

**Network Governance in International Organizations:
The Case of Global Codes of Conduct**

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ABSTRACT

This paper analyzes the two most important international programmes for the voluntary regulation of corporate behaviour: the OECD Guidelines for Multinational Corporations and the UN Global Compact, both managed as public networks. It argues that the shift to network governance may be fundamentally changing the role that international organizations exert in regulating the business environment. Specifically, the paper argues that international organizations choose network management solutions not so much due their technical superiority vis-à-vis other forms of regulation (e.g. standard-setting), but rather as a form of domain appropriation: instruments like global corporate codes impose minimal requirements on the constituents, and thus avoid the most pressing problems of political acceptability, but at the same time allow international organizations to assert their role in the policy areas in question.

Keywords: Corporate Codes, Public Network Governance, International Organizations

INTRODUCTION

The worldwide shift from government to governance (Peters and Pierre 1998, 2000; Rhodes 1996, 1997) has changed the way in which state authorities exert sovereign control. The shift to governance refers to the decline of the classic command-and-control mode of regulation (in which public actors democratically selected by their national constituencies take decisions that are binding for everybody and then implement them through governmental agencies), and the ascendancy of a new system in which regulation is produced in participatory fashion by public and private actors collaborating with one another.

In the governance mode of regulation, non-state actors are not only involved in the implementation of public policy, but often also in their formulation. One consequence is that regulatory functions, ultimately in the public interest (Mayntz 2006) are increasingly being devolved to the self-regulation of private organizations (Haufler 2001, 2003; Pattberg 2005). Classic examples can be found in the fields of environmental and labour standards (Bartley 2005, 2007; Cashore et al. 2007; Prakash and Potoski 2007; Stafford 2007), where matters that used to be, and still largely are, under the regulatory compass of the national state have become subject to complex private-public administrative systems (Radaelli 2003; Porter and Ronit 2007) involving international organizations, administrative branches of the national state, and various civil society organizations and NGOs.

In this paper we do not discuss whether or not global codes of conduct and the associated private monitoring infrastructure weaken the national state (Rosenau and Czempiel 1992; Young 1994; Reinicke 1998; Zürn 2000). Rather, we investigate how they may be fundamentally changing the nature and function of international organizations, and the role that the latter exert in regulating the business environment. In order to do so, we examine the two most important international programmes for the regulation of corporate behaviour, the

OECD Guidelines for Multinational Corporations and the UN Global Compact, and make two related arguments: that international organizations now operate, in various respects, as public network coordinators, and that the reason why international organizations shift to network governance seems to have less to do with technical effectiveness than with domain appropriation. In other words, network governance gives international organizations an opportunity to gain a presence in policy fields in which more traditional types of regulatory intervention, e.g., standard-setting, are unlikely to be accepted by international constituents (Ruggie 2001; Kell and Levin 2003) due to the controversial nature of the issues at hand.

The paper is organized as follows. The next section deals with the emergence of global corporate codes in international organizations. Sections Three and Four examine the OECD Guidelines and the UN Global Compact respectively through the lenses of public networks theory, focussing on network activation, issue framing, learning processes and network governance. Section Four concludes.

INTERNATIONAL ORGANIZATIONS AND GLOBAL CORPORATE CODES

International organizations emerge from agreement among nation-states and rely heavily on nation-states for application of the international instruments they promulgate. Traditionally an intergovernmental agreement introduces detailed regulatory provisions in a particular policy domain, while implementation, prevention and repression of non-compliance are left to the regulatory apparatuses of ratifying member states. The role of international organizations in what we call the 'traditional model' is typically to facilitate the process of intergovernmental negotiation and assist with capacity-building at the national level.

In several policy domains the traditional regulatory model has given way to a new model, which in highly stylized terms operates as follows: *in lieu* of detailed regulatory norms there is a global code of conduct, i.e. a declaration of general principles which takes

the form of *soft law* (Abbott and Snidal 2003; Trubek and Trubek 2005). This is issued and actively promoted by an international organization operating in the particular policy area. Responsibility for the more precise definition of the principles, as well as of the means to achieve them is devolved to thematic sub-networks or to local actors (private and public), which are involved based on their interest in and familiarity with specific regulatory problems (Sabel, Fung and O'Rourke 2000; Fung, O'Rourke and Sabel 2001). International organizations further contribute to achieving regulatory goals by systematically collecting data on the performance of local actors, often through the creation and publication of indicators that track the actors' progress (Ruggie 2001, 2002; Kell and Levin 2002), as well as by promoting the circulation of information about best practices achieved at the local level. This regulatory system has two effects: it places corporate behaviour under the scrutiny of NGOs and other actors (O'Rourke 2003, 2005); and it encourages companies to constantly compare their performance against their own past one and against that of their competitors (Fung, O'Rourke, and Sabel 2001; Cetindamar and Husoy 2007).

The shift to governance through voluntary codes is not an entirely new phenomenon for international organizations. For example in the field of corporate self-regulation the first initiatives, the Organization for Economic Cooperation and Development's Guidelines for Multinational Enterprises and the International Labour Organizations' Tripartite Declaration of Principles Concerning Multinational Enterprises, date back to 1976 and 1977, respectively. Recently, however, global codes of conduct have taken deeper roots and wider significance. Companies often welcome the more direct involvement of international organizations in private monitoring activities (Béthoux, Didry and Mias 2007). Under pressure from NGOs and consumers (O'Rourke 2003, 2005), multinational companies often see these codes and the associated monitoring infrastructure as a way to insure themselves against social risks (King and Lenox 2000) as well as a tool to preserve, improve, or rebuild their corporate

image. From the point of view of firms, network-based monitoring systems are more flexible and less intrusive than traditional government regulation (Cashore 2002). They can be relatively easily integrated within existing corporate structures for the governance of global supply chains, e.g. for quality control. Specifically, internationally-sanctioned codes of conduct contribute to bring order to the unruly world of private codes of conducts, where suppliers in global supply chains are monitored repeatedly by different corporate agents, each checking their compliance with different codes, with a clear multiplication of costs (Bartley 2005; Mamic 2005; Locke et al. 2007). Also, the involvement of an international organization increases the credibility and legitimacy of monitoring activities, and contributes to assuage the vexed problem of credibly monitoring the monitors (O'Rourke 2003, 2005). Governments, too, generally value the flexibility and responsiveness of these systems (Ayres and Braithwaite 1992), as they promise to increase companies' compliance with standards without overloading thin departmental budgets and governmental staff.

We do not mean to argue that international organizations are all unambiguously evolving in the direction of networked governance. Specialised UN agencies such as UNEP or ILO are very much thorn between the new model and their old one of building international consensus over minimal regulatory requirements, to be ratified and implemented by national governments through hard law (standard-setting). At the same time, several of their initiatives are clearly evolving along the lines outlined above, as the remainder of the paper illustrates.

SET-UP OF THE STUDY

The paper focuses on two international initiatives: the New OECD Guidelines for Multinational Enterprises (2000) and the United Nations Global Compact (1999) between 1999 and 2008. These cases were selected based on their potential impacts, both in terms of

geographical reach and of issue coverage. As is typical of governance initiatives, both rely heavily on public networks to reach their regulatory goals. Consequently we examine the cases from a public network perspective (Kickert, Klijn and Koppenjam 1997; O'Toole 1997; Bogason and Toonen 1998; Agranoff and McGuire 1998, 2001; Milward and Provan 2000, 2003; Eglene, Dawes and Schneider 2007; Herranz 2007). In particular, we adopt the framework developed by Agranoff and McGuire (2001) and address the issues of: (a) network activation; (b) network adaptation and issue framing; (c) learning processes; and (d) network governance. The details of the study design, sources examined and interviews are contained in **Appendix A**.

THE OECD GUIDELINES FOR MULTINATIONAL CORPORATIONS (2000-2008)

Network activation

The OECD guidelines were launched in 1976 and were rooted in the socio-political milieu of the first half of the 1970s, with policy elites heatedly debating the role of Multinational Corporations and 'ways to limit the MNCs' influence on national developments' (interview conducted by the authors with Kathryn Gordon, 4th April 2008). A crucial incident that spurred the debate was the 1973 bombing of the ITT Inc headquarters in New York. The company was accused to have been implicated in the overthrow of the democratically elected (socialist) government in Chile (Sobel 1982).

The years preceding the adoption of the Guidelines had witnessed a flurry of activities within the UN system, especially the establishment of the UN Centre for Transnational Corporations, which aimed at the development of comprehensive codes of conduct for multinational corporations. However, political and ideological differences among UN member states undermined these endeavours (Stopford 2005, p. 110) and provided the OECD with an opportunity to step in and fill the gap. In 1976 the 24 OECD member states agreed to

a set of guidelines for responsible business conduct which were understood from the beginning to be of voluntary nature (Blanpain 1979, 1983; Campbell and Rowan 1983).

In the late 1990s, the OECD embarked in a revision of the Guidelines. Again, the impetus for reform came from outside, from the socio-political debate on globalization, and particularly from the preoccupation, which was expressed in several quarters, about its negative social and environmental consequences, as well as from the failure of attempts to introduce hard constraints (e.g. a social and/or environmental clause) within the multilateral trade regime (Servais 1989; Leary 1997; DeSombre and Barkin 2002). The OECD responded by expanding the scope of the Guidelines. The revised Guidelines were adopted by the governments of the 30 Member countries. Since then, ten non-Member countries, including Argentina, Brazil, Chile, Israel and Egypt, have also adhered (Jesover and Kirkpatrick 2005).

Network re-adaptation and issue framing

The Guidelines were revised through a consultation process which occurred between November 1998 and June 2000 and which was aimed initially at a comprehensive Multilateral Agreement on Investment (MAI). The MAI never saw the light of day, as the constituents could not agree on its content, but the process led to a revision of the existing Guidelines. The consultation process involved formally the Business & Industry Advisory Committee (BIAC) of the OECD, representing the interests of companies and business organizations, and the Trade Unions Advisory Committee (TUAC), including ILO and the international labour community. While there was no formal consultative body for NGOs, ‘the level of engagement and the importance of the NGOs was practically the same as the Business and Labour Committees’ (interview conducted by the authors with Vernon MacKay, 3rd April 2008).

The revised version of the guidelines expanded their scope to include child and forced labour, workforce conditions and internal environmental management, human rights, and the fight against corruption through greater disclosure and transparency in corporate affairs. Another adjustment to the 2000 Guidelines led to a wider definition of the targeted corporations. While the 1976 Guidelines focused on transnational corporations, the revised Guidelines were adapted to small and medium enterprises as well.

The reach of the Guidelines was further extended by strengthening the network-based structure of the programme. Each adhering country was required to set up a National Contact Point (NCP) to coordinate national activities. A coalition of more than seventy NGOs from all the continents – the OECD Watch – was given the task of monitoring corporate conduct with respect to the Guidelines and became an essential stakeholder.

Furthermore a complaint procedure was introduced to deal with company violations. This is called the *Specific Instances Procedure* and can be accessed by trade unions, NGOs or other interested parties. All complaints have to be directed to the National Contact Point. Trade Unions have been the first to file a complaint in 2001, when the Brazil National Confederation of Trade Unions (Central Unica dos Trabalhadores – CUT) objected to the relocation of Parmalat-Brazil without prior notice (interview conducted by the authors with Bart Slob, 16th Marc 2008). Over time NGOs have also become active users of the complaint system. Indeed, OECD Watch has become the main source of complaints which are addressed to the National Contact Points.

Network learning processes

The structure of the OECD Guidelines network includes several platforms in which the various stakeholders exchange information. At the central level the Investment Committee organizes periodic debates involving the advisory bodies which, in turn, involve their

stakeholders in the promotion of the Guidelines. For example the BIAC has been active in promoting the guidelines with their constituents, and the TUAC has established training programmes for unions at the international level.

Opportunities for information exchanges are also provided by four annual meetings. One is the annual convention of the National Contact Points (NCPs). NCPs are free to determine their strategies and organizational structures as long as they fulfil the functions set up in the Guidelines. To ensure ‘functional equivalence’ (interview conducted by the authors with Manfred Schekulin, 3rd April 2008), all National Contact Points must report their activities in a standardised format and are subject to peer-review. The reports contain information about specific instances handled by the National Contact Points. During the annual meeting, experiences are shared and issues are raised. While some NGOs observers have argued that the process is still ‘far too diplomatic to be punchy’ (interview conducted by the authors with Bart Slob, 16th March 2008), other informants report that a process of learning has taken place among the National Contact Points since 2000 (interview conducted by the authors with Vernon MacKay, 3rd April 2008).

The National Contact Points seek to promote the Guidelines among enterprises operating in or from their territories. When a National Contact Point receives a case, it is responsible for trying to resolve it through a range of options that include offering a venue for discussion to the parties concerned, or providing mediation services. The NCP can also seek advice from relevant actors, such as business associations or unions or the OECD Investment Committee.

As a first step the National Contact Point (NCP) assesses whether or not the case deserves further examination. Then it moves to mediation. If no agreement is reached, a public statement on the case is published. Thereby, even if ‘the Guidelines do not provide for sanctions against corporations, the mere fact that the conclusions of the National Contact

Points should be in the public domain can have an impact on the company behaviour’ (interview conducted by the authors with Paola Pinoargote, 12th March 2008). This threat potentially activates a response by companies driven by the need for reputation maintenance, though the corporate and NCP reaction still varies tremendously: some are timely and effective while others completely ignore the procedure (interviews conducted by the authors with Veronica Nillson, 16th September 2008 and with John Evans, 30th September 2008).

It is important to highlight that the network of NGOs grouped in the OECD Watch has used the specific instance procedure as a strategy to activate and strengthen the National Contact Points (interview conducted by the authors with Joseph Wilde, 4th October 2008). The greater the number of complaints, the greater the importance and visibility of the NCP. Also, by dealing with complaints NCPs are given opportunities to develop their expertise. In the case of the Netherlands the NCP has even been granted an ad hoc budget for ‘fact-finding’ on corporate practices as a result of the large number of complaints received.

However, the same NGOs strategy has not been successful in countries with no budget for implementing the activities related to the OECD Guidelines and with low political commitment. In these contexts the lodging of complaints by the NGOs has had no impact on the NCP. Illustrative of this phenomenon is the case of Brazil, where no one of the five complaints issued by NGOs has been processed and completed (interview conducted by the authors with Bart Slob, 16th March 2008).

Network governance and follow-up mechanisms

The OECD Guidelines are not an alternative to national laws and regulations, to which multinational enterprises remain fully subject. They represent complementary principles and standards of non-legal nature. ‘While they extend beyond the law in many cases, they are not

intended to place an enterprise in a situation where it faces conflicting requirements.’ (Sustainable Development 2007, p. 25)

It should be emphasized, however, that the stakeholders increasingly consider it as a quasi-legal procedure and very often enter the *Special Instances* procedure in parallel with the legal process. Businesses tend to rely on their lawyers during the mediation sessions, and for NGOs the fact-finding and complaint procedure has become so time-consuming and costly that once completed, it is often used to launch a parallel legal case in the competent national courts. In the words of one of the informants: ‘We are talking about three years reading thousands of documents. The amount of resources required is making some NGOs reluctant to file a complaint’ (interview conducted by the authors with Bart Slob, 16th March 2008). In other words, the procedure is becoming increasingly formalized, if not *de jure* certainly *de facto*.

A distinctive feature of the Guidelines is that they are binding for Governments, which have a key role to play in promoting, monitoring and enforcing responsible corporate behaviour, by virtue of their adherence to the OECD Declaration on International Investment. However, while only required to participate voluntarily, companies have unofficially adhered to the Guidelines through their support of the Business & Investment Advisory Committee. Occasionally some companies have signed the Guidelines, though this tool is not intended to be endorsed by corporations. ‘A company is not expected to endorse the Guidelines. A company is covered by these principles’ (interview conducted by the authors with Kathryn Gordon, 4th April 2008). Thus, the Guidelines are deemed to be the most accurate expression of the expectations of adhering governments and through this tool managers can be instructed easily and promptly on the standards of responsible business conduct of all OECD member countries and adhering states. They also help clarifying the ‘expectations of society about corporate sustainability’ (interview conducted by the authors with Dirk Manske, 1st October

2008). The purpose of the Guidelines is to facilitate the resolution of problems through mediation and conciliation. However, while the recommendations to corporations are not binding, the *Special Instances* procedure can be activated irrespectively of the company's acknowledgement of the Guidelines, thus ensuring that they do not become solely a public relation gimmick.

We now turn to another initiative aimed at regulating corporate conduct, the UN Global Compact. As with the OECD Guidelines, we examine the experience of the Global Compact through the same categories of activation, re-adaptation & reframing, learning processes and governance & accountability.

THE UN GLOBAL COMPACT (1999-2008)

Network activation

The launching of the UN Global Compact originated from the increasing interactions between the United Nations and the business world since the early nineties (Tesner 2000; Zammit 2003). The range of UN-Business partnerships included a multiplicity of initiatives, ranging from operational partnerships to country-level cooperation, from partnerships to address global health issues to fundraising initiatives. Opportunities for closer links resulted from the increasing participation of corporate representatives in global conferences, resulting in the inclusion of the private sector in major events which shaped the UN Agenda. UN-Business collaboration has been a priority of the Secretary General Kofi Annan since the inception of his mandate in 1997 (Zammit 2003, p.30).

‘With dozens – perhaps hundreds – of joint business-UN activities already under way in nearly every UN agency, the Secretary General pressed for a new high-profile program that would symbolize the new UN-business partnership. The idea for a ‘Global Compact’ emerged from conversations

with business executives in 1997 and 1998, especially with the International Chamber of Commerce' (Paine, 2000, p .9).

Thus, after months of preliminary negotiations, at the 1999 Davos Economic Forum the Secretary General launched the idea of the Global Compact, and, in an address to business leaders, invited to join 'an international initiative that would bring together companies, labour, civil society and UN agencies in support of universal social and environmental principles' (ILO 2007, p.18).

The reaction to the speech was encouraging and the Office for the Secretary General decided to convene the three UN Agencies in charge of Labour Issues, Human Rights and Environment. The goal was the launching of an initiative aimed at involving corporations in the promotion of universal principles and values, consistent with the major declarations and conventions previously adopted by the UN.

There are at least three complementary explanations behind the UN decision to launch a global partnership with the private sector. First,, the complexity and interdependency of the current challenges seemed to call for multi-stakeholder solutions. With the concurring Millennium Declaration, based on eight interconnected principles, as well as with General Assembly's resolution on global partnership, the UN had already embraced a multistakeholder approach (Ruggie 2001; Kell and Levin 2002). Second,, corporate partnerships were seen as a promising new way to attract political and financial support for the UN, after more than a decade of heavy criticism from important sectors of business, conservative foundations and think-tanks, particularly in the US (Paine 2000; Zammit 2003). Third, 'the probability of the UN General Assembly's adopting a meaningful code anytime soon approximated zero.' (Ruggie 2001, pp.373). Kell and Levin (2003, pp.152) claim that the United Nations Global Compact 'at its core is simply a strategy to make the UN relevant

by leveraging its authority and convening power in ways that will actually produce the positive social change it aspires to create.’ Kell has argued that:

‘In most domains the UN continues to pursue its traditional approach to conventions, which remain its bread and butter, but the lack of a political mandate in this field and the lack of institutional capacity make an hard-law global code binding for corporations unfeasible. None of the major governments would entrust to the UN this mandate, thus handing in their executive power. But also, to enforce a global corporate code would require an army of professionals. As a consequence, the options available were doing nothing or pursuing this experimental strategy’ (interview conducted by the authors with George Kell, 14th October 2008).

In July 2000 the operational phase of the Global Compact was initiated. The Compact was conceived and organised as a Network involving companies, governments, unions, business associations, NGOs, the academia and the UN Global Compact Office backed by six specialised agencies.

Network re-adaptation and issue framing

One of the main goals of the Global Compact was to include external actors, both corporate and non-profit, in the UN activities. Thereby, the General Assembly in November 2001 resolved that the Global Compact ‘would operate as a network and not be considered a formal UN institution structure requiring intergovernmental oversight’ (Zammit 2003, p. 49). Ever since the announcement of the Compact at the World Economic Forum in Davos, NGOs have responded positively to the new initiative. A group of NGOs, later to be known as the ‘Compact-NGOs,’ decided to join the Compact. Another stream of the NGOs, instead, was

harshly critical of the initiative, and has continued to be. The most frequent criticisms were that the initiative ‘lacked teeth’ and that it was a ‘blue-washing’ mechanism that would allow corporation to ‘promote a socially responsible image through their association with the UN’ (Utting 2006, p.8). For example, the Alliance for a Corporate Free UN, launched in 2000 as an international coalition of NGOs, called on the UN to ‘forgo such collaborations [with enterprises] and play the more appropriate role of counterbalancing corporate-led globalization’ (CorpWatch, 2001).

During the first two years of the Compact, an invitation was extended to businesses to apply for membership. As a minimum requirement, corporations were asked to send once a year some examples of good practices in one or more of the Principles. The business world responded promptly, and more than 1.000 companies signed in. At that point in time the Global Compact Office had no monitoring tools in place to evaluate the company reports.

Partly in response to NGO critique, partly as a preparatory step toward the Global Compact review, in January 2003 the organizational structure of the Compact was reformed. Responsibility for admission was devolved to local structures. Also, a new system of annual progress communication was put in place. This procedure solicits adhering corporations to communicate on an annual basis their progress in implementing the Global Compact Principles through financial reports, CSR reports, or websites.

A second wave of NGO criticisms came from ‘insider’ NGOs, i.e. from the members of the Compact-NGO group, such as Amnesty International, Human Rights Watch and Oxfam. These adhering organizations complained publicly in 2003 that the Global Compact lacked any accountability mechanism. Their example was followed by other organizations, such as Human Rights First, in 2004.

To reassert the authority and credibility of the network, in June 2004 the Global Compact adopted a set of three Integrity Measures. These implied, first, that the use of the

Global Compact's name and logo is limited to internal training or to activities aimed to promote the code with other corporations. Second, the list of inactive or non-communicating companies is publicly disclosed. Third, some means to handle credible allegations of systematic or egregious abuse of the GC's overall aims and principles have been introduced.

Together with the integrity measures, a comprehensive review of the Compact was conducted in 2004-2005. This ensured a more prominent role to the local networks and their annual meetings. The Secretary General decided also to elevate the status of the meeting by making it a formal component of the Global Compact initiative.

Local Networks are now defined as 'clusters of participants who come together to advance the Global Compact and its principles at the local level' (UN Global Compact 2007b, p. 8). They perform increasingly important roles in rooting the Global Compact within different national and cultural contexts, and also in helping to manage the organizational consequences of the Compact's rapid expansion. The growth of Local Networks has in many ways kept up with the initiative's overall growth, particularly in recent years. Between 2006 and 2008 for example the number of Networks has doubled and the number of fully established Networks has reached 65, with an additional 20 in development. This is a vast increase from 2001 when there were just four Local networks (UN Global Compact, 2007b, pp.15).

The Governance review of the Global Compact also strengthened the involvement of civil society organizations. This was a consequence both of the Global Compact Office attempts to address the criticisms of some NGOs, as well as an organizational drift towards multi-stakeholders initiatives within the UN system as a whole. Illustrative of civil society involvement is the appointment of a Civil Society Coordinator within the Global Compact Office. Also, NGOs are now included, together with businesses, unions and UN representatives, in the UN Global Compact Board. Selected and chaired by the United

Nations Secretary-General, this group is designed as a multi-stakeholder body, providing ongoing strategic and policy advice for the programme and making recommendations to the Global Compact Office, participants and other stakeholders. Last, civil society organizations can now be included in Local Networks.

Network learning processes

‘Learning network’ and ‘learning platform’ are two terms often used to describe the mission and the tasks of the Global Compact (Ruggie 2001; Kell and Levin 2002; Zammit 2003). Indeed, the Global Compact Framework states that among the primary goals of the initiative are learning and dialogue (United Nations 2005). The learning processes and venues are modelled on the multi-centric governance system of the Global Compact and, as a result, are fairly scattered. Governance and learning functions are in fact shared by six entities with differentiated tasks: the Global Compact Office, the triennial Leaders Summit, the Board, the Local Networks, the annual Local Networks Forum and the Inter-Agency Team.

At the central level the Global Compact Office and the Inter-agency Team organise working groups on specific sectors and issues. The working groups are expected to ‘assist participants to implement principles’ (interview conducted by the authors with Olajobi Makinwa, 20th May 2008) by addressing the challenges and problems faced by UN Global Compact's stakeholders. Examples are the Global Compact's financial initiative *Who Cares Wins*, the extractive industry's initiative on business in conflict zones, or the working group focusing on the corruption principle.

Again at the central level, the above-mentioned Global Compact Board is a twenty-member entity expected to make recommendations to the Global Compact Office, participants and other stakeholders. The Board is composed of four constituency groups – business, civil society, labour and the United Nations. While the Board as a whole holds an

annual meeting, the constituency groups are expected to interact with the Global Compact Office on an ongoing basis. Lastly, still at the central level a Global Compact Leaders Summit is convened every three years in order to review progress and provide overall strategic direction for the Global Compact.

Turning to the Local Networks, they increasingly serve as ‘engagement platforms for participants’ (interview conducted by the authors with Marco Frey, 16th September 2008), and are supposed both to move innovative solutions upstream for global replication, and to take global dialogue issues down to the level of implementation. Multi-stakeholder participation in the Local Networks is crucial for critical thinking and for providing a diverse set of perspectives on how to address the ten Principles. Local Network representatives come together for an annual meeting, which permits representatives of Local Networks to share experiences, review and compare progress, identify best practices and adopt recommendations intended to enhance the effectiveness of Local Networks. Since 2006 each Local Network is requested to provide an Annual Report.

Network governance and follow-up mechanisms

The UN Global Compact is an open and voluntary multi-stakeholder initiative which, as the OECD Guidelines, sees itself as a complement to – not a substitute for – instruments of regulation at national or international levels. The initiative is not designed, nor does it have the mandate or resources, to monitor or measure participants’ performance. Nevertheless, a set of integrity measures has been introduced. The most important of these measures is the Global Compact’s policy on communicating progress, according to which participants are asked to communicate annually to all stakeholders their progress in implementing the Global Compact principles. If a participant fails to communicate its progress by the deadline, it is listed as ‘non-communicating’ on the Global Compact website. Should a participant fail to

communicate progress for two years in a row, that participant would be labelled 'inactive' on the Global Compact website. Inactive participants are not permitted to participate in Global Compact events, including local network activities, until a Communication on Progress is submitted. If a third year passes without the submission of such Communication, the company is de-listed. This annual requirement has led to the delisting of about 1,000 participants (Kell and Slob 2008). Since the beginning of 2008, the Global Compact has given significant visibility to the names of companies that have been de-listed for failure to communicate their progress.

Some observers have interpreted this new organizational posture as a 'ratcheting-up of standards and compliance mechanisms that have shifted from issuing the reporting guidelines to launching the integrity measures and requesting companies to address the ten principles in a more systematic way' (interview conducted by the authors with Peter Utting, 12th March 2008). It has also been considered as evidence of a gradual process of 'institutional thickening since the tremendous convening power of the UN is being reinforced by the development of Local Networks.'

However, the UN Global Compact Office disagrees that it needs to increase its enforcement capacities. It argues that the Global Compact 'will remain a non-bureaucratic, open and voluntary initiative engaging a wide spectrum of participants across the globe. The only entry criterion is a participant's willingness and ability to advance the Compact's aims' (UN Global Compact 2005, p.2). As for the Local Networks, they are considered local organizations of stakeholders. 'They are non-UN entities and could be potentially organized even as NGOs [...]. Their goal is not enforcement. They have to provide encouragement, motivation and the incentive structure for business to adopt the ten Principles and to establish partnerships for development' (interview conducted by the authors with Soren Mandrup Petersen, 20th May 2008). The concept is reinforced by the Report on the New Governance

Framework, stating that ‘apart from fulfilling the requirements included in their relationship agreements with the Global Compact Office, and generally acting in accordance with the Global Compact’s principles and objectives, Local Networks are self-governing’ (UN Global Compact 2005, pp.6).

The lack of a grievance procedure and remediation has attracted a number of critiques on the Global Compact’s effectiveness. Since the delisting measure is ‘based largely on technical and procedural ground’ and the sanctions for failure have been considered ‘unimpressive’ (Kell and Slob 2008, pp.3), the Global Compact has been labelled a ‘toothless code’ (interview conducted by the authors with Peter Utting, 12th March 2008). Also, it is argued, the Global Compact provides an easy way out for companies that should be applying stricter instruments, such as the UN Norms on the Responsibilities of TNCs and Other Business Enterprises with Regards to Human Rights. In so doing, it is argued, it not only diverts resources from other, and presumably more helpful, initiatives, it also provides an alibi for corporate complacency (Utting and Zammit 2006).

The Global Compact does not react to these criticisms by seeking to strengthen its enforcement capacities, but rather by clearly positioning itself not as a mediation, a dispute resolution or adjudicative body, nor an enforcement agency, but rather as a transparency agency aimed at improving the quality of the information available and encouraging local actors to monitor the Communications on Progress. Illustrative of this position are the words of the Head of Partnerships and responsible of the Local Networks at the UN Global Compact Office:

‘I don’t think we should have teeth at all. We are only a brand and our participants market this brand worldwide ... We don’t have resources but, most important, we don’t want them. We don’t want to thicken our institutional structure, turning it into a bureaucracy. Our role is to make

public the communication on progress that companies produce and we try to enable a more robust public accountability structure' (interview conducted by the authors with Soren Mandrup Petersen, 20th May 2008).

One tangible example of the Compact's impact is the recent warning sent by a group of influential investors to 78 listed companies for failing to publish progress reports. In January 2008 investors, led by Morley Fund Management in the UK, have also praised a smaller group of mostly European companies for 'notable' performance under the UN Global Compact (Mackintosh, 2008). Also, a prominent investor group has written to the chief executives of the biggest listed companies whose reports are late, urging them to comply.

DISCUSSION

There are strong similarities between the OECD Guidelines and the UN Global Compact. They are voluntary (i.e. not legally binding); have a global reach; cover common areas such as human rights, labour, the environment and the fight against corruption; include non governmental, labour, corporate and public organizations in their structures; and are organized similarly, i.e. with a central unit surrounded by a constellation of local chapters.

However, while the OECD guidelines are endorsed by governments, and through this channel recommended to businesses, the UN Global Compact Principles are endorsed directly by corporations. Also, while labour, corporate and non governmental organizations have each their own institutional role (in the form of sub-network) within the OECD initiative, the Global Compact is in principle an initiative that solely concerns companies.

We now revisit the two case studies, with a view to addressing the following questions (Agranoff and McGuire 2001):

- 1) How have the two international governance networks been activated?

- 2) In what ways has the interaction among stakeholders shaped issue framing and the network re-adaptation?
- 3) Have learning processes developed within the local and the global networks?
- 4) Has the interplay between the governance structure of each initiative and the follow-up mechanisms significantly impacted business accountability?

We deal with the issue of activation (Question 1) in a broad sense. Activation is a crucial phase of network management because it determines the availability of human and financial assets, as well as information and skills accessible for the network which, in turn, affect its functioning mechanisms. The selective activation of potential participants is, indeed, a precondition for successful policy making and policy implementation (Scharpf 1978; Agranoff and McGuire 2001). In the case of governance networks associated with international organization initiatives, one has to ask a preliminary and perhaps deeper question about activation. Where do the initiatives come from? By whom and for what purposes are they initiated?

In this respect, the experiences of international organizations analyzed above are not necessarily the same as those of organizations located at the national and sub-nation level, i.e. where a sovereign power is clearly identifiable. At the national level, one can safely assume that there is a mandate for a public agency to intervene in a particular policy area. Such mandate is generated through the traditional electoral mechanisms by which a government is directly (in presidential systems) or indirectly (in parliamentary systems) accountable to the citizens for the implementation of policies that correspond to the preferences of a clearly identifiable constituency. In order to fulfil its mandate effectively, generally the agency can decide either to put in place traditional command-and-control procedures, or a network of public and private actors. It is likely that in current circumstances – namely circumstances in

which the problems to be resolved are too variegated and interrelated to warrant standardized solution, and require the direct involvement of actors with local knowledge and motivational/mobilization capacities – the latter is indeed the most effective solution.

In the case of the international organizations examined above, no clear constituency, nor mandate, are identifiable. The Organizations are not agents called upon to implement the will of a principal, but *entrepreneurial actors* that identify a vaguely defined problem area, and use it to carve a role for themselves. Neither the OECD nor the UN has a clear mandate to regulate the behaviour of MNCs, let alone companies in general. Obtaining such a mandate would not be categorically impossible – in theory the two organizations could pass international law instruments to this effect – but it is practically highly unlikely as the subject matter in question is too controversial to ever achieve the high levels of consensus (at the limit, unanimity) required to pass international law. Indeed, often a network governance solution is put in place after a standard-setting attempt has failed. Thus the ‘traditional approach’ (consisting in passing international law instruments which are then implemented through command-and-control national bureaucracies) is not politically feasible, even if it were technically feasible.

There is a diffuse perception, however, that something needs to be done about corporate behaviour, even though the various actors can not agree exactly as to what is to be done, and how deep-reaching the measures should be. The organizations exploit this area of ambiguity to launch programmes that avoid the most pressing problems of political acceptability – for example, by only requiring actors to subscribe to general statements of principles, devoid of clear legal definitions of what exactly such principles imply and relying heavily on voluntary compliance. This leads us to Question 2, namely whether or not the involvement of civil society and NGOs in these initiatives is meaningful and whether it has led to a redefinition of the issues dealt with in the various programmes as well as of their operating mechanisms.

The evidence analyzed above suggests that in both cases the interaction among stakeholders, and particularly the involvement of NGOs, has not been meaningless but has shaped the issues and determined network re-adaptation. In the case of both initiatives, NGOs have ‘pushed for teeth,’ seeking to move from vague political statements to more actionable and legally embedded commitments, with various degrees of success.

In 2000 the OECD Guidelines were revised as a consequence of the interaction and negotiation among countries, companies, unions and NGOs. The ‘norms’ were updated by adding issues related to corporate behaviour that had emerged more recently, such as child labour or shareholders protection. In addition, the scope of the Guidelines was expanded to include small and medium enterprises. The most significant change, heavily lobbied by NGOs and Unions, pertained to the operating rules of the network, and specifically the establishment of National Contact Points and of a formal grievance procedure.

Similarly, in the case of the Global Compact harsh criticisms by NGOs contributed to reshape norms and functioning mechanisms. Consequently, a 10th principle on corruption was included and integrity measures were introduced, requiring corporations to renew annually their endorsement and provide more timely and comprehensive information on their dealings.

As to Question 3, namely whether there is evidence of learning processes within the networks, our answer can only be speculative, as a proper answer would require participatory observation and longitudinal analysis of the various actors involved. However, it is clear that the institutional design of both programmes seeks to facilitate learning. The OECD Investment Committee hosts four annual official meetings during which issues related to the Guidelines can be raised and discussed by any of the stakeholder representatives. One of these gatherings, the annual National Contact Points meeting, is structured as a workshop aimed at peer reviewing and bench-learning. Also, the National Contact Points are expected to organise seminars and to promote the Guidelines with the business community. Yet, the

network itself is clearly evolving, also due to the pressure of NGOs, in the direction of a quasi-legal enforcement body, in which formal complaints are lodged by participating actors, and resolved (mediated) in quasi-judicial fashion by the agency, having heard the position of all the parties involved. Clearly, one cannot exclude the emergence of learning from such an agonistic process as a quasi-trial. However, in a trial setting actors are much more concerned with persuading a neutral third party of the correctness of their position, than they are with discussing with the counterpart the best possible way of proceeding (Baccaro 2006; Baccaro and Papadakis 2008). It looks as though the most recent developments in the OECD Guideline may turn out to be counterproductive for the emergence of real learning processes.

The institutional design of the Global Compact potentially leaves more room for mutual learning among the different stakeholders. Working groups at the central level address the issues and propose solutions concerning specific principles or industry sectors. The main purpose of Local networks, then, is to provide a venue for learning and discussion among businesses and, in some cases, among businesses, NGOs and Unions. As clearly stated by Global Compact officials, the programme has no intention of developing stronger ‘teeth’ and, unlike the OECD Initiative, is keen to keep to its current role of a transparency agency, one in which participating actors are asked simply to provide information, which is then publicly released. Often times, the sheer public character of the information released has important consequences for corporate behaviour (Fung, Graham and Weil 2007). It bears emphasizing, in this respect, that the Global Compact is still not entirely transparent, at the least in the view of some of the actors involved, in the sense that the information requirements themselves are not especially far-reaching.

The last considerations lead us to address the last question (Question 4), pertaining to the consequences of the various programmes for business accountability. Here again our answer is somewhat speculative. A proper answer would require longitudinal studies of

participating and (matched-paired) non-participating companies, in order to assess the effects of participation versus non-participation in the programmes. Even such a study, however, would probably not be conclusive. All we can say here is that, at a general level, the purely voluntary nature of the schemes does not necessarily detract from their effectiveness. Indeed, information transparency is a powerful lever to change corporate behaviour, particularly in light of the fact that such information can be used by NGOs for ‘name and shame’ campaigns that may have a deep impact on corporate reputations and bottom lines. The example reported above of investors threatening to divest from companies due to their failure to abide by the (weak) reporting requirements of the Global Compact is just one indication, among many, of the power of information and transparency in changing corporate behaviour.

CONCLUDING REMARKS

Through the analysis of the two most important international programmes for the regulation of corporate behaviour, the OECD Guidelines for Multinational Corporations and the UN Global Compact, this paper has shown that the shift to network governance is not just a peculiarity of national and local policy-making, but increasingly also of international organizations. More fundamentally, the paper has argued that such shift may be fundamentally changing the nature and function of international organizations, and the role that they exert in regulating the business environment.

What we have called ‘the traditional role’ of international organizations – building wide consensus among adhering states about minimal-yet-detailed regulatory standards – has become increasingly difficult to exercise. In the domain of business regulation the traditional regulatory model has given way to a new model centred on network governance. Rather than detailed regulatory norms, international organizations issue and promote general declarations

of good conduct, and then involve public and private actors in implementation and continuous improvement.

Unlike public actors involved in network governance at the national and sub-national level, who can choose network governance solutions over traditional command-and-control interventions based on consideration of technical adequacy (for example in cases in which the problems to be resolved are too variegated and interrelated to warrant standardized solution, and require the direct involvement of actors with local knowledge and motivational/mobilization capacities), for international organization the command-and-control option is often not in the cards, due to the controversial nature of the matters to be regulated . This prevents the emergence of common ground on which traditional international law instruments could be based. In these circumstances, international organizations adopt network management solution as a form of domain appropriation: these solutions impose minimal requirements on the constituents and thus avoid the most pressing problems of political acceptability, but at the same time assert the international organizations' role in the policy area in question. In other words, network governance programmes allow institutional actors to establish bridgeheads in controversial regulatory areas. Should constituents reach a consensus on harder regulatory measures, such bridgeheads may then be transformed in more elaborate architectures.

Despite their apparent fragility, voluntary programmes are not without concrete effects on corporate behaviour, not through the passing and policing of regulatory standards, but rather through transparency requirements and associated learning. In this regard, the evolution of the two programmes analyzed in this paper is interesting: while the OECD Guidelines are moving towards a semi-judicial model of complaint adjudication (in response to the NGOs' quest for 'teeth'), which, in the logic of the argument presented so far, seems a step towards juridification, the UN Global Compact relies solely on self-communication of

progress, on the weak threat of delisting non-active corporations and on the role played by the Global and the Local Networks as knowledge-sharing fora.

At this stage, an assessment of the two initiatives is premature and we are unable to predict which of the two approaches will have the greatest impact on corporate behaviour. However, this is in our opinion an interesting question that should be addressed in future research.

APPENDIX A

The narrative (Abell 2004) and the empirical analysis of the two cases draw on UN and OECD documents (2005-2008) as well as on field research (2007-2008). The ‘corpus construction’ (Bauer and Gaskell 2000, p. 19) has been built considering the criteria of relevance (George and Bennett 2005, pp.97) and saturation.

Access to interviews and to the documents (Stake 1995) has been facilitated by the direct work experience of one author in one key international organization and by the participation in the Global Compact Academic Network of the other author.

Documents were retrieved from multiple sources. They primarily included UN Global Compact reports and OECD Guidelines for Multinational Corporations Reports. We have also consulted the UN General Assembly Resolutions, the Secretary-General's Reports to the General Assembly dealing with UN-Business Partnerships and reports of the ILO MULTI project, focused on assessing similarities and differences for corporations of the OECD Guidelines and of the UN Global Compact. Another set of documents was derived from independent studies on the Global Compact or the OECD Guidelines and, in particular, papers and presentations of academics and consultants available at the UN Global Compact Critics Website, reports of the United Nations Research Institute on Development (UNRISD) and reports by the OECD Watch.

Analysis of the retrieved documents and direct participation to some UNRISD and UN Global Compact meetings also allowed us to identify the main players involved in the activation and the negotiation of the networks, as well as the experts that had contributed to the general debate on the issue. Semi-structured interviews were conducted with these players either on the phone or face-to-face and lasted between forty minutes and three hours. Most interviews were tape-recorded. A first round of ten interviews (March-May 2008) focused on understanding the basic functioning and governance mechanisms of the networks. It was

followed by a second set of six interviews (September-October 2008) touching on controversial issues and aimed at triangulating (Yin 1994) the information collected.

The list of interviews is as follows:

1st Set of interviews

1. Peter Utting, Deputy Director of the United Nation Research Institute on Social Development (UNRISD), author of several reports on the two initiatives. 12th March 2008.
2. Emily Sims, ILO Senior Specialist, Multinational Enterprises Programme. 12th March 2008.
3. Bart Slob, Senior Researcher at SOMO, the Netherland-based NGO in charge of managing the OECD Watch. Responsible of the Global Compact Critiques blog. 16th & 17th March 2008.
4. Vernon MacKay, Director of the Canada National Contact Point for the OECD Guidelines, in charge of coordinating the OECD National Contact Points Working Group. 3rd April 2008.
5. Manfred Schekulin, Chair of the OECD Investment Committee and Director of the Export & Investment Policy, Austrian Ministry o Economics and Labour. 3rd April 2008.
6. Kathryn Gordon, OECD Senior Economist of the Investment Committee. 4th April 2008.
7. Laura Iucci, ILO Senior Specialist, Multinational Enterprises Programme. 10th April 2008
8. Paola Pinoargote, ILO Senior Specialist, Multinational Enterprises Programme. 12th March 2008
9. Soren Mandrup Petersen, Head of Partnerships and responsible of the Local Networks at the UN Global Compact Office. 20th May 2008.
10. Olajobi Makinwa, Civil Society Coordinator at the UN Global Compact Office. 20th May 2008.

2nd Set of interviews

11. Veronica Nillson, Senior Policy Advisor, Trade Unions Advisory Committee to the OECD (TUAC). 16th September 2008.

12. John Evans, Director of the Trade Unions Advisory Committee to the OECD (TUAC). 30th September 2008
13. Dirk Manske, Senior Policy Manager, Business & Investment Advisory Committee to the OECD (BIAC). 1st October 2008.
14. Georg Kell, Director of the UN Global Compact. 14th October 2008.
15. Marco Frey, Chair of the UN Local Network, Italy. 16th September 2008
16. Joseph Wilde, Senior Researcher at SOMO, the Netherland-based NGO, coordinator of the OECD Watch. 4th October 2008.

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