

# Should Corporate Social Responsibility be Represented in Regional Trade and Investment Agreements?

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Corporate social responsibility has become embedded in many organizations' business strategy. A thorough review of RTAs, including those now in forces and notified to the WTO, reveals that CSR is included in a modest but growing number of them. These CSR-related sections are quite diverse in terms of location in the RTA, language, scope, and promises. In various chapters, such as those on investment, labour, or the environment, an increasing number of RTAs incorporate a CSR article. The majority of provisions relating to CSR are written in the best-efforts approach. These regulations promote the voluntary adoption and adherence of internationally recognized CSR ideas, standards, and guidelines. Only a few recent RTAs have broadened the scope of CSR-related requirements by requiring investors to do their best efforts to comply with specific standards established by the Organization for Economic Co-operation and Development Guidelines for Multinational Enterprises.

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## Introduction

A number of people have expressed concerns about trade and investment agreements incorporating social and environmental considerations. Many states have argued that burdening IIAs with the range of social and environmental issues associated with the establishment and operation of an investment would make the agreements too broad and unwieldy, according to a recent study by the International Institute for Sustainable Development (IISD). Furthermore, many government and international organization representatives have argued that these issues should be handled by other international organizations

with a specific mandate to do so, such as the International Labour Organization or the United Nations Environment Programme, rather than trade and investment regimes.

However, considering the enormous impacts that trade and investments have on society and the environment in the local communities where investments are made and manufacturing is located, the inclusion of social issues in these agreements may be acceptable. In addition, there appears to be an increasing motivation in the private sector to make this link more obvious. Starbucks UK and Sky Team, for example, publish rather thorough CSR statements and information on their websites. For example, the former include information on social responsibility, community involvement, fair trade, ethical

sourcing, and environmental stewardship.

The next section looks at how incorporating CSR concepts into trade and investment agreements can benefit both CSR and the trade and investment agreements themselves.

## Increasing CSR Effectiveness

### Increasing CSR Cohesion

By promoting better coherence and adoption of CSR concepts, incorporating CSR principles into trade and investment agreements could help to enhance the CSR movement. CSR policies are frequently developed haphazardly at the national level. The lack of a worldwide framework to address CSR issues exacerbates the problem. In other nations, CSR-

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related concerns are handled by a number of distinct government ministries and departments, with little to no coordination.

This lack of coordination and consistency occurs not just within a country, but also across borders, resulting in the establishment of disparate CSR codes of behaviour and standards. Furthermore, many industries are striving to build sector-wide CSR protocols. However, there is a lack of coordination between these activities, resulting in duplication. This general tendency toward the creation of more codes, regulations, and labelling has caused confusion among both suppliers and consumers. This is especially problematic for suppliers from underdeveloped countries, who frequently lack the capacity to address several codes and standards and comply with many labels.

Incorporating CSR concepts and principles into trade and investment agreements may provide an opportunity for improved CSR coherence by signalling to businesses which rules, standards, and labels to follow. As previously stated, the Canada-Peru Free Trade Agreement calls for the formation of a Committee on Investment, which will serve as a venue for promoting cooperation and facilitating collaborative CSR activities. This kind of formal network could aid in the promotion of CSR coherence.

In relation to this, an “omission analysis” may be useful in determining if the lack of references to CSR in a trade and investment agreement has had a

negative impact on CSR. (If such agreements have CSR clauses, it’s also crucial to consider the implications of those provisions.) Countries with robust CSR programmes, such as Brazil, built them without the advantage of CSR-friendly trade and investment agreements. Some of the important elements that appear to affect good CSR programmes in countries like Brazil appear to be the presence of leadership within civil society and enterprises that stimulate dialogue and the dissemination of best practises. What isn’t apparent is how far CSR could have progressed if it had been supported through trade and investment agreements.

### **Building CSR Capacity**

Trade and investment agreements may also play a role in improving institutional ability to follow CSR principles. The most successful CSR projects are those that provide extensive training, but resources dedicated to CSR capacity building are few.

The Dutch government’s Centre for the Promotion of Imports from Developing Countries (CBI), which provides training to exporters from developing countries on social and environmental issues, is an example of successful CSR capacity building. The CBI, which is housed in the Ministry of Foreign Affairs, provides training on codes of behaviour as well as a website with extensive CSR materials. National networks seeking to promote exports in Latin America, Asia, and Africa organize these training programmes.

Because trade and investment agreements often contain strong capacity-building programmes, these programmes could be used to verify that CSR objectives are accomplished at the firm level.

### **Promoting a Transparent and Fair Conflict Resolution Process**

Most CSR projects lack open methods for addressing issues between a company and a third party that arise from the company’s international operations. The incorporation of CSR principles into trade and investment agreements may provide an opportunity to strengthen these conflict resolution procedures by increasing transparency.

Similarly, the relationship-building inherent in CSR systems may reduce the need to rely on trade and investment agreement-based dispute resolution procedures. Indeed, multi-stakeholder networks within the CSR community can provide tools for proactive relationship building across firms and sectors. These connections can help open up pathways for peaceful conflict settlement.

The National Contact Points (NCPs) for the OECD Guidelines for Multinational Enterprises could be one such conduit. The NCPs are national government offices tasked with disseminating the Guidelines and encouraging their observance. The function of NCPs is critical in ensuring that the rules are followed, and “[w]hen concerns arise concerning the Guidelines’ application in connection to

specific instances of business conduct, the NCP is required to assist in resolving them." Without resorting to judicial or other formalized procedures, this process may provide a vehicle for discussing and possibly resolving CSR-related conflicts under the OECD Guidelines.

## Regional Investment and Trade Agreements Strengthening

### Encouragement of Impact Assessments and Stakeholder Involvement

Incorporating CSR into trade and investment agreements could increase the adoption of impact assessment approaches during the negotiation and implementation of these agreements. Impact assessment is included in many CSR instruments since it is a transparent process that results in dialogue with all key stakeholders, improved data assimilation, and a strategic decision-making framework. For example, the European Commission's Trade Sustainability Consequences Assessments are described as "studies that estimate the likely economic, social, and environmental impact of a trade liberalization deal." Organizations like the United Nations Environment Programme (UNEP) have been supporting national-level "integrated" studies that look at the environmental, social, and economic effects of trade liberalization policies for more than a decade. These assessments have

offered helpful information to the participating nations concerning the impact of trade liberalization, as well as options for minimizing negative effects and promoting positive outcomes.

The concept of stakeholder participation is closely tied to the usage of impact assessments. The credibility, validity, and independence of assessments are largely determined by who was contacted and how different points of view and perspectives were expressed in the process. Stakeholder participation is an important feature of CSR tools, and it's also important for guaranteeing the quality of the outcomes and decisions that result from an impact assessment, such as policy suggestions.

### Promoting Collaboration and Knowledge Sharing

Companies and other civil society players have formed substantial, and often unprecedented, ties as a result of CSR programmes. Multi-stakeholder meetings, such as those hosted by the Global Reporting Initiative, have aided in reaching consensus on a variety of topics.

CSR relationships and networks provide information, expertise, and trust. These networks have the potential to improve the efficiency of trade and investment agreements by fostering better bilateral links between enterprises and sectors in various nations.

## Conclusion

This study seeks to contribute to future analysis and discourse on the relationship between CSR and trade and investment agreements, which is a relatively new topic of research. The goal of include CSR principles and tools in trade and investment agreements is to improve the application and execution of the principles and tools as a means of promoting sustainable development.

A few of these potential benefits are highlighted in this research. The success of tying CSR to trade and investment agreements, on the other hand, is highly dependent on the mechanism employed to include CSR into the agreements. There is a natural tension between keeping flexibility in CSR systems to enable continuing company innovation and representing CSR in a trade or investment agreement signed by governments, which may serve to promote CSR but may dampen its innovative nature.

The study has shown that how environmental and labour factors have been incorporated in trade and investment agreements has vital lessons to be learned. In many cases, the tone of these measures was more aspirational than prescriptive. More research is needed to see if this is the best conclusion in terms of CSR concepts and instruments. The study does, however, show the potential benefits of adding CSR into trade and investment agreements, indicating the need for more research on this topic.