the Aluminium Federation are proclaiming themselves 'the first ever Carbon Neutral Trade Association'

#### Letter to The Guardian, 3 October 2002

##### **Business lead for Labour**

"As the Labour party today discusses future environment policy, a group of MEPs and member state representatives are negotiating in Brussels the future of electrical and electronic waste in the EU. Despite the UK government's best intentions, there is a real concern among progressive businesses and leading environmental organisations that they are in danger of missing a golden opportunity to encourage the best environmental standards.

"Unlike in other areas of environmental policy, the UK government appears to be moving away from the recognised principle of 'the polluter pays', instead arguing for a policy of collective rather than individual producer responsibility. Such a policy would not encourage companies to adopt greener designs in the future and would leave the market open to rogue companies to act as free riders bearing no responsibility for the waste they are creating.

"We urge the government to accept the will of the European Parliament and the large majority of other member states and accept that individual producer responsibility is the only true policy that represents a sustainable future."

##### **Steve Dowdle, Managing Director, Sony UK**

And on behalf of: American Electronics Association, Electrolux, European Environmental Bureau, Friends of the Earth, Gillette, Hewlett-Packard, Intel, Japanese Business Council Europe, Philips

despite vigorous lobbying against the climate change levy.

### **finding middle ground**

One possible prototype for a ‘safe’ forum, enabling constructive debate between leading companies, policy-makers and NGOs on the effective use of public policy to drive responsible business practice forward, is provided by the Centre for Management of Environmental Resources at INSEAD, the international business school. The Centre hosts discussions of the business and trade implications of upcoming environmental regulations and policies with business, government, academic and NGO participants. The events seek to “encourage informal off-the-record debate and go beyond the ritual exchange of pre-defined lobby positions”. A recent event enabled off-the-record discussion of the potential of REACH to drive innovative solutions to chemicals management.

Forming new alliances to forge constructive approaches to policy; daring to speak out when an industry association is taking a negative stance – signs are beginning to emerge of a new, more constructive approach to public policy. But this is still the exception, not the rule. The importance of good policy, for environmental improvement and business innovation, means that government and companies alike must break away from old habits. In the final section, we set out the role that each actor – government, trade associations and leading companies – could play.

# the new imperatives

All parties have an important role to play in developing new approaches to public policy issues. Here we present a vision for the way forward, and specific recommendations for action by government, trade associations and leading companies.

All actors in the policy making process should work on the principle of a presumption in favour of disclosure and transparency on all lobbying, meetings and submissions. Green Alliance, in conjunction with Forum for the Future, the New Economics Foundation, SustainAbility, WWF-UK and Greenpeace, will be asking Chief Executives to confirm whether their company can adhere to the recommendations set out for leading companies below, and will be reviewing progress against these recommendations in a year's time.

## **governing change**

Governments must display consistent leadership and firmness of purpose if they are to convince business to invest in cost-effective innovations, rather than rearguard actions to fend off change. Environmental policies and the principles behind them should be signalled well in advance, and then kept to. More confidence is needed to use well-designed regulation to drive innovation, especially

in manufacturing. This will involve a necessary scepticism about special pleading by firms and trade associations for exemption on competitiveness and jobs grounds.

Consultation processes should proactively enlist the voices of a representative range of business sectors. Paper-based consultation does not permit different stakeholders to come together and work jointly on solutions. There is no incentive to leave entrenched positions behind, because respondents are not tasked with finding the solutions. Working seminars, involving policy-makers, businesses and NGOs, would be more amenable to exploring the detail of policy design. Organisations should be encouraged to leave their branding behind and focus on optimising the economic outcomes of sustainable development policy without compromising its goals.

Government should change the rules and incentives under which trade associations operate, so that they can articulate a more forward-thinking vision and are not bound by the views of their slowest members. The need to canvass for members under a voluntary membership system is a strong

**“Government should change the rules and incentives under which trade associations operate”**

constraint on the ability of associations to challenge their membership and bring the sector forwards.

#### Recommendations for the UK Government

- Create policy through working actively with all parts of industry. Seek out the views of innovative companies who are likely to gain from well-designed regulation, rather than relying on trade associations to be the ‘voice of business’.
- Consider making membership of trade associations compulsory, and placing a strict limit on the number of associations per sector. This would guarantee associations the resources they need to play a constructive role in advising government on policy, and would remove the incentive to present progressive policies as threats, to help sell membership.
- Ask trade associations to produce Sector Sustainability Strategies and report annually on how these align with their lobbying work. Make it clear that poor voluntary response would result in regulation. The DTI should work with the Trade Association Forum to disseminate best practice through seminars and workshops.
- Establish a fund for independent, retrospective evaluation of the impact of different types of social and environmental policy. This data is urgently needed to supply an evidence-base to the policy-making process, and diminish the

strategic use of speculative business impact scenarios.

- Ensure that economic appraisal reports incorporate a description of the information that will need to be collected to enable a retrospective evaluation of the policy to be undertaken at a later date. They should also include a sensitivity analysis showing the effects of changing key assumptions. These recommendations were made by the Royal Commission on Environmental Pollution in 1998, and have not yet been acted on<sup>62</sup>.
- Publish an audit trail, documenting all the considerations taken into account in reaching a decision on environmental and social policy, and how they were taken into account.
- Ensure that the principles and practical guidance developed by the Operating and Financial Review (OFR) Working Group on what is ‘material’ information for reporting in OFRs includes the nature of company engagement in policy issues that will affect future company performance and direction.

#### credible representation

Trade associations should work with government in optimising environmental and social policy, rather than attempting to block or undermine it. Innovation and Growth Team reports have identified the importance of innovation and reputation for the future prospects of key industry sectors. Trade associations need to

do more to build sector credibility with government and consumers. This will come from seeking to represent the leading edge rather than just the ‘squeaky wheels’. Resources traditionally diverted into fighting funds against regulation should be used to form a repository of best practice for small and medium-sized enterprises, whose thinking is typically well behind that of larger firms on sustainability issues.

#### Recommendations for trade associations

- Develop Sector Sustainability Strategies. As recommended by the Sustainable Development Commission, Strategies should provide business sectors with a framework to identify threats to the sector from unsustainable practices, and opportunities for the sector to benefit from more sustainable ways of working.
- Report annually on how lobbying positions have aligned with the Sector Sustainability Strategy.
- Disclose what practices exist to get ‘sign-off’ from members for the positions taken on proposed policy.
- Pull in the services of high level strategic thinkers from member companies for representation and policy development purposes, as recommended by the DTI ‘best practice for a model trade association’.

#### setting the agenda

Leading companies need to move beyond voluntary initiatives, to engage constructively with governments and pressure groups in framing market-based environmental regulation that fosters innovation. Sunoco Corporation has enhanced consistency and alignment within its public policy and sustainable development commitments by appointing a Vice-President of Health, Environment and Safety and Public Policy. The two functions run side-by-side thus minimising the likelihood of inconsistent messages.

Investors should be asking about the nature of companies’ engagement in policy issues that will affect future company performance and direction. The Carbon Disclosure Project and the Institutional Investors’ Group on Climate Change (IIGCC) encourage investee companies to assess their exposure to both the risks and the opportunities associated with climate change. The aim is for these companies to take appropriate action and report to shareholders on this issue. The risks and opportunities associated with obstructive or positive engagement in climate change policy should be appraised as part of this process.

**“Investors should be asking about the nature of companies’ engagement in policy issues”**

### Recommendations for companies (of significant economic size)

- Disclose in sustainability reports the lobbying positions an organisation takes on key public policy issues, in line with the recommendations of the ACCA Sustainability Reporting Award judges.<sup>63</sup>
- Publish on the company website:
  - affiliations to trade associations and other alliances
  - the company position in relation to its trade associations where there are significant discrepancies with company CSR policy
  - all consultation submissions
  - the policy positions advocated on environmental and social issues material to the core business, with a justification of their definition of materiality
- Ensure government affairs teams are trained to use company CSR policy and understand its policy implications using three generic principles:
  - Transparency – of policy positions and affiliations
  - Consistency – alignment of public policy positions with company values and CSR commitments
  - Opportunity - identifying opportunities to push for market advantage from higher environmental and social standards.

- If using political consultants for lobbying ensure that they are signatory to the Association of Professional Political Consultants lobbying code, and that they understand the policy implications of company CSR policy.

The recommendations above show what all large companies should be doing. However we would expect leading companies to go beyond this minimum, to consider the following best practice recommendations:

- State in consultation submissions how these comply with company CSR policy.
- Clarify the grounds on which the company engages in an association that is taking a public stance inconsistent with company CSR policy. What are they doing to change that stance?
- Align responsibility for public policy and sustainable development in one board-level position.
- Make the company's strategic thinkers available on trade association committees, or government advisory groups. Too often, delivery agents are sent, who are not empowered or briefed to push the corporate strategic view.
- Identify opportunities to publicly endorse policy proposals that reflect company CSR goals and will help generate the business case needed.

- Join or establish sector and cross-sector alliances that seek to evaluate the short and long-term business opportunities from evolving environmental and social policy debates, and to engage positively with government in generating the business case for sustainability.
- Identify opportunities for joint advocacy with NGOs to promote company CSR goals, or where there are potential business opportunities from raised environmental and social standards.

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## **The Private Life of Public Affairs** **by Simon Caulkin and Joanna Collins**

Business can and will innovate towards a cleaner, greener economy – but only if the market rewards it. Leading companies are calling on governments to show political leadership and put in place a market framework that rewards sustainability.

But why hasn't government done more to design market-friendly measures that would reward progressive businesses? Time and again, governments are cowed into taking the teeth out of social and environmental policies by the negative lobbying of corporate public affairs teams and trade associations.

In *The Private Life of Public Affairs*, Simon Caulkin and Joanna Collins examine why public affairs has not kept pace with corporate social responsibility, and the role that trade associations currently play in keeping demands on companies to a minimum. They argue that innovation will suffer if governments continue to accept scare stories and bad economics as 'the voice of business', and call on company leaders to affirm the integrity of their commitment to sustainability by being a positive voice for change.

ISBN 09531060 1 3

£10.00