

Environmental Reporting and Sustainability Reporting in Europe

An Overview of Mandatory Reporting Schemes in
The Netherlands and France

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Overview of Findings

In The Netherlands and in France companies are legally obliged to disclose annual environmental information. In this report, mainly three aspects are discussed regarding mandatory environmental reporting in both countries: The content and characteristics of the law, the implementation of the law, the success of the law. An overview of the results is given in the following:

The Netherlands

Content and characteristics of the law

- Statutory scheme established under an extension of the Environmental Management Act (Wet Milieu Beheer) in April 1997 and the Environmental Reporting Decree (Besluit Milieuverslaglegging), which entered into force in January 1999
- Certain categories of industry (by virtue of the criterion ‘serious adverse effects on the environment’, currently about 250 companies) have to produce two environmental reports, one to the public and one to the authorities
 - Government report:
 - ✧ Meant for licensing authorities (to evaluate environmental policy and for (inter-) national environmental reports and statistics)
 - ✧ Strict requirements and detailed rules on content (see Appendix I)
 - ✧ Tends to be more quantitative
 - Public report:
 - ✧ Information is available to public
 - ✧ Free-format
 - ✧ Popular summary of government report

Both reports should contain adverse effects on environment and measures for protection

Implementation of the law

- Use of guidelines from FO-Industry, VNO-NCW and SNM (GRI & EMAS little used)
- Quality of law: not clear regarding evaluation method of government report & content of public report)
- Quality of reports: government report: need to establish adequate measure- and recording system to improve reliability; public report: quality very differing
- Quality of implementation: by companies: insufficient concerning reliability of data (because of inadequate measure- and recording system); by competent authority: satisfaction (despite lack of evaluation norms)

Evaluation of the law

- Effect of law: hardly any improvement of promotion of environmental care systems, improved insight into environmental management and performances of companies
- Appreciation of law: general appreciation of report duty, drawbacks: time intensity, additional costs

France

Content and characteristics of the law

- Law on New Economic Regulation (Nouvelles Regulations Economiques – NRE) passed in May 2001, implementation in January 2002
- NRE designed to update France’s company law framework, environmental and social reporting only one issue among many

- Requires companies listed on the 'Premier Marché' to integrate environmental and social performance in annual reports, disclose on a range of sustainability issues (article 116, paragraph 4): employees, local community, international labor issues, environment (see appendix III)
- NRE provides baseline sustainability-reporting standards that French corporations can voluntarily build upon, leaves some flexibility on how to address issues, GRI can be used as a tool

Implementation of the law

- Quality of NRE: several concerns (no separate environmental report, no key environmental issues, too general & vague in several points...) and aspects missing (no specific indicators lead to a lack of harmonization & standardization, no defined validation process, no sanctions...)
- Quality of implementation by companies: not yet assessable, at present underdeveloped reporting efforts, a period of 3 years estimated to reach ideal reporting style (positive expectations)

Evaluation of law

- Expected effects:
- companies raise concern of social & environmental issues
 - openness & transparency of sustainability issues
 - mainstreaming & institutionalizing sustainability issues

Abbreviations

Part 1: The Netherlands

- CBS (Centraal Bureau voor de Statistiek) – Central Statistics Bureau
- EMAS – European Eco-Management and Audit Scheme
- E-MJV (elektronisch milieujaarverslag) – electronic annual environmental report
- FO-Industrie – Facilitating Organization for Industry
- RIVM (Rijksinstituut voor Volksgezondheid en Milieu) – National Institute for Public Health and the Environment
- SNM (Stichting Natuur en Milieu) – Dutch Society for Nature and Environment
- VNO-NCW – Confederation of Netherlands Industry and Employers
- VROM – Dutch Environment Ministry
- Wm (Wet Milieu Beheer) – Environmental Management Act
- Wvo – Surface Waters Act

Part 2: France

- ARESE – The Social and Environmental Rating Agency
- COB (Commission des Opérations de Bourse) – The French Stock Market Regulator
- HSE – Health, Safety and Environment
- NRE (Nouvelles Régulations Economiques) – NER (New Economic Regulations)

Environmental Reporting and Sustainability Reporting in Europe

Introduction

Worldwide there is a growing awareness of environmental issues. Since the Maastricht Treaty in 1992, the European Union declared that policies and activities must take account of the environment. This principle also includes companies' actions. During the last decade corporations have been implementing and advancing environmental protection initiatives. One way for companies to disclose information on their activities' environmental impacts and their conservation measures are environmental reports or sustainability reports.

In the European Union countries, environmental and sustainability reporting initiatives have been increasing recently. Some countries have even legally obliged their companies to publish reports. Two examples are The Netherlands and France. What are the characteristics and contents of the environmental reporting laws in these two countries? How have companies carried out their obligation and which effects does the law have in each of the two countries? **Is the environmental reporting law a success in The Netherlands and in France?**

This paper will discuss the situation of environmental reporting in The Netherlands and in France. Firstly, the environmental reporting laws of the two countries will be explained, their contents and characteristics. Secondly, the implementation of the laws will be analyzed. And thirdly, the success of the laws will be evaluated, followed by a short conclusion.

1. Environmental Reporting in The Netherlands

1.1 The Law on Environmental Reporting

Environmental reporting in The Netherlands is characterized by the principle that “companies should assume responsibility for reducing the impact their activities have on the environment”. (Driehuis, 2001) The system is characterized by a combination of voluntary agreements and statutory requirements. Those companies required to report annually, have to publish two kinds of reports: a government and a public report.

In order to present the environmental reporting regime in The Netherlands, the following points will be treated:

1. The legal framework;
2. The companies affected by the law;
3. The government report;
4. The public report;
5. The users of the reports.

1.1.1 The legal framework

The legal framework in The Netherlands consists of two main regulations:

- 1) **An Act of Parliament dated 10 April 1997 to extend the Environmental Management Act (Wet Milieu Beheer - Wm).** The Environmental Management Act entered into force in March 1993 and introduced an integrated approach to environmental issues in the Netherlands, taking into account the interrelationships between all the different aspects of the environment. So far it was the main Dutch environmental act. With extending the act, the “desirability of establishing a unified scheme for environmental reporting by certain categories of enterprises” (Van der Molen, 1999) should be met. A new Title 12.1 entitled ‘The Environmental Report’ was added. In the Wm Title 12 it has been set out that companies have to establish a government report annually before 1 April and submit it to the competent authority (province, water quality administrator, environment ministry (VROM) and the Realm Institute for Integrated Drinking Water Management and Effluent Treatment (RIZA)). Additionally, companies have to publish a public report before 1 July.

2) A second important cornerstone is the Environmental Reporting Decree (Besluit Milieueverslaglegging), which was enforced from 1 January 1999 and which is based on the Wm. It requires statutory reporting for a limited number of companies, whose activities have “serious adverse effects on the environment”. (Driehuis, 2001) In the Environmental Reporting Decree it is further developed what this reporting obligation implies and it has been indicated in appendix I for which categories of companies this applies. Based on Article 19.7 of the Environmental Management Law, companies can commit requests to the competent authority to stipulate company sensitive information in the government report as confidentially.

1.1.2 Companies affected by the law

Companies affected by the annual environmental reporting law in The Netherlands mostly operate in the chemical, steel, electricity, oil, textile, paper industry, etc. As mentioned in the Environmental Reporting Decree, those companies are reporting required, whose activities were identified to have “serious adverse effects on the environment”. At present, about 260 Dutch companies are legally obliged to yearly publish environmental reports.

Moreover, there are about 600 companies, which have agreed with the government to submit an annual environmental report each year. These negotiated agreements are called ‘covenants’ (covenants). Those companies, which have been involved in 11 so-called target group agreements environment & industry, have accepted to report. In these covenants it has been agreed among others that the concerned companies make an annual report to inform about the results of the negotiated agreement. Approximately 150 of the 600 covenant companies also fall under the report duty.

One of the intentions of implementing an environmental reporting law was the promotion of introducing environmental management systems. Another reason was to increase the accountability of companies. Furthermore, various environmental reporting formats should be integrated to reduce the workload of reporting companies.

1.1.3 The government report

The reporting required companies have to publish two kinds of environmental reports: The government report and the public report. The government report should be published before 1 April of the year and is intended for provincial and licensing authorities, which use these reports to ensure compliance with the legislation and to monitor the implementation of the national environmental policy. It is also utilized for statistics and to meet international reporting obligations. (Driehuis, 2001 & VROM, 2003)

In general, the government report tends to be more quantitative and there exist strict

requirements and detailed rules on the content. Section 12.1 of the Act extending the Environmental Management Act gives general requirements on the content of the government report. It shall include data concerning the adverse effects on the environment in the reporting year, as well as the technical, organizational and administrative measures taken and facilities installed in order to protect the environment. Furthermore, the developments shall be reported, which can reasonably be expected in the succeeding reporting year. Annex 2 of the Environmental Reporting Decree gives a detailed overview of subjects to be treated and associated data to be given (see Appendix I of this paper).

According to the administration and enforcement: The companies are obliged to submit the government report to the licensing authority. The coordinating competent authority administers a centralized database where the information is shared among the various agencies involved in monitoring and enforcement. (IIIEE, 2002)¹ A performance bond as an administrative sanction is due if companies fail to comply with the obligations arising from this decree. (IIIEE, 2002)

1.1.4 The public report

In addition to the government report, companies also have to publish a public report each year before 1 July. According to the public report, companies are given more flexibility; it is free-format. The Act Extending the Environmental Management Act (Wet Milieu Beheer) gives only broad requirements, which say that the report should contain an overall description of information about the nature of the company and its activities and processes. Furthermore, a summary of the quantitative data of the adverse effects on the environment of the companies' activities should be given. Moreover, measures to protect the environment should be reported. The report shall also provide information on the main changes that have taken place in the reporting year in relation to the previous year as well as information about developments that may reasonably be expected in the next reporting year. (Van der Molen, 1999)

All information of the public reports is available to interested parties on demand. The public report is meant for interested citizens, interest groups, customers and the own employees, for example. (VROM, 2003) The information are made available to any person for inspection, equally any person will be able to request a copy of that report. A company is exempted from making a public report, if it issues an annual environmental statement based on EMAS. (IIIEE, 2002) In general it can be said that the public report is a popular summary of the government report.

¹ International Institute for Industrial Environmental Economics,
http://www.enviroreporting.com/others/cer_europe.pdf

1.1.5 The report users

The competent authority uses the data from the annual environmental report to follow the environmental performances of companies and to guarantee the local environment quality.

- The Realm – VROM (Environment Ministry) and Rijkswaterstaat (realm water state) - uses the figures to evaluate the national environment policy.
- TNO², the Realm Institute for Public Health and Environment (RIVM) and the Central Office for Statistics (CBS) use the data from the annual environmental report for national and European environment reports. Among these reports are the environment balance (an analysis of the Dutch environment situation of the RIVM) and waste- and energy statistics.
- The Realm Institute for Integrated Drinking Water Management and Effluent Treatment (RIZA) uses data from the annual environmental reports for accounts concerning water.
- The VROM-Inspection uses figures from the reports for the Emission Monitor, the European emission register of polluting substances (EPER), the Kyoto Protocol and the Treaty on cross-border air pollution concerning long distance of the European Economic Commission of the UN (UN/ECE).

The data of the 'convenanten' (negotiated agreements) are used to follow the progress of the environmental efforts of the companies. On the basis of these reports (by sector of industry) an annual report is established.

1.1.6 Summary

To summarize, Dutch companies, which fall under the category to produce 'serious adverse effects on the environment', are legally obliged to yearly publish a government report as well as a public report of their environmental performance. For a comparison of the government report and the public report, a summary table is given in Appendix II. Sanctions are due if a reporting required company fails to submit a report. In addition to the statutory report requirement, companies in the Netherlands have voluntary agreements with the government to submit an annual report each year.

² TNO is a knowledge organization for companies, government bodies and public organizations.
http://www.tno.nl/en/about_us/index.html

1.2 The Implementation of the Law

The Dutch Environment Ministry (VROM) has carried out an evaluation of the annual environmental report law. Among others, the implementation of the law is assessed. In order to evaluate the realization of the law, the quality of the legislation and the quality of the two kinds of reports (government and public report) are examined. Furthermore, the quality of the implementation by the companies and by the competent authority (province, water quality administrator, environment ministry (VROM) and the Realm Institute for Integrated Drinking Water Management and Effluent Treatment (RIZA)) are of interest.

1.2.1 The Quality of the Legislation

Regarding the quality of the legislation, the following results can be observed: Approximately two thirds of both the questioned companies and the competent authority find that there is no unclarity in the legislation and the associated directives for the drawing up of the government and public reports. However, the companies, which find the legislation unclear, consider the format of the waste products, air emissions and energy and calculation methods and '*omstoffen*' (substances) as most striking points. The competent authority calls evaluation norms for substantive tests and validation as most important omissions, in particular the lack of a procedure for the acceptance or non-acceptance of the reports.

The interviewed stakeholders are informed about the legislation to a limited extent. Interviewed stakeholders, who work with the government report, make recommendations concerning the validation by the competent authority. The interviewed stakeholders, who work with the public report, recommend incorporating directives in the law on the contents of the public report.

So it can be concluded, that although the majority of companies and competent authorities are content with the legislation, omissions are mainly claimed concerning the validation method of the government reports and regarding the content of the public report.

1.2.2 The Quality of the Reports

Concerning the quality of the government reports, the following observations were made: Between 15% and 20% of the government reports have been disapproved by the competent authority. The competent authority provides comment on nearly all government reports. The subjects on which these comments are based are numerous. Frequently comments are given on the components water, air emissions, on the descriptive part and in more general on lacking or wrongly filled in data.

The majority (9) of the provinces find that government reports are arranged as a basis

for the national emission registration. The other provinces (4) and also interviewed stakeholders think that firstly the reliability must be improved, before the data can serve for other reports, like for the EU. A good validation method would have to be set up firstly.

Regarding the public reports no formal quality procession takes place. About one third of the companies have sometimes received questions or comments on the public report. These questions were among other things concerning the reliability of the figures and durable undertakings. A research of SNM (Dutch Society for Nature and Environment) and a number of environment federations show that there is still a lack of public reports obligation to the first generation. It has not come so far a complaint to the Environment Report Commission, concerning the contents of a public report. The interviewed stakeholders find in general the quality of public reports very differing, both concerning appearance (scope and design) as well as concerning content.

So it can be summarized, that the quality of the government reports still needs to be improved in order to provide reliable data for further reports. Concerning the public reports, not so much criticism has been made.

1.2.3 The Quality of the Implementation by the Companies

The VROM has also evaluated the quality of the implementation by the companies. 65% of the questioned companies carry out internal controls on the reliability and completeness of the data of the government report, mostly by internal audits, external audits, by means of measure- and recording systems. Half (53%) of the companies make firstly a concept report for the competent authority. Difficulties, which the companies indicate in the implementation, are: inadequate measure- and recording systems, indistinctness of the received comment by the competent authority and reliability of data. Problems, which the competent authority sees at the companies, are: inadequate measure- and recording systems, time pressure at the company and insufficient knowledge at the company. 87% of the government reports over the year 2001 have been supplied on time (before 1 April).

At the drawing up of the public report the most companies make use of the work folder of the government report and the format of the FO-Industrie (Facilitating Organization for Industry). Also the brochure of VNO-NCW (Confederation of Netherlands Industry and Employers) and SNM (Dutch Society for Nature and Environment) are much used. The GRI-directives (Global Reporting Initiative) and EMAS-directives (European Eco-Management and Audit Scheme) are little used. The public report is announced in several manners; in almost half of the cases this occurs by means of a regional newspaper, in a quarter of the cases by house-to-house leaflets. Also the Internet is used, mostly by large companies. Direct sending to interviewed stakeholders happens often, especially by large companies. 69% of the public reports have been published on time (before 1 July).

So it can be summed up, that the quality of the implementation by the companies is insufficient concerning the reliability of the data. The basic reason for this insufficiency is probably grounded in inadequate measure- and recording systems.

1.2.4 The Quality of the Implementation by the Competent Authority

Concerning the quality of the implementation by the competent authority, the VROM's evaluation gave the following results: The provinces handle the validation of the government report differently. Half of the competent agencies find the evaluation norms for testing and validation from the legislation insufficient. Largely half of the provinces have established an internal procedure for testing and validation. In most of the provinces, the main principles of the standard evaluation letter are followed at the validation. In less than half of the cases a common appraisal letter is sent. In other cases it happens that the letter of the water quality administrator has been added as an appendix. Nevertheless, approximately half of the competent agencies find the coordination (Wm and Wvo) worked well. Problems in cooperation lie in general in the field of time- and capacity lack and in personal differences in commitment and harmonization.

75% of the reports are assessed on time (within two months). 4 provinces are with all reports on time. The delivery at FO-Industrie (two weeks after 1 June) is in half of the cases on time. 7 provinces are thereby with all reports on time. The competent authority is busy with the government report approximately 39 hours on average per company.

61% (92) of the companies are (very) satisfied concerning the role of the Wm competent authority, 53% (81) are (very) satisfied concerning the role of the Wvo competent authority at the government report. More than half of the competent authority is (very) satisfied concerning its own function. The provinces are generally satisfied concerning the communication with the companies. Interviewed stakeholders, who work with the competent authority (CBS – Central Statistics Bureau, RIVM – National Institute for Public Health and the Environment, FO-Industrie – Facilitating Organization for Industry), are in general satisfied concerning the internal process and cooperation. From RIVM, however, there is dissatisfaction concerning the passage from emission registration to the report duty.

In general it can be concluded, that the provinces, the companies, the interviewed stakeholder, as well as the competent authority itself are satisfied with the quality of implementation by the competent authority. This result was observed in spite of the lack of evaluation norms.

1.2.5 Summary

Regarding the implementation of the annual environmental reporting law, the following can be concluded: The quality of the legislation is mostly appreciated by the companies, as well as by the competent authority. However, some important omissions are observed, which should be improved.

Regarding the quality of the government report, most of the provinces are satisfied, however about one third of the provinces see a need for improvement to increase reliability. The quality of the public reports also needs to be enhanced, even though the requirements are less strict there.

With regard to the implementation by companies, there exist several difficulties with the government report. However, publication is mostly on time. In general, guidelines are used for the public report.

Concerning the quality of implementation by the competent authority there are insufficiencies observed with regard to the validation of the reports. Overall it can be said, that there is a need of improvement in several respects.

1.3 The Evaluation of the Law

In order to evaluate the Dutch annual environmental reporting obligation, there are several aspects to consider. The Dutch Environment Ministry (VROM) has carried out research about the effects of the implementation of the law and regarding the appreciation of the legal report duty. Furthermore, improvements of the annual environmental reports were investigated.

1.3.1 The Effects of the Implementation of the Law

Research of the effects of the implementation of the law has resulted in the succeeding observations: Regarding the promotion of company-internal environment care and measure- and recording systems, the different parties report the following effects: About one quarter (26%) of the Dutch companies see a relation between the report duty and the (accelerated) introduction of (one of) these systems. However, most companies see no link. And the competent authority hardly sees a relation between the report duty and the promotion of environmental care systems and a restricted relation between the report duty and measure- and recording systems.

Half of the provinces believe that the report duty has conducted to a better insight in the management and in the environmental relevance of a company. The interviewed stakeholders see particularly an improved insight in the environment performances of the companies. For the government report the numerical part of the format is relatively fully completed. The competent authority confirms this. For the public report the degree of completeness is assessed with difficulty.

So it can be concluded that in general hardly any relation is seen between the report duty and the promotion of environment care systems. As positive effect of the law improved insight into environmental management and performances of companies is stated.

1.3.2 The Appreciation of the Law

In order to examine the appreciation of the legal report duty, different parties' (companies, competent authority, stakeholders) opinions should be regarded. Also the view regarding side effects should be observed as well as the degree of satisfaction concerning the implementation.

Regarding the appreciation of the legal report duty, the subsequent results were achieved: According to the government report, nearly three quarters (74%) of the questioned companies call advantages of making a government report (among other things: improve insight in environmental tax, less reports). 87% call disadvantages (among other things: time, costs, format). The competent authority appreciates obliged government reports compared to not reporting required companies (among other things:

more completeness, better overview, easier to compare). They see, however, little difference with a mutual agreement firm, which use the same format (only with respect to time). Two thirds of the questioned companies (67%) appreciate the obligatory government report compared to individual reports (among other things: one document, more synoptically). 30% do not appreciate individual reports. The competent authority, however, sees advantages (among other things: clearness, integration, streamlining, insight).

With respect to the public report, two thirds (66%) of the questioned companies call advantages of making a public report (among other things: conduct dialogue, good justification, better realization). 32% find that there are no advantages and 73% call also disadvantages (among other things: time, costs, no interest). 26% see no disadvantages. Approximately half of the companies would continue to make a public report also if that was not obliged. 17% say that perhaps they would do this and 28% deny this.

A broad scale of side effects of the legal duty is called. 59% of the questioned companies see positive side effects: more insight in environmental tax, mutual comparability, realization, more insight. Half of the companies see a negative impact: it costs time, money and administrative bustle. The competent authority sees as a positive side effect among other things: better dialogue with companies, better planning and structural contact. The competent authority considers as a most important negative side effect that it produces more work. The largest part of the interviewed stakeholders sees no clear side effects of the report duty.

The degree of satisfaction concerning the implementation can be described as follows: 63% of the companies are satisfied to very satisfied concerning the role of the competent authority regarding the government report. Concerning the Wm competent authority the companies have a somewhat more positive impression than concerning Wvo competent authority. 7 of the 13 provinces are satisfied to very satisfied concerning their own function. Reasons for dissatisfaction are time pressure, according to work within and between the competent agencies, lack for structure, differences in execution between Wvo and Wm competent authority and automation/administration. The provinces are generally satisfied concerning the communication with the companies. Also interviewed stakeholders, which have to do with the competent authority (CBS, RIVM, Fo-Industrie), are in general satisfied concerning the internal process and concerning cooperation. From RIVM, however, there is dissatisfaction concerning the transition from emission recording to the report duty (emission registration more detailed, more companies take part).

To sum up, most parties (companies, competent authority, stakeholders) appreciate the report duty, however, many disadvantages are seen as well. Among the mostly stated drawbacks are time intensity and resulting costs.

1.3.3 Improvements of the Annual Environmental Reports

The Dutch Environment Ministry (VROM) has made quality investigations of yearly environmental reports in 1999 and in 2000. The results were that the quality of the environmental reports is insufficient. The concerned authorities are therefore working at improvements of the environmental reports. One important step is the electronic environmental report. The authorities also try to improve the validity by implementing the Action Plan Environmental Report Legislation 2002 – 2005. The VROM inspection yearly controls, if activities are realized and if consequently better environmental reports are published.

According to the development of the government report after 2002, the following observations were made: The content of the government report is both adjusted to international report requirements and to wishes of users with an eye on developing an electronic annual environmental report (e-MJV). The government report is adjusted in the following components:

- The disposal products report is more simple;
- The air module is separated into a report of combustion emissions and process emissions to fulfill international standards;
- Energy reports are sent with the environmental annual report
- For new firms a report over the solvent decision is added.

The e-MJV (electronic annual environmental report) will be implemented in 2004. With the e-MJV, companies can submit their environmental data via Internet or per modem. The government uses the same system to control the data. Comparisons and developments will be easier to observe by this system.

1.3.4 Summary

To sum up, it is difficult to call the Dutch annual environmental reporting law a success. Mostly no links are seen between the implementation of the law and the promotion of environmental care systems, which was one of the main intentions of the law.

The affected parties can see positive aspects concerning the report duty. Mostly stated are improvements concerning the insight in the environmental management and performance of companies. The majority of companies, however, regard disadvantages connected to the legal report duty, mainly time and costs.

So it can be concluded that the Dutch annual environmental reporting law still needs to be improved to become a success. Important aspects should be to increase the reliability of the data, which could be reached by appropriate measure- and recording systems. In addition, the time needed and the connected costs have to be reduced. So the introduction of electronic reporting could be a good solution to minimize these effects.

2. Environmental Reporting in France

2.1 The Law on Environmental Reporting

In the field of environmental and corporate sustainability reporting, French companies did not have a good reputation of social and environmental disclosure compared to many other European and American corporations. All that is about to change with the newly amended *Nouvelles Régulations Economiques* – NRE (New Economic Regulations - NER), a French law that will require all nationally listed corporations in France to report to shareholders and stakeholders on a range of sustainability issues - including the environment, employees, the local community and international labor issues. The French Law on New Economic Regulations aims at adding an “ethical” aspect to economic activities by French companies and it was designed to update France’s company law framework.

As the Law was implemented in January 2002, it is not possible yet to comment on the success of the law. At this point in time it is also difficult to evaluate the implementation of companies. However, some expectations have been formulated by The Social and Environmental Rating Agency (ARESE)³, which might give some ideas of the quality of implementation and the final effects of the law.

In order to present the environmental reporting regulations in France, the following points will be discussed in section 1 of this chapter:

1. The legal framework;
2. The companies affected by the law;
3. The content of the law.

Paragraphs 2.2 and 2.3 will treat the implementation and the evaluation of the law respectively.

2.1.1 The Legal Framework

The Law on New Economic Regulations was adopted in May 2001 by the French parliament and came into force in January 2002, which means that it becomes effective for the fiscal year-end 2002. It was created to modernize France’s obsolete company law framework and its 144 articles mainly deal with financial issues (such as the transparency of take-over bids, improvement of corporate governance, strengthening of antitrust regulation, etc.).

³ See www.arese-sa.com.

The regulation for environmental and sustainability reporting, which is an innovative introduction in the French legal regulations, is solely defined in Article 116, paragraph 4. There it is stated that corporations are obliged to disclose “information on the way in which the company takes into account the social and environmental consequences of its activity”.⁴ So, companies have the legal duty to disclose on social and environmental issues in the annual report and accounts.

The NRE put into law what was previously a voluntary and limited tradition of corporate sustainability reporting in France. The government developed a common approach to introduce new core social and environmental reporting. This new law was a response to a number of recent events, such as the strong increase in the number of mergers and acquisitions in France and a dispute between producers and super- and hypermarkets.

The NRE applies to French quoted companies at group level and integrates environmental and social performance (both quantitative and qualitative) in annual reports. It requires balanced reporting (good and bad news). The law leaves some flexibility on how to address issues and the guidelines of the Global Reporting Initiative (GRI) can be a useful tool in this. The law’s environmental indicators are based on OECD 10 environmental priorities.

The new law is intended to provide baseline sustainability-reporting standards that French corporations can voluntarily build upon. It is meant to institutionalize the concept of the “triple bottom line” (economic, environmental, and social performance) in French corporations, providing them with a competitive advantage against their European and international contemporaries.

According to the Minister of the Economy, the new legislation, which aims "to use the financial system to stimulate growth and create jobs", puts in place effective tools to regulate financial transactions, competition and companies, "in order to ensure transparency in financial transactions and a level playing field for the various actors in the economy". (European Industrial Relations Observatory, 2003)

To summarize, the NRE was designed to provide an updated basis for the French company law. Environmental and social reporting only plays a subordinate role and leaves the companies flexibility in how to address issues. France hopes to get a competitive advantage resulting from this law.

2.1.2 The Companies Affected by the Law

The law requires all French corporations listed on the “Premier Marché” to report on the social and environmental impacts of their activities. The law affects the companies

⁴ Translated from the Law of NRE Article 116.

of the “First Market”, those registered on the stock market with the largest market capitalization. In this regard, French legislators have opted for a stakeholder-centered and impact-based approach. In practice, all such listed companies will be required to report according to a number of social and environmental indicators starting from their 2003 annual report and accounts (for the 2002 financial year). The range of sustainability issues covers environment, employees, local community, and international labor issues.

The Commission des Opérations de Bourse – COB (the French stock market regulator) had previously encouraged French listed companies to disclose a certain amount of environmental information in their 2002 accounts. However, with the passing of the new decree in the French parliament in February 2001, all these companies will now be obliged to discuss their business’ social and environmental impact in their report.

2.1.3 The Content of the Law

The updated NRE introduces mandatory HSE (health, safety and environment) reporting for French corporations for the very first time. Corporations will be required to report on key HSE issues in the annual report and accounts, such as emissions to air, water and ground; consumption of energy, water and raw materials; the implementation of management systems (i.e. organization, functioning, programs and budget); compliance with mainstream standards of practice or certification; etc.

Information to be disclosed under the NRE are the following:

According to social issues, the proceeding points need to be discussed in yearly reports:

- Number of employees, new recruits, recruitment difficulties, redundancies and reasons for them, overtime hours worked;
- Working hours, absenteeism;
- Remuneration levels and policies, social responsibilities, equality policies;
- Professional relations and collective agreements;
- Health and safety conditions;
- Employee training;
- Community and charity work;
- Use of subcontractors.

Regarding environmental issues, companies need to report on the following aspects:

- Water, raw material and energy consumption, energy efficiency measures, the use of renewable energies, emissions;
- Measures that limit the company's impact on the environment;
- Details of any environmental evaluation and certification;
- Compliance with environmental regulation and legislation;
- Details of internal environment management services;
- Provisions to reduce environmental risk;
- Compensation payments awarded relating to environmental issues, action taken to redress the damage.

Details about the disclosure of quantitative and qualitative data of environmental issues are outlined in APPENDIX III. Companies are obliged to report on these aspects, however, they are given some flexibility in how they address these issues.

2.1.4 Summary

The Law on New Economic Regulations was only recently implemented (since the fiscal year 2002) in order to provide an update of France's antiquated company law framework. Among others, the law obliges all French companies listed on the "Premier Marché" to report on a number of social and environmental issues. The companies have to report on a number of social as well as environmental issues. The aspects to be included are required, however, companies are given some freedom in how they can address issues.

2.2 The Implementation of the Law

After having regarded the characteristics of the Law of the NRE in France, a look should be taken at the implementation of the law. As French companies have just for the first time put into practice the new social and environmental reporting obligation, it is difficult to comment on the quality of their execution. However, The Social and Environmental Rating Agency (ARESE) has formulated their opinion and expectations concerning the NRE. In this section the quality of the law and the quality of the implementation by the companies will be discussed, considering the ARESE's point of view.

2.2.1 The Quality of the Law

In section 2.1, the characteristics of the new law were outlined as well as the content. In general, the New Economic Regulations are seen very positively by the ARESE. However, there are some concerns regarding the quality of the law. The NRE:

- Are restricted to the annual report and accounts. There is no requirement to disclose in a separate, more comprehensive environment report, which might be more informative, particularly in high-impact industry sectors.
- Fail to address a number of key environmental issues (such as environmental impacts of corporation's products & services, transportation & logistics, environmental remediation of existing polluted sites, etc.
- Fail to address the specific environmental risks and challenges facing different industry sectors. For example, a bank / insurance company has the same requirements as an oil / gas company.
- Are vague as to the perimeters (geographical and otherwise) of the reporting requirement, (e.g. there is no clear regulation if subsidiaries, business partners, etc. are affected, too)

Although the ARESE appreciates that the NRE contribute to the progress with regard to environmental and sustainability reporting, some vital pieces are missing. The law falls short in several regards and areas, namely the following:

1. The law adopts a traditional stakeholder-impact based approach rather than a long-term oriented approach focused on anticipating and minimizing sustainability risks.
2. A number of stakeholders are not addressed (e.g. clients, consumers) as well as important sustainability issues such as human rights, bribery and corruption.
3. The law lacks clarity whether or not it applies across international operations of a corporation and whether it extends to key business partners in France and across the globe.
4. The law does not set out specific indicators by which a corporation must report on the relevant social and environmental issues. By failing to specify the indicators, the NRE might very well

fail in its aim to promote harmonization and standardization of sustainability reporting.

5. There is no defined process by which a company must audit or validate the newly required information and data.
6. There is no mention or indication of sanction(s) for failure to comply with the reporting requirements.

So there are several elements missing in the regulations, which leave room for amelioration of the quality of the law.

2.2.2 The Quality of the Implementation by the Companies

Until present, only around 50 of the 1000 listed French companies included a sustainability report in their annual reports. As some companies do not even have a sustainability policy or any basis on which to build a meaningful report, many companies will have to put lots of effort into these issues.

Thierry Raes, PricewaterhouseCoopers' global environmental services partner identifies as most problematic area of compliance, how to report on internal human resources issues and their wider impact on society. Furthermore, he is of the opinion that companies, which are not accustomed to reporting on their environmental performance, will find it difficult to go beyond the expected indicators relating to office waste and energy. The financial services sector is particularly behind in this area. (World Watch, 2002)

For the companies it will be extremely difficult to fulfill stakeholders' expectations with their reports. Raes estimates that companies will need a period of 3 years for development from the first sustainability report in 2003 until they can reach an ideal reporting style. "While the exact nature and scope of the actual reporting remains to be seen, there is little doubt that French corporations will report on the range of aforementioned issues." (ARESE, 2003)

2.2.3 Summary

Regarding the quality of the law, The Social and Environmental Rating Agency (ARESE) identified several concerns and missing points. Although the law is appreciated, there is still lots of room for amelioration of the regulation. The implementation by the companies cannot be observed yet, as sustainability reporting by most French companies is still in the fledgling stages. However, the ARESE expects positive developments and predicts that in about 3 years the way of reporting may fulfill the expectations concerning the law of NRE.

2.3 The Evaluation of the Law

In general, the passing of the NRE was welcomed. “For France, the NRE marks an important sustainability breakthrough, one that goes beyond the largely voluntary nature of public reporting that has been adopted by corporations to date.” (ARESE, 2003)

Sarij Nahal, the International Director of ARESE, states several effects the NRE will have according to her expectations:

- The NRE will play an important role in putting social and environmental issues on the French corporate agenda. The obligation of companies to tackle these issues will have the positive consequence that corporations develop the requisite capacities, management structures and systems to gather, disseminate and monitor the information and data required by the new law.
- The NRE will also play an important role in creating a new culture of openness and transparency on sustainability issues in French corporations. Many French corporations have long been critical of such efforts. The imposition of reporting requirements will however, have the effect of bringing about a change in this mindset and in institutionalizing the public accountability and responsibility of French corporations with regard to stakeholder issues.
- Finally, the NRE will play an important role in mainstreaming and institutionalizing sustainability issues beyond what is at present a relatively small range of interested parties. Not only will the NRE benefit stakeholders and existing socially responsible investors but it may also influence mainstream financial analysts, rating agencies and investment institutions.

While the new law is not without its flaws and remains a work in progress, the NRE is without a doubt one of the most important sustainability milestones in Europe or North America to date. For the first time on record, all listed corporations will have to publicly report on their triple bottom line – financial social and environmental - activities in both their annual and financial reports.

The NRE will play an important role in pushing corporations to act on sustainability issues and will help to facilitate the work of stakeholders and investors committed to promoting sustainability. The NRE can also ultimately serve as a reminder for national governments and the European Union that legislation - which has been largely ignored in the sustainability debate - can serve as a useful tool for creating consistent baseline minimum standards for corporate sustainability reporting.

Despite ARESE’s many concerns with the updated NRE, the new law is welcomed and

recognized as an important milestone in the promotion of corporate sustainability. Corporations will for the first time be obliged by law to disclose on their triple bottom lines in the annual report and accounts. The NRE is a legal obligation and not a comprehensive reporting system. So it should not be seen as GRI “à la française”. Nonetheless, the new NRE will play an integral role in mainstreaming sustainability issues in French corporations. It will also, hopefully, play an important role in pushing other governments, corporations and investors, to act on sustainability issues. In this regard, positive expectations exist according to the success of the French environmental reporting law.

Conclusion

This paper has given an overview of the environmental and sustainability reporting schemes in The Netherlands and in France. In both countries, companies are legally obliged to disclose annual environmental performance information. The aim of introducing such a mandatory reporting system in The Netherlands and in France was to increase companies' awareness and responsibility of the environmental effects of their activities.

In The Netherlands, the environmental reporting obligation was already implemented in 1997, by the extension of the Environmental Management Act, and was further developed in 1999, by the Environmental Reporting Decree. So the Dutch companies already have some years of experience with the mandatory environmental reporting scheme. This is not the case for France, where companies are obliged to disclose environmental data only since the fiscal year 2002. So it is not yet possible to judge, if the French New Economic Regulations are a success in this regard. Only predictions have been made, and although there were several insufficiencies identified, positive effects are expected resulting from the reporting obligation.

The Dutch mandatory reporting regime can be regarded as a success as it significantly increased the environmental awareness and the insight into the environmental performance of companies. However, the reporting law bears several disadvantages as well, among which the most important are additional time and costs. The introduction of an electronic reporting system could contribute to minimize the drawbacks and help the Dutch system to become a success.

APPENDIX I

Decree Annual Reports in the Netherlands⁵

1. In the government report the following data are at least mentioned:

- a. The name and SBI-code of the institution, and
- b. The name of the official who acts with respect to the government report for the competent authority as a contact person

2. In the treatment of subjects 1 to 14, the belonging data are incorporated as indicated in the table mentioned below.

3. In the treatment of subjects 1 to 7, data are given concerning:

- a. The in the report year taken measures and introduced provisions aimed at the reduction of the concerning environmental tax, and
- b. The in the following report year measures to take and provisions to introduce and the expected reductions of the concerning environmental tax.

4. In the treatment of subjects 8 to 11, data are given about the following report year concerning measures to take and provisions to introduce aiming at the reduction of the concerning environmental tax.

To Treat Subjects:	Associated Data Concerning:
1. Climate change	<ul style="list-style-type: none">- Usage and emissions to the air of substances which damage the ozone layer or reinforce the greenhouse impact,- Energy usage and improvement of energy efficiency
2. Acidification	Emissions to the air of souring substances
3. Distribution to air	Emissions to the air of: <ul style="list-style-type: none">- Substances or substance groups for which environment policy or environment policy

⁵ Translated from Dutch “Bijlage II. Behorende bij artikel 3, eerste lid, van het Besluit milieueverslaglegging”

	<p>objectives have been determined in the national environment policy plan or in the national environment program such as the money in the concerning report year,</p> <ul style="list-style-type: none"> - Substances or substance groups about which must be reported on the basis of a decision in Article 12.4, fourth paragraph, under c, of the law by the Dutch government
4. Distribution to surface water	<p>Direct and indirect discharging in the surface water of:</p> <ul style="list-style-type: none"> - Substances or substance groups for which environment policy or environment policy objectives have been determined in the Note of the Water Household, meant in Article 3 of the law on the water household, in the national environmental policy plan or in the national environment program such as the money in the concerning report year, - Substances or substance groups about which must be reported on the basis of a decision in Article 12.4, fourth paragraph, under c, of the law by the Dutch government
5. Fertilizers	<p>Direct and indirect discharging in the surface water of nitrogen and phosphorus</p>
6. Disposal	<ul style="list-style-type: none"> - Disposal from the planning of process dependent and process independent, non-dangerous waste products, - Disposal from the planning of waste products which are commented in the applying national environment policy plan or in the applying national environment program as priority waste product or as dangerous waste product, - Degree of reuse of the waste products - Processing of detritus within the institution by combustion, - Purification of effluent within the institution and management of thereby released purification silt.

7. Dry out	<ul style="list-style-type: none"> - Consumption and utilization of water, - Water assessment
8. Floor protection and floor cleansing	<p>In the report year:</p> <ul style="list-style-type: none"> - Carried out risk-analyses of floor polluting company activities, - Adopted and carried out floor protection measures, - Conducted inventorying investigation, - Conducted closer investigation, - Carried out cleansings
9. Disturbance by noise	<p>The progress in the report year of the implementation of possible necessary sound cleansing measures</p>
10. Disturbance by odor	<p>The progress in the report year of the implementation of possible necessary measures for described prevention and restriction of fragrance embarrassment in the NER, among other things aimed at satisfying the treatment of fragrance embarrassment</p>
11. External security	<p>The progress in the report year of the implementation of measures to prevent heavy accidents and to limit the consequences of it on people and environment, as far as those measures have been set out in or result from a security report as in Article 10 of the Decision dangers heavy accidents 1998 or appropriate CPR-directions, and have not been prescribed in the license on the basis of the Environment Management Law</p>
12. Company-internal environment care	<ul style="list-style-type: none"> - As far as there exists or is introduced an environment care system in the institution: <ul style="list-style-type: none"> - The progress in the report year of the further development respectively the setting-up of that system, among which fall possible internal and external audits and certification, and - The measures and provisions which are carried out in the following report year

	<p>concerning the environment care system,</p> <ul style="list-style-type: none"> - Advancement and functions in the report year of measure- and recording system, provided modifications in the following report year, - As far as it is operated in the institution for the ongoing improvement of the environment performances: the way in which interpretation is given to the ongoing improvement of the environment performances in the report year and in the following report year; - The realized and provided implementation and possible modifications of the company environment plan, energy policy plan and energy saving plan in the report year and in the following report year; newly formulated or other environmental policy intentions apart from the framework of one of those plans in the report year and in the following report year, - Incidents, significant jamming and other unusual occurrences and complaints and the settlement of this in the report year
13.Environment-relevant, external developments	Changes in the organization or the financial-economic situation of the institution or company to which the institution belongs or in the management in the report year, which has influenced the environmental tax, the environmental reglementation, or - as far as present - the environment care system
14. Environment licenses	<ul style="list-style-type: none"> - Data meant as linked in Article 3, seventh paragraph, concerning regulations over the report year, to the licenses on the basis of the Environment Management Law and the Law pollution upper level water (Wet verontreiniging oppervlaktewateren), as far as these data have not been already mentioned in the treatment of the other subjects, - Realized or intended changes in the

	management in the report year respectively in the following report year which has conducted or leads to a modification of the license or to a report at the governing body
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APPENDIX II

Summary Table of comparison between government and public report

	Government Report	Public Report
Purpose to Use	<ul style="list-style-type: none"> - Evaluate environmental policy - For national & international environmental reports & statistics 	Information for interested parties
Readers	Competent authorities (province, water quality administrator, environment ministry (VROM) and the Realm Institute for Integrated Drinking Water Management and Effluent Treatment (RIZA)).	<ul style="list-style-type: none"> - Interested citizens - Interest groups - Customers - Company employees, etc.
Content	Detailed rules on content (see appendix I)	Free-format: VROM fixes content together with users & interested parties

APPENDIX III

Provisions of the 20 February 2002 NRE Decree (translated from the original, source: Arese)

Environment

Issue	Disclosure of Quantitative Data	Disclosure of Qualitative Data
Consumption	Water	
	Energy	Use of renewable energy + energy efficiency
	Raw materials / natural resources	
	Soil use	
Emissions	To air	
	To water	
	To ground	
	Odor	
	Noise	
	Wastes	
Impact on Biodiversity		Programs to reduce impacts, promote fauna and flora
Environment Management System		Audit and certification policy
		Compliance with laws and regulations
	Budget and expenses	
		Environmental management structures and organization
		Employee awareness and training programs
		Environmental risk management
	Provisions for environmental risks	
	Penalties	
		Integration of foreign subsidiaries within environmental management system

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