

**Taking Embedded Liberalism Global:
The Corporate Connection
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Twenty years ago I published an article in *International Organization* that introduced the concept of embedded liberalism.¹ It told the story of how the capitalist countries learned to reconcile the efficiency of markets with the values of social community that markets themselves require in order to survive and thrive. That lesson did not come to them easily.

In the Victorian era, policy concern with the level of domestic employment and price stability was subordinated to maintaining the external value of currencies and, less consistently, to the strictures of free trade. But the growing democratization of national political life made that posture increasingly unsustainable, and the first so-called golden age of globalization unraveled. In the period between the two world wars the opposite was true: the unfettered quest for national policy autonomy – pushed by the political left, right and center alike – steadily undermined and ultimately destroyed an already fragile international economic order.

When a workable balance finally was struck it took on somewhat different forms in different countries, reflecting national political realities: in the US, the New Deal or Keynesian state, and in Europe social democracy or the social market economy. But the underlying idea was the same: a grand social bargain whereby all sectors of society agreed to open markets, which in some cases had become heavily administered if not autarchic in the 1930s, but also to contain and share the social adjustment costs that open

markets inevitably produce. That was the essence of the embedded liberalism compromise: economic liberalization was embedded in social community.

Governments played a key role in enacting and sustaining this compromise: moderating the volatility of transaction flows across borders and providing social investments, safety nets and adjustment assistance – yet all the while pushing international liberalization. In the industrialized countries, this grand bargain formed the basis of the longest and most equitable economic expansion in human history.

So what is the problem today? The embedded liberalism presupposed an *international* world. It presupposed the existence of *national* economies, engaged in *external* transactions, conducted at *arms length*, which governments could mediate at the *border* by tariffs and exchange rates, among other tools. In recent decades, however, markets increasingly have gone global, threatening to leave behind merely national social bargains. “Our challenge,” United Nations Secretary-General Kofi Annan alerted the World Economic Forum in January 1999, ten months before the so-called Battle of Seattle, “is to devise a similar compact on the global scale, to underpin the new global economy. ...Until we do,” he predicted, “the global economy will be fragile and vulnerable – vulnerable to backlash from all the “isms” of our post-cold-war world: protectionism, populism, nationalism, ethnic chauvinism, fanaticism and terrorism.”²

This paper is divided into three parts. First, I describe briefly some of the main drivers of the anti-globalization backlash, focusing in particular on growing anxieties in the industrialized countries that the social embeddedness side of the equation is losing out to the dictates of globalization. Second, I sketch out the broad universe of innovations in global governance, focusing on the dynamic interplay between civil society

organizations and the transnational corporate sector around the challenges of globalization. Third, I summarize the key features of Annan's Global Compact, which engages the corporate community in promoting human rights, labor standards and environmental sustainability in its global domain, but does so in partnership with civil society, labor and the international as well as domestic public realms. In conclusion, I argue, with due appreciation for the irony, that the corporate sector, which has done more than any other to create the growing gaps between global economy and national communities, plays a key role in bridging them.

THE BACKLASH

The globalization backlash has many sources, some better reasoned than others.³ But three negative attributes of the recent era of global market integration stand out as having animated particular concern.

First, the benefits of globalization are distributed highly unequally. Even the IMF's Managing Director, Horst Köhler, has conceded that "the disparities between the world's richest and poorest nations are wider than ever."⁴ Large parts of the developing world are left behind entirely. Africa is less integrated into the global economy today than a decade ago, and insofar as it is, it is largely through commodity exports, which works to Africa's disadvantage as commodity prices have fallen steadily.

Moreover, leaving aside China, income disparities among the world's people, as distinguished from countries, either have not improved during the past three decades, or become worse, depending on how they are measured.⁵ Much the same holds for global poverty rates. Improvements are accounted for largely, albeit not fully, by China, whose population size significantly affects aggregate statistical analyses. But even in the United

States, the unprecedented boom of the 1990s lifted the income shares of the bottom twenty percent of households only modestly, and then only briefly.⁶

There is no fully satisfactory or universally accepted explanation of the relationship between these disparities and globalization. But their coexistence over an extended period of time, coupled with excessive claims for globalization's beneficence by some of its advocates, themselves feed criticism and outright opposition, including by mainstream economists.⁷

Second, the backlash is triggered by a growing imbalance in global rule making. Those rules that favor global market expansion have become more robust and enforceable in the last decade or two – intellectual property rights, for example, or trade dispute resolution through the World Trade Organization. But rules intended to promote equally valid social objectives, be they labor standards, human rights, environmental quality or poverty reduction, lag behind and in some instances actually have become weaker.⁸ So we find ourselves in the situation where considerations of patent rights trump fundamental human rights and even pandemic threats to human life – at least until that clash became unbearable for the world's conscience over the HIV/AIDS treatment issue in Africa.⁹

Third, for many people globalization has come to mean greater vulnerability to unfamiliar and unpredictable forces that can bring on economic instability and social dislocation, sometimes at lightning speed. The Asian financial crisis of 1997-1998 was such a force – the fifth but not last major international financial crisis in just two decades. Indeed, the integrity of cultures and sovereignty of states increasingly are seen to be at

risk. Even in the most powerful countries, people worry for their jobs, wonder who is in charge and fear that their voices are drowned out in globalization's wake.

The long struggle that ultimately resulted in the embedded liberalism compromise suggests that disparities of this sort are socially unsustainable. Unless they are attended to they are bound to trigger some of the "isms" of which Annan warned – disrupting and potentially undermining the open global economy. What is more, the backlash against globalization has particular bite because it is driven by not only, or even primarily, the poor and the weak. Its vanguard includes large numbers of people in the most privileged societies the world has ever known.

Therefore, let us look briefly at some of the issues that trigger people's anxieties about globalization in the industrialized countries, and how much staying power their concerns are likely to have. Much of the debate about whether globalization is adversely affecting the social embeddedness of market forces focuses on its impact on levels of public expenditure and on public policy, especially in areas related to social safety nets; wage and employment levels; and more elusive issues of identity and accountability.

Public Expenditure

Vito Tanzi and Ludger Schuknecht document the evolution of public expenditure in the industrialized countries going back to 1870.¹⁰ Over the course of the subsequent 125 years, spending grew from an average of 10.7 percent of gross domestic product, to 45.6 percent. The two world wars and the Great Depression accounted for significant increases. But the most dramatic expansion took place between 1960 and 1980, and in that period social expenditures – for education, health, pensions, unemployment benefits and the like – more than doubled on average. This was also the period of the most

significant reductions in barriers to trade and monetary flows by the industrialized countries. Research by political scientists as long ago as the late 1970s demonstrated a relationship between the two: the most open economies also tended to lead in social spending.¹¹ Broadly speaking, this pattern was in keeping with the embedded liberalism compromise, of providing a certain measure of domestic compensation for the risks attending greater international openness.¹²

The 1980s and 1990s saw the emergence of greater skepticism about the role of the state, especially in the United Kingdom and the United States. For a variety of reasons, some substantive, others political, economic theory and prevailing public attitudes began to shift in a neo-liberal (the preferred term for neo-laissez-faire) direction.¹³ Though public spending continued to increase, it was at a slower pace. And it was purchasing fewer social services, in part due to the declining cost-effectiveness of some interventions, and in part because a rapidly rising public sector debt burden consumed an ever greater fraction of overall government spending.¹⁴ A period of reform and retrenchment ensued.¹⁵

Tanzi and Schuknecht predict a reduction in public expenditure relative to GDP in the years ahead, reflecting less favorable attitudes toward the role of the state (which may be modified in the United States in the wake of 9/11 and corporate malfeasance), coupled with greater fiscal constraints due to demographic shifts, among other factors.

But what exactly is the relationship between these trends and globalization? An increasingly widespread view holds that global market integration induces governments to pursue greater fiscal austerity, ease regulatory and tax burdens on business, and strongly discourage certain policy options if not ruling them out altogether¹⁶ – owing to

the relative increase in capital mobility if nothing else.¹⁷ Geoffrey Garrett has examined aspects of this relationship closely – and skeptically – for some time. In a book published in 1998, he argued that social democracy continued to thrive where powerful left-of-center parties were allied with strong and centralized trade unions – irrespective of differences in the extent of market integration.¹⁸ In other words, domestic coalitional politics appeared to be a more powerful explanation of social spending and related policy outcomes than globalization.¹⁹

But in a recent and more comprehensive statistical analysis Garrett has modified some of his earlier conclusions in at least three key respects. He now finds that year-to-year increases in total trade *do* have a negative effect on government spending, even though historically a country's exposure to trade was an important determinant of fiscal expansion.²⁰ He attributes a similar result to increased international financial openness. And he finds that over time the average mix of taxation in the OECD countries has become somewhat less progressive – that is, “more revenues have been raised by tax sources that target poorer people.”²¹ Foreign direct investment had no such effects.

The magnitude of these changes remains small and patterns of variation among countries, and across different market segments for the same country, are exceedingly complex. Nevertheless, they may signal a gradual shift in the political economy of industrialized countries, away from an earlier compensatory approach to managing the effects of increased openness, towards more of a “competitiveness” model. This would confirm that popular anxiety about globalization, though possibly exaggerated, is not without any basis in fact. Recent moves by the United States Congress to limit offshore corporate tax havens and to couple President Bush's “fast track” trade negotiation

authority with assistance to adversely affected workers indicate that even America's lawmakers – long the least concerned about this issue – are beginning to recognize its political salience.²²

Income and Employment

In the United States, organized labor has been among the most ardent opponents of globalization, especially of further trade liberalization. Although third party presidential candidate Ross Perot is the phrase's author, fear of a "giant sucking sound" of jobs being exported to low wage countries drives labor's concern.

There is little dispute that median family income in the United States has been stagnant for two decades while worker productivity has been growing.²³ And there can be no disagreement that this gap coincides with large increases in trade exposure.

But there any consensus ends. Edward Leamer presents a sophisticated economic model and country-based evidence partly supporting the globalization hypothesis.²⁴ In contrast, Robert Lawrence and Matthew Slaughter's statistical study leads them to conclude that "trade had nothing to do with the slow increase in average compensation," that low rates of productivity increases in the non-traded goods sector of the American economy has been responsible.²⁵ Paul Krugman, among others, has argued that technological change, especially information technology, is the main cause.²⁶

Disentangling and establishing these and other factors with any degree of certainty, Leamer acknowledges, "may be inherently too complex for economists to handle."²⁷ Dani Rodrik suggests that the link between globalization and its labor market effects may be largely indirect, through shifts in relative bargaining power.²⁸

Globalization makes the services of large numbers of workers more easily substitutable

across national boundaries, Rodrik argues, as a result of which the leverage of immobile labor vis-à-vis mobile capital erodes. Thus, in the neo-liberal countries workers are obliged to accept greater instability in earnings and hours worked, if not lower wages altogether; to pay a larger share of their own benefits (as has become all-too-evident in the case of pensions) and improvements in working conditions; and to accept more frequent job changes. Along similar lines, Jagdish Bhagwati uses the term “kaleidoscopic” rather than “flexible” to describe the highly volatile US labor markets, thereby better conveying the nervousness they induce.²⁹ In the more traditional social democracies and social market economies where income levels and employment are more secure, labor is obliged to accept higher rates of chronic unemployment and lack of job creation.

Thus, the impact of globalization on wage stagnation in the US and high unemployment in Europe remains at minimum an open question for the economy as a whole. Of course, it is not an open question for workers in the industries affected most directly by job-displacing imports, who may have to accept lower-paying work. And if domestic compensatory measures erode at the same time, as discussed in the previous section, then labor’s opposition to globalization should hardly come as a surprise.

Identity and Accountability

On the eve of the WTO’s 1999 Seattle ministerial meeting, the University of Maryland’s Program on International Policy Attitudes published a study of US public attitudes toward trade, and globalization more broadly.³⁰ A solid majority expressed support for trade liberalization in principle. Only 30% felt it was going too fast; the rest that it was proceeding at the right speed (62%) or too slowly (23%).

But in practice business was seen to be the prime beneficiary: 61% of respondents felt that business was better off as a result of lower barriers, compared to only 25% who believed workers were. Overwhelming majorities felt that US trade policymakers were giving “too little” consideration to “working Americans” (72%), “the general public” (68%) or “people like you” (73%). Furthermore, 60% felt that policymakers paid too little attention to trade’s “impact on the environment.”

However, overall support for trade liberalization soared (to 84%) when respondents were offered the possibility that the government would help workers adapt to changes associated with increased trade. Moreover, 78% felt that the WTO should consider issues like labor standards and the environment when it makes trade decisions; and respondents were fully prepared to support trade sanctions to advance these (and related) social goals. As for globalization more broadly – conceived as the process of growing interconnectedness in the world – respondents saw it as having a mixture of positive and negative elements, with the positives moderately outweighing the negatives.

In short, the Maryland study makes it clear that the American public is far from being protectionist. But it views the benefits of open trade to be unequally distributed, and safeguards for workers, labor standards and the environment to be inadequate.

In a recent survey of Canadian public attitudes Matthew Mendelsohn and Robert Wolfe deepen the analysis in two respects.³¹ First, they further differentiate attitudes toward liberalizing trade from attitudes toward globalization – the survey defining the latter as the economies of all countries becoming more closely linked. Second, they perform a causal analysis relating attitudes to relevant attributes of the respondents.

Mendelsohn and Wolfe find that Canadians strongly support new trade agreements (65% positive responses), including a Free Trade Area of the Americas (67% positive). But they are dubious about encouraging more rapid globalization (only 45% positive). Moreover, while the respondents strongly favored international cooperation and policy coordination – as is typical of Canadians’ attitudes – they fundamentally opposed ceding national control over labor and workplace standards (a mere 27% positive) or standards for social programs (just 17%) – consequences they closely associate with globalization.

The causal chains behind these differences are even more striking.³² The authors find that Canadians’ attitudes toward trade reflect individuals’ calculations of self-interest as economic agents – their level of education or skill, for example, and thus their sense of personal competitiveness in the global marketplace. But interest-based factors fail to account for views about globalization. So whereas education, for example, is strongly related to attitudes toward trade, it is irrelevant to how the respondents feel about globalization. Instead, responses to globalization draw on Canadians’ sense of identity as citizens and their core values concerning the kind of society in which they wish to live – and the Canadian welfare state is seen a central feature of both.

If this is true in Canada it is bound to be all the more so within European Union countries, where identity politics is doubly jolted by globalization and political integration – the latter itself being, in part, a response to globalization. Needless to say, developing countries never enjoyed the privilege of cushioning the adverse domestic effects of market exposure in the first place. Most lack the resources, institutional

capacity, international support and, in some instances, the political interest on the part of their ruling elites.

To sum up, the industrialized countries appear to have passed through the 1990s with a fraying of domestic social safety nets, though not a dismantling. But the trend lines have been heading in negative directions. Moreover, anxieties about globalization appear to reflect individuals' fears not only about potential economic risks and losses, but also losses measured in terms of identity and control. Unless they are countered, therefore, these doubts about globalization can only be expected to grow.

Devising effective institutional forms to "embed" global markets in shared social purposes and practices promises to be a Herculean task. This is so in part because there is no *government* to act at the global level, as there were national governments to institute the original embedded liberalism compromise. This leaves us with growing *governance* gaps. Beyond that, areas related to managing the adverse effects of globalization are also littered with outright governance failures, governments being unable or unwilling to provide effective governance, even when laws are on the books. Below, I focus on some of the innovations in global governance that have been triggered by such governance gaps and governance failures. These innovations do not and cannot take the place of states, but they establish a new context and a new dynamic for the conduct of global governance.

GLOBAL GOVERNANCE

Once upon a time, governance at the international level was entirely a statist affair. Whether the instruments were alliances, international regimes, law and organizations, or transnational networks of national bureaucracies, states both

monopolized the conduct of governance and they were the primary objects of their joint decisions and actions. That was the foundational premise of the traditional system.

In recent decades, actors and forces for which the territorial state is not the cardinal organizing principle have begun to outflank the state externally and to gnaw away at its governance monopoly from the inside. They may be driven by universal values or factional greed, by profit and efficiency considerations or the search for salvation. They include global production chains and financial markets, civil society organizations and such uncivil entities as transnational terrorist and criminal networks. The institution of the territorial state isn't disappearing as a result; indeed, in many respects it is as necessary as ever.³³ But a global public domain is emerging. Not exclusively inhabited by states, it is a space that permits a more direct expression and pursuit of human interests than merely those mediated by the state, which is how such interests traditionally have been placed on the global governance agenda.³⁴ I focus here on two of these non-state actors and the dynamic interplay between them: civil society organizations (CSOs) and transnational corporations (TNCs).³⁵

Civil Society Organizations

Although the discipline of international relations has not fully figured out how to conceptualize the role of civil society organizations in the process of global governance,³⁶ real world players have come to recognize their involvement in several arenas – where by “recognize” I mean that the other players regard the participation of CSOs as more or less legitimate, and in varying degrees they actually count on them to play those roles.³⁷

- Civil society organizations have become the main international providers of direct assistance to people in developing countries, be it foreign aid or humanitarian relief. Governmental entities, such as the United States Agency for International Development, largely have become contractors while CSOs deliver the goods.
- CSOs play increasingly important roles in generating, deepening and implementing transnational norms in such areas as human rights, the environment and anti-corruption. They do so through their own global campaign activities, but also by direct involvement in official governance forums like the UN's human rights machinery, where the documentation provided by an Amnesty International, for example, carries weight precisely because it is detached from any national interest.³⁸
- CSO coalitions have become a significant, if still episodic, force in blocking or promoting international agreements. Two exemplars have acquired iconic status. The most celebrated blockage was of the Multilateral Agreement on Investment, negotiated at the Organization for Economic Cooperation and Development (OECD), which would have been the high water mark of the neoliberal quest in the 1990s.³⁹ And the most dramatic instance of promoting a new agreement – even participating fully in its negotiation – is the land-mines ban, which was begun, literally, by two people with a fax machine, and ended up helping to produce a treaty over the opposition of the most powerful bureaucracy in the world's most powerful state: the US Pentagon.⁴⁰ More conventional CSO lobbying contributed to the creation of the International Criminal Court.

- Coalitions of domestic and transnational civil society networks perform indispensable roles in promoting human and labor rights, environmental standards and other social concerns within countries where the normal political process impedes or opposes progress in those areas. A key instrument is the so-called boomerang effect, first identified by Keck and Sikkink, whereby such coalitions link up with other international actors, including states and international organizations, to bring external pressure to bear on the target state(s).⁴¹
- CSOs are a powerful source of political pressure for reforming international organizations, especially the Bretton Woods institutions and the WTO.⁴²
- Finally, civil society organizations have become a major force to induce greater social responsibility in the global corporate sector, by creating transparency in the overseas behavior of companies and establishing links to consumers back home.⁴³

The last of these is of greatest interest for present purposes.

Corporate Codes

The global rights enjoyed by transnational corporations have increased manifold over the past two decades, as a result of multilateral trade agreements, bilateral investment agreements and domestic liberalization. Along with those new rights have come new global responsibilities, though at a far slower pace and having far less legal bite. The acceptance of these new responsibilities remains largely voluntary, but many if not most are undertaken in response to pressure from civil society, and, on occasion, from governments or international organizations. To oversimplify only slightly, as governments have been creating the space for TNCs to operate globally, other social actors have sought to infuse that space with greater corporate social obligations.

The universe of transnational corporations consists of roughly 63,000 firms, with more than 800,000 subsidiaries and millions of suppliers.⁴⁴ Improving those companies' social and environmental performance has direct benefits for their employees and the communities in which they operate. But equally important is the potential for generating positive social spillover effects. In the developing world, the adoption of good practices by major firms may exert an upward pull on the performance of local enterprises in the same sector.⁴⁵ And in the industrialized countries, the gradual diffusion of good practices by major companies' social and environmental performance abroad may lessen the fear that a global "race to the bottom" will undermine their own policy frameworks for achieving social inclusion and economic security at home.

Transnational corporations have adopted scores of unilateral codes of conduct and negotiated others within industry associations or with CSOs. Gary Gereffi and his colleagues call these "certification institutions."⁴⁶ By now they exist in most major economic sectors, including mining, petroleum, chemicals, forest products, automobiles as well as textiles, apparel and footwear. A recent OECD survey inventoried 246 codes, though their total number remains unknown.⁴⁷ In that survey, labor standards (heavy concentration in the apparel industry) and environmental concerns (high in extractive sector) dominate other issues addressed (148 and 145 cases respectively), with some codes including both. Apart from compliance with the law, company commitments to labor standards are led by bans on discrimination and harassment, followed by no child labor and no bonded labor – the violation of which inflict greatest public embarrassment – followed in the distance by support for freedom of association. In the environmental

area they stress openness to the concerns of the communities in which the companies operate, along with producing environmentally friendly products and services.

The initial wave of certification institutions consisted largely of unilateral company codes. This made it possible for companies to claim that their behavior was governed by a code of conduct without, for the most part, sharing its details with the public. Of the 118 companies with individual codes included in the OECD survey, for example, only 24 indicate that they disclose company performance in relation to the code.⁴⁸

Exceptions, such as Levi Strauss, which pioneered a worldwide code for manufacturing and contractors in 1991, existed from the start.⁴⁹ Over time they have become more frequent. In 2002, the Royal Dutch/Shell group became the first company to combine its social and financial reports into one, believing that investors should see the full picture.⁵⁰ Branded apparel retailers began some years ago to audit supplier compliance with company codes, in many cases using respected third-party instruments like SA8000.⁵¹ And two major standardized systems for companies' reporting on social and environmental performance measures, AccountAbility1000 and the Global Reporting Initiative, are now on stream as well.⁵²

Other companies are learning that talk is not always cheap. Nike, for example, is in the California courts under that state's Unfair Business Practices Act, accused of making misrepresentations, false statements and material omissions in its reports about working conditions in its supply chain, in order to maintain or increase sales. The California Superior Court recently ruled that Nike's public statements about its

performance were not protected as free speech, and allowed the suit against it to go forward.⁵³

The most ambitious and typically the most transparent arrangements tend to be sectoral in scope, and to involve several companies and/or business associations along with civil society participants. Their aims range from ensuring that the price paid to cooperatives of small-scale family farmers growing coffee beans in Costa Rica does not fall below a certain floor while the coffee is produced in an environmentally sustainable manner (Fair Trade Certified Coffee); to ensuring that plywood ending up at Home Depot is produced in accordance with sustainable forestry practices (Forest Stewardship Council); to certifying that sweatshirts sold in college bookstores or cashmere sweaters destined for Fifth Avenue department stores and upscale suburban malls are knitted in conditions that meet agreed labor standards and conditions (Workers Rights Consortium, and either the Fair Labor Association or an individual company code with compliance audited by SA8000). A certification institution called Responsible Care – triggered by Union Carbide’s Bhopal disaster in India – now operates in the U.S. chemical industry, while the Global Mining Initiative was recently launched in that sector.

Many such arrangements exist elsewhere – there are 22 additional certification institutions in the forest products industry alone, for instance, and the U.S.-based Workers Rights Consortium is closely coordinated with European initiatives like the Clean Clothes Campaign.⁵⁴ Moreover, their rate of increase over the past decade has been extraordinary. At the same time, insofar as the total number of certification institutions remains unknown, it is impossible to determine how much of the relevant universe they cover. The suspicion – and some evidence – is that it remains small. For example,

according to a *New York Times* report, the Forest Stewardship Council has certified 70 million acres of forests, which amounts to four percent of the total acreage controlled by timber countries.⁵⁵ Of course, this compares to zero percent a decade ago, and consumer outlets, such as Home Depot, appear willing to pay price premiums for certified products.⁵⁶ Similarly, sales of Fair Trade Certified coffee are estimated to have been 30 million pounds in 2001, a tiny fraction of total global sales; but it rose from virtually zero in 1998.⁵⁷ Far fewer than 200 firms out of an industry total of approximately 1,500 participate in Responsible Care, but their number has been rising.⁵⁸ And so on.

In sum, while private certification institutions are increasing rapidly in number and participants, to date they remain relatively small islands of progress. However, two factors currently on the horizon are likely to reinforce and boost the expansion.

First, the investment community has shown growing interest, which brings large amounts of investor capital to the table. Instruments for socially responsible investment, like the Domini and Calvert mutual funds, are proliferating, and major pensions funds, including America's largest, the California Public Employee Retirement System, have made socially responsible investment a priority.⁵⁹

Second, the public sector is slowly being brought into play. To date, only a small number of OECD countries – the UK, France and Netherlands – have begun to encourage or require companies to engage in social reporting, for example. Apart from voluntary OECD guidelines for transnational corporations, the intergovernmental arena has been largely silent as well.⁶⁰ But now, the more exposed – and also the more visionary – corporate leaders have begun to realize that the concept of corporate social responsibility, which CSOs have thrust on them, is infinitely elastic: the more they do, the more they

will be asked to do. As a result, business leaders themselves are beginning to ask, “Where is the public sector?” Three elite global business groups – the World Economic Forum, International Chamber of Commerce, and World Business Council for Sustainable Development – recently launched governance initiatives, not to *curtail* the public sector but to clarify where private sector responsibility ends and public responsibility begins.⁶¹ And in the staggering HIV/AIDS treatment crisis in Africa, as the major pharmaceutical companies have been forced to lower their prices, and as employers such as Anglo American Mines have been obliged to begin gratis treatment programs for their employees – a third of whom are infected in Anglo’s case – they have become strong advocates for public sector capacity building in education and public health alike.⁶²

This terrain surely is fraught with strategic manipulation and shirking. But it also opens the door to more firmly institutionalizing the emerging global public domain by bringing the public sector back into it. Globalization was a one-way bet for the business community: governments were needed to create the space within which business could expand and integrate, but they were not otherwise welcome. The combination of global governance gaps and governance failures, however, created an organizational niche that civil society actors began to occupy, and from which they have been engaging the global business community in the attempt to balance its newly acquired rights with new social responsibilities. Now we are slowly beginning to come full circle: business wants help to channel some of the pressure it faces into the construction of at least minimally functioning public sectors, including at the global level. This sets up the possibility of a very different political dynamic than existed as recently as the 1990s.

Kofi Annan's Global Compact in some ways anticipated, and it internalizes and seeks to make productive use of, this emerging political dynamic.⁶³

THE GLOBAL COMPACT

Annan coupled his 1999 warning to the world's business leaders about the fragility of globalization with an initiative called the Global Compact (GC). It enlists the private sector to work with the UN, in partnership with international labor and civil society organizations, to promote human rights, labor standards and environmental sustainability within global corporate domains.⁶⁴ Companies are encouraged to move towards "good practices" as understood by the broader international community, rather than relying on their often superior bargaining position vis-à-vis national authorities, especially in small and poor states, to get away with less.

Annan stressed that the promotion of corporate social responsibility is no substitute for effective policies, at national and global levels alike, including strengthening the relevant international agencies.⁶⁵ Moreover, he expressed concern that the growing practice of trying to leverage social and environmental standards by linking them to international trade negotiations and agreements all too easily could result in protectionist barriers that would gravely harm the developing countries. In contrast, the global corporate community represented an inviting platform with unparalleled reach – and one that is capable of making decisions at a pace neither governments nor intergovernmental forums can possibly match – so he invited business leaders, in their own enlightened self-interest, to participate.

The GC encompasses nine principles, drawn from the Universal Declaration of Human Rights, the International Labor Organization's Fundamental Principles on Rights at Work and the Rio Principles on Environment and Development.⁶⁶

Specifically, companies are asked to undertake a combination of the following commitments:

1. To advocate the Compact and its 9 principles in mission statements, annual reports and similar public venues, on the premise that their doing so will raise the level of attention paid to, and of responsibility for, these concerns within firms;
2. To share with all GC participants at least once a year concrete steps they have taken to act on any or all of the 9 principles, thereby triggering a multi-stakeholder dialogue (the "learning forum") about what deserves to be labeled a good practice, which the UN will then publicize – and which civil society groups can invoke in campaigns against industry laggards;
3. To join with the UN in partnership projects of benefit to developing countries, particularly the least developed, which the forces of globalization have largely marginalized. Examples include support for micro-lending, investment promotion, HIV/AIDS awareness programs for employees in sub-Saharan Africa, devising sustainable alternatives to child labor, and a host of initiatives in ecoefficiency and other dimensions of environmental management;
4. To engage in policy dialogues with other GC participants on significant social dilemmas that business has capacity to help resolve – examples to date

include the role of business in zones of conflict, and business contributions to sustainable development.⁶⁷

Companies initiate participation in the Compact with a letter of commitment from their Chief Executive Officer to the Secretary-General, a step that often requires Board approval. Since a kickoff event in July 2000, some 400 companies worldwide – based in Europe, the United States, Japan, Hong Kong, India, Brazil, Thailand and elsewhere – have engaged in the GC. The decision by firms to participate appears to be driven by a combination of internal factors and external pressure, particularly the sensitivity of their corporate brands to consumer attitudes.⁶⁸

Organizationally, the Compact comprises a series of nested networks. The Secretary-General's office provides strategic direction, policy coherence and quality control. The participating UN agencies, companies, international labor, transnational NGOs, and university-based research centers do the heavy lifting in the “learning forum,” policy dialogues and partnership projects.

The Global Compact has triggered several complementary regional, national, and sectoral initiatives. Typically, they take a subset of interested GC participants beyond its minimum commitments. For example, Norway's Statoil and the International Federation of Chemical, Energy, Mine and General Workers' Unions reached an agreement within the GC framework whereby Statoil is extending the same labor rights as well as health and safety standards to all its overseas operations that it applies in Norway – including Vietnam, Venezuela, Angola, and Azerbaijan.⁶⁹ A Nordic Global Compact Network has been established, as has a “Friends of the Global Compact” network in Germany. Pilot projects for country-level counterparts – “local compacts” – are under way in some

twenty developing countries, under the leadership of the United Nations Development Program. In addition, a number of initiatives intended for other purposes have associated themselves with the GC. The most unusual is the multi-stakeholder Committee for Melbourne, which incorporated the GC principles into the strategic plan it developed for that Australian city (City Plan 2010), and is encouraging all firms doing business there to embrace them.⁷⁰

The Global Compact is *not* a code of conduct – which is a major point of contention vis-à-vis anti-corporate and anti-globalization activist groups.⁷¹ It is designed as a social learning network, intended to stimulate the internalization of UN principles into companies' corporate cultures.⁷² Its core is the learning forum, the aim of which is to reach broader consensus-based definitions of what constitutes “good practices” than any of the parties could achieve alone. The hope is that such socially legitimated good practices will help drive out bad ones. The learning forum remains in its infancy, so the expectation cannot yet be put to the test.

In any event, the UN General Assembly could not generate a meaningful code of conduct at this time even if that were deemed desirable; the only countries eager to launch such an effort are equally unfriendly to the private sector, human rights, labor standards and the environment.⁷³ Besides, many of the GC's principles cannot be defined at this time with the precision required for a viable code of conduct. No consensus exists on precisely what a “precautionary approach” comprises – that in the face of environmental uncertainty the bias should favor avoiding risk – even though the principle was enshrined at the 1992 Rio Conference. Similarly, no consensus exists, even among advocates, on where, in long and complex chains of relationships, to set the threshold of

corporate “complicity” in human rights abuses.⁷⁴ Accumulated experience – through trial, error, and social vetting – will gradually fill in the blanks. Moreover, ex ante standards often become performance ceilings that are difficult to change – witness the inability of the US Senate to muster the political will to improve automobile fuel efficiency standards that have not been altered since 1985, long before the prevalence of so-called sports utility vehicles.⁷⁵ In contrast, the Compact seeks to peg company performance to evolving international community-based “good practices,” thereby “ratcheting up” company performance on an ongoing basis.⁷⁶

At the end of the day, however, the accumulation of experience inevitably will lead to a desire for greater benchmarking, for moving from “good” to “best” practices and even formal codification, including by industry leaders wanting to protect themselves against the possibility of suffering competitive disadvantages – as we saw when several major energy companies lobbied the US Congress for some form of greenhouse-gas limits after President Bush rejected the Kyoto Protocol.⁷⁷ Laggards will have a harder time opposing standards based on actual achievements by their peers than ex ante standards.

The Global Compact is well positioned to facilitate such a move. In a sense, it constitutes a two-way bridge between the public and private sectors. The Compact is based on principles that were universally endorsed by governments, thus they stipulate the kind of global society to which the entire international community aspires. It enlists the private sector to help bridge the gap between aspiration and reality; in this respect, it seeks to make the private sector an agency for the promotion of community norms.

But the Compact's "products" also feed directly back into the public sphere, at global and local levels alike. Through its learning forum, it produces socially vetted definitions of good practices that can become the basis for norms and standards. Through its policy dialogues, it produces shared understandings about, for example, the appropriate posture companies should take when operating in zones of conflict. These have similar applications, or they can directly inform the UN's conflict prevention or peacemaking activities – as in diamond certification schemes, for example, or promoting transparency in the payment companies make to government officials for taxes and licensing fees so as to reduce the scope of corruption. The partnership projects in the least developed countries represent modest instances of public sector capacity building where it is most lacking. And so on. In some cases, as I suggested above, the Compact's "soft law" understandings may come to yield "harder law" outcomes down the road.

In sum, the Global Compact is a heterodox addition to the growing menu of responses to globalization's challenges that aim to engage corporate behavior – including corporate codes of conduct, social and environmental reporting initiatives, and various other means to promote and monitor corporate social responsibility. Like private certification institutions, the Compact operates in a space that is defined by, on one side, global governance gaps and governance failures; and, on the other, the interplay between and global reach of the private sector and civil society organizations. Like other such institutions, it seeks to build up more robust norms and social practices in the emerging global public domain, and it does so on a trisectoral or multi-stakeholder basis. Where the Compact differs, of course, is in its being rooted in the public sector to begin with – and

in its unique potential, therefore, for helping to transform the quintessential inter-*national* organization into a more effective instrument of global governance.

CONCLUSION

When we reflect on how hard it was and how long it took to institute the original embedded liberalism compromise at the national level, the prospect of achieving a similar transformation at the global level seems almost exponentially more daunting. But if there is one similarity between the two eras, and the two levels of social organization, it is in the respective roles of the private sector as a transformative force – be it the great “trusts” of the late 19th century, or the major multinational corporate empires today. The international political arena differs radically, as Kenneth Waltz has been reminding us for years. And so at the global level there will be many more zigs, many more zags, and quite probably many more failures. But our discussion has outlined both a dynamic of corresponding change and a trajectory. In conclusion, I want to address very briefly some of the categories of analysis in the academic field of international relations that we need to improve if we are to get a better handle on this set of issues.

James Rosenau introduced us to the concept of governance in the absence of government at the international level a decade ago, and it is has been used productively ever since.⁷⁸ Alas, it has never been clear precisely how global governance differs from global politics, or from international politics for that matter. In much of the literature, the terms are used virtually interchangeably. Is the International Criminal Court an expression of global governance, but the Bush administration’s determined opposition to it traditional international politics? There aren’t clear criteria for answering questions like that.

Domestically, the concept of governance typically goes hand in hand with various notions of the public: as in public interest, public domain, public sector and public policy. Who, or what, is the global public? I used the concept of a global public domain here, suggesting that it is becoming more robust. I take it to mean an arena that is inhabited by various actors for whom the territorial state is not the cardinal organizing principle, as well as by states; wherein a variety of human interests is expressed and pursued directly, not simply those that are mediated – promoted, filtered, interpreted – by the state. I have also suggested that, in addition to the traditional machinery of interstate governance, the likes of certification institutions are becoming significant components of an emerging global public sector. Finally, I noted that some areas of global public policy would barely exist were it not for non-state actors. But beyond those kinds of broad insights I am as much at a loss for definitions and metrics as anyone.

The concept of accountability, appropriately, has been much discussed in connection with global governance. Robert Keohane's presidential address to the American Political Science Association makes a singular contribution, especially by clarifying that standard "democratic" accountability takes many forms other than representational systems.⁷⁹ In contrast, in view of the fragility of global certification institutions and the Global Compact it seems implausible to see them characterized as expressions of global "corporatism," and to have conjured up the ghost of corporatism's fascist ancestry.⁸⁰ At the same time, it also seems at the least premature to view them as expressions of cosmopolitan democracy.⁸¹ Greater pluralism, perhaps; but we are a long way from turning the world's consumers, the employees of transnational corporations or even dedicated activists into global citizens.

Finally, Robert Dahl's classic question – *Who Governs?* – requires extensive study in the context of global governance. The relationship between state power and social power in shaping the emerging global public domain, the skewed distribution of agential capacity as between North and South, and the distributive consequences of the kinds of global governance instruments analyzed here all remain poorly understood.⁸²

There is a fundamental recalibration going on of the public-private sector balance, and it is occurring at the global level no less than the domestic. Haltingly, and erratically, something akin to the embedded liberalism compromise is being pulled and pushed into the global arena. And the corporate connection is a key to that process. A new kind of global governance is being invented.

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¹John Gerard Ruggie, “International Regimes, Transactions and Change: Embedded Liberalism in the Postwar Economic Order,” *International Organization*, 36 (Spring 1982). The essay drew on Karl Polanyi’s classic and still unsurpassed account of these wrenching struggles in *The Great Transformation* (Boston: Beacon Press, 1944); for a recent economic history see Harold James, *The End of Globalization: Lessons from the Great Depression* (Cambridge, Mass.: Harvard University Press, 2001).

²Kofi Annan, “A Compact for the New Century,” 31 January 1999 (UN, SG/SM/6881).

³For a cross section of critiques see Robin Broad, ed., *Global Backlash: Citizen Initiatives for a Just World Economy* (Lanham, MD: Rowman & Littlefield, 2002). Also see the excellent analysis by Susan Ariel Aaronson, *Taking Trade to the Streets* (Ann Arbor: University of Michigan Press, 2001).

⁴“Working for a Better Globalization,” Remarks by Horst Köhler at the Conference on Humanizing the Global Economy, Washington, D.C., 28 January 2002.

⁵The difficulties of statistical measurement are formidable. Robert Wade’s chapter in this volume (“Globalization, Poverty and Income Distribution: Does the Liberal Argument Hold?”) sorts out the methodological issues and substantive findings, and reaches a pessimistic conclusion; also see Branko Milanovic, “The Two Faces of Globalization: Against globalization as we know it,” available at www.worldbank.org/research/inequality/pdf/naiveglobl.pdf. On the other side, see Xavier Sala-i-Martin, “The Disturbing ‘Rise’ of Global Income Inequality,” National Bureau of Economic Research Working Paper No. 8904, April 2002.

⁶The Census Bureau reports that the share of total household income accounted for by the bottom quintile increased to 3.7% in 1995, from 3.6% in 1993, but by 1997 it had dropped again to its earlier level, where it remained as of 2000. Carmen DeNavas-Walt, Robert W. Cleveland and Marc. I. Roemer, *Money Income in the United States: 2000* (US Census Bureau, September 2001), Table C, p. 8. Current figures are noted in Louis Uchitelle, “Stagnant Wages Pose Added Risks to Weak Economy,” *New York Times*, August 11, 2002.

⁷For example, Dani Rodrik has led the way in rigorously challenging World Bank claims that trade liberalization leads to greater success in promoting economic growth and poverty reduction. Among other things, he shows that that in China and India the main trade reforms followed, not preceded, the onset of higher growth – and, indeed, that substantial increases in the volume of trade preceded trade policy liberalization. Rodrik, “Comments on ‘Trade, Growth, and Poverty,’ by D. Dollar and A. Kraay, available at <http://ksghome.harvard.edu/~drodrik.academic.ksg/Rodrik%20on%20Dollar-Kraay.PDF>.

⁸For detailed surveys of what gets “regulated” at the global level, and how, see P. J. Simmons and Chantal de Jonge Oudraat, eds., *Managing Global Issues* (Washington, D.C.: Carnegie Endowment, 2001),

and John Braithwaite and Peter Drahos, *Global Business Regulation* (New York: Cambridge University Press, 2000).

⁹Even the business community felt that the big pharmaceutical companies had put themselves in an utterly untenable position. Gardiner Harris and Laurie McGinley, “AIDS Gaffes in Africa Come Back to Haunt Drug Industry at Home,” *Wall Street Journal*, April 23, 2001.

¹⁰Vito Tanzi and Ludger Schuknecht, *Public Spending in the 20th Century* (New York: Cambridge University Press, 2000).

¹¹David R. Cameron, “The Expansion of the Public Economy: A Comparative Analysis,” *American Political Science Review*, 72 (December 1978); and Peter J. Katzenstein, “The Small European States in the International Economy,” in John Gerard Ruggie, ed., *The Antinomies of Interdependence* (New York: Columbia University Press, 1983).

¹²Garrett seems to think that embedded liberalism should be measurable by some fixed formula linking year-to-year increases in the degree of openness to levels of growing social expenditure, allowing for a time lag. Geoffrey Garrett, “Capital Mobility, exchange rates and fiscal policy in the global economy,” *Review of International Political Economy*, 7 (Spring 2000). But broad social compromises of this sort work as constitutive expectations pertaining to an overall order of relations, not fixed bargains that govern every transaction. For a discussion of this difference in perspectives, see John Gerard Ruggie, “What Makes the World Hang Together? Neo-utilitarianism and the Social Constructivist Challenge,” *International Organization*, 52 (Autumn 1998).

¹³I concluded my 1982 article with the observation that the greatest threat to embedded liberalism came not from the so-called new protectionism, as was then widely assumed, “but the resurgent ethos of liberal capitalism” (p. 413). Also see Mark Blyth, *Great Transformations: The Rise and Decline of Embedded Liberalism* (New York: Cambridge University Press, 2002).

¹⁴Government expenditure on public debt rose rapidly from an average of 1.4 percent of GDP in 1970 to 4.5 percent in 1995. Tanzi and Schuknecht, p. 46.

¹⁵Mary Ruggie, *Realignments in the Welfare State* (New York: Columbia University Press, 1996).

¹⁶Clearly financial market integration has increased the cost of utilizing capital controls. For example, when Malaysia imposed targeted and time-bound controls to limit domestic spillover from the Asian financial crisis, for which it had no responsibility, all of the major credit rating agencies downgraded Malaysia’s sovereign risk rating – Fitch IBCA to “junk bond” status. Said a spokesperson for Fitch: “We are in no doubt about Malaysia’s ability to service its debt. It is a question of willingness to do so” – even though the Malaysian government had done nothing to indicate any such unwillingness. See Rawi Abdelal and Laura Alfaro, “Malaysia: Capital and Control,” Harvard Business School, Case 9-702-040 (June 4, 2002), p. 12.

¹⁷Dani Rodrik *Has Globalization Gone Too Far?* (Washington, D.C.: Institute of International Economics, 1997).

¹⁸Geoffrey Garrett, *Partisan Politics in the Global Economy*, (New York: Cambridge University Press, 1998).

¹⁹Of course, we would also want to know if globalization over time affects domestic coalitional possibilities. For one cut at this question see Jeffrey A. Frieden and Ronald Rogowski, “The Impact of the International Economy of National Policies,” in Robert O. Keohane and Helen V. Milner, eds., *Internationalization and Domestic Politics* (New York: Cambridge University Press, 1996).

²⁰Geoffrey Garrett and Deborah Mitchell, “Globalization, government spending and taxation in the OECD,” *European Journal of Political Research*, 39 (March 2001), p. 147; and Garrett, “Capital Mobility, Exchange Rates and Fiscal Policy,” p. 157. Interestingly, Garrett and Mitchell find no signs that this relationship is true specifically of trade with low-wage countries.

²¹Garrett and Mitchell, p. 159.

²²Congress agreed to spend up to \$12 billion over a ten year period for such assistance, including a tax credit for 65% of the cost of health insurance should workers lose their jobs to foreign competition. Congress also authorized a pilot project for wage insurance to dislocated workers, under which they would receive some compensation for lower wages in a new job. “Promoting the noble cause of commerce,” *The Economist*, August 3, 2002.

²³See, for example, Richard B. Freeman and Lawrence Katz, “Rising Wage Inequality: The United States versus other Advanced Countries,” in Freeman, ed., *Working Under Different Rules* (New York: Russell Sage Foundation, 1994).

²⁴Edward E. Leamer, “Wage Inequality from International Competition and Technological Change: Theory and Country Experience,” American Economics Association, *Papers and Proceedings*, May 1996.

²⁵Robert Z. Lawrence and Matthew J. Slaughter, “International Trade and American Wages in the 1980s: Giant Sucking Sound or Small Hiccup?” *Brookings Papers on Economic Activity: Microeconomics*, (No. 2, 1993), citation on p. 165. One source of disagreement is that Lawrence and Slaughter find no evidence that labor-intensive tradable goods have declined in price (and thus driven down wages). Leamer suggests that a longer time span must be considered because prices take time to ripple through the economy.

²⁶Paul Krugman, “Europe Jobless, America Penniless,” *Foreign Policy*, 95 (Summer 1994); Krugman and Robert Lawrence, “Trade, Jobs and Wages,” *Scientific American*, 270 (April 1994); and Krugman and A. J. Venables, “Globalization and the Inequality of Nations,” *Quarterly Journal of Economics*, 110 (1995).

²⁷*Op.cit.*, p. 311. Addressing specifically the effects of technological change, Leamer argues: “To do the job right, one really needs an accurate, complete, world-wide, long-run, general-equilibrium input-output model estimated from data that may or may not be available.”

²⁸Rodrik, *Has Globalization Gone Too Far?*

²⁹Jagdish Bhagwati, “Trade and Wages: A Malign Relationship?” Columbia University, Department of Economics, Discussion Paper # 761, October 1995. Bhagwati’s interpretation further stipulates that in such labor markets employers are reluctant to invest in training unskilled workers, putting them at a further disadvantage.

³⁰“Americans on Globalization,” http://pipa.org/OnlineReports/Globalization/global_rep.html.

³¹Matthew Mendelsohn and Robert Wolfe, “Values, Interests and Globalization: The Continued Compromise of Embedded Liberalism,” paper presented at the conference on “Global Governance: Towards a New Grand Compromise?” University of Toronto, 29 May 2002, available at <http://qsilver.queensu.ca/~wolfer/General/research.html>.

³²The regression results are reported in tables 3 and 4.

³³Of course, individual states on the periphery may fail as a result of collapsed internal authority and the usurpation of the state's coercive apparatus for factional or private ends – as discussed in, for example, Mats Berdal and David M. Malone, eds., *Greed and Grievance: Economic Agendas in Civil Wars* (Boulder, CO.: Lynne Rienner, 2000).

³⁴By the term human interests I do not mean only “good things,” but the fully panoply of values cited in the paragraph.

³⁵I use the term “civil society organization” rather than NGO (non-governmental organization) to include transnational social movements, coalitions and activist campaigns as well NGOs.

³⁶Conventional international relations theory implicitly (and often explicitly) adheres to what I have elsewhere called an “institutional substitutability” premise – that if other organizational forms at the international level do not have the potential to *replace* the territorial state, which none do, they aren't worthy of serious consideration; John Gerard Ruggie, “Territoriality and Beyond: Problematizing Modernity in International Relations,” *International Organization*, 46 (Winter 1993).

³⁷For useful introductions, see Jessica Mathews, “Power Shift,” *Foreign Affairs*, 76 (January/February 1997), and Ann M. Florini, ed., *The Third Force: The Rise of Transnational Civil Society* (Washington, D.C.: Carnegie Endowment for International Peace, 2000).

³⁸On human rights, see Thomas Risse, “The Power of Norms versus the Norms of Power: Transnational Civil Society and Human Rights,” and on anti-corruption, Fredrik Galtung, “A Global Network to Curb Corruption: The Experience of Transparency International,” in Florini, *The Third Force*.

³⁹A global coalition of CSO's made the case that certain of the MAI's provisions on investment protection would enable TNCs to challenge domestic environmental and labor standards on the grounds that they had the equivalent effect of expropriation, so that companies adversely affected could claim compensation. Supporting that fear was a 1996 case involving the Ethyl Corporation, which successfully sued the Canadian government under a similar provision of the North American Free Trade Agreement when Canada banned a gasoline additive Ethyl produced, with Canada agreeing to an out-of-court settlement of \$13 million. Andrew Walter, “NGOs, Business, and International Investment: The Multilateral Agreement on Investment, Seattle, and Beyond,” *Global Governance*, 7 (January-March 2001); and Stephen J. Kobrin, “The MAI and the Clash of Globalizations,” *Foreign Policy*, 112 (Fall 1998). Both authors stress that factors other than activist pressure also contributed to the MAI's demise.

⁴⁰Motoko Mekata, “Building Partnerships toward a Common Goal: Experiences of the International Campaign to Ban Landmines,” in Florini, *The Third Force*; and Ramesh Thakur and William Malley, “The Ottawa Convention on Landmines: A Landmark Humanitarian Treaty in Arms Control?” *Global Governance*, 5 (July-September 1999).

⁴¹Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders* (Ithaca, N.Y.: Cornell University Press, 1998). For a much broader and historically more significant impact than changing individual governments' policies, see Daniel C. Thomas, *The Helsinki Effect: International Norms, Human Rights, and the Demise of Communism* (Princeton: Princeton University Press, 2001).

⁴²Robert O'Brien, Jan Aart Scholte, Marc Williams and Anne Marie Goetz, *Contesting Global Governance* (New York: Cambridge University Press, 2000).

⁴³For a good overview see Gary Gereffi, Ronie Garcia-Johnson and Erika Sasser, “The NGO-Industrial Complex,” *Foreign Policy*, 125 (July/August 2001), and several unpublished papers on their websites (www.env.duke.edu/solutions/colloquia-7th.html/, and www.env.duke.edu/solutions/research-encert.html). On labor standards specifically, see “Adelle Blackett, “Global Governance, Legal Pluralism

and the Decentered State: A Labor Law Critique of Codes of Corporate Conduct,” *Indiana Journal of Global Legal Studies*, 8 (2001): 401-447.

⁴⁴The number of multinationals and their subsidiaries are reported in the *World Investment Report* (Geneva: United Nations Conference on Trade and Development, 2001). It is impossible to calculate the actual number of suppliers; Nike, for example, has approximately 750, and it is at the lower end among comparable firms in the number of factories as a fraction of its revenue base (personal communication from Nike executive).

⁴⁵Surprisingly little systematic research has been done on this question, in contrast to the volume of rhetoric it has generated. For a careful study in the environmental area, see Ronie Garcia-Johnson, *Exporting Environmentalism: U.S. Multinational Chemical Corporations in Brazil and Mexico* (Cambridge, Mass.: MIT Press, 2000).

⁴⁶See the sources in fn. 42.

⁴⁷OECD, Working Party of the Trade Committee, “Codes of Corporate Conduct – An Expanded Review of their Contents,” TD/TC/WP(99)56/FINAL (7 June 2000). Identifying the total universe of cases would require conducting a company-by-company survey, coupled with complementary surveys of industry associations and relevant CSOs – a prohibitive undertaking. Accordingly, the OECD warns that its inventory is neither a random nor a representative sample. Much of the literature, therefore, focuses on the far smaller but better known universe of multi-stakeholder codes and certification agreements; see Gereffi, Garcia-Johnson and Sasser, “The NGO-Industrial Complex.”

⁴⁸“Codes of Corporate Conduct,” Table 6, p. 35.

⁴⁹<http://www.levistrauss.com/responsibility>.

⁵⁰<http://www.shell.com/html/investor-en/shellreport01/reports2001/frameset.html>.

⁵¹SA8000, a system developed by Social Accountability International, covers a wide range of labor rights, health and safety standards, working conditions and compensation issues. It draws on the idea of quality control standards that are nearly universally used in the production of goods, and extend this concept to the treatment of workers. Companies subscribe to the SA8000 code or “management system,” and their facilities are audited and “certified” by external auditors, who are themselves trained and certified by the SA8000 governing body. Deborah Leipziger, *SA8000: The Definitive Guide to the New Social Standard* (London: Financial Times/Prentice Hall, 2001).

⁵²Their attempt is to make social and environmental reporting as routine as financial reporting. Interestingly, the two systems reflect their respective national origins in their orientation: the GRI, a US invention, tries to capture the full range of possibilities by means of a large number of discrete indicators, whereas AA1000, which originated in the UK, is more concerned with instituting guiding principles and maximizing transparency. See <http://www.globalreporting.org>, and <http://www.accountability.org.uk>.

⁵³Harriet Chiang, “Court says Nike must defend its PR; Free speech doesn't protect labor claims,” *San Francisco Chronicle*, May 3, 2002.

⁵⁴Erika N. Sasser, “Gaining Leverage: NGO Influence on Certification Institutions in the Forest Products Sector,” paper presented at the 7th Annual Colloquium on Environmental Law & Institutions, Duke University, December 7-8, 2001; and Blackett, “Global Governance, Legal Pluralism and the Decentered State.”

⁵⁵Andrew C. Revkin, "Forget Nature. Even Eden is Engineered," *New York Times*, August 20, 2002.

⁵⁶Michael E. Conroy, "Can Advocacy-Led Certification Systems Transform Global Corporate Practices? Evidence and Some Theory," University of Massachusetts, Amherst, Political Economy Research Institute, DPE-01-07, September 2001. Conroy claims that the total acreage is more than five percent. Home Depot got into the act because activists chose to boycott it to gain leverage over the timber companies, which lack sufficient public personae to be vulnerable. All major U.S. home improvement centers now participate in the FSC.

⁵⁷Ibid.

⁵⁸Andrew King and Michael J. Lenox, "Industry Self-Regulation Without Sanctions: The Chemical Industry's Responsible Care Program," *Academy of Management*, 43 (August 2000).

⁵⁹Amy Domini, *Socially Responsible Investing: Making a Difference and Making Money* (Chicago: Dearborn Trade, 2001).

⁶⁰The guidelines were initially intended as a code, meant to derail the UN's efforts in the 1970s to negotiate a binding code regulating the behavior of TNCs. As the UN effort came to naught, the sense of urgency behind the OECD's venture also declined. Briefly discussed in Blackett, "Global Governance, Legal Pluralism and the Decentered State."

⁶¹The World Economic Forum plans to publish an annual Global Governance Report, which will assess the respective contributions that various sectors of society are making to solving global problems; <http://www.weforum.org/site/homepublic.nsf/Content/Global+Governance+Task+Force>.

⁶²Julia Finch, "Anglo Calls for Help on Aids," *The Guardian* (London), August 17, 2002.

⁶³For a contemporaneous account written as the GC was just coming into operation, see Georg Kell and John Gerard Ruggie, "Global markets and social legitimacy: the case of the 'global compact'," in Daniel Drache, ed., *The Market or the Public Domain: Global Governance and the Asymmetry of Power* (London: Routledge, 2001).

⁶⁴The GC participants include the UN (the Secretary-General's Office, Office of the High Commissioner for Human Rights, International Labor Organization, UN Environment Program and the UN Development Program); the International Confederation of Free Trade Unions (ICFTU); more than a dozen transnational NGOs in the three areas covered by the GC, such as Amnesty International, the International Union for the Conservation of Nature and Oxfam; as well as individual companies and international business associations. For up-to-date information, see www.unglobalcompact.org.

⁶⁵Annan, "A New Compact for the New Century."

⁶⁶The 9 principles are: support and respect for the protection of internationally proclaimed human rights; non-complicity in human rights abuses; freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced and compulsory labor; the effective abolition of child labor; the elimination of discrimination in respect of employment and occupation; a precautionary approach to environmental challenges; greater environmental responsibility; and encouragement of the development and diffusion of environmentally friendly technologies.

⁶⁷Companies that have taken only the first step are considered Global Compact "supporters" but are not publicly identified so as to deny them a relatively free public relations benefit; companies must also engage in at least the learning forum to be identified as "participants" on the GC website. The remaining two forms of engagement are optional.

⁶⁸Brand vulnerability, as already indicated, is a key factor for companies headquartered in industrialized countries. Regarding internal rationales, some companies in cutting edge industries have found that they cannot sufficiently motivate the very best people with monetary rewards alone, as a result of which they have adopted more elevated social purposes as part of their corporate culture. Indeed, the GC has done best where companies have created a mechanism of internal communication that allows employees to comment on and report how their own work relates to the implementation of the nine principles – Novartis and Volvo being exemplars. On “internal branding” of this sort, see Bernard Stamler, “Companies are developing brand messages as a way to inspire loyalty among employees,” *New York Times*, July 5, 2001. In the case of developing country firms, the rationale also includes a belief of what is expected of aspiring global corporate players, and in some cases a perceived opportunity for them to navigate domestically as social actors beyond the dictates of their own governmental bureaucracies. (Based on interviews with participants.)

⁶⁹“Statoil Signs Agreement with ICEM,” *Europe Energy*, March 30, 2001.

⁷⁰<http://www.melbourne.vic.gov.au/cityplan/infopage.cfm>.

⁷¹The most vocal among them is CorpWatch, whose main mission is to publicize alleged misdeeds by participating companies and to criticize the Compact for not regulating them.

⁷²The distinction between the two approaches is discussed at greater length in John Gerard Ruggie, “The Theory and Practice of Learning Networks: Corporate Social Responsibility and the Global Compact,” *Journal of Corporate Citizenship*, 5 (Spring 2002).

⁷³In contrast, the General Assembly has endorsed Annan’s approach to social partnerships, including the Global Compact, in “Towards Global Partnerships,” A/Res/56/76, 24 January 2002.

⁷⁴For a good discussion of the difficulties, see Andrew Clapham, “On Complicity,” in Marc Henzelin and Robert Roth, eds., *Le Droit Pénal à l’Épreuve de l’Internationalisation* (forthcoming).

⁷⁵David E. Rosenbaum, “Senate Deletes Higher Mileage Standard in Energy Bill,” *New York Times*, March 14, 2002. The final vote was 62-38 against.

⁷⁶This concept is due to Charles Sabel, Dara O’Rourke and Archon Fung, “Ratcheting Labor Standards: Regulation for Continuous Improvement in the Global Workplace,” John F. Kennedy School of Government, Harvard University, KSG Working Paper No. 00-010, May 2, 2000.

⁷⁷“These companies have concluded that limits on carbon dioxide and other greenhouse, or heat-trapping, gases are inevitable. ...And to plan long-term investments, they want the predictability that comes from quick adoption of clear rules.” Andrew C. Revkin and Neela Banerjee, “Energy Executives Urge Voluntary Greenhouse-Gas Limits,” *New York Times*, August 1, 2001, p. C-1. The companies included the Royal Dutch/Shell Group, BP, several power-generating companies – and Enron, which hoped to capture the global permits trading business.

⁷⁸James N. Rosenau, “Governance, Order and Change in World Politics,” in Rosenau and Ernst Otto Czempiel, eds., *Governance Without Government* (New York: Cambridge University Press, 1992).

⁷⁹Robert O. Keohane, “Governance in a Partially Globalized World,” *American Political Science Review*, 95 (March 2001).

⁸⁰Marina Ottaway, "Corporatism Goes Global: International Organizations, Nongovernmental Organizations Networks, and Transnational Business," *Global Governance*, 7 (September-December 2001).

⁸¹The key work in this genre is David Held, *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance* (Stanford: Stanford University Press, 1995).

⁸²Michael Barnett and Robert Duvall are editing an excellent volume addressed to these questions; see Barnett and Duvall, "Power and Global Governance," revised paper prepared for the conference on "Who Governs in Global Governance," Madison, Wisconsin, April 19-20, 2002.