SUSTAINABILITY CHALLENGE # 4:

RIVAL CSR REGIMES

1. Introduction: CSR regime build-up[1]

National corporate responsibility (CSR) regimes have been built up in waves. CSR waves throughout the 20th century were mainly linked to domestic themes and the emancipation of specific groups in society. In the beginning of the 20th century, CSR regimes in OECD countries were primarily triggered by the growing emancipation and organisational power of labour. It resulted in labour laws and standards for proper working conditions. In the 1950s and 1960s, CSR regimes developed further under the influence of consumer organisations, which triggered consumer protection laws, demands for increased transparency through labelling and the enforcement of minimum standards for consumer products. In the 1970 and 1980s, national CSR regimes in OECD countries started to respond to the growing environmental awareness of citizens, which resulted in the adoption of environment regulations and sanctions.

In developing and emerging market economies, the build-up of CSR regimes took place much later or has only just started. In the 1950s and 1960s developing countries were struggling with another CSR-relevant phenomenon: independence (from colonial powers) and the setting up of national institutions. The struggle for independence placed stronger emphasis on the nationalisation of firms than on the formulation and implementation of CSR criteria. In African countries in particular, the lack of stable states severely hampered the development/maturation of CSR-relevant movements. In communist countries, CSR was considered synonymous with the operation of a plan economy which officially represented the interests of the workers. But civil society remained very weak –and not least because of the constant threat posed by the Cold War- and consumer and environmental interests received considerably less attention than in OECD countries. In Islamic countries, CSR principles had already been addressed quite extensively in religious laws and principles. Civil society in most non-OECD countries was either very weak (weak labour movement, weak consumer organisations and weak environmental movement) or largely linked to nationalistic causes. These conditions weakened the vigour with which a more sophisticated CSR regime could be established.

Over the years, successive CSR waves culminated in national institutional arrangements, organised lobby groups and legal frameworks. Chapter 2 reveals their

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[1] This dossier was written by Rob van Tulder. It provides complementary material to chapter 12 of the book "International Business-Society Management" (Van Tulder with Van der Zwart, 2006) in which the three most pervasive CSR regimes have already been elaborated in more detail. References in the text to Figures, Chapters and Tables, refer to the original book. This dossier is also aimed at setting a research agenda for further and systematic research in the topic of rival regimes by introducing the concept of regime or stakeholder distance. Last updated: March 2006.

main characteristics. In the course of the 1990s, national CSR regimes in OECD countries were finally confronted with the latest wave of emancipation: strong ethical demands of international NGOs to put the international operations of companies and international issues on the agenda (Cf. Chapter 12). Some CSR regimes are therefore slowly moving towards the establishment of ICR regimes. Most national CSR regimes, however, are in a strong state of flux. Their movement remains relatively *path-dependent,* i.e. strongly rooted and affected by historical and existing institutional arrangements.

Table 1 Five CSR Regimes

IN-ACTIVE	RE-ACTIVE	ACTIVE	PRO/INTER-ACTIVE
"Corporate *Self*-Responsibility"	"Corporate-Social-Responsiveness"	"Corporate Social Responsibility"	"Corporate Societal Responsibility"
Efficiency		**E**quity/**E**thics	**E**ffectiveness
Liberal approach: ***"CSR America"*** Moderately Open: Mandating/facilitating; shareholder/consumer oriented; common law; litigation oriented codes and reports; moderate transparency; strong sanctions; substantial equivalence principle; strong corporate volunteering and philanthropy tradition (BCI); public advocacy: low; SRI: strong			
	Corporatist, Social Democratic approach: *"CSR Europe"* Open: Facilitating/partnering; employee/consumer/-producer oriented; civil law; voluntary and regulation oriented codes and reporting; high transparency; weak sanctions; precautionary principle; weak corporate volunteering and philanthropy tradition; public advocacy: moderate-high; SRI: weak		
		Religious – autocratic: "*CSR Middle East"* Closed: Mandating/endorsing; state/religion oriented; religious principles/law and mixtures; strong sanctions; institutionalised philanthropy: Zakât	
		Community approach: *"Indigenous CSR"* Closed: Partnering; community oriented in transparency and accountability; customary law; work as expression of volunteering;	
Business-statist approach: *"CSR ASIA"* Moderately Closed: Partnering/-endorsing; producer oriented; common/communist law; informal codes; pragmatic principle; low transparency; no corporate volunteering and philanthropy tradition; public advocacy: very low; SRI: negligent.			

2. The Liberal approach to CSR: CSR America

See the text in the book [chapter 12]

3. The neo-corporatist approach to CSR: CSR Europe

See the text in the book. [chapter 12]

4. Corporate-statist: CSR Asia

See the text in the book [chapter12]

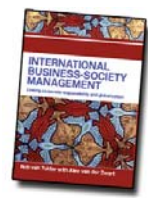
5. The religious-autocratic approach: CSR Middle-East

Middle Eastern countries exemplify the religious-autocratic approach towards CSR. On the one hand, this approach is not very advanced if measured against the same benchmarks as the liberal and corporatist models. On the other hand, it represents a different philosophy of doing business as embodied in the principles of *Zakât* and Islamic Banking (Chapter 1). Governments have largely adopted a "mandating" role in order to support the appropriate implementation of religious codes and national security. Important industries are often state-owned, so it is relatively easy to implement the CSR principles adopted by government.

In the Arab region, three types of legal frameworks can be found that accommodate particular CSR regimes focussed on commercial transactions (cf. Kobeissi, 2004): (1) those following the Western system (Lebanon, Syria and Egypt), (2) those that have codified their laws but draw mostly on the Sharia (see Chapter 2) (Saudi Arabia, Oman and Yemen), (3) those that combine the previous two regimes by 'westernising' modern law and continuing to draw on Islamic law in areas such as contracts (Iraq, Jordan, Libya). Arab countries have been targeted by MNEs primarily for their oil. This has resulted in a high degree of Foreign Direct Investment (FDI) concentration in a few resource-rich countries and very low inward investment in the remainder of these countries, reinforcing their relatively closed nature. FDI in these countries has occurred relatively independently of the CSR regime. Only in Arab countries that have been host to market-seeking multinational investment have 'western-style' CSR initiatives been introduced. Egypt for instance adopted an environmental policy with the objective to come to sustainable tourism by applying ISO 14001 rules. The policy is also funded by the US Agency for International Development (USAID) (Fox et al, 2002).

6. The community approach: indigenous CSR

While indigenous CSR systems are globally dispersed, locally oriented, unique and therefore difficult to compare, they do share a number of characteristics. Strikingly, the interests of communities rather than shareholders prevail in these systems. Local governments also tend to adopt partnering roles. The strongest advocates of this CSR regime are indigenous peoples whose demands are based on unwritten customary law. In many countries, the conflict between national (written) and local (customary law) is at the heart of the conflict over the formulation and implementation of CSR regimes. Indigenous peoples such as the Indians, Aboriginals, Maori, and African ethnic groups seek recognition for their traditional legal institutions and practices. Thereby, the very definition of what constitutes a 'business' or a 'corporation' is open to dispute The question of property rights, for instance, is a particularly controversial



topic of debate. In liberal CSR regimes, private property is well protected and considered vital for economic growth (see dossier #5 on growth regimes). In World Bank and Heritage Foundation indices, the protection of private property is an important benchmark for scoring countries as 'well governed' or 'free'.

In indigenous regimes, however, private property often does not exist and is considered inimical to the preservation of the local regime. The arrival of a third party, in particular multinationals originating from systems where common law (US, UK) or civil law (Europe) prevails, creates severe tension (Cf. Whiteman & Mamen, 2002). In an attempt to maintain or create their own CSR regime, indigenous peoples increasingly team up with NGOs with a grassroots orientation. Programmes developed through these partnerships seem to have a greater chance of success in the context of limited legal frameworks and/or weak enforcement traditions. As a result, companies in Latin America are investing in communities to achieve stable societies and to create an environment amenable to the production and trading of their products. Gutiérrez and Jones (2004) list a number of pro-active strategies were local companies influenced regulation in order to "enhance the impact of CSR activities on local communities". CSR in Latin America and in Africa represents a move towards 'compassionate capitalism' which implies setting up social initiatives to promote citizenship (of people, not just of companies) and develop civil society and local communities.

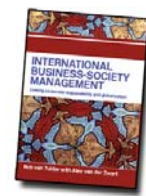


Table 2 Comparative CSR regime characteristics

	CSR REGIMES				
	Liberal	**Corporatist-Soc.democr.**	**Business-statist**	**Religious – autocratic**	**Community**
Prevalent Government Roles in CSR	Mandating – facilitating	Facilitating - partnering	Partnering – endorsing	Mandating – endorsing	partnering
Accumulated phases of CSR waves	Consumers + Environmen-talists + communities + international NGOs	Collective workers + Consumers + Environmentalis ts + international NGOs	Company workers (later) + consumers (later)	Religious rights + nationalists + Consumers	Workers, Environmentalis t
Accountability	High; Trans-parency rela-ted to accoun-tability (less transparent);	Highest; Accountability, reporting laws, high transparency	Medium; No transparency required, weak reporting laws	Low; No transparency and accountability required	Medium; Local accoun-tability and transparency regimes
Governance regime	Outsider: shareholder	Insider: employees	Insider: owners, managers	Insider: states	Insider: communities
Competition policy	Consumer oriented	Consumer and producer oriented	Producer oriented or non-existent	Barely existent	Embryonic (lowest market shares defined as dominance)
Importance of Social Investment (SRI)	Medium	Low	Very low – negligible	Medium as part of Islamic law	Driven by social purposes
Imposed codes of conduct	No or indirectly through litigation; voluntaristic	Directly under contemplation; as prerequisite for subsidies	no	Religious codes imposed	n.a.
Reporting requirements	Financial and social reports	Financial and environmental reports	Financial	No requirements	n.a.
Procurement and rights	Human rights	OECD Guidelines (labour rights)	No rights; National interest prevail	Religious rights	Community rights
Public advocacy	Low (in US)	Medium-high	low	High	medium
Legal system	Common Law	Civil Law	Customary, communist Law, mixtures	Religious Law and mixtures	Customary (unwritten) law
Regulatory CSR principles	Substantial equivalence principle; legalistic: do what law requires	Precautionary principle; do more than law requires	Pragmatic principle:	Religious principles	Precautionary principle
Open/closed CSR regime	Medium open	Open	Medium closed	Closed	Closed
Business-Community involvement	Strong philanthropy tradition; volunteers: workplace/-task oriented; 'business in the community'	Weak philanthropy tradition and volunteers: individual membership oriented	No philanthropy or corporate volunteers tradition	Philanthropy and volunteering is expected from business	Business and community are strongly intertwined, work as form of volunteering

7. Hybrid CSR regimes

In other regions and countries around the world, CSR initiatives have materialised that mirror the hybrid institutional position in the world. CSR experiments in these countries have the potential to generate innovative CSR and ICR regimes. But they also illustrate the dilemmas generally encountered when caught between various institutional models ('stuck in the middle' as further elaborated in section 2.7 of chapter 2). The dilemmas become more pronounced when the CSR regimes represented in the country strongly diverge in their basic characteristics (Table 12.1). Some of the South East Asian countries are confronted with a combination of the Asian and Middle Eastern approach to CSR. Neither is very well advanced, relatively closed and also contain quite opposed CSR principles. The likelihood that a coherent CSR regime will develop in these countries seems small. Central and South Asian states are confronted with a similar problem. CSR regimes are not very well developed in any of these regions. Latin American and African countries are faced with the combined legacies of Anglo-Saxon, continental European and indigenous regimes. This creates ample opportunity for the creation of innovative alternatives. Indeed, interesting experiments have originated in these regions. For instance, Brazil and India have been hosting the World Social Forum, a gathering of groups and individuals actively searching for alternatives to economic globalisation.

Most hybrid CSR regimes cannot be considered advanced, with one exception: the United Kingdom. Through combining the US and European CSR regimes, the UK has developed innovative approaches to ICR. Under the social democratic Blair government, the UK has created one of the most robust CSR regimes. Public advocacy of CSR in the UK is as strong as in continental Europe. The UK has been developing new regulation on corporate governance, redrafted laws on accountability and transparency inclusive of directors' duties and liabilities, and combined indirect investment oriented measures with more direct measures, for instance, to stimulate 'ethical trading'. In 2000, the UK appointed the world's first minister of corporate social responsibility within the department of trade and industry. The UK has shown considerable 'flexibility' in coping with the dilemmas of simultaneously inhabiting two institutional systems. By collaborating with the US on security and human rights, which has resulted in a set of voluntary guiding principles for the mining and energy setor, it fulfils the role of bridging agent between the liberal and continental European regimes. The UK government was the first to support the reporting initiatives of the 'extractive industries, according to which companies promise to 'publish what they pay' in taxes to governments around the world (box). Whether the UK really can sustain its hybrid model or move into the direction of the liberal or corporatist CSR regime remains to be seen and depends also on the question whether its approach is embraced by international organisations.

"Publish What You Pay" and the Extractive Industries Transparency Initiative

The "Publish What You Pay" campaign (PWYP) is backed by a worldwide coalition of over 170 non-governmental and civil society organisations. It was founded by Global Witness, George Soros' Open Society Institute, CAFOD, Oxfam, Save the Children UK, and Transparency International UK, to advocate that mineral revenue transparency is a fundamental governance issue and that voluntary efforts by extractive industries (oil, gas, mining) to address the problem had failed. Revenues from extractive companies (taxes, royalties, signature bonuses) should be an important engine for economic and social development in developing and transition countries. The lack of accountability and transparency in these revenues can exacerbate poor governance and lead to corruption, conflict and poverty.
At the World Summit on Sustainable Development in Johannesburg in September 2002, UK Prime Minister Blair embraced the issue as well and initiated – in close consultation with NGOs like Global Witness, investors and some firms – the Extractive Industries Transparency Initiative (EITI). The aim is to increase transparency over payments by companies to governments and government-linked entities, as well as over host country government revenues. In the words of Blair: "Good governance and transparency serve the interests of the business community, wherever it operates. Better openness and accountability are essential to securing the stability and prosperity that the developing world needs, and on which our mutual business success depends." (Financial Times, 29 September 2003). The way to achieve increased openness is a process of intense multi-stakeholder dialogue and of building broad consensus between all parties involved: G8-members, governments of developed and developing mineral countries, NEPAD, UNDP, The World Bank Group, extractive companies (transnational, as well as state-owned), contractors, trade associations, NGOs and civil society organisations.

In both campaigns, it is acknowledged that any transparency option needs to address three key dimensions – in order to engage both the extractive corporations and governments:

- **Legality**: in countries where companies are subject to a non-disclosure clause or agreement, or a law on public disclosure, the transparency option must ensure that the company has received whatever consents are necessary prior to disclosure. To illustrate the relevance: When BP wanted to publish its tax payments to the Angolan government in 2001, its local business partner Sonangol (the national oil company) immediately threatened to terminate BP's concession, and BP recoiled from implementing its intentions.
- **Competitiveness**: the disclosure of data on country-specific payments should not put companies at a competitive disadvantage. A level playing field must be ensured. Companies have opted for a 'clearing house' construction, which facilitates collection and synthesis of revenue data without laying bare confidential commercial information. The World Bank and the IMF could function as 'honest brokers' and aggregate the data from governments and companies before dissemination.
- **Alignment**: the pursuit of transparency must be carried out by companies and host governments in parallel, applying to – for instance – monitoring, auditing and publication of data.

Sources: www.publishwhatyoupay.org ; www.eitransparency.org

8. Regime distance as institutional distance: a research agenda

Chapter 13 discusses four types of distance that have an impact on ICR strategies: cultural and geographic distance, moral/developmental distance and stakeholder distance. The characterization of various institutional contexts and CSR regimes makes it possible to distinguish one final dimension of distance that has an impact upon the internationalisation strategy of firms: the regime/institutional distance. International Business scholars have only recently started to focus on the question of the kind of regimes that are inducive to international business. Empirical evidence has thereby been based largely on characteristics of national governance – as measured by the World Bank - and characteristics of countries' legal systems. The relatively rough (macro-economic) assessments and sometimes even misleading conclusions are potentially dangerous features of this approach.

An example is provided by the influential study of Globerman and Shapiro (2003). They suggest that countries whose legal systems are rooted in English Common Law – with less market regulation, less codification and more case law, better protection for shareholders, creditors and property rights – are more likely to receive FDI. This might create the impression that countries with a predominantly liberal governance regime are most successful at attracting Foreign Direct Investment. Therefore, a liberal regime is most likely to attract inward FDI. But this finding contains a significant empirical bias. The empirical evidence is incomplete in that the authors only take into account foreign investments made by US firms. They also accredit the liberal regime with the highest degree of 'quality' which could be interpreted as a biased framework.

The latter problems are rather typical of studies on the impact of institutions on FDI. What Globerman and Shapiro found, therefore, was more an indication of the importance of little institutional *distance* than of general patterns in the relationship between the quality of 'governance' and FDI. Other studies that tried to test these findings for FDI flows from non-liberal regimes often could not find confirmation (e.g. Kobeissi, 2004). The only relevant conclusion that can drawn from these kinds of studies is that US companies tend to invest more in countries with a similar legal orientation and governance regime. So, the shorter the regulatory and institutional distance between countries, the greater the likelihood of mutual FDI flows. Studies that focused on one specific aspect of the regime such as corruption revealed comparable patterns. Habib and Zurawicki (2002) found that although corruption clearly creates a serious absolute obstacle to FDI, a negative effect can also be found in the event of a *difference* in corruption levels between the home and host countries. This suggests that firms also face considerable operational pitfalls when confronted with a level of corruption different to that of their home base.

Support for the effect of institutional distance on flows of FDI has also been found in the relationship between the UK and former colonies, also known as the 'Commonwealth' effect. Jones *et al* (1997) argue that an average advantage of 10-15% accrues from being attached to the former colonial network. FDI flows between former colonies and their former colonisers are still stronger than average. This pattern reveals the considerable 'sunk cost' effects related to FDI flows, but also the effect of low transaction costs involved in investing in a country that has the same legal and governance regime. The Commonwealth effect was shown to be strongest for FDI flows. Other former colonial empires (in particular the French) seem to expose comparable commonwealth effects, although the institutional setting is very different from the UK. French multinationals have found it easier to sustain their internationalization strategies to countries were the institutions resemble the 'home'

base (in particular in North and West Equatorial Africa) and where they were not expropriated after de-colonization (as happened in Vietnam and Cambodia) (viz. Savary, 1984). In many of the former African French colonies, therefore, French multinationals are still amongst the leading companies. In the same vein, cross-border investment in continental Europe has been facilitated by a legal system based on Roman civil law despite the fact that this implies more regulation of markets and more bureaucracy as a result of higher degrees of codification. The same seems to apply to countries that share a legal system based on customary or religious law and comparable regimes. Institutional proximity often seems more important than geographical proximity.
Further cross-country research with more detailed and longitudinal bi-lateral investment data is required. On the basis of the above analysis a preliminary overview of Regime distance between the five CSR regimes can be specified. Table 3 gives a qualitative summary of the relative regime distance between the five CSR regimes as either host or home of Multinational Enterprises might experience. It can serve as a basis for further research and hypothesis building.

Table 3: Relative Regime Distance experienced by MNEs

From ↓ / To →		**HOST CSR REGIME**				
		Liberal	**Corpor.**	**State-bus.**	**Religious**	**local**
HOME CSR REGIME	**Liberal**	Very low	Low	Low-Medium	Medium-high	High
	Corpo-ratist	Low-medium	Very low	Medium	Medium	Medium
	State-buss	Low-Medium	Medium	Medium	Medium	High
	Religious	Low-medium	Medium	High	Medium	Medium
	Local	Medium	Low-medium	High	High	Medium

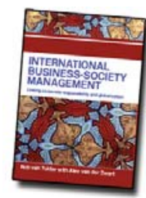
By way of explanation
Multinationals originating in liberal and corporatist CSR regimes have the least difficulty entering host countries with the same regime. Both regimes show considerable overlap, but are also relatively open to host MNEs. Firms originating in liberal countries will find it easiest to enter other liberal countries (as the above data shows). But they will find it much more difficult to cope with the greater emphasis on consultation with employees and other stakeholders in the continental European regime. American MNEs entering Europe will not be able to export their philanthropy and volunteering practices, unless they are prepared to take the risk of being reproached for window dressing. The difference between the ‘substantial equivalence’ and the ‘precautionary’ principle leads to very different approaches to technological innovation and labelling.
From an ICR perspective, European MNEs will find it easier to enter other corporatist countries than liberal countries. Other corporatist countries tend to more readily adopt ICR rules initiated by international organisations. When continental European firms enter liberal countries, they are confronted with the tradition of litigation oriented CSR and the greater emphasis on efficiency. This makes it difficult for them to adopt the same degree of transparency as under their own CSR regime. In the American CSR regime, they run the risk of being taken to court for their international activities which could result in significant reputational damage on stock markets. The American

CSR context also makes it more difficult for them to engage in multiple-stakeholder dialogues (see chapter 20) and to consider government as primary stakeholder. From the European MNEs' perspective, the 'quality' of the American governance regime is not necessarily superior, which confronts them with the question of whether they should adopt semi-optimal strategies. The same, of course, applies to American Multinationals investing in Europe.

The three other CSR regimes exhibit considerably higher barriers to entry. Entry to these countries is difficult even for a Multinational originating from a country with the same regime. Consequently, even Arab MNEs will have to adopt focused strategies if they plan to enter other Arab countries. Because the Asian and the American CSR regimes overlap, it might be easier for firms from either system to enter each other's home turf. The shared emphasis of efficiency in particular creates synergy between the two regimes. Besides, leading Asian economies (China, Japan and South-Korea) have linked their (export oriented) currency and fiscal models directly to that of the United States, creating additional dependencies between the two CSR regimes.[2] It is already widely acknowledged that most companies from other regimes entering the Asian region face a considerable number of ethical traps (Su and Littlefield, 2001). The western firm entering the *Guanxi* business network in China and other networked business systems in East Asia is confronted with more informal arrangements, much lower control on corruption and generally less interest in CSR-related issues due to the extreme emphasis on efficiency. China is actively seeking to become the 'factory' of the world, but its attractiveness to foreign firms might also have a very negative impact on the standards they adhere to in home markets.

The overlapping characteristics of European CSR, Middle Eastern CSR and Indigenous CSR create perhaps the lowest level of inter-regime distance. But the barriers to entry remain substantial. The greatest regime distance exists between Indigenous CSR and Asian CSR. It can therefore be expected that Asian multinationals entering countries with well organised local communities might have the greatest difficulty aligning their ICR strategies with local customs. Japanese or Chinese mining or tourism companies for instance will have greater difficulty than European MNEs to successfully bargain with indigenous without infringing on each other's CSR orientation. The success of an internationalisation strategy thus depends on the potential for alignment between the domestic and the host CSR regime. The lower the level of institutional distance the lower the additional institutional costs and ethical dilemmas. And, the smaller the institutional distance the lower the internal coordination costs for a MNE and the greater the possibility of developing an integrative approach to ICR.

[2] The exact nature of this 'interdependency' is open to debate. In 2003 Japan (US$715 billion), China (U$175 billion) together with the other East Asian success economies held a staggering 60%) of US government debt that is in the hands of foreign governments (through government bond holdings). They covered for the notorious *twin deficits* (government debt and trade deficit) that make the US the largest debtor country in the world and strongly dependent upon the financial actions of particularly the Asian countries. Other liberal countries (UK, Canada, Australia, Ireland) held 11% of foreign owned US government bonds. Continental European countries held only 8% of the US debt (source: Ministry of Finance, Bloomberg)



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