The Transformation of Global Business Regulation

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The Global Governance Project is a joint research programme of eight European research institutions. It seeks to advance understanding of the new actors, institutions and mechanisms of global governance, especially in the field of sustainable development.

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Abstract

Global business regulation has become a prominent theme in world politics, both in empirical as well as in theoretical terms. In this paper, I argue that transnational regulation beyond the international system has developed into a major source of social order in addition to public approaches such as international treaties, international customary law, and other international norms prevalent in the global system. During the last two decades, private forms of regulation have complemented public international approaches towards regulating the behaviour of corporations. In this context, instances of co-regulation, involving business actors alongside with non-profit NGOs in the making and implementation of transnational norms and rules, have triggered research into the empirical manifestations and theoretical implications of this new phenomenon. This paper assesses the recent transformation of global business regulation in world politics along three lines of inquiry: first, an empirical classification is developed that enables us to better assess different manifestations of transnational regulation according to its source and mode of implementation. Second, possible contextual factors of the emergence of private regulation are discussed, based on a brief historical account of the transformation from public international to private transnational approaches to business regulation. Finally, an empirical analysis of one prominent example of business co-regulation, the Coalition for Environmentally Responsible Economies (CERES), discusses in how far the transformation of global business regulation can complement or substitute public forms of regulation. Taken together, these perspectives provide a compelling narrative about the transformation of global business regulation from international approaches to private systems of rule in world politics.

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Foreword

This working paper was written as part of the Global Governance Project, a joint research programme of eight European research institutions that seeks to advance understanding of the new actors, institutions and mechanisms of global governance. While we address the phenomenon of global governance in general, most research projects focus on global environmental change and governance for sustainable development. The Project is co-ordinated by the Institute for Environmental Studies (IVM) of the Vrije Universiteit Amsterdam and includes associate faculty members and research fellows from eight European institutions: Science Po Bordeaux, Bremen University, Freie Universität Berlin (Environmental Policy Research Centre), London School of Economics and Political Science, Oldenburg University, Potsdam Institute for Climate Impact Research, Vrije Universiteit Amsterdam, and Wageningen University.

Analytically, we define global governance by three criteria, which also shape the research groups within the Project. First, we see global governance as characterised by the increasing participation of actors other than states, ranging from private actors such as multinational corporations and (networks of) scientists and environmentalists to public non-state actors such as intergovernmental organisations ('multiactor governance'). These new actors of global governance are the focus of our research group MANUS–Managers of Global Change.

Second, we see global governance as marked by new mechanisms of organisation such as public-private and private-private partnerships, alongside the traditional system of legal treaties negotiated by states. This is the focus of our research group MECGLO–New Mechanisms of Global Governance.

Third, we see global governance as characterised by different layers and clusters of rule-making and rule-implementation, both vertically between supranational, international, national and subnational layers of authority ('multilevel governance') and horizontally between different parallel rule-making systems. This stands at the centre of our research group MOSAIC–'Multiple Options, Solutions and Approaches: Institutional Interplay and Conflict'.

Comments on this working paper, as well as on the other activities of the Global Governance Project, are highly welcome. We believe that understanding global governance is only feasible through joint effort of colleagues from various backgrounds and from all regions of the world. We look forward to your response.

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1 Introduction

The last three decades have seen a substantial proliferation of global business regulation, loosely defined as limits imposed on the behaviour of economic actors, contained in rules and standards. Today there are a vast number of different codes of conduct, management standards, certification schemes, reporting guidelines, eco-labels or more general behavioural norms applicable on the global level. Regulations are targeted towards transnational corporations (TNCs)[1] but in many cases also influence smaller enterprises along the production-chain. Some forms of business regulation emanate from individual firms or business associations, others are institutionalised among a greater number of actors, often including NGOs and public agencies. A recent study of the OECD directorate for financial, fiscal and enterprise affairs surveys 246 codes of conduct, defined as "commitments voluntarily made by the companies, associations or other entities, which put forth standards and principles for conduct of business activities in the marketplace" (OECD 2001: 3). Existing codes cover a wide variety of issue areas, including labour standards, environmental stewardship, consumer protection, and information disclosure. A majority of codes are issued by companies (48%) and business associations (37%), but a substantive number already derive from a partnership of stakeholders (13%) (ibid: 5).

Attempts to regulate the activities of corporations have significantly changed in the context of an increasing economic integration since 1970. International regulative approaches have been complemented and in many cases substituted by transnational institutions. Next to intergovernmental treaties that regulate business activities and norms emanating from international organisations, there exist a number of new modes of regulation that have emerged during the last two decades. Some have already been at the centre of research such as specific forms of global public policy networks (Ruggie 2001; Witte, Reinicke, and Benner 2000) or private inter-firm regimes (Cutler, Haufler, and Porter 1999; Haufler 2000), while others have remained largely outside of scholarly interest. Within the larger development of deepening and widening global business regulation, it is the growing institutionalisation of standard setting between profit and non-profit actors that calls for closer attention, both in theoretical as well as in empirical terms. The roles of business actors and NGOs are no longer limited to shaping the traditional policy cycle.[2] Next to agenda-setting, influencing decision-making processes, implementing commitments, and monitoring state compliance, private actors increasingly begin to establish, maintain, verify, and monitor their own private regulations beyond the international arena. These new private rule-systems constitute a decisive mechanism of global governance. They are different from ad-hoc partnership or strategic alliances between NGOs and companies because they involve the notion of

[1] A TNC shall be defined broadly as "a firm which has the power to coordinate and control operations in more than country, even if it does not own them" (Dicken 1998).

[2] For a detailed discussion of more traditional forms of policy-making by non-state actors in the field of global environmental politics, see Ian Rowlands (2001)on business actors and Kal Raustiala (1997) on NGOs.

shared norms and principles as well as the prescription of new roles and responsibilities that shape the behaviour of organisational and individual actors.

The intention of this paper is to bring some degree of order to the confusing debate about the empirical manifestations and theoretical explanations of global business regulation in general and co-regulative forms of business regulation in particular. Of particular interest are the contextual transformations that gave rise to novel private forms of business regulation during the 1980s and 1990s. Five corresponding questions guide this research: (1) why is there a need for global business regulation; (2) what general classification scheme can be derived from the rich empirical studies on corporate codes, certification schemes, and labelling; (3) how has the architecture of global business regulation developed over time; (4) what contextual factors are put forward in the theoretical literature that could explain the emergence of novel private institutional arrangements such as private co-regulation and multistakeholder initiatives, and (5) what influences of new forms of business regulation can be observed?

2 The Need for Global Business Regulation

The necessity to regulate the behaviour of TNCs has grown with the scale and scope of economic globalisation. The global economy is increasingly organised in cross-boarder networks and value chains largely out of the control of public actors. In contrast to economic organisation in the era of 'embedded liberalism' (Ruggie 1982), where capital was predominantly national in terms of ownership and management and integrated into a historic social compromise, the current economic order is largely organised around transnational capital in terms of ownership, management, exchange, and relevant stakeholders such as shareholders, suppliers, and consumers. Correspondingly, TNCs have emerged as the new powerful actors in the era of globalisation, largely unrestrained from public regulation.

The empirical evidence supporting the assumption of an increasing influence of business actors in world politics falls roughly into three categories. First, statistics on foreign direct investment (FDI) are a good indicator for the increase in economic activities taken by large TNCs. Between 1981 and 1985 annual FDI flows equalled $50 billion on average, while already in 1990 they reached over $240 billion, only to steadily rise to a new peak of $612 billion in 2004. As a consequence, the stock of FDI in relation to world GDP doubled from 4.9 per cent to 9.7 percent between 1980 and 1994. The actual importance of transnational corporations in the world economy is even greater than these figures indicate because FDI accounts only for 25 percent of total investment in international production. Foreign affiliates often finance their expansion through retained profits and borrowing on domestic or international capital markets (Held et al. 1999: 246). A second indicator is the substantial increase of TNCs. Their number has risen from 7000 in 1970 to over 40.000 in 1995 (Karliner 1997: 5). Already in 2001, the number of transnationals has peaked to 63,312, controlling 821,818 affiliates abroad (United Nations Conference on Trade and Development (UNCTAD) 2001: 242). A third indicator for the increasing impact of corporations in world politics is the sheer size of their operations. For example, the yearly sales of General Motors (GM)

exceeds the GNP of industrialised states such as Norway, Finland, and Israel (Love, Hensman, and Rodrigues 2000: 255). In addition, the $5 trillion sales annually generated by the TNC's foreign affiliates exceed the total volume of international trade. Consequently, only 49 of the largest 100 economies are states (Love and Love 2003: 98). What is most interesting in this context is the geographic and economic concentration. Roughly 90% of all TNCs are based in the Triad of North America, Europe, and Japan and the top 300 global firms account for one-quarter of the world's productive assets.

But the influence of TNCs on world politics is not only reflected in abstract terms but also manifests itself on a very practical level. Consider for example the ecological footprint of TNCs. Companies consume huge quantities of resources such as water, energy, and raw materials and produce enormous quantities of waste; they transform the environment through resource extraction and the introduction of new materials, substances, and species. Through their boarder-spanning activities, TNCs institutionalise unsustainable routines such as long distance air transport and replace deeply routed cultural routines with new and often unsustainable ones. As Ian Rowlands (2001: 133) notes, "if we did not have TNCs spreading new forms of resource extraction, production and technological development around the world, then we could well not have many of the global environmental problems that we are experiencing today…".

In sum, TNCs can be considered central players in determining economic policies and transforming ecologic and social structures. Reasons for the growing influence that transnational corporations exercise in world politics range from the general spread of free-market economic systems after the end of the bipolar bloc confrontation to specific economic events such as the debt crisis of the 1980s, in which large banks gained considerable leverage over states, to the logic of intensified economic integration that forces states to compete for FDI through fiscal policies and other (de)regulations favouring TNCs. Within this context of an intensifying globalisation, business actors have surely acquired novel mechanisms of influence. But do corporations really rule the world, as David Korten (1995) contends?

Implicit in the majority of literature on globalisation is the notion that the state has lost most of its regulatory power *vis-à-vis* non-state economic actors, at least in many areas of the world (Schlichte and Wilke 2000; Strange 1996, 1998). The standard argument holds that a globalising economy integrated only by the market and transnational capital is eroding the power of nation states to adequately address problems of public concern. In this view, both the theoretical as well as practical claims to the concept of sovereignty and the resulting 'national' economic policies are being undermined. In the words of Ohmae (1995: 78): "[Nation states] have become unnatural – even dysfunctional – as actors in a global economy… They are no longer meaningful units in which to think about economic activity." However, critics of this scholarly 'state denial' (Weiss 1998: 2) argue that states well possess the capacity for domestic transformative strategies and therefore can adapt to changing economic circumstances (Bernauer 2000; Boyer and Drache 1996; Scott 1997).

In the light of these arguments, what is the precise relationship between transnationally operating business actors and nationally confined states? My tentative answer is that although the balance between states and transnational economic actors has shifted considerably, states still hold fundamental powers to restrain business activities. What has changed is the leverage that corporations hold vis-à-vis states created by

the free-market environment, de-regulative state policies, welfare-state dysfunctionalities, and the power structure within the inter-state system[3]. In sum, the picture is one of many shades of grey rather than black and white. In the words of Doris Fuchs, who is referring to her recent study on the different dimensions of power that business actors possess in the global economy,

> "claims of a lack of business influence on politics or severe limits to such an influence, which are still raised by a small group of scholars and practitioners, should be met with scepticism. At the same time, however, the analysis has demonstrated that undifferentiated claims of a global political rule of corporations ... do not capture the complexities of current developments in the political role of business" (Fuchs 2004: 27).

Within the context of a widening – perceived or real – governance gap between a transnational economy and a territorial-based political system the issue of regulating business activities has become a central theme of practical as well as theoretical considerations within the discipline of IR. It is through the process of globalisation that regulatory demand and regulatory supply are increasingly mismatched. States, in the organizational form of government, are less and less capable of regulating the activities of business actors within their territory due to processes of de-nationalisation and de-territorialisation (Beisheim et al. 1999). Consequently, we can conceive the globalisation of business regulation broadly "as the globalization of the norms, standards, principles and rules that govern commerce and the globalization of their enforcement" (Braithwaite and Drahos 2000: 10). This regulatory globalisation is connected with globalisation of firms and markets. Global firms originate within a specific territory but spread their operations to other territories through foreign production facilities, franchise, joint ventures, and other corporate structures. The globalisation of markets refers to the theoretical possibility that any one buyer or seller from any territory can meet with a buyer or seller from any other territory to conduct economic transactions. It is important to note that globalisation in this context is a process of degrees: "A phenomenon does not have to traverse the entire globe before it can be conceived as part of globalisation" (Braithwaite and Drahos 2000: 8).

The vast majority of norms, rules, and principles that constitute the regulation of business activities on the global level have developed after 1970 (Braithwaite and Drahos 2000: 3). However, regulation has a long history. As early as Roman times, people collectively regulated the activities associated with trade, production, and distribution of goods and consequently laid the conceptual foundations of globalised business regulation. The second paramount historic episode in the globalisation of regulation is the development of the law merchant starting in the Middle Ages. For most of history, regulation originated from a web of competing sources. Only through the formation of the early-modern state (cf. Opello and Rosow 2004) did regulation slowly fall into the sole responsibility of a unified organisational structure.

[3] Robert Gilpin notes that "[j]ust as the Pax Britannica provided a favorable international environment for the overseas expansion of British firms and investors in the late nineteenth century, so American leadership following World War II provided a similar favourable international environment for the overseas expansion of American and other capitalist firms in the post-World War II era" ((Gilpin 2001: 288)In addition, Paul Doremus and his colleagues argue that TNCs heavily depend on their respective home economies and, consequently, that the 'global corporation' in fact is a myth ((Doremus et al. 1998)

What follows from this 'historicity' of global business regulation are substantially different regulatory dynamics across different issue areas within the global economy. Given the different starting-points, contextual environments, and divergent actor-constellation within each arena this is not particularly striking. In their broad study on global business regulation, John Braithwaite and Peter Drahos find that

> "regulation of the environment, safety and financial security have ratcheted up more than they have been driven down by globalisation. [..] While ratcheting-up is more common than race-to-the-bottom in the regulation of safety and environment, the opposite is true of economic regulation. In domains of economic regulation beyond those that anchor financial security (e.g. capital adequacy standards for banks), we find that ratcheting-down has been the dominant dynamic – globalizing deregulation" (2000: 5).

In sum, the interpretation of global business regulation as a central phenomenon in world politics will depend on the perspective one adopts towards the question of state-market relation and the social forces therein. As we have seen in the section above, the necessity to regulate corporate behaviour on the global level is a result of political decisions that have produced a mismatch between regulative capacity and regulative demand. Ironically, attempts to address this problem have largely followed the same logic of privatisation, soft law, and blurred political responsibilities that are characteristics of the general process of economic globalisation. The preceding section will address this process of transationalisation of business regulation in more detail.

3 The Scope of Global Business Regulation

In order to cope with the empirical richness of global business regulation, a plethora of terms have been proposed to classify the phenomenon, such as the "voluntary codes phenomenon" (Webb 2004), "certification regimes" (Haufler 2003) or simply "global standards" (Nadvi and Wältring 2002). There are basically three different common approaches in the literature used to distinguish between different types of business regulation. The corresponding questions are: Who makes the rules? What is the content of the regulation? How are the commitments verified and how is future compliance guaranteed?

In the general context of global business regulation, rule-systems can be discussed with reference to their level of state-centrality. Three broad categories can be distinguished: first, traditional forms of public regulation emanating from governments (national regulation) or intergovernmental organisations (global regulation). Second, hybrid forms of regulation, involving individual governments, intergovernmental organisations, corporations and non-governmental organisations. A third category is constituted by forms of business regulation that display a maximum distance to public actors. In addition, limiting our view to forms of global business regulation that are clearly located in the realm of private governance, we can make a distinction between self-regulation and multi-stakeholder approaches in the form of co-regulation. Self-regulation refers to arrangements where individual firms or business associations set their own rules of behaviour in the form of codes of conduct, guidelines or mission

statements (Richter 2001: 40). In contrast, co-regulation refers to regulatory arrangements wherein at least one actor is not a profit-making entity and therefore conflicts of interests and conflicts of values have to be bridged in order to institutionalise the cooperation and reap joint gains.

Next to distinguishing different types of code-issuers along an imaginary line of state-centrality, the abstract content of the rule can be used for a typology. Here we distinguish between product and process standards. Traditionally, standards focused on technical characteristics of a product such as size, composition or function. Originally confined to the national arena, standards began to be internationalised already in the 1950s through the process of regional economic integration. In addition, the liberalisation of international trade induced harmonisation within and across economic sectors. Different from product standards, process standards focus on the actual management practices in the production process. Most standards that include ethical, environmental, and social measurements are process standards. However, the distinction is becoming increasingly blurred because a range of product qualities can be linked to corresponding production processes, for example in the case of organic foods, where threshold levels of pesticides are linked to production methods (Nadvi and Wältring 2002: 7).

A third possible category for classification is verification procedures and compliance management of global business regulation. A straightforward distinction is between first, second, and independent third party certification, in different terminology also reporting. The term ‘certification’ in general refers to the process of certifying the compliance with the basic management or output standards agreed upon. In particular, first party certification includes forms of business regulation wherein the code-issuer and the actor monitoring and reporting on (non-)compliance are identical. Second party certification refers to instances of regulation where standard-making and compliance management are separated but still rely on information given by the regulated parties themselves. Third party certification involves a clear-cut separation between rule-making and reporting conformance or non-conformance with the distinct standards. This is realised through the involvement of independent organisations (certifiers; certification organisations) that monitor the implementation of regulation on the spot and subsequently issue a certificate of conformance, in most cases in form of a label recognisable by consumers. The rules and procedures specifying who is eligible to become a certifier and how the certification process is conducted are issued by the rule-making party. In principle, there also exists a fourth category of certification wherein public actors monitor conformance with standards. However, this possibility has so far been limited to the traditional form of global business regulation through intergovernmental organisations. In addition to classifying global business regulation according to its source of authority, the abstract content of regulation, and the applied verification procedures, forms of regulation can also be analysed with reference to their specific content such as environmental, labour or human rights standards.

4 From Public to Private Forms of Regulation: New Institutional Modes

Next to the international regulation of business activities there exist numerous new institutional modes that have emerged during the last two decades. Some have already been at the centre of research such as private regimes and forms of private authority (Cutler, Haufler, and Porter 1999; Haufler 2000), while others have remained largely outside the interest of scholars. Among those, cooperative approaches between antagonistic actors, referred to as co-regulation or multistakeholder approaches, warrant closer attention.

Novel institutional modes of private governance particularly emerge at the intersection of two recent developments in world politics. First, the shift from private policy-shaping to private policy-making, exemplified in the growing number of industry self-regulation and standard-setting schemes (Gibson 1999; Brink 2002; Garcia-Johnson 2001; Bartley 2003). Second, the predominantly confrontational relation between companies and civil society has been complemented by partnership as one possible mode of interaction. Antagonistic actors, representing the different organizational logics[4] of business (transactions) and nongovernmental organizations (values), engage in the development and subsequent implementation of voluntary regulation on a global scale (Hartman and Stafford 1997; Gereffi, Garcia-Johnson, and Sasser 2001; Arts 2002). The combination of these two trends amounts to a new quality of private governance, distancing it from mere coordination or cooperation between private actors. Table 1 gives a schematic representation of the four possible arenas shaped by the intersection of the two trends towards private policy-making and private partnership in world politics.

Table 1: Schematic representation of private governance in world politics

	ORGANISATIONAL INDIVIDUALISM	PARTNERSHIP
POLICY-SHAPING	NGO and business lobbying, monitoring or implementation of public policies	Strategic alliances, product development, communication partnerships, licensing
POLICY-MAKING	Business self-regulation, NGO norms and standards	Co-regulation (institutionalised standard-making), multi-stakeholder institutions

Both developments are best considered as a continuum. On the partnership-axis, empirical examples range from individual organisations that rely exclusively on their own resources to institutionalised partnerships that incorporate a wide range of actors within their scope. On the policy-axis, empirical examples include lobbying international negotiations, implementing international regulations, monitoring public

[4] For a detailed discussion of the different organizational logics of business, nongovernmental organizations, and states see Waddell (1999)

commitments, as well as setting and maintaining independent norms and standards beyond the international arena.

The next section provides a short historical account of the major developments in global business regulation, from international attempts to regulate a globalising economy to current forms of private co-regulation.

The institutional forms of business regulation have shifted considerably in the last three decades. This shift is often analysed as a transition from state-led mandatory regulation in the 1960s and 1970s, both on the national and international level, to corporate self-regulation in the 1980s and early 1990s, to cooperative rule-making between NGOs and business actors, the phenomenon of co-regulation, in the last 10 years (Utting 2004). In the realm of transnational business regulation, "co-regulation arises when two or more actors or 'stakeholders' are involved in the design and implementation of norms and instruments that attempt to improve the social and environmental performance of firms" (Utting 2002: 65).

The development from compulsory regulation to voluntary codes, standards, and general behavioural norms directed towards transnational corporations is to some extent a mirror image of changes in national regulatory policies:

> "In most countries, heavy regulation until the 1970s has been supplanted by deregulatory policies during the 1980s. Similarly, the emphasis of the international debate in the 1970s was mainly on the creation of mandatory frameworks for TNC regulation, whereas the debates of the 1980s and 1990s were mostly about corporate self-regulation" (Koenig-Archibugi 2004: 246).

The earliest intergovernmental attempt after the Second World War to exercise some influence on the behaviour of corporations can be found in the Havana Charter of the International Trade Organisation (ITO) from 1948. This document includes provisions on the policies of governments towards TNCs as well as towards the conduct of TNCs themselves. But the United States' withdrawal from the process in 1950 and their support for an alternative General Agreement on Tariffs and Trade (GATT) meant the end to this early regulative initiative (Bendell 2004). Only in the 1960s did the debate about international regulation of TNCs resurge again (Koenig-Archibugi 2004: 247). This development was partly triggered by the newly won independence of many developing countries and their resulting interest to maintain control over foreign investment and the actual behaviour of foreign companies while at the same time exploiting the economic benefits of foreign capital and innovations. The related debate on a New International Economic Order (NIEO) and the resulting declaration that was adopted in 1974 by the UN General Assembly paved the way for a renewed discussion on regulating TNCs.

Until the early 1980s, a few international institutions emerged from these debates: in 1974, the United Nations Economic and Social Council (ECOSOC) established a Commission on Transnational Corporations and the UN Centre on Transnational Corporations (UNCTC) as its permanent research body; the OECD established a set of voluntary Guidelines for Multinational Enterprises in 1976; in the same year, the International Labour Organisation (ILO) produced the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy; and in late 1980, the UN General Assembly adopted a Code on Restrictive Business Practices drafted by the United Nations Conference on Trade and Development (UNCTAD) (Koenig-Archibugi 2004:

ibid; Abrahams 2004: 5). In sum, these regulative initiatives mark the peak of international approaches to prescribe binding behaviour for transnational business actors. However, voluntarism has its first appearance. The OECD Guidelines "were used to forestall the compulsory control being sought through the UN. 1976 thus marks the entrance of the voluntary code of conduct into business' strategic repertoire" (Rowe 2005, forthcoming: 128).

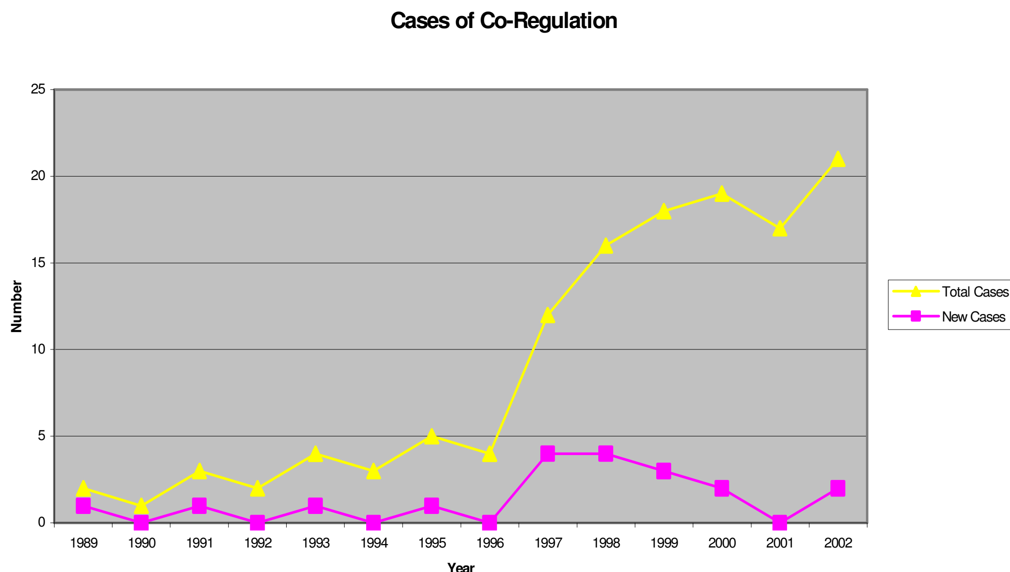
By the early 1980s, even these modest regulative initiatives were already on retreat. One possible explanation for this development is the substantial shift in international economic policy-making that accompanied the election of Margaret Thatcher in the UK and Ronald Reagan in the USA. Classical economic liberalism highlights the undisturbed market as a mechanism to allocate international trade and investment. Consequently, regulating economic behaviour of companies is seen as a severe disruption of market-equilibria and therefore disapproved by economists and policy-makers. Consequently, the trias of liberalisation, de-regulation, and privatisation known as the Washington Consensus marked the low end of the regulatory continuum. During the 1980s, only very few of the international codes envisaged in the previous decade could be implemented (Richter 2001: 10) and by 1992 the UNCTC failed to incorporate its draft on environmental regulations for TNCs in Agenda 21, the blueprint for sustainable development in the 21st century. On the contrary, most language on business roles and responsibilities adopted during the UN Conference on Environment and Development (UNCED) was drafted by the newly founded Business Council for Sustainable Development (WBCSD) (Richter 2001: 11). Many observers interpret the later dismantling of the UNCTC and the transfer of its responsibilities to the UNCTAD Commission on Investment, Technology, and Enterprise Development in 1993 as the end to international and mandatory regulation.

But a parallel development was well under way in the late 1980s and early 1990s. Triggered by several social and environmental catastrophes such as the Bhopal accident and the Exxon Valdez oil spill, and supported by the economic orthodoxy of neo-liberalism, companies and business associations began to devise and implement a range of self-regulative systems to reassure the public of their social responsibility. Responsible Care (RC), the chemical industry's international programme on environmental, health, and safety standards, is an example of such a self-regulative system. Since its inception in Canada in 1985, RC has developed into a global initiative, covering more than 85% of the world's chemical production in 47 countries (European Chemical Industry Council 2002: i). However, it was not until 1996 that the International Council of Chemical Associations (ICCA), which oversees RC since 1992, established a common procedure for verifying individual company's compliance with the agreed upon management practices. But still, the day-to-day operation, implementation and monitoring is the responsibility of regional and national associations. As a result, the status of the Responsible Care programme differs considerably among different countries and regions.

It was precisely this vagueness and ambiguity that stirred protest against forms of self-regulation that were essentially perceived as a window-dressing and green-

washing exercise.[5] Criticism addressed the ad hoc and piecemeal nature of most corporate self-regulation initiatives as well as their often weak implementation and compliance procedures. CorpWatch for example, a non-profit advocacy group, issued 'greenwash awards' to companies such as BP, Shell, Monsato, and Ford for not meeting their self-set standards (Utting 2004: 103). As a result, by the mid-1990s the tide had turned again. Private regulation became institutionalised between a range of divergent and antagonistic actors, including transnational business and their civil society counterparts. This new mode of co-regulation has attracted considerable attention over the last years, especially from a policy-oriented point of view (Murphy and Bendell 1999; Hemmati et al. 2002). Although no reliable figures on the overall population of co-regulative initiatives are currently available, the general trend of growth is evident. Table 2 gives a graphic representation of the total number of co-regulative initiatives as well as the annual increase from 1989 to 2002. The data is drawn from an extensive review of secondary literature on transnational regulation[6] and from an extensive web-research.

Table 2: The Increase of Co-regulative arrangements in World Politics



[5] For a detailed account of corporate environmentalism and green-washing see Greer and Bruno (1996).

[6] Important studies that attempt to assess, at least partially, the overall universe of transnational regulation include: Abrahams (2004); Dankers (2003); Eritja (2004); Gordon and Miyake (1999); Hemmati et al. (2002); Jenkins (2001); Kolk et al. (1999); Nadvi and Wältring (2002); Utting (2002).

5 Explaining New Forms of Global Business Regulation

Various contextual transformations are generally believed to have triggered the emergence of private transnational co-regulation and multi-stakeholder initiatives as a novel institutional arrangement for global business regulation. Although these transformations are not explanatory factors in their own right, they constitute the contextual environment of the transformation of global business regulation. The changes include a transformation of the discursive field, a restructuring of the political environment and the correlation of social forces therein as well as a growing criticism against forms of corporate self-regulation (Utting 2004: 99).

Several emerging discourses have influenced the transformation of the transnational regulatory environment. First, there is the discourse of corporate social responsibility (CSR) and corporate citizenship, which highlights ethical corporate behaviour and profits as being mutually supportive. Although the terms vary in their precise connotation, they are often used interchangeably.[7] Most definitions describe CSR as "a concept whereby companies integrate social and environmental concerns in their business operations and in their interactions with their stakeholders on a voluntary basis" (Commission of the European Communities 2001: 6). An other definition by the corporate-funded non-profit Business for Social Responsibility (BSR) states that CSR is about "achieving commercial success in ways that honor ethical values and respect people, communities, and the natural environment" (Business for Social Responsibility 2003). The underlying assumption of the CSR discourse is that the relationship between business and society at large should be guided by ethical considerations on part of the companies. From this perspective, not only shareholders but also the larger community of stakeholders have a legitimate interest in the activities and impacts of business actors. Therefore, companies in response should be concerned not only with profits – the 'bottom line' – but also with a 'triple bottom line' of social and environmental goals next to profitability.[8] Also embedded within the discourse of CSR lies the notion of strategic and economic benefits that result from responsible behaviour towards society, or at least from communicating responsibility towards society. Peter Utting argues that within the corporate responsibility discourse, companies are believed to engage proactively with the demands from activists and the society at large. This would

> "allow business to not only deflect or dilute certain pressure but also be in the driving seat to ensure that change took place on terms favourable to business. At the more micro level, so-called 'win-win' arguments suggested that corporate social and environmental responsibility made good business sense by boosting a firm's competitive advantage, creating new markets and, in some instances, even reducing costs" (2002: 68).

[7] In addition, sometimes the term 'corporate social accountability' (CSA) is used in the same context. However, proponents of the CSA debate have a markedly different agenda compared to those engaged in CSR. In the words of Friends of the Earth (FoE), "accountability requires going beyond voluntary approaches and establishing mechanisms which provide adequate legal and financial incentives for compliance. It must also empower stakeholders to challenge corporations" (2002).

[8] For a critical discussion of the 'triple bottom line' as an economic concept, see Norman and MacDonald (2004).

A second influential discourse that considerably lowered the companies' reluctance to engage in partnerships with civil society can be found in the predominantly academic debate on organisational learning (Dodgson 1993; Fiol and Lyles 1995; Senge 1990) and the more practically orientated debate on stakeholder involvement (Freeman 1984). Both approaches stress the importance of cooperation and social learning as mechanisms through which business actors can adapt to an increasingly risky environment. From this perspective, the knowledge, values, and competencies of NGOs are crucial resources for companies to be tapped in order to gain competitive advantages over other corporate actors. Closely connected to this discourse are arguments that highlight the crucial importance of knowledge under the complex constraints of economic and social globalisation. From this view, governing complex problems in the era of globalisation requires the involvement of both business and civil society because the problem-solving capacity of nation states has declined considerably. The Commission on Global Governance, for example, contends in its final report that the skills and resources of a diversity of people are needed to cope with global problems. Consequently, the discourse on stakeholder involvement and organisational learning stresses the need to "build partnerships – networks of institutions and processes – that enable global actors to pool information, knowledge, and capacities and to develop joint policies and practices on issues of common concern" (Commission on Global Governance 1995: 6).

The third broad discourse that provided a contextual framework for the emergence of novel regulatory institutions is the discourse of sustainable development. Although there are many and often contradicting definitions of the term (e.g. Brown et al. 1987; Dixon and Fallon 1989; Mitcham 1995; Redclift 1992; Toman 1992), it is now widely acknowledged that sustainable development should meet "the needs of the present without compromising the ability of future generations to meet their own needs" (World Commission on Environment and Development 1987: 43) and incorporate environmental, social, and economic concerns within its scope.

The origins of the sustainability discourse can be traced back at least to the early 1970s when several publication (Goldsmith 1972; Meadows et al. 1972) and the first United Nations Conference on the Human Environment, also known as the Stockholm Conference, began to investigate the relationship between human development and the natural environment. Other important contributions to the debate originated from the World Conservation Strategy (WCS) and the Brundtland Report. The WCS, issued by The World Conservation Union (IUCN), the United Nations Environment Program (UNEP), and the World Wide Fund for Nature (WWF) in 1980, contained a systematic approach to development focused on ecological management of living resources to ensure the continuity of life and biodiversity for the satisfaction of human needs now and in the future. The World Commission on Environment and Development (WCED) was formed in 1983 to tackle critical issues that the WCS did not address, notably the causes of environmental overexploitation and degradation, and the failure of development policies to alleviate poverty and hunger. Headed by Gro Harlem Brundtland, the WCED was mandated to define a shared perception of the most pressing environmental issues and to develop a long-term strategy for achieving sustainable development by the year 2000 and beyond. The final report *Our Common Future*, better known as the *Brundtland Report*, substantially shaped the following international debates and finally led to the 1992 Rio summit.

It was during UNCED that business actors sized the opportunity and influenced the emerging global agenda in their interest. It is no coincidence that the year 1992 both marks the founding of the Business Council for Sustainable Development (later to become the WBCSD) and the publication of *Changing Course* (Schmidheiny 1992), an elaborate outline of the role of business in sustainable development. It is noteworthy that is was Canadian businessman Maurice Strong in his personal capacity as Secretary General to the Rio summit who recruited Stephan Schmidheiny as the coordinator of the business input to the summit. As a result, corporations became accepted as legitimate actors within the sustainability discourse. Rather than being analysed as part of the problem, business increasingly became perceived as part of the solution by the early 1990s. In the words of Livio De Simone, chairman of the WBCSD in 1997, "[b]usiness used to be depicted as a primary source of the world's environmental problems. Today it is increasingly viewed as a vital contributor to solving those problems and securing a sustainable future for the planet" (op. cit. Karliner 1997: 31).

Discursive changes where accompanied by changes in the political environment and the correlation of social forces therein. A number of transformations left business and civil society in new positions. The weakening of national governments and the limitations of public intervention due to processes of globalisation and de-regulation strengthened transnational corporations vis-à-vis states. As business actors became more visible in the policy process, civil society organisations turned their regulatory demand towards them instead of governments. Throughout the 1990s, a growing number of organisations and networks began to pressure business directly. Although varying according to goals and approaches, a corporate accountability movement was on the rise (Bendell 2004; Broad and Cavanagh 1999) that forced companies to react to societal demands. As a result, certain TNCs and business associations sought to enter into various forms of partnership with environmental and social NGOs. Both sides increasingly began to appraise the partnership idea out of strategic considerations.

A number of scholars currently observe the "greening of the firm", a process in which business actors are moving from perceiving environmental goals as a threat to profits to perceiving it as an opportunity for growth (Prakash 2000; Usui 2002). Corporate environmentalism developed through different phases, from industrial environmentalism in the 1960s to strategic environmentalism in the 1990s (Hoffman 1997: 12-13). This transition is embedded in the broader process of ecological modernisation and the tendency towards market environmentalism. Ecological modernisation refers to a macro-economic transformation of production via the development and application of more sophisticated technologies. In the words of Gouldson and Murphy (1997: 75), "ecological modernisation seeks structural change at the macro-economic level. It looks for industrial sectors which combine higher levels of economic development with lower levels of environmental impact". Whereas modernisation of economic sectors and the accompanying institutions is primarily a state-led intervention, market environmentalism draws on de-regulation and a decline of state intervention. As a political project, it adopts "the principles of ecological modernisation but seeks to incorporate, and ultimately subordinate, these concerns within the broader project of governance by and through the market" (Stewart 2001: 210).

As a consequence, the older view that there exists a cost-benefit trade-off between ecology and economy has been challenged (Hartman and Stafford 1997: 187). For companies market environmentalism has at least three basic advantages: first, reducing

waste and maximising resource efficiency will have a direct influence on the company's bottom line. Second, differentiation advantages will allow firms to enter, and in some instances even create, new markets. And third, early-mover advantages will occur for companies that invest in ecological modernisation. Engaging in partnerships with social and environmental organisations allows corporations to establish or regain public credibility, to minimise and manage risk, to use expert-knowledge for product and process development, to build entry barriers for competitors, and finally to avoid binding regulations. In addition, companies may also benefit from a cooperation with civil society from an organisational perspective. In this view, the positive image of the partnering organisation increases the company's appeal to actual and potential employees, thus providing a better and more efficient working environment.

But companies are not only positively affected by partnerships but also increasingly make a business out of them. PriceWaterhouseCoopers (PWC) for example has developed into the world's largest service provider for companies seeking assistance in the complex corporate social responsibility world. PWC does not only conduct factory audits on environmental and social performance for companies such as Nike, The Gap, and Walmart as well as for private regulatory systems such as FLA or WRAP[9] but also offer services like reputation assurance and brand protection. In the words of PWC,

> "CEOs and boards are finding that public relations efforts alone are not enough to satisfy the market. Rather, corporate leaders are discovering that by engaging stakeholders, adopting rigorous business strategies, and implementing reputation management systems, they can more effectively establish trust with stakeholders, gain a competitive advantage, mitigate the impact of crises, and preserve a company's most important asset - its reputation" (PriceWaterhouseCoopers 2004).

NGOs have adjusted their position towards business, too. Recent surveys suggest that NGOs increasingly analyse their relationship with companies as cooperative rather than confrontational (Enderle and Peters 1998; SustainAbility 2004). This transformation, of course, should not be overestimated. Civil society actors have not so much changed their strategies but rather enriched their toolkit by the 'carrot' of partnership while holding the 'stick' of public campaigns and boycotts quite visibly in their hands (Heap 2000: 55). What then are the benefits NGOs perceive from cooperation with business actors? First, NGOs gain technical and organisational knowledge from partnerships with corporations, knowledge that is of help in the direct communication with firms but can also be applied to future campaigns. Second, with the state's regulatory influence being divided among a wider range of actors, NGOs realise that partnering with companies can increase their direct impact on environmental and social performance criteria. Third, corporations provide open doors and influential networks, not only to policy-makers but also to other business actors and their associations. And finally, partnering with firms may provide additional financial resources, especially in times of severe public budget constraints.

It is interesting to note in this context that not only companies started to make a business out off the partnership paradigm but also a growing number of NGOs and ac-

[9] In 1999 alone PWC conducted over 6,000 factory audits worldwide. For a critical assessment of PWC's auditing methods see O'Rourke (2000).

tivist groups began to reorganise themselves into more business-friendly service providers. In addition, several environmental campaigners and activists became environmental consultants, advocating a 'new radical', cooperative approach to realising environmental goals.

These strategic considerations were accompanied by political support for voluntary and cooperative approaches. The Clinton administration for example developed considerable activism on voluntary environmental and social regulation. In 1996 the US Government put pressure on US apparel companies to engage in the multi-stakeholder Apparel Industry Partnership (AIP) together with trade unions and NGOs. As a result, the partners agreed on a code of conduct defining nine conditions for decent and humane work.[10] Support for voluntary approaches to CSR also came from the UK Government. In March 2000, the Blair Government appointed a Minister for Corporate Social Responsibility. In addition, the administration has also been active in supporting multi-stakeholder initiatives in the UK such as the Ethical Trading Initiative (ETI).

The third development that triggered the emergence of co-regulatory approaches in business regulation was the growing perception of self-regulation as "window-dressing". But not only civil society organisations and consumers were reluctant to buy the massage of greener and cleaner corporations. Also business actors began to perceive an array of non-binding and self-reported commitments as a hindrance rather than as a support. Too many different standards would raise transaction costs and minimise the reputation-related benefits gained from voluntary regulation. As a result, a growing number of companies realised the strategic benefits that would result from joint standard-setting and monitored implementation of rules and regulations.

6 Assessing the Influence of New Forms of Global Business Regulation: The Case of Corporate Environmental Reporting

Following the broader empirical overview of the transformation of global business regulation, this section provides a brief assessment of the actual influence of new forms of business regulation in world politics. The empirical example comes from the domain of corporate environmental reporting and management.

The Coalition for Environmentally Responsible Economies (CERES) started operating in 1989 with publishing the so called Valdez principles, utilising the huge public outrage around the Exxon Valdez oil spill, which occurred on March 24 the same year. A group of social responsible investors, mainly organized in the Social Investment Forum[11], and fifteen large environmental groups started discussing the possibility to use the power of investors (shareholder resolutions) against the power of the boardroom. The idea behind CERES is to engage companies in dialogue and work towards the sub-

[10] The partnership later developed into the independent Fair Labor Association (FLA). Since 1999, 12 major brand-name companies from the apparel industry, NGOs, and universities work together to promote adherence to international labour standards and to improve working conditions worldwide.

[11] The SIF is a network of actors focusing on Socially Responsible Investing (SRI), understood as the integration of personal values and societal concerns with investment decisions. See, http://www.socialinvest.org.

sequent endorsement of environmental principles that establish a long-term corporate commitment to a continual progress in environmental performance. The ten-point code of corporate environmental conduct establishes "an environmental ethic with criteria by which investors and others can assess the environmental performance of companies" (CERES 2002: 31).

Until 2005, more than 60 companies have endorsed the CERES principles, including the annual reporting commitment. Among the CERES endorsers are large multinational corporations such as American Airlines, Bank of America, Coca-Cola USA, Ford Motor Company, General Motors, McDonald's, and Sunoco, as well as small and medium-sized firms, including environmental front-runners such as The Body Shop International or Aveda Corporation. The second pillar CERES rests on is the CERES coalition, a network of around 100 organisations, including environmental advocacy groups, public interest and community groups, trade unions as well as an array of investors, analysts, and financial advisors representing more than $400 billion in invested capital. A board of 21 distinguished individuals governs CERES. The day-to-day operations are supervised by a President and carried out by a staff of currently 22 people located in Boston, MA. Although endorsing companies are not directly represented on the CERES board, corporate representatives participate in various committees set up by the board to develop and implement programs and project and in this function regularly attend CERES board meetings.

The influences of CERES as an example of global business regulation derive from two related components: first, the Principles, establishing a normative framework for companies to operate in; and second, a standardized format for corporate environmental reporting, describing the form and content of public disclosure (CERES 1999). To understand the nature of regulation in the case of corporate environmental reporting and management, I will briefly discuss the principles of corporate conduct and the standardised reporting scheme. The ten point code of environmental conduct, the CERES Principles, forms the basis of CERES' work. They define the normative framework of corporate behaviour. For example, the CERES Principles (CERES 1999) demand the protection of the biosphere based on continual progress toward eliminating the release of substances that may damage water, air or the earth and its inhabitants (principle 1), the sustainable use of natural resources including a commitment to make sustainable use of renewable natural resources (principle 2), the conservation of energy by improving the energy efficiency of internal operations (principle 4), the reduction of risk including environmental, health and safety risks to employees and communities (principle 5), the reduction and, where possible, elimination of products that cause environmental damage or health and safety hazards (principle 6), the prompt correction of conditions that endanger health, safety or the environment (principle 7), a commitment toward environmental representation on the board of directors, as well as toward general integration of environmental practices into the every-day operations of companies (principle 9) and finally the commitment to an annual self-evaluation of progress towards these principles and the resulting public report (principle 10).

The second regulatory dimension of CERES is the commitment to public disclosure of environmental performance and improvement through an annual report. In the formative phase in the late 1980s and early 1990s, the CERES founders envisaged an independent audit procedure conducted by accountants or specialised certification organisations. However, this proposal met fierce resistance from business actors and dis-

appeared when the principles were renamed in 1992. Today, the reporting requirement takes the form of a 2nd party reporting scheme where rule-making and compliance reporting are separated, but not independently controlled as in 3rd party reporting. Compliance with the standards is mainly ensured through the threat of public withdrawal of endorsement. CERES has a review procedure in place that allows the referral of serious questions or concerns about a participating company's activities or intentions to the *Engagement and Review Committee*[12]. Referring to this committee and its procedures, Nash and Ehrenfeld (1997: 515) report:

> "CERES has developed a protocol by which it can revoke the endorser status of companies that violate the letter or spirit of its principles. CERES recently dropped the names of more than 20 companies from its list of endorsers because these firms had failed to submit CERES reports or pay membership dues. While CERES considers the remaining firms active and committed, it is prepared to take action against any endorsing company that betrays its trust".

Such actions might be caused by the company's failure to report on its constant improvements or pay the annual fee, known and deliberate falsification of the reported data and misrepresentation of the firm's relation with CERES or clear environmental mismanagement. It is important to note that the review procedures have been developed "with the full awareness, support and participation of endorsers".[13]

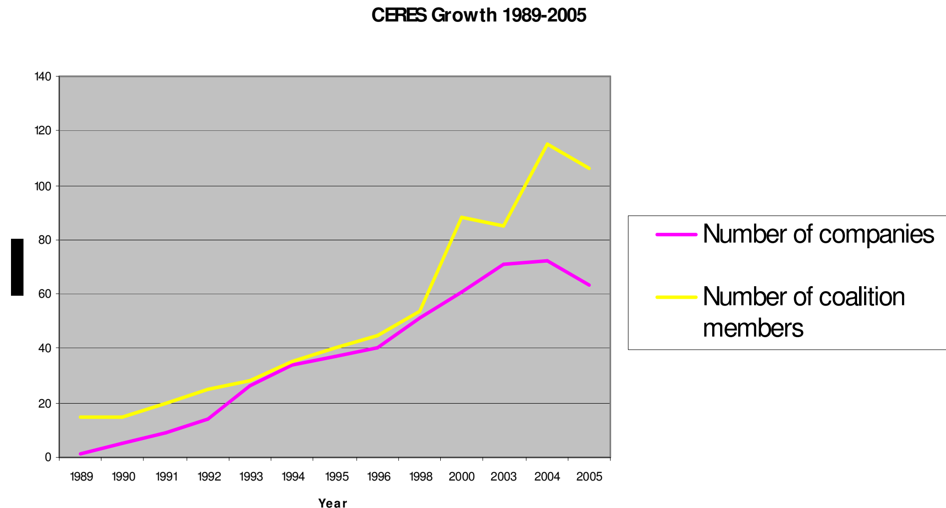
On a fairly abstract level, both aspects of CERES' regulatory dimension, the corporate code of conduct and the reporting scheme, can be considered a success. Many companies have published an environmental mission statement drawing on the original Valdez principles.[14] To date, more than 2000 companies world wide regularly publish environmental or sustainability reports. In sum, CERES' attempts to regulate corporate behaviour through its code of environmental conduct and the accompanying reporting requirement, which is the key instrument of rule-implementation in the corporate environmental reporting and management domain. But what are the measurable effects of this *governance through regulation*? To answer this question, I will address the development in corporate endorsement and reporting over time, performance reviews conducted by CERES and the emergence and convergence of broadly accepted norms and values.

Standard-uptake and implementation. CERES influence on companies measured by the standard-uptake is quite modest at first glance. After three years of intense debates and shareholder resolutions filed with major companies, only 14 companies had endorsed the CERES Principles in 1992, out of over 3000 corporations originally envisaged by the founding organisations. However, CERES has been able to increase the endorsement rate over the years. In 2005, more than 60 companies are active CERES endorsers and a number are expected to join in the near future.[15] In addition to business endorsing the idea behind CERES, an increasing number of civil society organisations have joined CERES and thereby increased its general acceptance. Figure 3

[12] Personal interview with CERES staff member, January 2004.
[13] Website document (CERES 2003), on file with author.
[14] Personal interview with CERES board member and participant in the early formation phase, March 2004.
[15] A staff member estimates that in there are around 10 ongoing dialogues with potential companies in 2005. Every year, two to four large corporations are expected to join CERES.

shows the increase in endorsing companies and CERES coalition members from 1989-2005.

Figure 3: The increase in CERES' endorsing companies and coalition members, 1989-2005



What seems more important than the plain number of endorsing companies is both the impact of corporations and the quality of the actual report. With regard to the first point, CERES has been rather successful at integrating large corporations that really could make a difference. Next to Sunoco and GM, who are early endorsers, CERES has been able to secure the support of companies such as American Airlines, Coca-Cola, and McDonalds. Endorsing companies today cover most economic sectors, from finance, to oil and gas, to automobiles, to chemical companies. With regard to the second point, available studies indicate that CERES reports perform above average compared to other standards when it comes to completeness and quality of information (Davis-Walling and Batterman 1997). In sum, CERES has a modest influence on companies through its regulative function when measuring the standard-uptake only. However, when taking into account the companies and sectors they represent as well as the actual quality of corporate environmental reporting, the judgement may be slightly more positive.

Performance reviews. Another way of assessing the influence of the CERES Principles on a company is looking at the detailed performance reviews CERES has conducted for their interaction with General Motors (CERES 2002), the world's largest corporation, and Sunoco (CERES 1999), the first Fortune 500 company to endorse the Principles. CERES developed the performance review

> "as a mechanism for examining whether companies that endorsed the CERES Principles more than five years ago are achieving continuous improvement in corporate reporting, facility and product performance, and how the CERES Principles are influencing their culture, programs and policies" (CERES 2002: 6).

At the beginning of the formal collaboration between CERES and GM in 1994, both sides agreed on four areas of mutual interest that formed the baseline for the performance review conducted in 1999/2000: public accountability (environmental reporting according to the CERES report form), plant performance (improving the environmental impacts, health and safety conditions at GM plants), product performance (improving the fuel efficiency of its fleet) and stakeholder relationships (building a lasting dialogue with CERES coalition members and other stakeholders). All of these priority areas are based on the CERES Principles. The results of this major performance review, however, are mixed (CERES 2002: 8-22). Addressing the issue of public accountability, GM has published eight annual environmental reports, expanding their scope from U.S.-only to global metrics. Issues addressed cover direct company impacts as well as supply chain issues. In addition, GM is described as a leader in promoting the use of the GRI guidelines. With regard to plant performance, the report shows that GM was able to achieve improved environmental performance at the plant level over the seven years covered by the review. Significant achievement was also made in stakeholder relationships. However, and most important, GM did not show improvement in product performance with its fleet fuel performance stagnating due to higher demand for fuel-intensive automobiles such as SUVs. This latter observation is of particular importance when assessing the actual influence of private governance in corporate environmental reporting and management. Although the results of the GM performance review are not representative and very much reflect the specific situation of the company and the sector, it seems plausible to assume that performance improvements will occur in sectors that are least prone to market developments and hard financial performance. While environmental reporting and improving stakeholder relations are of secondary importance to the core operations of an automobile company, and plant site improvements are relatively easy to achieve in the context of constant technological improvements, GM was unable to increase its fuel efficiency because of the demand situation and global competition.

Converging norms in corporate governance. A third instance of regulative influence is the establishment of norms. One example is the increasing recognition that environmental interests should be represented at the highest levels of corporate governance. As some scholars have emphasised, based on research with experts on voluntary business regulation and standards, to be effective, approaches must have a top management commitment (Krehbiel and Erekson 2001: 110). CERES acted as a norm-entrepreneur in this issue-area. As early as 1990, Exxon Mobil created the new position of Vice President for Environment and Safety as a reaction to the Valdez Principles and the negative press following the Exxon Valdez catastrophe. As a general trend, the number of environmentally committed people on boards has grown since the early 1990s. In addition, companies who did not place an environmental representative on their boards have created alternative ways of introducing environmental concerns to their upper-level management (Weiss 2002). With regard to CERES' precise role in this development through its rules on environmental board representation (principle 9) Weiss (2002: 101) notes,

> "However, CERES was a motivating force in exerting pressure and defining social expectations for a strong upper management commitment to environmental initiatives and for increased environmental-corporate collaboration. To some extent, when CERES defined the commitment of man-

agement a requisite for environmental responsibility, and companies appointed environmental representatives to their board, a norm of environmentally responsible behavior emerged".

In addition to environmental board representation, companies have accepted the concept of environmental mission statements in general. As one interviewee reports, language indicates that many companies have developed their own environmental codes based on the CERES Principles without publicly acknowledging this fact. [16] In sum, "CERES had a catalysing effect on the idea of mission statements. For a lot of businesses, environmental reporting and mission statements have become a norm".[17]

In sum, with regard to the influence of private regulation, three points have been highlighted in the analysis. First, although standard-uptake has been modest, CERES has been able to attract large and influential companies. In addition, CERES has ensured that the number of endorsing companies constantly increases. Second, existing performance reviews of CERES companies indicate that the integration of environmental behaviour in standard business operations has been achieved in the areas of stakeholder relations, plant-site performance and disclosure, but not in product development and strategic management. And finally, CERES appears to have had a strong influence on changing norms in the business arena, in particular on environmental board representation, corporate mission statements and environmental disclosure in general.

7 Conclusion

In this paper I argue that global business regulation has undergone quite a fundamental transformation. Traditional forms of state-centric regulation have been complemented by private, non-state arrangements. The most recent and far-reaching transformation can be observed in cooperative arrangements between profit and non-profit actors agreeing on a wide variety of transnational rules in issue areas ranging from human rights to environmental protection. This 'co-regulation' as one institutional form of global business regulation is situated at the intersection of two substantial shifts in governance in general: first, the transfer of governance tasks from public to private actors in a wide range of issue areas and institutional settings; and second, the strategic re-location of business and civil society interests along the lines of partnership, cooperation, and compromise. Together, both trends amount to a new quality of private governance, both empirically and theoretically.

To substantiate the claim that global business regulation is (1) a fundamental element of transnational organisation, and (2) currently under transformation, I have discussed the necessity of regulating the behaviour of economic actors by focusing on arguments about the relation between organised social power in form of governments and markets. After proposing a classification of global business regulation according to the source of authority, the general content of regulation, and the applied instruments

[16] Personal interview with CERES board member, January 2004.
[17] Personal interview with CERES board member, March 2004.

for verification of compliance, I have focused on the contextual factors of the intriguing shift from public to private forms of regulation. Three developments provide the contextual environment for the recent transformation of global business regulation: first, the transformation of the discursive field in which questions of business regulation, corporate responsibility and accountability are embedded; second, the restructuring of the political environment and the correlation of social forces therein; and third, the growing criticism against forms of corporate self-regulation raised by civil society organisations.

To substantiate the claim that new modes of global business regulation matter in world politics, I have introduced the empirical example of CERES, an institution active in the corporate environmental reporting and management domain. The brief analysis of its influence on actors and structures has shown that although standard-uptake is rather modest, important contributions to regulating the behaviour of business actors have been made through changing norms and values as well as through altering behaviour on the ground.

In sum, the transformation of global business regulation is a reality in world politics. Public regulation on the international level is increasingly being complemented by private transnational rules that address the behaviour of economic actors in the global economy. The recent empirical phenomenon of co-regulation, involving civil society organisations and business interests in the creation, implementation, and monitoring of various rules and standards is best analysed in theoretical terms as one mode of private governance. The frequent use of the terms 'corporate social responsibility', 'business ethics' or 'corporate citizenship' overlooks the fact that many of these phenomena have a regulatory impact and thus should be analysed in terms of governance instead of voluntary regulation. This is not to deny that business regulation beyond the state has a voluntary element. However, the increasingly institutionalised character and the precision of rules for compliance and monitoring (through certification and reporting) add a definite element of compulsoriness that needs to be acknowledged.

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