BENEFIT CORPORATION, DUAL-PURPOSE ENTITIES AND STATE-OWNED ENTERPRISES: "NEW" MODELS TO ACHIEVE SUSTAINABLE DEVELOPMENT

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Abstract

The article examines the role of benefit corporations, dual-purpose entities and state-owned enterprises (SOEs) as particularly suitable models for advancing sustainable development goals, due to their shared dual-purpose nature. After outlining the longstanding debate on corporate purpose, it offers a comparative analysis of dual-purpose entities and benefit corporations across different jurisdictions, highlighting the diversity of regulatory approaches and their implications for corporate responsibility, with specific attention to the Italian benefit corporation. It then explores the potential contribution of SOEs to the sustainability transition: while profit remains a central goal, SOEs are also mandated to pursue public-interest objectives, especially in sectors related to emissions reduction, sustainable waste management and green infrastructure. However, case studies and OECD reports reveal that governance challenges—such as political interference, low professionalization of boards particularly regarding sustainability, and related inefficiencies—risk undermining SOEs' capacity to effectively support sustainable development goals. The article concludes that although benefit corporations, dual-purpose entities and SOEs are structurally better positioned to foster sustainability, they must overcome substantial regulatory, governance and operational barriers to fully realize their potential.

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TABLE OF CONTENTS
1. Introduction ... 1173
2. From shareholder primacy to sustainability in the corporate governance debate ... 1180
3. The development of hybrid entities ... 1186
4. The *società benefit* in the Italian legal framework ... 1190
5. The potential role of state-owned enterprises in the sustainable transition ... 1193
5.1. Comparative cases beyond Europe ... 1197
6. Conclusion ... 1205

1. Introduction

The principle of sustainable development[1] necessitates a radical rethinking of the role and objectives of finance and, more broadly, of economic activities.

In particular, compliance with the principle of sustainable development implies that investments are directed towards companies, products, and services that aim to improve the economic and social conditions of the community while simultaneously generating a positive environmental impact: ultimately, they must be oriented towards the achievement of the common good[2].

Both in the Italian and European Union contexts, the principle of sustainable development has found significant

[1] The concept of sustainable development was first defined in the Brundtland Report, *Our Common Future* (WCED, Oxford, 1987), prepared by the World Commission on Environment and Development, a body established in 1983 by mandate of the United Nations General Assembly and composed of representatives from 21 countries. According to the report, sustainable development is defined as development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs. Over time, this principle has evolved through various international agreements and declarations, including the 1992 Rio de Janeiro Conference on Environment and Development, the 2002 World Summit on Sustainable Development in Johannesburg, the 2012 Rio+20 Conference on Sustainable Development, and the 2015 Sustainable Development Summit in New York, where the Agenda containing the Sustainable Development Goals (SDGs) for 2030 was adopted; in this sense see S. Quadri, *Business e Finanza Sostenibile: non solo green*, in E. Corapi (ed.), *Sostenibilità e mercato finanziario. Questioni aperte e profili comparati*, (2023), 34.
[2] Ibid., 36.

regulatory expression. In Italy, the most notable example is the constitutional reform of February 8, 2022, which amended Articles 9 and 41[3]. The amendment to Article 9 incorporated the protection of the environment, biodiversity, and ecosystems into the fundamental principles of the Constitution, explicitly addressing the interests of future generations. Similarly, Article 41 underwent critical changes. The second paragraph, which previously established that private economic initiative is free provided it does not act against social utility or in a manner harmful to safety, freedom, or human dignity, now includes an additional constraint: it must not harm health and the environment. Moreover, the third paragraph was revised to explicitly allow the direction and coordination of public and private economic activities for environmental purposes, in addition to the existing reference to social purposes[4].

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[3] It is worth noting that the phenomenon of the so-called environmental constitutionalism has not occurred solely in Italy. In fact, the most innovative positions have emerged in the countries of the so-called Global South (Africa, Latin America, and parts of Asia), which have often integrated environmental principles into their young constitutions, demonstrating greater flexibility and openness to new challenges. On the other hand, Germany also stands out, having intervened in 1994 by introducing Article 20 A into the *Grundgesetz* of 1949 (later amended in 2002), which now provides that it is the duty of the State and public authorities to protect the natural foundations of life and animals, also for the protection of future generations. Subsequently, in 2005, France further strengthened this trend by elevating the *Charte de l'environnement* of 2004 to constitutional status (citing it in the Preamble of the 1958 Constitution).

[4] On the amendment of these articles, see M. Cecchetti, *La revisione degli articoli 9 e 41 della Costituzione e il valore costituzionale dell'ambiente: tra rischi scongiurati, qualche virtuosità (anche) innovativa e molte lacune*, 3 Forum di Quaderni Costituzionali (2021), available on the website: www.forumcostituzionale.it.; G. De Muro, *I diritti della Natura*, in Federalismi (2022), available on the website: https://www.federalismi.it/ApplOpenFilePDF.cfm?eid=625&dpath=editoriale&dfile=EDITORIALE%5F23022022181329%2Epdf&content=I%2Bdiritti%2Bdella%2BNatura&content_auth=%3Cb%3EGianmario%2BDemuro%3C%2Fb%3E.
G. Grasso, *Appunti per l'audizione informale resa il 4 febbraio 2020 presso la prima Commissione (Affari costituzionali) del Senato della Repubblica sul disegno di legge costituzionale n. 83 e connessi (tutela costituzionale dell'ambiente)*, in 2 Osservatorio AIC 6 ff (2020); L. Conte, *Ambiente, Paesaggio, Cultura. Il "Lessico" Costituzionale dopo la Riforma*, in 3 Osservatorio AIC 77 ff. (2023); R. Bifulco, *La legge costituzionale 1/2022: problemi e prospettive*, 1 An. giur. econ. 7 ff. (2022); P. Lombardi, *Ambiente e generazioni future: la dimensione temporale della solidarietà*, in 1 *Federalismi* 86 ff.3 (2023).

At the EU level, sustainability has become a cornerstone of legislative and policy initiatives aimed at guiding the transition toward a green economy. Among these, the European Green Deal stands out as a comprehensive strategy designed to achieve two overarching objectives: (i) climate neutrality by 2050 and (ii) the transformation of the EU economy into a model of environmental sustainability[5].

The Green Deal has been complemented by a series of regulatory measures, including the EU Taxonomy Regulation (Regulation (EU) 2020/852)[6], the Corporate Sustainability Reporting Directive (Directive (EU) 2022/2464, or CSRD)[7], and the Corporate Sustainability Due Diligence Directive (Directive (EU) 2024/1760, or CSDDD)[8]. These measures collectively aim to establish detailed frameworks for sustainable finance, corporate governance, and due diligence along the value chain, aligning economic activities with the EU's environmental objectives.

In particular, the EU Taxonomy Regulation introduces a classification system to define environmentally sustainable economic activities, emphasizing the "Do No Significant Harm" (DNSH) principle[9] and establishing criteria for six environmental

[5] The EU Green Deal is available on the website:https://eurlex.europa.eu/legal-content/EN/TXT/?uri=legissum:4438420#:~:text=It%20sets%20out%20a%20plan,%2C%20cleaner%2C%20safer%20and%20healthier.

[6] Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088.

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

[8] Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859.

[9] According to the definition of the EU Commission available on the website s://knowledge4policy.ec.europa.eu/glossary-item/do-no-significant-harm_en, the Do No Significant Harm principle means: "*not supporting or carrying out economic activities that do significant harm to any environmental objective, where relevant, within the meaning of Article 17 of Regulation (EU) 2020/852.*" The environmental objectives considered by article 17 of regulation (EU) 2020/852 are climate change mitigation; climate change adaptation; sustainable use and protection of water and marine resources; transition to a circular economy; pollution prevention and control; protection and restoration of biodiversity and ecosystems.

objectives, including climate change mitigation and adaptation[10]. The CSRD expands reporting requirements, applying the principle of double materiality, which evaluates both the impact of environmental factors on companies and the effects of companies on society and the environment[11].

The CSDDD represents a significant step in embedding sustainability into corporate operations and governance.[12]. The aim of CSDDD is advance sustainable and responsible corporate behaviour in companies' operations and throughout all their global value chains. The provisions of the directive aim to ensure that companies in scope identify and address adverse human rights and environmental impacts of their actions in Europe and also outside[13].

On November 8, 2024, European Commission President Ursula von der Leyen announced plans to consolidate these diverse ESG (Environmental, Social, and Governance) obligations into a single "omnibus" regulation. This initiative seeks to address the overlapping provisions within the EU Taxonomy, CSRD, and

[10] On the EU Taxonomy see: M. Och, *Sustainable Finance and the EU Taxonomy Regulation – Hype or Hope?*, 5 Jan Ronse Institute for Company & Financial Law Working Paper (2020); F. Schuetze, J. Stede, *EU Sustainable Finance Taxonomy – What Is Its Role on the Road towards Climate Neutrality?*, 1923 *DIW Berlin Discussion Paper* (2020); A.M. Pacces, *Will the EU Taxonomy Regulation Foster a Sustainable Corporate Governance?*, 611 ECGI Law Working Paper (2021); A. Giacomelli, *EU Sustainability Taxonomy for Non-Financial Undertakings: Summary Reporting Criteria and Extension to SMEs*, 29 Working Papers Department of Economics, Ca' Foscari University of Venice (2021).

[11] On the CSRD see: G. Galeone, *La rendicontazione non finanziaria e la misurazione dei fattori di sostenibilità: profili teorici e prospettive future* (2023); A. Genovese, *L'armonizzazione del reporting di sostenibilità delle imprese azionarie dopo la CSRD*, 1 Contr. Impr. 88 ff. (2023); T. Fornasari, M. Traversi, *The Impact of the CSRD and the ESRS on Non-Financial Disclosure*, 1 Symphonya. Emerging Issues in Mgmt. 117–133 (2024).

[12]On CSDDD see : N. Bueno et al., *The EU Directive on Corporate Sustainability Due Diligence (CSDDD): The Final Political Compromise*, 9 Bus. and Human Rights Journal (2024), available on the website,: https://www.cambridge.org/core/services/aop-cambridge; S. Bruno, *Il ruolo della s.p.a. per un'economia giusta e sostenibile: la proposta di direttiva ue su "*corporate sustainability due diligence*". nasce la* stakeholder *company*?, 3 Diritti Comparati, 303 (2022).

[13] In this sense see EU Commission, Corporate Sustainability Due Diligence, available on the website ttps://commission.europa.eu/business-economy-euro/doing-business-eu/sustainability-due-diligence-responsible business/corporate-sustainability-due-diligence_en

CSDDD, simplifying compliance for businesses while maintaining rigorous sustainability standards. The announcement was made during a meeting in Budapest between EU Heads of State and the European Commission, culminating in the Budapest Declaration on the New Pact for European Competitiveness[14].

The Budapest Declaration builds on the European Green Deal and incorporates elements of the Sustainable Finance Package, such as the European Green Bond Standard, which aims to channel private capital into environmentally beneficial projects. This initiative reflects the EU's broader strategic objectives, as outlined in the Political Guidelines for the Next Commission 2024-2029[15]and the recent report, The Future of European Competitiveness, authored by Mario Draghi[16].

More recently, the approval by the European Parliament on 13 November 2025 of the so-called Omnibus I package – the first legislative act implementing the abovementioned consolidation strategy –indicates a progressive recalibration of the Union's sustainability framework. Although formally presented as an exercise in regulatory streamlining, the Omnibus Package, and in particular the Stop-the-clock Directive, introduces deferrals of implementation deadlines under both the CSRD and the CSDDD and narrows their material and subjective scopes. Under the negotiating position adopted by the Parliament (382 votes in favour, 249 against, 13 abstentions), sustainability reporting would be required only for undertakings with more than 1,750 employees and an annual turnover exceeding €450 million, with qualitative disclosures significantly reduced and sector-specific reporting rendered voluntary. Smaller companies would be shielded from requests for additional data from their larger business partners, which would not be authorised to demand information beyond what is set out in the voluntary standards. With regard to due

[14] The Budapest declaration outlines a 12-point agenda to ensure economic prosperity, resilience, and sustainability across the Union Available on the website: https://www.consilium.europa.eu/en/press/press-releases/2024/11/08/the-budapest-declaration/.

[15] Available on the website: https://commission.europa.eu/document/download/e6cd4328-673c-4e7a-8683 f63ffb2cf648_en?filename=Political%20Guidelines%202024-2029_EN.pdf

[16] Available on the website: https://commission.europa.eu/topics/strengthening-european-competitiveness/eu-competitiveness-looking-ahead_en#paragraph_47059.

diligence, obligations would apply solely to corporations exceeding 5,000 employees and €1.5 billion in annual turnover, to be carried out on a risk-based approach limited to available information, with recourse to requests from smaller partners only as a last resort. The requirement to adopt a transition plan compatible with the Paris Agreement would be removed, while liability would be allocated at national rather than EU level[17].

Although framed as a simplification measure intended to enhance competitiveness, the initiative has raised concerns within academic debate and among institutional observers. In the absence of a comprehensive impact assessment, more than one hundred legal experts have pointed to possible infringements of the principles of proportionality and fundamental rights, suggesting potential exposure to annulment proceedings before the Court of Justice of the European Union[18].

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[17] In this sense see the EU Parliament press release Sustainability reporting and due diligence: MEPs back simplification changes, 13 November 2025, available at https://www.europarl.europa.eu/news/en/pressroom/20251106IPR31296/sustainability-reporting-and-due-diligence-meps-back-simplification-changes.

[18] See the letter "*Omnibus infringes EU Law - say over 100 law professors and lawyers*" signed on 10 November 2025 by 104 prominent legal expert and directed to Committee on Legal Affairs of the European Parliament (JURI) available on the website: https://media.licdn.com/dms/document/media/v2/D4D1FAQFpXhlP_l7xQA/feedshare-document-pdf-analyzed/B4DZpsfCsrHsAg-/0/1762756670459?e=1764806400&v=beta&t=qpsznLmiOf1ceQ4FDeCm7us3w0Ri0N0FOkgE7clHD20. In synthesis the signatories argue that, in the absence of comprehensive impact assessments and structured analysis of less restrictive alternatives, the proposal fails to demonstrate compliance with proportionality as required under CJEU case law (including the *Mobility 2024* judgment). Furthermore, by rolling back existing sustainability requirements without compelling justification or adequate transitional measures, it may amount to an undue limitation of previously established rights under Article 52(1) CFR, triggering strict reliance-based scrutiny as per *Digital Rights Ireland* and *Schrems*. The letter therefore urges the Committee on Legal Affairs to seek an opinion from the Parliament's Legal Service before proceeding, to ensure that any amendments are demonstrably compatible with EU constitutional principles and the Union's international climate obligations. On the Omnibus Package and its impact on EU Sustainability pathway see also: S. Bruno, M. Manna, *More on the Omnibus Package and the Future of European Global Leadership on Sustainability*, BIICL Blog (2025) available on the website: https://www.biicl.org/blog/107/more-on-the-omnibus-package-and-the-future-of-european-global-leadership-on-sustainability?

In this broader and complex framework, the present article delves into the evolving roles of benefit corporations, dual-purpose entities and state-owned enterprises (SOEs) in promoting sustainable development.

Outlined the trajectory of the long-standing debate surrounding corporate purpose and, therefore, the succession of theories of shareholder primacy and the shift towards forms of stakeholderism in the context of corporate governance, this contribution critically examines how these "new" entities align economic objectives with the imperatives of sustainability, addressing the legal and governance challenges that arise from integrating diverse stakeholder interests. Particular attention is dedicated to the Italian model of benefit corporation. The article then focuses on the potential role of SOEs in the sustainable transition. While profit-making remains a core objective of SOEs, they are also established to simultaneously pursue public interest objectives, often in sensitive sectors where emissions reduction, sustainable waste management and investment in green infrastructure are central.

In such a context of regulatory transition, the relevance of hybrid governance models becomes even more pronounced. Rather than relying exclusively on legislative compulsion, the capacity of benefit corporations and SOEs to effectively embed sustainability objectives increasingly depends on the coherence and resilience of their internal governance frameworks. Accordingly, the following analysis aims to clarify whether and to what extent these entities may ensure continuity of purpose and strategic alignment with sustainability imperatives even in phases of normative retrenchment.

2. From shareholder primacy to sustainability in the corporate governance debate

The shareholder primacy model[19], principally developed in the US corporate context, has become relatively recently[20] the predominant accepted model in corporate practice[21] and company law, even though the pursuit of some form of public interest was one of the core elements of business corporations since their birth as chartered companies in the Sixteenth century[22].

Despite the existence of different "varieties of capitalism"[23] and the birth of new theories such as stakeholderism[24] or

[19] Generally speaking, in the shareholder model companies should be run for the benefit of shareholders who provide risk capital to companies, shareholders' interest must be primarily considered in decision-making. While in the stakeholder model companies should be run for the benefit of all the stakeholders, those who can affect the company and can be affected by the company activity; all the interests of stakeholders need to be considered in the decision-making process.

[20] The shareholder primacy was popularized by economist Milton Friedman, see M. Friedman, *Capitalism and Freedom*, 1962; M. Friedman, *The Social Responsibility of Business Is to Increase Its Profits*, in *The New York Times Magazine*, 13 September 1970, available on the website: http://www.colorado.edu/studentgroups/libertarians/issues/friedman-soc-resp-business.html.

[21] See, *e.g.*, S.M. Bainbridge, *Participatory Management Within a Theory of the Firm*, 21 J. Corp. L. 717 ff. (1996); K.B. Davis, *Discretion of Corporate Management to Do Good at the Expense of Shareholder Gain – A Survey of and Commentary on the U.S. Corporate Law*, 13 Can.-U. S. L. J. 1 ff. (1988); D.S. Lund, E. Pollman, *The Corporate Governance Machine*, 121 Colum. L. Rev. 2563 ff. (2021), describing the United States "corporate governance machine" as a complex governance system composed of law, markets, and culture that orients corporate decision-making towards shareholders primacy.

[22]S. Williston, *History of the Law of Business Corporations Before 1800*, 2 Harv. L. Rev. 109 ff. (1888).

[23] P.A. Hall, D. Soskice, *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage* (2001).

[24] The development of the modern corporate governance debate around the opposite models of "stakeholder primacy" and "shareholder primacy" stemmed from the dialogue between Dodd and Berle in the thirties of the nineteenth century: see A.A. Berle, *Corporate Powers as Powers in Trust*, 44 Harv. L. Rev. 1049 ff. (1931), affirming that managers should pursue only the shareholders' interest; E.M. Dodd, *For Whom Are Corporate Managers Trustees?*, in 45 Harv. L. Rev. 1145 ff. (1932), affirming that the corporation, as an institution, also has a public benefit purpose; A.A. Berle, *For Whom Corporate Managers Are Trustees: A Note*, in 45 Harv. L. Rev. 1365 ff. (1932), stressing its original position and affirming that the managers of a corporation are only responsible towards the shareholders. On the

communitaranism[25], not only the UK[26] and other common law systems were permeated by the Anglo-Saxon liberal market approach and the shareholder primacy principle. Continental Europe's legal systems, typically characterized by a more significant interaction of firms with other stakeholders (see in particular the German corporate governance model that focuses on

evolution of Berle's thought A.A. Berle, *The 20th Century Capitalist Revolution*, 169 (1954). On the issue see: A.A. Sommer Jr., *Who Should the Corporation Serve? The Berle-Dodd Debate Revisited Sixty Years Later*, 16 Del. J. Corp. L. 33 ff. (1991); W.W. Bratton, M.L. Wachter, *Shareholder Primacy's Corporatist Origins: Adolf Berle and the Modern Corporation*, 34 J. Corp. L. 99 ff. (2008).Among other pioneering works on the issue, see: I. Mitroff, *Stakeholders of the Organizational Mind* (1983); R.E. Freeman, D.L. Reed, *Stockholders and Stakeholders: A New Perspective on Corporate Governance*, 25 Cal. Mgmt. Rev. 88 ff. 1983, R.E. Freeman, *Strategic Management: A Stakeholder Approach* (1984).

25 The term "communitarianism", borrowed from Amitai Etzioni's communitarian thesis which stressed the importance of moral, social, and political foundations of society, is here used to indicate those company law scholars who criticize the contractarian theory, see *e.g.* D. Millon, *New Directions in Corporate Law, Communitarians, Contractarians, and the Crisis in Corporate Law*, 50 Wash. & Lee L. Rev. 1373 ff. (1993); M.E. DeBow, D.R. Lee, *Shareholders, Nonshareholders and Corporate Law: Communitarianism and Resource Allocation*, 18 Del. J. Corp. L- 393 ff. (1993).

26 In the UK, the 2006 Companies Act codified directors' fiduciary duties previously mainly regulated by case law according with a shareholder-oriented common law duty. The new Section 172 of the Act imposes on directors the duty to «promote the success of the company for the benefit of its members as a whole» and introduced the so-called "enlightened shareholder value" providing that directors have regard to a broad range of interests, balancing the interests of shareholders with other stakeholder interests, including the promotion of environmental, social and governance (ESG) objectives. However, the provision, which captured some aspects of corporate governance pluralist approaches and the long-term perspective, does not represent a substantive change, it does not compel directors to act based on stakeholders' interests (they are only required to "have regard" to them). Since its enactment, Section 172 occupied a relevant space in policy and academic discussions in the UK and abroad, but the mainstream interpretation of the new provision, sees the preservation of shareholder primacy as a key principle of UK company law see e.g., R. WILLIAMS, *Enlightened Shareholder Value in UK Company Law,* 35 UNSW Law Journal 360 (2012). For that reason, to better align the interests of shareholders with those of the society and the environment, the Better Business Act campaign has been launched in 2021 to further amend section 172, providing that the duty of a director is to «advance the purpose of the company» to benefit its members as a whole and the wider society and the environment, having regard to the interests of the stakeholders and reducing or eliminating the harms the company creates, or costs it imposes on them.

the integration of employee interests into company activity through the co-determination mechanism[27])[28] have also been encouraged to move towards the Anglo-American model[29] due to the growing role of capital market and the financialization[30].

This happened to the extent that a great convergence was observed at the end of the last century among major Western legal

[27] It is worth noting that German law does not follow a strict approach on shareholder value and since 1976 case law upheld that directors of a stock corporation have to pursue the "Unternehmensinteresse" (the "interest of the enterprise"), which is not the interest of its shareholders but encompasses the interest of all stakeholders, such as employees and the public. This approach is rooted in the codetermination mechanism. This "interest of enterprise" can be hard to specify giving leeway to directors. In particular, directors are free to respect other interests than those of shareholders, but they have discretion in balancing all interests and are not obliged to pursue these goals in all of their decisions (unlike what happens in dual-purpose companies). On the issue see, G. Spindler, *Social Purposes in German Corporate Law and Benefit Corporations in Germany*, in H. Peter, C. Vargas Vasserot, C. Alcalde Silva (eds.), *The International Handbook of Social Enterprise Law* 585–599 (2023).

[28] See: D. Millon, *New Directions in Corporate Law, Communitarians, Contractarians, and the Crisis in Corporate Law*, in 50 Wash. & Lee L. Rev. 1373–1393 (1993); M.E. DeBow, D.R. Lee, *Shareholders, Nonshareholders and Corporate Law: Communitarianism and Resource Allocation*, in 18 Del. J. Corp. L. 393–424 (1993).

[29] D. Collison, S. Cross, J. Ferguson, D. Power, L. Stevenson, *Shareholder Primacy in UK Corporate Law: An Exploration of the Rationale and Evidence*, in 125 Ass n' of Chartered Certified Accountants Report 9-11 (2011). On the issue C. Lane, *Changes in Corporate Governance of German Corporations: Convergence to the Anglo-American Model?*, in 7 Competition and Change 79-100 (2003); M. Goergen, M. Martynova, L. Renneboog, *Corporate Governance Convergence: Evidence from Takeover Regulation Reforms in Europe*, in 21 Oxford Rev. of Econ. Policy 243 - 268 (2005).

[30] Financialization cab be described as "the increasing importance of financial markets, financial motives, financial institutions, and financial elites in the operation of the economy and its governing institutions, both at the national and international level", G. Epstein, *Financialization, Rentier Interests and Central Bank Policy*, in G. Epstein (ed.), *The Political Economy of Central Banking* 380–406 (2019). On the issue, see: G. Arrighi, *The Long Twentieth Century: Money, Power, and the Origins of Our Times* (1994). M. Aglietta, A. Reberioux, *Corporate Governance Adrift: A Critique of Shareholder Value* (2005); J.F. Sneirson, *The History of Shareholder Primacy, from Adam Smith through the Rise of Financialism*, in B. Sjåfjell, C.M. Bruner (eds.), *The Cambridge Handbook of Corporate Law, Corporate Governance and Sustainability* 83-84 (2019).

tradition countries[31], and more generally at a global level[32]. Together with economic globalization[33] and the influence of global capital market actors, one of the drivers for this general convergence towards shareholder primacy, which occurred particularly from the end of the nineties onward, was the activity of international organizations, such as the Organisation for Economic Co-operation and Development (OECD), the World Bank, the International Monetary Fund (IMF), and the United Nations (UN), through their non-binding but highly influential reports, guidelines, and recommendations to states, which serves as benchmarks for policymakers, especially in developing countries. A primary role was played by the OECD Principles on Corporate Governance[34] published for the first time in 1999, which in their original version, reflected the shareholder primacy model, with limited consideration of stakeholders[35]. They have been only recently revised, in 2023, introducing recommendations on

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[31] See H. Hansmann, R. Kraakman, *The End of History for Corporate Law*, 89 Georgetown L. J. 439–441 (2001), (noting a "large degree of uniformity [on shareholder primacy] across developed market jurisdictions", and that "[t]here is no longer any serious competitor to the view that corporate law should principally strive to increase long-term shareholder value").

[32] On the general global convergence towards shareholder primacy see: M. Martynova, L.D.R. Renneboog, *A Corporate Governance Index: Convergence and Diversity of National Corporate Governance Regulations*, in 17 CentER Discussion Paper (2010), available on the website: http://ssrn.com/abstract=1557627; N. Navajyoti, *Convergence to Shareholder Primacy Corporate Governance: Evidence from a Leximetric Analysis of the Evolution of Corporate Governance Regulations in 21 Countries, 1995–2014*, 19 Corp. Governance: Int. J. of Bus. in Soc.'y 849-883 (2019); A. Shleifer, R.W. Vishny, *A Survey of Corporate Governance*, in 52 J. Fin. 737 ff. (1997), M.J. Rubach, T.C. Sebora, *Comparative Corporate Governance: Competitive Implications of an Emerging Convergence*, 33 J. World Bus. 167–185 (1998); U. Braendle, J. Noll, *On the Convergence of National Corporate Governance Systems*, 17 J. Interdisciplinary Econ. 57-81 (2006).

[33] On the issue see *e.g.*: Y. Luo, *How Does Globalization Affect Corporate Governance and Accountability? A Perspective from MNEs*, 11 J. Int. Mgmt. 19-41 (2005).

[34] Through the Reports on the Observance of Standards and Codes (ROSC), the World Bank and the IMF conducts national corporate governance systems assessments measuring practices and compliance against the OECD Principles of Corporate Governance. See S. Soederberg, *The Promotion of "Anglo-American" Corporate Governance in the South: Who Benefits from the New International Standard?*, 24 Third World Quarterly 7 – 27 (2003).

[35] N. Navajyoti, *Convergence to Shareholder Primacy Corporate Governance: Evidence from a Leximetric Analysis of the Evolution of Corporate Governance Regulations in 21 Countries, 1995–2014*, in 19 Corp. Governance: Int. J. of Bus. in Soc.'y 850 (2019).

sustainability and resilience to help companies manage climate-related and other sustainability risks and opportunities[36].

In the last decades, mainly due to the global economic and financial crisis, increased inequality, corporate scandals, and the rise of awareness on climate change risks[37], a profound reconsideration of the validity of the shareholder primacy model and the current economy and the capitalist system has begun, apparently slowing down this convergence towards shareholder primacy[38] and pointing to the need for a new stakeholder or "responsible capitalism", in which businesses produce profit not as an end in itself but as a by-product for creating value for society as a whole[39]. Therefore, the issue of sustainability has taken centre stage in the debate on corporate governance[40] of business

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[36] The latest version of the OECD Principles on Corporate Governance is available on the website: https://www.oecd-ilibrary.org/sites/ed750b30-en/index.html?itemId=/content/publication/ed750b30-en.

[37] *E.g.*, see the relevance of environmental risks in the last years Global Risks Reports of the World Economic Forum, available on the website: https://www.weforum.org/publications/series/global-risks-report/.

[38] See N. Navajyoti, *Convergence to Shareholder Primacy Corporate Governance: Evidence from a Leximetric Analysis of the Evolution of Corporate Governance Regulations in 21 Countries, 1995–2014*, 19 Corp. Governance: Int. J. of Bus. in Soc.'y No. 864 ff. (2019).

[39] See the many contributions on the issue published in the ECGI Blog available at https://www.ecgi.global/blogtheme/responsible-capitalism, where "responsible capitalism" is described as an economic system that accommodates private ownership and the pursuit of market opportunities while achieving societal goals. A more detailed definition is offered by FIRST Responsible Capitalism Programme according to which responsible capitalism "requires a fundamental integration of the needs of the wider community, care for the communities in which the business operates, environmental initiatives and support for the arts and culture, with the business's goals and processes. Above all, it is about how successful business leaders apply the principles of moral and social responsibility in the running of their business, combining social commitment with business acumen and innovation, and building a coherent philosophy in which the company's success is judged over the long-term by criteria that include sustainability, equity, and moral justice as well as standard financial benchmarks.", see organization dedicated website available at https://responsible-capitalism.org/what-is-responsible-capitalism/.

[40] According to the Cadbury Report of 1962 "corporate governance" refers to "the system by which companies are directed and controlled", and the OECD Principles on Corporate Governance describe corporate governance as "the system by which business corporations are directed and controlled" and "the corporate governance structure specifies the distribution of rights and

companies, and discussions on the managerial and legal concept of "corporate purpose" have intensified among business and legal scholars[41].

In addition to the social and economic rethinking of the capitalist system, this debate has been fuelled by several legislative and regulatory framework developments aimed at tackling

responsibilities among different participants in the company, such as the board, managers, shareholders, and other stakeholders, and spells out the rules and procedures for making and monitoring decisions on corporate affairs. By doing this, it also provides the structure through which the company objectives and strategy are set, and the means of attaining those objectives and monitoring performance".

[41] On the corporate purpose debate see: C. Mayer, *Firm Commitment*, (2013); C. Mayer, *Who's Responsible for Irresponsible Business? An Assessment*, 33 Oxford Rev. Econ. Policy 157 – 175 (2017); C. Mayer, *Prosperity: Better Business Makes the Greater Good* (2018); L.A. Bebchuk, R. Tallarita, *The Illusory Promise of Stakeholder Governance*, in 106 Cornell L. Rev. 91–177 (2020); C. Mayer, *Shareholderism Versus Stakeholderism – A Misconceived Contradiction: A Comment on "The Illusory Promise of Stakeholder Governance" by Lucian Bebchuk and Roberto Tallarita,* 106 Cornell L. Rev. 1859 – 1879 (2020; E.B. Rock, *For Whom Is the Corporation Managed in 2020? The Debate over Corporate Purpose*, 515 European Corporate Governance Institute, Law Working Paper (2020), available on the website: https://ssrn.com/abstract=3589951; J.E. Fisch, S. Davidoff Solomon, *Should Corporations Have a Purpose?*, 99 Texas L. Rev. 1309–1346 (2020); E. Edmans, *Grow the Pie: How Great Companies Deliver Both Purpose and Profit* (2020); H. Fleischer, *Corporate Purpose: A Management Concept and Its Implications for Company Law*, 18 Eur. Company Fin. L. Rev. 161–189 (2021), pp. 161–189; D.S. Lund, E. Pollman, *The Corporate Governance Machine*, 121 Colum. L. Rev. 2563 ff. (2021); L.E. Strine, *Restoration: The Role Stakeholder Governance Must Play in Recreating a Fair and Sustainable American Economy – A Reply to Professor Rock*, 76 Bus. Lawyer 397–436 (2021), pp. 397–436; C. Mayer, *Capitalism and Crises: How to Fix Them* (2024). Against the shareholder primacy doctrine see also: M. Lipton, S. Rosenblum, S. Niles, S. Lewis, K. Watanabe, *The New Paradigm: A Roadmap for an Implicit Corporate Governance Partnership between Corporations and Investors to Achieve Sustainable Long-Term Investment and Growth* (2016); M. Lipton, *It's Time to Adopt the New Paradigm*, *Harvard Law School Forum on Corporate Governance* (2019) available on the website: https://corpgov.law.harvard.edu/2019/02/11/its-time-to-adopt-the-new-paradigm/; M. Lipton, *The Friedman Essay and the True Purpose of the Business Corporation*, *Harvard Law School Forum on Corporate Governance* (2020), available on the website: https://corpgov.law.harvard.edu/2020/09/17/the-friedman-essay-and-the-true-purpose-of-the-business-corporation/; M. Lipton, *ESG, Stakeholder Governance, and the Duty of the Corporation*, *Harvard Law School Forum on Corporate Governance* (2022), available on the website: https://corpgov.law.harvard.edu/2022/09/18/esg-stakeholder-governance-and-the-duty-of-the-corporation/.

environmental and social challenges. Among them, the advancement in organizational forms.

3. The development of hybrid entities

Due to the widespread cultural and legal dominance of shareholder primacy, recent decades have witnessed the emergence of new hybrid legal entities designed to help businesses address social and environmental objectives, and capable of bringing together social and environmental aims with business approaches. Several countries, from the Americas to Europe, have enacted a variety statutes, introducing new entity types.

Early hybrid company forms include the "community interest company" (CIC) introduced in the UK in 2004[42]. CICs are blended legal structures[43] for businesses that primarily have social and environmental objectives and whose surpluses are principally reinvested in the business or in the community, rather than being driven by the need to maximise profit for shareholders. CICs can raise equity capital as well as for-profit companies but company's assets shall be dedicated to public benefit. Thus, the distribution of dividends is capped at 35% of the aggregate total company profits[44] and in the event of dissolution CICs' assets must go to similar entities pursuing community benefits. CICs are overseen by the CIC Regulator, which ensures compliance with the "community interest test" (verifying that CIC's activity is carried on for the benefit of the community[45]) and receives the CIC's annual report. It is worth noting that CICs do not have tax advantages and are subject to the corporation tax regime. CICs represent a first step towards a new

[42] Companies (Audit, Investigations and Community Enterprise) Act, 2004, c. 27, §26. In legal literature see *e.g*. S. Lloyd, *Transcript: Creating the CIC*, in 35 Vermont L. Rev 31-43 (2010); R.T. Esposito, *The Social Enterprise Revolution in Corporate Law*, in 4 William & Mary Bus. L. Rev. 674–678 (2013).

[43] Both, companies limited by guarantee or companies limited by shares can acquire the CIC status.

[44] See Office of the Regulator of Community Interest Companies, Community interest companies: guidance chapters, Chapter 6: The asset Look, p. 6.

[45] Companies (Audit, Investigations and Community Enterprise) Act, 2004, c. 27, §35(2), according to which «A company satisfies the community interest test if a reasonable person might consider that its activities are being carried on for the benefit of the community.».

blended-value entity, but they have non-distribution constraint limits that characterise the non-profit sector[46].

In the US several more innovative hybrid entities combining for-profit and non-profit objectives were developed. The first social enterprise statute was the *Low-Profit Limited Liability Company* (L3C) introduced in Vermont in 2008[47]. L3Cs are companies aimed primarily at performing a socially beneficial (charitable or educational) purpose, and not at maximizing income. In particular, the L3C legal form is designed to make it easier for socially oriented businesses to attract investments from foundations, simplifying compliance with the Internal Revenue Service's Program Related Investments' (PRI) regulations[48]. Indeed, thorough PRIs private foundations can satisfy their obligation under the Tax Reform Act of 1969 to distribute annually at least 5% of their assets for charitable purposes. Investments in L3Cs that qualify as PRIs can fulfil this requirement while allowing the foundations to receive a return from the investment. L3Cs have been widely criticised for their unclear regulation under tax law and did not have huge success among practitioners[49].

Another social enterprise legal form is the *Social Purpose Corporation* (SPC). It was introduced in California in 2011 (formerly known as the flexible purpose corporation), in Washington in 2012, and in Florida in 2014. The SPC is a new corporate entity enabling directors to consider and give weight to one or more social and environmental purposes of the corporation in decision-making. Unlike the L3C, where the charitable purpose overrides profit

[46] On the issue see: H.B. Hansmann, *The Role of Nonprofit Enterprise*, 89 Yale L. J. 835 – 901 (1980); H.B. Hansmann, *Reforming Nonprofit Corporations Law*, 129 U. Pa. L. Rev. 500 (1981).

[47] See Vt. Stat. Ann. Tit. 11, §3001(27). Other states such as Illinois, Louisiana, Maine, Michigan, Rhode Island, Utah, and Wyoming introduced the L3C statute. On L3Cs see R. Lang, E.C. Minnigh, *The L3C, History, Basic Construct, and Legal Framework*, in 35 Vt. L. Rev. 15 ff. (2010).

[48] I.R.C. §§4944(c); 170(c)(2)(B); 26 CFR 53.4944-3(b) Ex. (3). The purpose of the L3C statute is to attract PRIs from foundations, investments considered by the IRS as "qualifying distributions", meaning that they count toward the IRS's requirement that private foundations spend 5% of their net worth in any given year, see T. Kelley, *Law and Choice of Entity on the Social Enterprise Frontier*, in 84 Tul. L. Rev 356 ff.(2009)

[49]R.T. Esposito, *The Social Enterprise Revolution in Corporate Law*, in 4 William & Mary Bus. L. Rev. 682-688 (2013); J.H. Murray, *The Social Enterprise Law Market*, 75 Md. L. Rev. 545–546 (2016).

maximisation, the SPC only gives directors the discretion to choose social and environmental purposes over profits[50].

However, the most famous social enterprise legal form is the benefit corporation, which is reflected in more comprehensive legislation. The first benefit corporation statute was passed in Maryland in 2010. Currently about 40[51] US jurisdictions have passed statutes, the majority of which are inspired by the Model Benefit Corporation Legislation (Model Act) proposed by B Lab with the support of the American Sustainable Business Council. The exception is Delaware, which in 2013 introduced its own statute, the *Public Benefit Corporation Act*[52]. Benefit corporations are for-profit corporations whose purpose, in addition to producing profits, is to reduce negative externalities and generate a positive impact on the environment, society, the workers, and the community in which they operate. Benefit corporations differ from traditional business corporations in entity purpose, directors' accountability, and transparency, but not in taxation.

The purpose of a benefit corporation is to create a "general public benefit", which is defined as a material positive impact on society and the environment[53], taken as a whole, assessed against a third-party standard. Moreover, a benefit corporation may or must (depending on state law) identify one or more "specific public benefits" to pursue[54]. Directors of benefit corporations are required to consider (or balance in Delaware) the impact of their decisions on shareholders and on society and the environment. Transparency provisions require benefit corporations to publish an annual benefit

[50] R.T. Esposito, *The Social Enterprise Revolution in Corporate Law*, 4 William & Mary Bus. L. Rev. 693 (2013).

[51] For further information see the Social Enterprise Law Tracker available at https://socentlawtracker.org/#/bcorps.

[52] Del. Code Ann. Tit. 8, §§361-368.

[53] Model Act §102 -*"General public benefit"*, and §201(a).

[54] According to the definition provided in the Model Act §102, the specific public benefit includes:
(1) providing low-income or underserved individuals or communities with beneficial products or services; (2) promoting economic opportunity for individuals or communities beyond jobs in the normal course of business; (3) protecting or restoring the environment; (4) improving human health; (5) promoting the arts, sciences, or advancement of knowledge; (6) increasing the flow of capital to entities with a purpose to benefit society or the environment; and (7) conferring any other particular benefit on society or the environment.

report (every two years in Delaware) on their social and environmental impact using a comprehensive, credible, independent, and transparent third-party standard (not required in Delaware). In the U.S., there is no public control over benefit corporations' reporting and activity. The only available remedy is the benefit enforcement proceeding (or shareholders' derivative action in Delaware) if directors fail to pursue the public benefit purposes. With regard to taxation, benefit corporations are subject to the same income tax rules as other company types.

The benefit corporation legal model circulated in other jurisdictions in Europe, Latin America and Canada[55]. In Europe, it was transplanted at first in Italy in 2015 with the introduction of "*società benefit*" (SB)[56], as will be seen better below.

A similar dual-purpose company structure has been introduced in Spain in 2022, the "*sociedades de beneficio e interés común*"[57], and in France with the *Loi Pacte* of 2019. The latter regulated an optional dual-purpose legal form, the "*société à mission*", close to the US benefit corporation but characterised by different governance features to control the purpose. It allows a for-profit company to incorporate into the articles of association, together with the *raison d'être*, one or more social and/or environmental objectives that wants to pursue in the framework of its activity[58], which must be considered in the management of the company and monitored by a new dedicated internal body, the "*comité de mission*" (or "*référent de mission*" for companies with less than 50 employees)[59].

The most innovative aspect of these new corporate forms is that they not only allow but require directors to take into account social and environmental objectives, which enter the articles of association and the "company interest" and provide for clear accountability and disclosure mechanisms.

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[55] Similar hybrid models have been introduced in Colombia, Ecuador, Peru and Uruguay ("*Sociedades de Beneficio e Interés Colectivo*"), and in British Columbia-Canada ("benefit company").

[56] Law No. 208, 28 December 2015, *Disposizioni per la formazione del bilancio annuale e pluriennale dello Stato* (*Legge di Stabilità* 2016), art. 1, paragraphs 376-384.

[57] Law No. 18/2022, 28 September 2022, *Ley de creación y crecimiento de empresas*, *Disposición adicional décima*.

[58] Commercial Code, art. L. 210-10.

[59] See B. Segrestin, K. Levillain, *Profit-with-Purpose Corporations: Why Purpose Needs Law and Why It Matters for Management*, 20 Eur. Mgmt. Rev. 733–740 (2023).

These developments in some EU Member States seems to be consistent with a new direction in European harmonisation of company law that over recent years opened up to sustainability issues. Examples are the Directive on long term shareholder engagement of 2017[60], the Directive on non-financial reporting of 2014[61], now replacedby the 2022 Corporate Sustainability Reporting Directive (CSRD), and the Directive on Corporate Sustainability Due Diligence (CSDDD). It must be noted, however, that these newly adopted regulations are now subject to review under the EU's Omnibus Simplification Package (COM (2025) 80/81), proposed on 26 February 2025, which—despite its stated objective of streamlining rules—has been criticized as amounting in practice to a deregulatory rollback of sustainability obligations."

4. The *società benefit* in the Italian legal framework

The *società benefit* (SB), introduced in Italy through the Legge di Stabilità no. 208/2015 (L. n. 208/2015), is a pioneering corporate model that integrates profit generation with legally mandated public benefit objectives. This governance structure tailors the global concept of benefit corporations to the Italian legal system, ensuring a robust framework that mandates accountability, transparency, and measurable social impact. The Italian SB is underpinned by paragraphs 376 to 384 of art.1 of L. n. 208/2015. These provisions define the SB as a company that pursues a dual purpose: generating profits and creating measurable public benefits (*beneficio comune*). Public benefit objectives must be specified in the company's articles of association and are legally binding for directors. Unlike traditional companies, SBs are explicitly required to balance the financial interests of shareholders with the broader interests of stakeholders, including employees, communities, and the environment. The principle of *bilanciamento* (balancing interests) is central to the Italian SB's governance model. Directors are tasked with ensuring that business decisions reflect this balance,

[60] Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement.

[61] Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups.

making them accountable for pursuing public benefits alongside economic goals. Failure to achieve this balance exposes directors to potential liabilities, underscoring the legal enforceability of their commitments. The cornerstone of the SB's accountability framework is the mandatory annual impact report (*Relazione di impatto*), as outlined in paragraph 380 of art. 1 of L. n. 208/2015. This document evaluates the company's progress in achieving its specified public benefit objectives, employing third-party standards to ensure objectivity and reliability. The report must include: i) identification of objectives, i.e. a detailed description of the general and specific public benefits pursued; ii) performance assessment, i.e. quantitative and qualitative metrics measuring the impact of the company's activities; iii) stakeholder engagement, i.e. evidence of how the company's operations have affected stakeholders; iv) compliance confirmation, i.e. certification that the company has adhered to its statutory obligations.

The report must be appended to the company's financial statements and submitted to the Company Register, ensuring public accessibility and transparency. The Italian SB mandates rigorous compliance, reinforcing its credibility. Directors of SBs are subject to enhanced fiduciary duties, encompassing both traditional financial responsibilities and obligations to achieve the company's public benefit objectives. Paragraph 381 of L. n. 208/2015 introduces the concept of the *benefit judgment rule*, which evaluates directors' decisions based on their adherence to the dual-purpose mandate. This rule protects directors who act in good faith to balance competing interests but holds them accountable for negligence or failure to pursue stated objectives. Additionally, shareholders are granted the right to initiate derivative actions against directors[62]. This provision ensures that directors are

[62]Third parties may take action against directors where the requirements under Article 2395 of the Italian Civil Code are met.: i) the damage suffered by the third party must be immediate and direct, meaning it cannot be merely a consequence of harm to the company's assets. In other words, the damage must directly affect the individual's legal sphere and not derive solely from harm to the company; ii) the act performed by the directors must result from intentional misconduct (dolo) or negligence (colpa) that caused the damage; iii) there must be a causal relationship between the directors' conduct and the damage suffered by the shareholder or third party.

accountable for the dual-purpose mandate, aligning corporate governance with the principles of social responsibility.

The Italian SB is qualified by its legally binding obligations and external enforcement mechanisms. More specifically, Italian law requires third-party verification of impact reports[63]. The Italian Competition Authority (*Autorità Garante della Concorrenza e del Mercato*) is empowered to sanction companies that fail to meet their public benefit commitments, particularly in cases of misleading practices. This distinguishes the SB from models like the French *société à mission*, which rely primarily on internal oversight mechanisms. It is worthy to note that the SB model is available to all forms of business entities in Italy, including partnerships, limited liability companies, and cooperatives. This flexibility enhances its applicability across diverse sectors. While the SB framework offers significant advantages, it also presents operational challenges: The preparation of detailed impact reports and compliance with third-party standards require substantial resources, which may deter smaller companies. Moreover, unlike some jurisdictions that offer small tax benefits to encourage adoption, Italy does not provide fiscal incentives for SBs.

Notwithstanding the relatively recent introduction of the SB model, the number are rising and as of 30 June 2025, there were 5,161 società benefit in Italy, with a growth of 24.27% compared to the same period in the previous year[64]. However, many companies remain unaware of its benefits or hesitant to adopt it due to perceived complexities. Despite these challenges, the SB model offers significant strategic advantages for companies willing to embrace its framework. By integrating sustainability into their core operations, SBs can enhance brand reputation by demonstrating a commitment to public benefits, which strengthens stakeholder trust and consumer loyalty. It can also attract investment, since ESG-focused investors increasingly prioritize companies with robust

[63] Delaware does not require third-party standards, while France, although not requiring third-party standards, mandates the certification of the report by an independent body among those authorized, thus maintaining a form of external oversight.

[64] For more detailed information see Assobenefit website at https://assobenefit.org/articoli/crescono-le-societa-benefit-in-italia-oltre-5-100-al-30-giugno-2025.

sustainability frameworks, making SBs attractive investment targets.

5. The potential role of state-owned enterprises in the sustainable transition

In light of the recent shift in policy direction within the EU, as described in the introduction of this paper, and, also in the United States, where sustainability regulation appears to be entering a phase of rollback and dilution [65], the capacity of SOEs to contribute to long-term sustainability objectives becomes increasingly dependent on governance frameworks capable of ensuring continuity with the commitments undertaken at international level, notably under the Paris Agreement and the United Nations 2030 Agenda for Sustainable Development.

This entails providing SOEs with the proper incentives, resources, and autonomy to pursue long-term value creation while addressing environmental and social risks. States, as shareholders acting in the public interest, bear the responsibility of ensuring that these enterprises align with sustainability objectives. In turn, SOEs are expected to manage emerging risks and capture new opportunities associated with the global transition to green, inclusive, and net-zero economies[66].

In defining SOEs, this article refers to entities in which the state exercises ownership or control, including joint-stock companies, limited liability companies, partnerships limited by shares, and statutory corporations created by specific legislation.

[65] We are referring to the regulatory developments in the USA under the Trump Administration. The federal executive has systematically pursued the retrenchment of core climate-related commitments. Among its earliest actions in 2025 was the formal withdrawal of the United States from the Paris Agreement, accompanied by the proclamation of a national "energy emergency," a decision officially framed as necessary to address the "high demand for energy and natural resources to power the next generation of technology" (See The White House, Unleashing American Energy, Presidential Actions, 30 January 2025, available on the website https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/).

[66] In this sense, see OECD, *Guidelines on Corporate Governance of State-Owned Enterprises*, 69-70 (2024).

Here, we refer to both owned[67] and controlled[68] entities. What unites these diverse entities is their legal recognition and public ownership or influence, even when such ownership is partial. Their presence has expanded over the past two decades, especially in response to economic crises, with a noticeable resurgence of public enterprise models in Europe following the 2008 financial crisis and, more recently, during the COVID-19 pandemic[69]. This renewed emphasis on SOEs has been interpreted as a positive factor for the sustainability transition, especially within the EU, where SOEs are considered essential tools for executing the European Green Deal,

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[67] Ownership encompasses direct majority ownership and other forms of direct or indirect ownership where control is exercised. Control is deemed to exist when a state ownership entity, or multiple entities acting in concert, holds a majority of voting rights as the ultimate beneficial owner or exercises an equivalent degree of influence over the enterprise. Equivalent control may arise from various legal or factual arrangements granting decisive influence. These include legal provisions, corporate articles of association, or arrangements under private or public law that ensure sustained state influence over the enterprise. Such influence might be exercised through veto rights on significant decisions, the power to appoint a majority of the board of directors or the CEO, or control over critical material decisions. Additionally, control may result from preferential or long-term use of the enterprise's assets or from rights and contracts that confer decisive influence over its commercial or operational decisions; OECD, *Guidelines on Corporate Governance of State-Owned Enterprises*, cit.at 66, 9–10.

[68] Control is deemed to exist when a state ownership entity, or multiple entities acting in concert, holds a majority of voting rights as the ultimate beneficial owner or exercises an equivalent degree of influence over the enterprise. Equivalent control may arise from various legal or factual arrangements granting decisive influence. These include legal provisions, corporate articles of association, or arrangements under private or public law that ensure sustained state influence over the enterprise. Such influence might be exercised through veto rights on significant decisions, the power to appoint a majority of the board of directors or the CEO, or control over critical material decisions. Additionally, control may result from preferential or long-term use of the enterprise's assets or from rights and contracts that confer decisive influence over its commercial or operational decisions. Determining whether the state exercises such decisive influence often requires a case-specific evaluation of all relevant circumstances. For example, the extent to which special rights, shares, or legal provisions—sometimes referred to as a "golden share"—grant control depends on the powers they confer on the state. OECD, *Guidelines on Corporate Governance of State-Owned Enterprises,* cit. at 66, 9–10.

[69] B. van Apeldoorn, N. De Graaf, *The State in Global Capitalism Before and After the Covid-19 Crisis*, 3 Contemp. Pol. 306-327(2022).

playing key roles in energy market reform, sustainable mobility[70], and urban development initiatives[71].

SOEs' contribution to sustainability is grounded in both scale and scope. Globally, approximately 20% of the Forbes Global 2000 companies are state-owned[72]. In the EU alone, SOEs account for nearly 50% of GDP and 10% of employment, underscoring their structural importance[73]. They are heavily concentrated in critical sectors such as energy, transportation, and water—sectors that are central to the climate transition[74].

Unlike private firms, SOEs are not exclusively oriented toward strict profit maximization, as this objective is typically mitigated by broader public-interest mandates and policy considerations[75], enabling them to pursue long-term policy objectives, including decarbonization and sustainable development[76]. Governments can shape SOEs' behaviour through

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[70] *European Union Agency for Railways*, *Fostering the Rail Sector through the European Green Deal: Rail–Port Synergies*, Publications Office of the European Union Agency for Railways, 2022, available on the website: https://www.era.europa.eu/content/report-fostering-railway-sector-through-european-green-deal_en.

[71] S. Wolf et Al., *The European Green Deal—More Than Climate Neutrality*, 2 Intereconomics 99-107 (2021).

[72] S. Clò et al., *Public Enterprises in the Market for Corporate Control: Recent Worldwide Evidence*, 86 Annals of Pub. and Cooperative Econ. 559-583 (2015).

[73] European Commission, *State-Owned Enterprises in the EU: Lessons Learnt and Ways Forward in a Post-Crisis Context, Publications Office of the European Union, Luxembourg* (2016) available on the website http://bookshop.europa.eu/uri?target=EUB:NOTICE:KCBC16031:EN:HTML.

[74] B. Mayer, M. Rajavuori, *State Ownership and Climate Change Mitigation: Overcoming the Carbon Curse?*, in 11 Carbon & Climate L. Rev. 223-233 (2017).

[75] T. Meelen, J.P. Sluijs, *Government Ownership for Sustainability Transitions: Empirical Insights for EU Policy Makers*, White Paper Sustainable By Design Industrial Policy for Long-Term Competitiveness in the EU 113-117 (2024), available on the website: https://research-portal.uu.nl/ws/portalfiles/portal/236848659/whitepaper-sustainable-by-design-industrial-policy-for-long-term-competitiveness-in-the-eu.pdf.

[76] Ibid., 113-117. This is even more evident in Public Owned Corporations which operate at a local level; on this, see A.C. Lindholst, *Addressing Public-Value Failure: Remunicipalization as Acts of Public Entrepreneurship*, 24 J. Econ. Policy Reform 380–397 (2021); M. Minoja, G. Romano, *Managing Intellectual Capital for Sustainability: Evidence from a Re-Municipalized, Publicly Owned Waste Management Firm*, in 279 J. Cleaner Prod. 123 ff. (2021); G. Romano, N. Salvati, A. Guerrini, *Factors Affecting Water Utility Companies' Decision to Promote the Reduction of Household Water Consumption*, in 28 Water Resources Mgmt. 5491-5505 (2014).

legislation, regulatory mandates, and public investment incentives, aligning these enterprises with broader sustainability goals[77].

Additionally, municipal and regional SOEs often demonstrate stronger responsiveness to public concerns, including environmental and social issues. This proximity to civil society positioned SOEs as responsive and accountable vehicles for delivering sustainability outcomes[78]. However, this potential is not automatic. Numerous studies warn of serious challenges to SOE effectiveness, particularly in terms of governance and accountability[79]. Compared to private firms, SOEs often suffer from weaker internal controls, politicized appointments, and less transparent oversight[80]. The close relationship between public enterprises and political institutions raises the risk of inefficiency and corruption, which can erode sustainability performance[81].

Furthermore, the sectoral composition of SOEs exposes them to significant sustainability-related risks. Many operate in high-

[77] K. Surana, L.D. Anadon, *Public Policy and Financial Resource Mobilization for Wind Energy in Developing Countries: A Comparison of Approaches and Outcomes in China and India*, in 35 Global Environmental Change 340–359 (2015); D. Ghosh, M. Dutta, *Environmental Behaviour under Credit Constraints – Evidence from Panel of Indian Manufacturing Firms*, 63 Structural Change & Econ. Dynamics 490–500 (2022).

[78] As indicated by T. Meelen, J.P. Sluijs, *Government Ownership for Sustainability Transitions: Empirical Insights for EU Policy Makers*, cit. at 75, 113-117 for the case of municipally owned waste collectors in Italy, it is reported how a closer relationship with citizens, as well as higher levels of trust, facilitates knowledge sharing, in turn enhancing sustainability outcomes. A more responsible attitude of publicly owned enterprises to civil society concerns, such as sustainability, is commonly reported. For instance, in a case study tracing the sustainability efforts of municipally owned corporations in Cologne, Germany, it is even observed that in the absence of clear instructions from city government, sustainability actions are contingent on protests by climate groups.

[79] F.N.G. Andersson, S. Opper, U. Khalid, *Are Capitalists Green? Firm Ownership and Provincial CO_2 Emissions in China*, 123 Energy Pol. 349-359 (2018); A. Meyer, G. Pac, *Environmental Performance of State-Owned and Privatized Eastern European Energy Utilities*, 36 Energy Economics 205 ff. (2013).; L. Deruytter, G. Juwet, D. Bassens, *Why Do State-Owned Utilities Become Subject to Financial Logics? The Case of Energy Distribution in Flanders*, 26 Competition & Change 266-288 (2022).

[80] J. Liang, L. Langbein, *Are State-Owned Enterprises Good Citizens in Environmental Governance? Evidence From the Control of Air Pollution in China*, 53 Admin. & Soc'y. 1263–1292 (2021).

[81] X. Zhao et al., *Corporate Behavior and Competitiveness: Impact of Environmental Regulation on Chinese Firms*, 86 J. Cleaner Production 311-322 (2015).

emission, hard-to-abate industries—such as oil and gas, heavy manufacturing, mining, and electricity generation. These companies face both physical risks from climate change and transition risks associated with shifts in technology, regulation, and consumer demand. As public entities, the financial and environmental risks borne by SOEs often translate into direct fiscal exposure for states. These issues may take the form of declining dividends, unserviceable debt (especially where state guarantees are implicit), or the accumulation of stranded assets. These dynamics create long-term challenges for fiscal sustainability and public service delivery. To meet national and international sustainability targets, particularly under the Paris Agreement, SOEs must undergo governance transformation and strategic reorientation. This requires both internal reforms and strong external frameworks to ensure alignment between enterprise behavior and public objectives. In some countries, this transformation has already begun as part of a broader movement to embed sustainability principles into the fabric of public enterprise governance[82]. Against this backdrop and building on the predominantly European-oriented policy references and institutional insights outlined above and in the relevant sources, it becomes necessary to assess how these structural dynamics materialise in practice beyond the EU context. The following section therefore turns to selected extra-European case studies, which illustrate how governance frameworks, political incentives, and legacy mandates shape SOEs' capacity to contribute to sustainability objectives in real-world settings.

5.1. Comparative cases beyond Europe

Building on the structural and governance considerations outlined in the preceding section, the practical implications of these dynamics become clearer when examined through concrete national cases. As anticipated, the abovementioned governance vulnerabilities often materialize most visibly in countries where SOEs operate in strategic, high-emission sectors. This trend is particularly evident in Nigeria, where the experience of the Nigerian National Petroleum Company Limited (NNPC Ltd.)

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[82] *OECD*, *Guidelines on Corporate Governance of State-Owned Enterprises*, cit. at. 66, 69 ff.

illustrates the exact governance tensions described above. Although the 2021 Petroleum Industry Act[83] sought to modernize the enterprise through corporatization and enhanced managerial autonomy, the reform has proved only partially effective. NNPC remains characterized by limited board independence, politically influenced fiscal transfers, and opaque subsidy mechanisms. Such features systematically hinder an SOE's capacity to reorient its strategy toward long-term sustainability, and NNPC's persistent prioritization of fossil fuel expansion and downstream subsidies confirms this structural constraint. This example also highlights how rentier-state economies struggle to conduct the governance transformation required by the sustainability transition[84]. Despite its corporatization, NNPC Ltd. continues to perform quasi-fiscal roles. In 2022, it spent approximately 4.39 trillion (US $9.7 billion) on petrol subsidies without corresponding legislative appropriations and made no remittances to the Federation Account. Notably, a NEITI audit also revealed that in 2021, prior to corporatization, NNPC failed to remit over US $2 billion to the Federation Account, a pattern indicative of long-standing fiscal opacity[85]. These actions undermine the transparency and fiscal

[83] Petroleum Industry Act (2021), available on the website ttps://pia.gov.ng/wp-content/uploads/2022/08/PIA-2021_compressed-1.pdf.

[84] Nigeria exemplifies this struggle in the pursuit of sustainable development. While recent reforms have aimed to enhance accountability in Nigeria's oil and governance landscape, structural constraints persist. The abovemntioned *Petroleum Industry Act, 2021* (Sections 53–65) corporatized NNPC Ltd. and outlined governance frameworks intended to separate commercial operations from political influence, though implementation remains uneven. The *Climate Change Act, 2021* (Sections 3–6; available on the website https ://climate-laws.org/document/nigeria-s-climate-change-act_5ef7) reinforces national commitments to emissions budgeting and institutional coordination through the creation of a National Council on Climate Change. Meanwhile, the *Companies and Allied Matters Act, 2020* (Part C, Sections 270–297; available on the website //www.nipc.gov.ng/product/companies-and-allied-matters-act-2020/), mandates corporate governance standards—including director accountability—relevant to SOEs structured as limited liability entities. Together, these instruments reflect Nigeria's evolving regulatory effort to align governance, environmental, and social priorities, even if their operational reach within core SOEs like NNPC Ltd. remains limited.

[85] See Nigerian Extractive Industries Transparency Initiative (2022), *Cost of Fuel Subsidy to the Nation: Options for Policy Review*, 3–4, available on the website https://neiti.gov.ng; World Bank, *Nigeria Public Finance Review: Fiscal Adjustment for Better and Sustainable Results. Synthesis Report*, Report No. AUS0002571

discipline objectives of the Petroleum Industry Act. This fiscal role has direct consequences for the firm's ability to align with Nigeria's climate targets under the 2060 net-zero pledge. Although Nigeria has launched an Energy Transition Plan (ETP) and committed to renewable investments, NNPC has remained largely absent from serious transition planning[86]. Its capital allocation continues to prioritize oil exploration, refinery rehabilitation, and downstream infrastructure initiatives—choices that risk locking Nigeria into a high-carbon development path. Although mechanisms for environmental accountability do exist within Nigeria's broader SOE governance ecosystem—most notably the Nigerian Sustainable Banking Principles (NSBP)—these exert limited traction over NNPC. Established by the Central Bank of Nigeria in 2012, the NSBP requires financial institutions to assess environmental and social risks in high-impact sectors[87]. However, NNPC's reliance on state or internal funding shields it from direct compliance. Even where syndicate lending arrangements exist, limited corporate disclosure weakens the enforceability of ESG standards. Thus, while the NSBP has strengthened accountability across Nigeria's financial sector, it lacks regulatory force over state-owned extractive giants such as NNPC. This governance gap is further compounded by the absence of emissions disclosure, impact assessments, or sustainability-linked financing instruments within NNPC's portfolio[88]. While Nigeria's Sovereign Green Bond

(Washington, DC: The World Bank (2022) 10-13; and TheCable, NEITI: NNPC didn't remit $2bn into federation account before transitioning into commercial entity, Sept. 19, 2023. Available on the website: https://www.thecable.ng/neiti-nnpc-didnt-remit-2bn-into-federation-account-before-transitioning-into-commercial-entity/

[86] The Nigeria Energy Transition Plan (ETP) is a nationally owned, data-driven strategy that sets out Nigeria's pathway to achieve net-zero emissions by 2060 while addressing energy poverty and fostering economic growth across five key sectors: power, transport, cooking, industry, and oil & gas. It underscores the role of natural gas as a transition fuel, projects up to 840,000 jobs by 2060, and estimates multi-billion-dollar cumulative capital investment needs between 2020 and 2060; Nigeria ETP is available on the website: https://energytransition.gov.ng/

[87] See Central Bank of Nigeria, *The Nigerian Sustainable Banking Principles* (2012), available on the website: https://www.cbn.gov.ng/out/2012/ccd/circular-nsbp.pdf

[88] On the lack of emissions disclosure, environmental impact assessments, and sustainability-linked financing mechanisms within NNPC's operations, see

Framework and climate financing architecture continue to evolve, NNPC has yet to position itself as a credible participant in green finance markets[89]. Unlike peer SOEs which have issued green bonds and developed decarbonization roadmaps[90]—NNPC lacks a board-level sustainability mandate or a coherent emissions reduction strategy. Its ESG reporting—where it exists—is sporadic, unaudited, and often limited to compliance declarations rather than strategic transition metrics[91]. In this light, NNPC exemplifies the kind of institutional inertia that undermines sustainability ambitions in resource-dependent economies. Legal reform without political discipline, corporatization without professionalized governance, and fiscal mandates without climate accountability cannot deliver the transformation required. The Nigerian case thus reinforces a central insight: public ownership is not a guarantee of sustainability leverage—without coherence in mandate, oversight, and finance, it may entrench the very emissions pathways that sustainable development seeks to overcome.

Resource Governance Initiative, *National Oil Company Profile: NNPC* (2025), available on the website: https://resourcegovernance.org/publications/national-oil-company-profile-nnpc

[89] On Nigeria's evolving green finance architecture, see Federal Republic of Nigeria Debt Management Office, *Federal Republic of Nigeria Sustainable Bond Framework* (2025), available on the website https://www.dmo.gov.ng/fgn-bonds/green-bond/5336-federal-republic-of-nigeria-sustainable-bond-framework/file.

[90] For example, the *China Green Bond Market Report 2021*, jointly published by the Climate Bonds Initiative and China Central Depository & Clearing Co. Ltd -2060, Available on the website https://www.climatebonds.net/files/documents/publications/China-Green-Bond-Market-Report-2021.pdf, offers a comprehensive overview of China's rapidly growing green finance ecosystem. In 2021, China issued over USD 68 billion in green bonds, reclaiming its position as the world's largest green bond market. The report highlights increased alignment with international standards, especially through the updated Green Bond Endorsed Project Catalogue. It also showcases the expanding role of SOEs in driving green investments across sectors like clean energy, transport, and low-carbon infrastructure—

[91] P Toledano et Al., *Equipping the Nigerian National Petroleum Corporation for the Low-Carbon Transition*, 13-29 (2020); available on the website https://ccsi.columbia.edu/sites/default/files/content/docs/publications/CCSI-NNPC-Nigerian-National-Petroleum-Corporation-Low-Carbon-Transition-rev.pdf

A comparable dynamic can be observed in South Africa. Eskom—long recognized as the backbone of the national electricity system—embodies many of the vulnerabilities previously discussed: chronic financial distress, governance instability, exposure to political interference, and a sectoral mandate deeply embedded in high-emission activities. These features limit the enterprise's ability to align with the country's just transition agenda, even as South Africa increasingly integrates climate commitments into national development planning[92]. The magnitude of Eskom's structural challenge is amplified by its central role in national emissions. As of 2023, Eskom alone accounted for more than 40%[93] of South Africa's total greenhouse gas emissions, driven by an aging fleet of coal-fired power stations that supply over 85% of national electricity[94]. While the government's *Just Energy Transition Investment Plan (JET-IP)* outlines a pathway toward decarbonization and energy diversification, Eskom's financial and institutional architecture remains poorly positioned to execute this vision[95]. The utility's balance sheet—burdened by debt exceeding R400 billion—has constrained its ability to finance new generation capacity, modernize its transmission infrastructure, or scale renewable

[92] South Africa included a just transition in its NDC as early as 2015. However, Climate Action Tracker rated its 2021 NDC update as "insufficient" due to its continued reliance on coal, particularly through Eskom. Coal remains dominant in the power sector and underpins regional economies in Mpumalanga and Limpopo; see Climate Action Tracker, *South Africa Country Summary: Updated Climate Commitments and Actions*, (2021), available on the website: https://climateactiontracker.org/countries/south-africa/2021-09-15/

[93] On Eskom's disproportionate share of national emissions, see Eskom, *Sustainability Report*, 42-43 (2023); available on the website https://www.eskom.co.za/wpcontent/uploads/2023/10/Eskom_sustainability_report_2023.pdf; also Eskom, *GHG emissions*, available on the website https://www.eskom.co.za/dataportal/emissions/elementor-291086/.

[94] On South Africa's coal dependency and its impact on national emissions, see Energy Intelligence, *South Africa's Struggle to Transition from Coal,* (2025), available on the website: https://www.energyintel.com/00000198-9ebd-db4e-a9bd-9fbf10e60003

[95] Available on the website: https://www.climatecommission.org.za/south-africas-jet-ip

integration[96]. South Africa's National Treasury unveiled debt relief packages in 2023, aiming to alleviate Eskom's financial strain. However, these packages were contingent upon improvements in governance, procurement, and cost control—domains where Eskom's difficulties persist[97]. Leadership changes and the overlapping responsibilities of ministers have undermined the ability to carry out strategic plans effectively. At the same time, structural reforms, those involving unbundling, are still moving slowly. Although the National Transmission Company's 2023 debut represented progress, implementation is still delayed by labour disputes and political divisions, which also hinder regulatory clarity[98]. This dynamic presents a tension at the heart of South Africa’s just transition agenda: how to balance the imperative of rapid decarbonization with the socio-economic risks of structural transformation in coal-dependent regions. Eskom, as both a major emitter and a key employer, sits at the centre of this dilemma[99]. While the government’s JET-IP outlines financial, technical, and social support mechanisms to mitigate transition risks, the lack of a dedicated sustainability mandate within Eskom’s corporate governance structure limits the internalization of these

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[96] See CNBC Africa, Eskom Targets Mainly Clean Energy Sources by 2040, (2025), available on the website: https://www.cnbcafrica.com/2025/south-africas-eskom-targets-mainly-clean-energy-sources-by-2040.

[97]To support Eskom’s unbundling and sustainability, the government has introduced a debt-relief arrangement that transfers up to R254 billion of Eskom’s debt to the government over three years. This arrangement is conditional on compliance with performance criteria, including procurement reforms, operational improvements, and unbundling milestones. International Monetary Fund*, South Africa: 2023 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for South Africa*, (2023); available on the website: https://www.imf.org/en/publications/cr/issues/2023/06/06/south-africa-2023-article-iv-consultation-press-release-staff-report-and-statement-by-the-534271

[98] On delays as a result of labor disputes and political divisions; see : Mkentane, Luyolo, *NUM challenges Eskom unbundling as 'privatisation agenda,* BusinessDay, October 6th 2025, available on the website https://www.businessday.co.za/bd/national/2025-10-06-num-challenges-eskom-unbundling-as-privatisation-agenda/.

[99] See Presidential Climate Commission, Framework for a Just Transition in South Africa, (2022); available on the website https://pccommissionflo.imgix.net/uploads/images/22_PAPER_Framework-for-a-Just-Transition_revised_242.pdf

objectives[100]. The utility's environmental disclosures remain limited in scope and lack integration with performance metrics or capital allocation frameworks. Sustainability planning within Eskom is largely reactive, driven by external donor requirements rather than embedded governance reforms. Thus, Eskom's experience exemplifies a broader insight: even in countries with progressive climate frameworks and ambitious transition plans, SOEs cannot operationalize sustainability agendas without internal reforms that align mandates, capabilities, and oversight. As long as Eskom's governance remains fragmented, financially unstable, and structurally entangled in high-carbon infrastructure, its role in the energy transition will remain conflicted—aspirational in rhetoric but constrained in practice. Together, the Nigerian and South African cases illustrate the central insight developed in the preceding section: SOEs cannot deliver sustainability outcomes unless their governance frameworks, incentives, and mandates are coherently aligned with public-policy objectives

These tensions are not incidental: globally, SOEs remain central to the net-zero transition precisely because—as highlighted in the previous paragraph—they operate in high-emission, capital-intensive sectors and control assets on a scale unmatched by private firms. Their portfolio already reflects this mixed trajectory—marked by substantial renewable expansion alongside the persistence of coal-fired assets—a duality that emerges with particular clarity in the Chinese context. China's SOEs epitomize this pattern: in 2020 they were responsible for 83% of large-scale solar PV installations and 65% of new wind capacity, while simultaneously issuing billions in green bonds and investing in carbon-neutrality technologies such as CCUS, smart grids, and hydrogen[101]. These figures underscore the scale at which Chinese SOEs operate within the energy transition landscape. State-owned enterprises such as State Power Investment Corporation (SPIC),

[100] For an illustration of this institutional gap, see Eskom, *Sustainability Report*, 50-55 (2022), available on the website: https://www.eskom.co.za/wp-content/uploads/2022/12/2022_integrated_report.pdf

[101] See F. Zhang and J. Zuo, '*State-Owned Enterprises' Responses to China's Carbon Neutrality Goals and Implications for Foreign Investors*' (2023), available on the website https://gjia.georgetown.edu/2023/02/15/state-owned-enterprises-responses-to-chinas-carbon-neutrality-goals-and-implications-for-foreign-investors/.

China Huaneng Group, and China Energy Investment Corporation not only dominate domestic generation capacity but have also become central actors in clean technology deployment[102]. The strategic positioning of SOEs in China's decarbonization push reflects an intentional policy design: rather than marginalizing legacy actors, the government has embedded energy transition goals within the operational mandates of key state firms. This includes the issuance of green bonds—where China now leads globally in volume—with SOEs such as China Development Bank and Industrial Bank Co. among the largest issuers[103]. However, the dual role of SOEs—leading green innovation while still operating coal-intensive assets—has generated structural tensions, as illustrated by the continued commissioning of coal plants alongside renewable expansion. China's green hydrogen strategy leans heavily on SOEs. According to the State-owned Assets Supervision and Administration Commission (SASAC), over one-third of China's SOEs are actively developing plans for hydrogen production, storage, distribution, and utilization. These enterprises have been explicitly identified as core actors in the early stages of hydrogen industrialization, with projects often integrating renewable energy generation, electrolysis infrastructure, and industrial off-take—executed within vertically integrated SOE portfolios[104]. Similarly, CCUS pilots are largely housed within state entities due to the high capital intensity and policy risk. Thus, China's SOEs reveal a form of climate pragmatism: leveraging public control to accelerate low-carbon investment while still navigating the political economy of entrenched fossil dependence.

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[102] See X Dong et Al., *Decarbonising China & the World: Chinese Energy SOEs Supercharge Renewable Investment in Response to the 14th Five-Year Plan*, (2023); available on the website: https://climateenergyfinance.org/wp-content/uploads/2023/11/FINAL-301123-Decarbonising-China-the-World_-Chinese-Energy-SOEs-Supercharge-Renewable-Investment-1-1.pdf

[103] See International Energy Agency, *How can sustainable debt support China's energy transition?*, (2023); available on the website: https://www.iea.org/commentaries/how-can-sustainable-debt-support-chinas-energy-transition

[104] On the central role of SOEs in early hydrogen industrialization efforts, see Centre for Strategic and International Studies (CSIS), *China's Hydrogen Industrial Strategy*, (2022); available on the website: https://www.csis.org/analysis/chinas-hydrogen-industrial-strategy

Ultimately, the dynamics emerging from the case studies show that the ability of SOEs to effectively contribute to sustainability transitions depends not only on the regulatory instruments and strategic objectives assigned to them, but above all on the consistency of their governance frameworks. A systematic assessment of such frameworks thus becomes a key interpretative lens and will be further discussed in the concluding remarks.

6. Conclusion

This paper has taken into consideration the roles of benefit corporations, dual-purpose entities and SOEs in pursuing sustainable development through an analysis of their governance models, their regulatory frameworks and the main issues that each of them face.

The reason why benefit corporations and SOEs have been analyzed together is their structural possibility to combine traditional profit-making goals with broader objectives connected to sustainability. When it comes to benefit corporations, this hybrid purpose is linked to their private autonomy capacity: companies voluntarily decide to embed commitments to generate public benefit. Conversely, SOEs are equally bound to pursue such objectives, as their aforementioned 'public mission' requires them to align corporate strategies with overarching policy goals. This convergence illustrates how hybrid governance models are increasingly seen as instrumental to tackling sustainability challenges.

From a private sector perspective, the growing interest in benefit corporations and, more generally, in dual-purpose models in several legal systems may show that something is changing in the possible directions of corporate governance. The recent past – as indicated in paragraphs three and four – demonstrates an increasing awareness that environmental and social impacts on a corporate level cannot be treated as occasional side issues. Instead, they are progressively regarded as components that should be treated as parts of the business strategies since they have an economic and financial relevance on the mid-term horizon of each firm.

In this regard, the model of benefit corporation is paradigmatic: benefit companies must pursue public benefit objectives, ascertained via duties of disclosure and accountability.

Benefit corporation, on the other hand, faces many challenges: its administrative complexity and the absence of substantive tax incentives represent obstacles to its adoption, especially for smaller enterprises that may lack the necessary organizational capacity[105].

In order to improve the capacity of benefit corporation of being a model for sustainable development, it could be useful, first of all, to introduce uniform and standardized templates for mandatory reporting, adapted by different jurisdictions: this could make the process easier and cheaper and could encourage smaller businesses to adopt this model. Reviewing tax policies could also play a significant role. If turning tax benefits into a defining feature of the model is not a viable solution, on the other hand policymakers might consider targeted financial mechanisms that acknowledge and reward the concrete commitments undertaken by such entities. At the same time, it's crucial to increase awareness of the long-term economic value that integrating sustainability into corporate activities can generate. Informative initiatives, collaborations with business associations and advisory services—designed for different business profiles—could help foster a gradual cultural shift towards more purpose-driven orientations. Lastly, aligning the benefit corporation framework with accepted international standards and best practices would improve the credibility of the model and strengthen international cooperation. Using established reporting tools—such as the Global Reporting Initiative (GRI) or the European Sustainability Reporting Standards (ESRS)—could promote consistency, increase investor confidence and support cross-border collaborations and financing. Facing these operational, fiscal and cultural hurdles and promoting alignment with international benchmarks, would enable benefit corporations to boost their efficacy as "private" model to reach

105 In this sense see: D. Galli et Al., *Signaling the Adoption of the Benefit Corporation Model: A Step towards Transparency*, 13 Sustainability 6967 ff. (2021).

sustainable development[106] , since, especially in light of the ongoing rollback on sustainability policies— discussed above — the role of hybrid governance models becomes even more strategic.

Turning to the public sector, it has been demonstrated that SOEs have a pivotal role in sustainable development. Their structural hybrid nature—pursuing both profit and public-interest mandates—places them, at least theoretically, in a privileged position. Given this, SOEs governance faces many structural weaknesses such as high political influence and structural operational inefficiencies, sometimes up to corrupt practices. These issues not only undermine the quality and legality of SOEs performance, but can also increase the sustainability-related risks, as discussed in paragraphs five and five point one of this paper.

On a EU Level, as proposed by T. Meelen and J.P. Sluijs[107], adopting a Pan-European Code of Corporate Governance could significantly enhance SOEs' positive contribution to the sustainable transition, as strong adherence to the rule of law and robust corporate governance practices are critical to their effective operation.

Worldwide, the need to improve the SOEs' governance has been underlined by the abovementioned 2024 OECD *Guidelines on Corporate Governance of State-Owned Enterprises*[108] which highlighted the need of improving professionalism, transparency and accountability in SOEs' corporate governance. According to these guidelines the performances of SOEs could be positively affected by a clear separation between ownership and regulatory functions, the minimisation of undue political interference and the establishment of professional and more independent boards. OECD further highlighted the need for explicit strategic mandates, regular performance monitoring, strengthened disclosure obligations and closer alignment of operational practices with internationally recognised corporate governance standards.

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[106] On the future perspectives of the benefit corporation on comparative standpoint see: B. De Donno, *La società benefit come strumento di qualificazione di sostenibilità nel contesto globale*, 1 Working Paper Series LSL (2024).

[107] T. Meelen, J.P. Sluijs, *Government Ownership for Sustainability Transitions: Empirical Insights for EU Policy Makers*, cit. at 75, 113-117.

[108] OECD, *Guidelines on Corporate Governance of State-Owned Enterprises*, cit. at nt. 66.

On the other hand, the most recent OECD report, *State-Owned Enterprises and Sustainability: Leading by Example* (2025) (hereby also the 2025 OECD Report), shows more light on the link between SOEs and sustainability transition. Although the report acknowledges a clear rise in expectations regarding sustainability across both OECD and partner countries, it also points out that actual implementation in strategic and governance processes remains uneven and, in many cases, constrained by entrenched institutional practices. As highlighted in the considered case studies of paragraph five point one of this paper, OECD emphasises that the capacity of SOEs to act as drivers of sustainability transitions depends significantly on the clarity of their mandates, the level of alignment between ownership authorities and boards, and the ability to shield long-term environmental objectives from short-term political pressure.

The 2025 OECD report confirms that governance is the most critical structural bottleneck. The majority of SOEs operate under mandates in which fiscal or political targets take precedence over environmental performance – just like in the NPCC and Eskom cases described in paragraph five point one – and their boards often receive limited strategic direction from ownership bodies. This is usually accompanied by the insufficient presence of board-level expertise needed to address risks connected with transition pathways. Conversely, the 2025 OECD report shows progress in transparency and ESG-related disclosure, even if these practices still appear highly fragmented.

This structural ambivalence is evident in the Chinese context where, as showed in paragraph five point one, significant investments are directed towards renewable energy and green finance but they coexist an ongoing reliance on carbon-intensive assets. The 2025 OECD report shows that this duality is not unique to China but tends to be present in other jurisdictions where SOEs are involved in sectors that play a key role in sustainability transition strategies.

As best practices, the 2025 OECD report enumerates a limited group of Nordic countries with some recurring features: coherent ownership frameworks, highly professionalized boards with sustainability competencies, clearly articulated strategic mandates and reporting systems aligned with long-term transition goals. Among them, Finland's state ownership policy expressly requires that sustainability expertise be considered in board appointments. Similarly in Austria the state holding entity (ÖBAG) chooses directors with recognized expertise in transition-related matters to improve the capacity of the board. On the other hand, Norway present climate risk assessments extended across all the portfolios as part of the state's ownership steering function. Similar mechanisms can be find in the Netherlands and Sweden, where advanced materiality analysis tools are adopted for restructuring processes and divestment decisions in high-emission sectors[109].

The data emerging from the cited sources appear to be consistent with the arguments made in this study: while SOEs are better positioned to face sustainability challenge, their corporate governance needs clear improvements: an higher degree of professionalization of board members, especially with regard to sustainability issues; strategic mandates aligned with the long-term sustainable transition and disclosure requirements that are not merely formal but effectively enforced.

In this sense, future research should consider: i) how ownership and control models can address political interference and enhance sustainability expertise in boards; ii) how sustainability mandates can better align with financial needs, particularly in capital-intensive sectors exposed to transition risks; iii) how SOEs can better leverage public-private partnerships and community-based governance to better fulfil sustainable development goals.

In conclusion it's worthy to underline that, as existing literature has already advised, SOEs could in the future be understood not only as tools of sustainable policy implementation but as actors that may enable multi-stakeholder co-governance, especially where services of general interest intersect with local vulnerabilities and ecological hurdles. Their described strategic placement within complex ecosystems could frame them as possible "*steward of the commons*" given that more participatory and community-based mechanisms are effectively incorporated into their mandates[110].

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[109] OECD, *State-Owned Enterprises and Sustainability – Leading by Example*, OECD Publishing, Paris, 2025.

[110] For this see C. Iaione, M. Manna, *Le società a partecipazione pubblica come custodi dei beni comuni?*, 3 Munus (2024), 760 ff.