

Incorporating CSR in contracts: more than a necessity, a competitive advantage^{1, 2}

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ABSTRACT

Corporate Social Responsibility is a raising issue for every organization. This paper's objective is to explore different alternatives to find opportunities for organizations to be engaged in this issue in their daily business and not only with actions not related to their activities. Developing three alternatives, comparing them with multi-attribute decision making tables and non-compensatory model we found an alternative bringing more benefits to the organization. AIA developed this year a sustainable exhibit to implement in contracts that facilitates to reach sustainable goals. By working with this type of document, an organization will be involved in long-term strategy and sustainability, therefore, improving its social impact.

Keywords: Corporate social responsibility; CSR; Clauses; Sustainability; AIA; Stakeholders management; Sustainable contract

INTRODUCTION

Many social and environmental scandals have been unveiled in recent month and years, affecting large companies. Often, these scandals link those companies to their subcontractors. Sometimes, they are not aware because they have many subcontractors and they suffer from the information asymmetry. However, they could have avoided that kind of situation. Some big companies do not seem to remember the lessons of the past and always repeat the same mistakes. For example, Apple, affected by the repeated suicides scandal at its main supplier Foxconn in 2010, which had promised to improve the working conditions of workers and who reported on improvements since, was again denounced in 2017 for the unbearable working conditions imposed on workers at another of its Pegatron suppliers. But Apple is not the only one, all sectors have been hit by scandals about their subcontractors: The 1100 deaths due to

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the collapse of Rana Plaza in Bangladesh, a building operated by subcontractors of many Western fashion companies, Findus and horse meat, Nike and child labor in the 90s ... But once the truth is out, these scandals dishonour their public image for a while with the public opinion and shows above all an incredible detachment regarding the treatment of employees and the environment. Thinking of hiding themselves behind subcontractors, they are primarily responsible for these scandalous situations. Why wait for a disaster before taking action to reduce the risks? Human lives are at stake and the environment must be protected, all of which goes well beyond profits.

The first that can play a role are the major distributors towards their suppliers and subcontractors. It is up to them to demand concrete measures and tangible proof of their commitment to decent working conditions and the use of products that reduce risks to the environment and workers' health. In order to put man and Earth back in the heart of the economic game and thus avoid new scandals, it is essential for all distributors to act today at the level of their suppliers in order to commit to their social responsibility.

Step 1 – Summary of problem statement

How can organization use CSR in contracts?

Our aim will be to understand:

- What are the possibilities to implement CSR in contracts?
- Which is the most important criteria that organisation should choose to select an alternative?
- What benefits can they make from incorporating CSR in contracts?

METHODOLOGY

STEP 2: Feasible alternatives

The feasible alternatives are:

- **Implementing clauses of CSR in contracts**

Corporate Social Responsibility (CSR) is defined as "*A company's sense of responsibility towards the community and environment (both ecological and social) in which it operates.*"³

Clauses are defined as "*Stipulation, subdivision, or a numbered part or section of a document, that clarifies, defines, or explains the subject matter.*"⁴

³ Read more: <http://www.businessdictionary.com/definition/Corporate-social-responsibility.html>

⁴ Read more: <http://www.businessdictionary.com/definition/clause.html>

A CSR clause means an obligation imposed on the contractor on how to carry out the activities or products to be used to produce the final product. It can be any type of clause involving the social responsibility of the contractor: commitment to local communities, good treatment of employees (number of working hours, break time, number of days worked ...), use of non-harmful products to the environment...

- **Audit the contractors**

A quality-control audit is defined as a *“Periodic onsite-verification (by a certification authority) to ascertain whether or not a documented quality system is being effectively implemented”*⁵. Here the audit would be used to assess if the workers are well-treated and if the contractor uses all the controls necessary to ensure the safety of its employee and the environment.

- **Use the sustainable contract developed by the American Institute of architects (AIA)**

Earlier this year, the American Institute of Architects updated many contract documents - as it does every 10 years – but one of the most notable update was the new Sustainable projects exhibit. The AIA wants to make the implementation of sustainable concerns easier in new project contracts. The purpose is to help organizations to reach their sustainable objectives more effectively.

STEP 3: Development of outcomes

A) Implementing clauses of CSR in contracts

The main technique for acting on a supplier is through the inscription of commitments on a contract in due form. Within the contract, clauses of corporate social responsibility may be included. A contractor producing for a big company is directly related to the image of this company. If a scandal breaks out at this contractor, the company will be a much bigger collateral damage. Writing CSR clauses allows the company to protect itself against problems that may be highlighted in the management of subcontractors as well as to show a long-term commitment to all stakeholders. Because of their influence in the economy, big companies must train all the other organizations in their impetus. By imposing responsibility clauses to their contractors, these same contractors will impose on theirs to keep their contracts and so on...

Countries also have a role to play in encouraging businesses to get involved. Being the highest stone of the pyramid, each society is bound to its companies by the great contract that the law represents. In India, since 2014, it has been enshrined in the law that any Indian company with more than 125 million euros in turnover will have to return 2% of its profits to charitable causes or programs. Companies are thus encouraged to develop CSR projects for education, the development of local communities or the environment... In the long term, the society as well as the company are winners because a society thrives thanks to its companies and the businesses prosper more easily in a developed society.

⁵ Read more: <http://www.businessdictionary.com/definition/audit.html>

B) Audit the contractors

A solution to ensure that the CSR clauses are respected and that the subcontractors do not endanger the image of the company by irresponsible actions is to ask for a regular audit. The most complicated thing is to define which actions are responsible and which are not. Since not all countries have the same ecological standards and the same labor rights, the task can be complicated.

Regarding wages, respecting the minimum wage is the least and getting closer to the concept of living wages is a direction to follow. The Asia Floor Wage Alliance has developed a calculation method to measure the living wage of the inhabitants of a specific country. They calculate it as follow: a worker should be able to meet his living needs and the one of another adult or two children, then 50% of the wage is attributed to the food, 40% to the clothes, housing, transportation and 10% in other activities. To engage only with subcontractors respecting this living wage could demonstrate a strong commitment on the part of a company.

Concerning labor law, auditing the management methods, checking that the maximum number of hours worked per week and break times are respected are possible solutions. Obviously, this option requires a financial effort in the short / medium term but can enable companies to derive benefits in the longer term if the company communicates on its commitment wisely [Costa & Menichini, 2012].

C) Use the sustainable contract developed by the AIA

This is a document drafted by the AIA facilitating the implementation of sustainable objectives and the measures to put in place to achieve these objectives, which may be obtaining certifications, energy optimization measures or other benefits regarding the health and well-being of users. This document can be attached to any contract within the framework of a project. The document explains all the obligations incumbent on each of the parties to this contract, all the actions to be put in place and all the documents to be provided to ensure the proper implementation of the sustainable measures.

Sustainable workshops must be organized between the architect and the owner in order to establish the objectives, the targeted certifications, the measures to put in place, the budget allocated ...

The document seems ideal for encouraging companies to pursue sustainable goals.

STEP 4: Selection of criterion (or criteria)

We will compare the alternatives with 5 attributes:

- Cost: Is the alternative expensive to execute?
- Monitoring the action and involving the contractor: Is it easy to monitor the chosen alternative and does it involve the contractor?

- Sustainable efficiency: Does it involve the owner and the contractor on long-term engagement?
- Tangible and non-tangible benefits: Does the alternative bring the owner tangible and non-tangible benefits?
- Effectiveness to communicate on: Is it easy for the owner to communicate on the alternative and to make benefits from this communication?

The minimum acceptance criteria would be the respect of engagement: Is the criteria too restrictive to execute the alternative?

	Implementing clauses of CSR in contracts	Use the sustainable contract developed by the AIA	Audit the contractors
Sustainable efficiency	The contractor must respect the clauses during the contract but it can stop its engagement as soon as the contract ends and not engage more than the clauses	This contract has been designed to reach sustainable goals	The contractor must engage in a sustainable system of CSR
Monitoring and Involving the contractor	It's not that easy to monitor and it involves the contractor only on respecting these specific goals	It involves the contractor on the overall contract.	Auditing a contractor is the best way to involve a contractor on a long-term about its CSR engagement
Effectiveness to communicate on	The effectiveness is not bad but the purpose is more only avoiding problem than involving the contractor on long-term	Good, even the mainstream public can not understand the specificity of the AIA contract, the organization shows a sustainable objective.	Excellent because the owner has a proof that it does the maximum to commit in CSR
Tangible and non-tangible benefits	Avoid scandals and problems more than creating benefits	The benefits are high because it helps to reach sustainable goals	The quality can be higher and it depends a lot on the communication made about this action and the perception by the public opinion
Cost	The price of the contract could be higher	The contract is designed for a sustainable purpose. It doesn't increase the price that much	The cost for auditing a contractor can be very high, above all if all the contractors are audited

Figure 1. – Multi-Attribute Decision Making – Non-compensatory Model – Analysis of each feasible alternative against each criterion⁶

⁶ By author

In order to assess each alternative, we will give them a grade between 0, 1 and 2 for all the attributes.

	Implementing clauses of CSR in contracts	Use the sustainable contract developed by the AIA	Audit the contractors
Sustainable efficiency	1	2	2
Monitoring and Involving the contractor	1	2	2
Effectiveness to communicate on	1	2	2
Tangible and non-tangible benefits	1	2	1
Cost	1	2	0
Total	5	10	7

Figure 2. – Multi-attribute decision making - Evaluation of each alternative against each attribute⁷

Each criterion doesn't have the same importance. We will now assess them in order to give them a rank. It will help us to understand which is the most important criteria that organisation should choose to select an alternative.

	Cost	Tangible and non-tangible benefits	Effectiveness to communicate on	Monitoring and Involving the contractor	Sustainable efficiency	Ranking
Sustainable efficiency	1	1	1	1		4
Monitoring and Involving the contractor	1	1	1		0	3
Effectiveness to communicate on	1	1		0	0	2
Tangible and non-tangible benefits	1		0	0	0	1
Cost		0	0	0	0	0

Figure 3 - Comparison of the importance of the attributes⁸

⁷ By author

FINDINGS

Step 5: Analysis and comparison of the alternatives

Following the Figure 1, 2 and 3, we are now able to rank the different alternatives. A lexicography is appropriate and will show clearly which alternative is the best one based on the attributes we decided to compare.

We compared the 3 alternatives against the criteria and gave them a rank.

Ordinal Ranking		Relative ranking of each alternative based on attribute
4	Sustainable efficiency	Use the sustainable contract developed by the AIA = Audit the contractors > Implementing clauses of CSR in contracts
3	Monitoring and Involving the contractor	Use the sustainable contract developed by the AIA = Audit the contractors > Implementing clauses of CSR in contracts
2	Effectiveness to communicate on	Use the sustainable contract developed by the AIA = Audit the contractors > Implementing clauses of CSR in contracts
1	Tangible and non-tangible benefits	Use the sustainable contract developed by the AIA > Audit the contractors = Implementing clauses of CSR in contracts
0	Cost	Use the sustainable contract developed by the AIA > Implementing clauses of CSR in contracts > Audit the contractors

Figure 4 – Lexicography to make the better choice⁹

Step 6: Selection of the preferred alternative

The two alternatives use the sustainable contract developed by the AIA and Audit the contractors are really close based on the three most important attributes and scored equally. The choice will be made on the two last attributes “tangible and non-tangible benefits” and “cost”. Based on these attributes, we can finally recommend an alternative which is Use the sustainable contract developed by the AIA.

The cost to use this alternative is clearly lower and the tangible and non-tangible benefits are higher.

⁸ By author

⁹ By author

The last alternative is the one that we don't recommend if the organization has another choice. Implementing clauses of CSR in contracts would be less efficient than the other alternatives based on all the attributes.

However, the three alternatives can be complementary. An organization can use them at the same time if it has enough money to do so and the result can be very good. Using the sustainable contract, implementing clauses of CSR in it and auditing the contractors to monitor everything and involve him more than just by a contract is also a possibility.

Step 7: Performance monitoring and post-evaluation of results

To track the performance, we can:

- Measure if the sustainable goals fixed are achieved
- Measure if more projects are achieved using the sustainable contract compared to those who use another type of contract
- Evaluate the cost of using the sustainable contract and compare the cost to the benefits made
- Track the involvement of the contractors and if any improvements in relationship have been made with them.
- Analyse the results of communicating on the use of this alternatives. For example, article in the press, feedback from clients, feedback from employee. Possibility to create and share surveys to measure these non-tangible benefits.

CONCLUSION

The purpose of this paper was about exploring these questions:

- What are the possibilities to implement CSR in contracts?
- Which is the most important criteria that organisation should choose to select an alternative?
- What benefits can they make from incorporating CSR in contracts?

We developed three different alternatives and their outcomes. These alternatives are implementing clauses of CSR in contracts, audit the contractors and use the sustainable contract developed by the AIA. To select a preferred alternative, we compared them against five attributes and the minimum acceptance criteria so that the alternative is not too hard to execute. At the end, none of them is eliminated and they all can remain a possibility. Actually, they can be complementary. However, if an organization should choose one among them, use of the sustainable contract of AIA from the beginning would make the more benefits.

Using this alternative would help an organization to reach sustainable goals more easily. It brings them a framework to put in place the conditions facilitating the pursuit of those goals and helps to involve both parties, the owner and the contractor. Pursuing that kind of

sustainable goals is a long-term strategy making tangible and non-tangible benefits to any organization involved in a real project of working with this type of contract. Reaching these sustainable goals will bring benefits to the owner but also to the entire society. In these doubtful times, there is nothing more important.

FOLLOW ON RESEARCH

Now, it will be interesting to follow and analyze the results of projects using this AIA contract. Do they improve original projects? Do they help organizations to reach sustainable goals?

Then, in this paper, we saw that these alternatives could be complementary. There is not just one way to engage in CSR issue related to organization's business and they all can bring sustainable benefits to the organization, its contractor and the overall society.

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