

The Influence of Global Business Regulation: Beyond Good Corporate Conduct

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During the last three decades, the theory and practice of global business regulation, loosely defined as limits imposed on the behavior of economic actors contained in rules and standards, has proliferated substantially. Today there are a vast number of different codes of conduct, management standards, certification schemes, reporting guidelines, eco-labels, or more general behavioral norms operating at the global level. Regulations are targeted toward transnational corporations (TNCs)¹ but in many cases also influence smaller enterprises along the supply chain. Some forms of business regulation emanate from individual firms or business associations; others are institutionalized among a greater number of actors, often including NGOs and public agencies. A recent study of the Organization for Economic Cooperation and Development (OECD) 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 labor standards, environmental stewardship, consumer protection, and information disclosure. A majority of codes are still issued by companies (48 percent) and business associations (37 percent), but a substantive number already derive from a partnership of stakeholders (13 percent).

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Attempts to regulate the activities of corporations have significantly changed in the context of an increasing economic integration since 1970. International regulatory 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 organizations, there exist a number of new modes of regulation that have emerged during the last two decades. Some have already been at the center of research such as specific forms of global public policy networks (Ruggie 2001; Witte, Reinicke, and Benner 2000) or private interfirm 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 institutionalization of standard setting between profit and nonprofit 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. 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.

Despite a flourishing research agenda on corporate social responsibility, business ethics, and the privatization of global regulation, the issue of good corporate conduct remains highly contested. While global policy partnerships, business self-regulation, and multistakeholder approaches are widely appraised by governments, corporations, and a number of scholars, others have warned against the “myth of CSR” (Doane 2005). In addition, the relatively small number of regulatory schemes and their limited implementation and compliance often leads to an underestimation of private rules for global corporations as epiphenomena. However, both arguments omit a crucial dimension of global business regulation. In this article, I contend that the most remarkable impacts of new forms of global business regulation have not so much been achieved through their specific rules and standards, but rather through cognitive processes of knowledge brokering, social learning, and the diffusion and integration of the regulatory model. Hence, an appropriate analysis of the influence of new forms of business regulation needs to focus on discursive changes, norm diffusion, and structural effects rather than on compliance issues.

This article first provides a brief overview of existing classifications of global business regulation and the newly emerging forms of multistakeholder initiatives. Subsequently, the third section assesses the standard uptake and implementation of private business regulation in the forestry and environmental reporting domain. The fourth section introduces an alternative approach toward assessing the influence of business regulation by focusing on the cognitive and integrative function of two well-known examples of multistakeholder initiatives: the Forest Stewardship Council (FSC) and the Coalition for Environmentally Responsible Economies (CERES). The concluding section summarizes the findings and points to some possible avenues of future research.

FORMS OF GLOBAL BUSINESS REGULATION

To cope with the empirical diversity of global business regulation, a plethora of terms has been proposed to classify the phenomenon, such as the “voluntary codes phenomenon” (Webb 2004), “voluntary environmental agreements” (Brink 2002), “certification regimes” (Haufler 2003), or simply “global standards” (Nadvi and Wältring 2002). There are three different common approaches 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 what compliance mechanisms exist?

In the general context of global business regulation, standards 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 international treaties and intergovernmental organizations (international regulation). The second is hybrid forms of regulation, involving individual governments, intergovernmental organizations, corporations, and nongovernmental organizations. The third category is constituted by forms of business regulation that display a maximum distance from public actors. In addition, limiting our view to forms of global business regulation that are clearly private in nature, we can make a distinction between self-regulation and multistakeholder approaches in the form of co-regulation. Self-regulation refers to arrangements where individual firms or business associations

set their own rules of behavior in the form of codes of conduct, corporate governance 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 institutionalize 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 internationalized in the 1950s through the process of regional economic integration. In addition, the liberalization of international trade induced harmonization 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 known as "reporting." The term "certification" in general refers to the process of certifying 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 compliance or noncompliance with the distinct standards. This is realized through the involvement of independent organizations (certifiers, certification organizations) that monitor the implementation of regulation on the spot and subsequently

issue a certificate of compliance, in most cases in the form of a label recognizable to 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 compliance with standards. However, this possibility has so far been limited to the traditional form of global business regulation through intergovernmental organizations.

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 analyzed with reference to their specific content, such as environmental, labor, or human rights standards. What becomes apparent is that the transformation not only includes new actor constellations, but also a convergence of content toward issues of sustainability rather than stand-alone economic regulation.

Next to the international regulation of business activities, there exist numerous new institutional modes that have emerged during the last two decades. Among those, cooperative approaches between antagonistic actors, referred to as *co-regulation* or *multistakeholder approaches*, warrant closer attention. Novel institutional modes of global business regulation particularly emerge at the intersection of two broader developments in world politics. First, there is a 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 logics² 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 governance, distancing it from mere coordination or cooperation between private actors. Both developments are best considered as a continuum. On a partnership axis, empirical examples range from individual organizations that rely exclusively on their own resources to institutionalized partnerships that incorporate a wide range of actors within their scope. On a policy axis, empirical

examples include lobbying international negotiations, implementing international regulations, monitoring public commitments, as well as setting and maintaining independent norms and standards beyond the international arena. The following section will discuss the influence of global business regulation with reference to empirical examples that are located at the end of both continua: policy-making partnerships that include both business and nonprofit organizations.

MODEST SUCCESS: STANDARD UPTAKE IN FOREST CERTIFICATION AND CORPORATE ENVIRONMENTAL REPORTING

Most discussion about the influence of private business regulation focuses on standard uptake compared to a hypothetical optimum (e.g., number of companies issuing environmental reports compared to the overall number of companies) or actual measurement of compliance (e.g., number of companies in full compliance with regulation). With regard to these indicators, the influence of private regulation on business actors is modest. Let us briefly consider two empirical examples, forest certification and corporate environmental reporting.

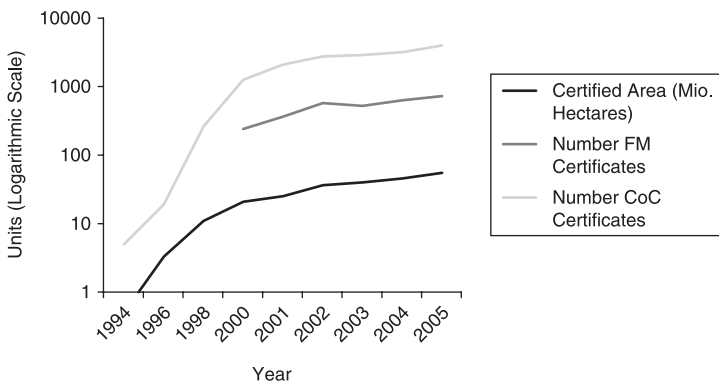
In general terms, certification refers to a “system by which the conformity of products, services, etc. to an applicable standards is determined and confirmed” (Rundgren 1997: 14). While some certification programs rely on the internal verification by the applying organization itself, most programs in forestry prefer the more rigorous approach of “third-party certification,”

wherein a person or organization that is neither part of the FMO [forest management organization, author’s note] nor one of its customers or suppliers, is given authority to assess compliance with the program standards. (Meidinger, Elliott, and Oesten 2003: 7)

An early example of forest certification, and widely recognized as the most vigorous in terms of its actual standards, is the FSC. It was established in 1993 out of an unusual alliance of forest managers, environmentalists, union representatives, and large retailers.³ The FSC has a unique internal governing structure, securing equal decision-making power to economic, social, and environmental stakeholders.⁴ Its regulation of business actors is contained in the

“Principles and Criteria” that sets out detailed standards for forest managers and enterprises along the supply chain (FSC 2000). What then is the picture with regard to standard uptake and implementation? In April 2006, approximately 73 million hectares of forest area worldwide were certified in FSC terms. That amounts to roughly 1.8 percent of the total global forest cover, which stands at 3.9 billion hectares, including commercially operated as well as protected areas. The FSC has issued more than 5,000 certificates to forestry companies and businesses. Conservative estimates are that 100 million cubic meters of timber from FSC-certified sources reach the market each year, while the total supply of certified timber products is estimated at about 234 million cubic meters on an annual basis (Atyi and Simula 2002). However, only a small fraction of certified timber is actually traded as a certified forest product, while the large majority of timber reaches the market without acknowledgment of its certification status (Rametsteiner 2002: 160). The FSC’s global share of certified area stands at approximately 30 percent in 2006, competing with two other major certification schemes, the industry-based Sustainable Forestry Initiative (24 percent), and the Pan-European Forest Certification Council (33 percent), which represents mainly the interests of forest owners. Figure 1 shows the increase of FSC forest management certificates (FM), chain of custody certificates, and the total FSC-certified area.

FIGURE 1 FSC area and certificate increase, 1994–2005.



Sources: FSC (2001; 2003; 2004; 2005), FSC and WWF-Germany (2002).

After the first FM certificates had been issued, the area certified according to the FSC standards quickly rose from less than 500,000 hectares in 1994 to 21 million in 2000 and then more than doubled over the next four years to reach well over 70 million hectares in 2006. Similar to the area increase, the important chain of custody certification, which allows products to be recognized in the market, grew from a modest 268 in 1998 to over 2,000 in 2001, only to more than double again to 4,500 by April 2006. Despite this general growth tendency, FSC and forest certification in general cover only a small fraction of the world's forests and is largely concentrated in the rather well-managed and commercially operated forests of temperate zones.⁵

Let us now turn to the domain of corporate environmental reporting. Corporate environmental reporting can be defined as "a tool to communicate a company's environmental performance." It is used to demonstrate "company-wide integrated environmental management systems, corporate responsibility, and the implementation of voluntary initiatives and codes of conduct" (United Nations Environment Programme (UNEP) 2005). Environmental management can be understood as a process to manage the environmental aspects of a company, plant, building, etc. This includes both rather informal and ad hoc procedures, as well as integrated and institutionalized environmental management systems (EMS) that are independently certified, for example according to the International Organization for Standardization's (ISO) 14,001 standard or the European Eco-management and Audit scheme (EMAS). Although corporate environmental reporting and management are voluntary, some schemes may emerge as "de facto industry standards that provide the desired legitimacy, consistency, and comparability required by business and its stakeholders" (Ligteringen and Zadek 2004: 1).

CERES is the earliest example of an institutionalized scheme for corporate environmental reporting and management. It started operating in 1989 after publishing the so-called Valdez Principles, utilizing the huge public outrage around the Exxon Valdez oil spill, which occurred in March 24 the same year. A group of socially responsible investors, mainly organized into the Social Investment Forum (SIF), and 15 large environmental groups started discussing the possibility of using the power of investors (shareholder resolutions) against the power of the boardroom. The idea behind CERES is to engage companies in dialogue and work toward the subsequent endorsement of environmental principles that establish long-term

corporate commitment to 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). CERES is often credited to be of major influence for the corporate environmental management domain as a whole. As Goel argues, “while causation is clearly difficult to establish, the CERES Principles have played an important role in improving corporate environmental reporting over the past 15 years” (2005: 13).

But what precisely are the measurable effects of private standards for corporate behavior? 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 3,000 corporations originally envisaged by the founding organizations and more than 30,000 TNCs operating at that time. However, CERES has been able to increase the endorsement rate over the years. In 2006, more than 60 companies are active CERES endorsers and a number are expected to join in the near future. In addition to business endorsing the idea behind CERES, an increasing number of civil society organizations have joined CERES and thereby increased its general acceptance. Figure 2 shows the increase in endorsing companies and CERES coalition members.

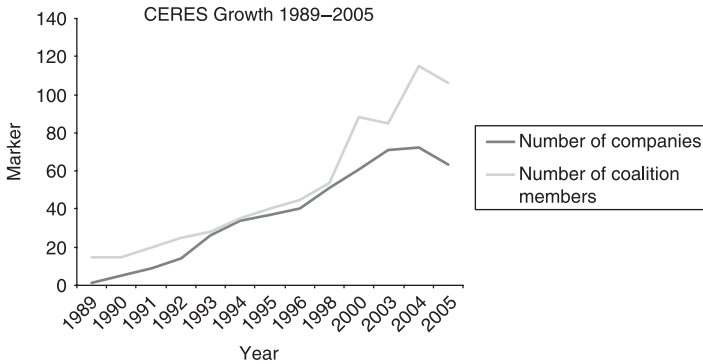
In sum, similar to the FSC’s influence in the global forestry arena, CERES’ influence on business actors through its concrete rules and standards must be considered rather modest, although there seems to be a sustained growth trend of both civil society endorsers and firms.

GOING BEYOND GOOD CORPORATE CONDUCT: COGNITIVE AND INTEGRATIVE GOVERNANCE

In order to arrive at a more accurate picture of the influence of multistakeholder initiatives that aim at regulating global business activity, we need to incorporate two additional functions that these schemes perform: cognitive and integrative governance.

First, measurable influences of private business regulation are achieved through a cognitive function. Regulatory systems in the area of global sustainability politics operate within the complex environment of scientific uncertainty. The development of adequate standards

FIGURE 2 The increase in CERES' endorsing companies and coalition members, 1989–2005.



for sustainable forestry, for example, will depend on expertise in issue areas ranging from biodiversity conservation to the global timber trade and consumer preferences. Brokering knowledge and organizing effective learning processes among different stakeholders is therefore key to influencing the behavior of relevant actors. In this view, knowledge is produced and disseminated through a network of actors bound together by the operational rules of the initiative. In addition, learning processes that enable actors to fulfill new roles and take over new responsibilities may occur. The cognitive function of private regulatory systems might also lead to discursive changes within the specific policy community and beyond.

The second function through which influence is thought to occur is integration. Several directions of influence should be observable: first, international norms that are already embodied in international treaties may be partially integrated into the private initiative and thus influence actors that are not directly targeted by the international norm. This is also true for standards that emanate from public–private sources such as regulations by the ISO. Second, private regulatory systems may serve as a model for other issue areas or even be replicated within the same issue area. In addition, a particular model of private business regulation may serve as the organizational model for regulation that is not exclusively private but incorporates public actors. And third, the direction of influence may well be focused on public actors or political systems through the endorsement of

voluntary business regulation, as a whole or in parts. From this perspective, behavioral changes that occur as a result of the integrative function of business regulation may include public policies at national and international levels, as well as instances of endorsement or emulation of private initiatives by other actors of the political system such as states or international organizations.

I now illustrate the first function with reference to the CERES. In addition to its direct influences through standards (CERES Principles), CERES affects actors in the corporate environmental reporting and management domain through shaping discourses and initiating social learning processes. In more detail, I discuss the following four aspects of this cognitive governance: (1) producing and disseminating information, (2) providing the institutional setting for learning processes, (3) allowing for problem solving by providing a forum for discourse and debates, and finally (4) the diffusion of the regulatory model. This cognitive function is a result of CERES' distinct network structure and the specific roles and responsibilities of actors therein.

Producing and Disseminating Information

CERES uses its wide network of coalition members to produce and disseminate information on issues of key importance. One example of producing information is the recent attempt made by CERES to (re)define the industry's stance toward climate change. Within this project, CERES has produced and commissioned a range of studies that raise the issue of climate change as a risk for business and investors. For example, in a 2002 report (Innovest Strategic Value Advisors: 2) CERES states:

“[t]he bottom line [. . .] is straightforward: climate change represents a potential multi-billion dollar risk to a wide variety of U.S. businesses and industries. It should, therefore, command the same level of attention and urgency as any other business risk of this magnitude.”

CERES' attempt to alter the existing discourse on climate change within the business community is also reflected in recent developments in its communications strategy. The media strategy that has been developed from 2001 onward reflects the situation that CERES is often perceived as an environmental advocate, while its audience

is really the companies and the financial markets. As one staff member recalls, “the shift that CERES tries to make is really about getting our issues into the financial press; not on the environmental page, but in the business section.”⁶ This attempt has been remarkably successful with more than ten articles on the issue of climate change and business risk in major U.S. and international newspapers, including *The Wall Street Journal*, *Financial Times*, and *The New York Times* in 2003 (e.g. Ball 2003a, 2003b; Burr 2003; Feder 2003b, 2003a; Murray 2003). Although the articles do not necessarily mention CERES, they make a strong case for the issue of climate change. The *Wall Street Journal* for example comments (Ball 2003a), “Here’s what companies’ directors have to worry about these days: accounting scandals . . . earnings problems . . . oh, and global warming.” And the *Financial Times* recalls (Murray 2003),

There was a time when the most prominent voices in the debate on climate change were environmental lobby groups, activists and nongovernmental organizations. These days, however, new speakers are entering the fray: banks, insurers, investors, and other organizations in the financial services sector.

These examples show that CERES acted as a knowledge producer and knowledge broker through its communications strategy. In the words of a CERES staff member, “CERES has really driven this issue and made it into the press.”⁷ This view is remarkable because according to the same interviewee, two years ago [in 2001] there would not have been an article on climate change and risk in the business press. The triggering events have been shareholder resolutions on climate change and the corresponding risk for investors. CERES has also been active in influencing a new class of actors, public pension funds, utilizing its existing coalition network. The 2003 Annual CERES Report (2004: 9) states,

Much of CERES’ work in 2003 culminated in the historic Institutional Investors Summit on Climate Change held at the United Nations headquarters in New York City on November 21, 2003. There, Ceres, the State of Connecticut Treasurer’s Office, and the United Nations Foundation brought together institutional investors representing more than \$1 trillion in invested capital together to examine the financial risk of global climate change.

In particular, the changed voting behavior of large pension funds, which have started to vote in favor of resolutions calling for adequate policies concerning climate change, has attracted much media coverage over the past few years.⁸ In the view of one observer, CERES has been a prime mover and organizer of these critical resolutions, particularly in highlighting the business case and approaching mainstream advisors, convincing them that climate change is a business issue and not just an environmental concern.⁹

A clear indicator for the success of CERES' attempt to challenge the existing discourse on business and climate change can be found in the 2005 record high voting support for shareholder resolutions seeking greater analysis and disclosure from companies about the financial impacts of climate change. For example, at the 2005 corporate annual meeting of Exxon Mobil, 28.3 percent of the shareholders supported

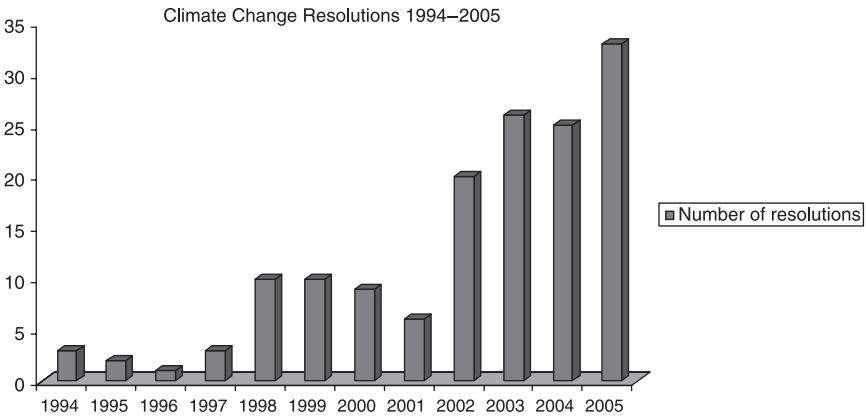
a resolution requesting that the company's board of directors [to] undertake a comprehensive review on how it will meet the greenhouse gas reductions targets in countries participating in the Kyoto Protocol. The 28.3 percent support represents 1.5 billion shares with a market value of about \$83.8 billion. (CERES 2005b)

Figure 3 shows the number of shareholder resolutions on climate change filed with U.S. companies from 1994 to 2005.

In sum, CERES' function as a knowledge and information broker has clearly been changing the conversation. In its own words (CERES 2004), "An important Ceres communication goal is to 'change the conversation' from the assumption that climate change solutions will hurt the economy to recognition that inaction is the greater business risk."¹⁰

Next to brokering knowledge through its media campaign and communication strategy, CERES also engages in close interaction with its coalition members, for example, when training them "environmental responsibility through dialogue and disclosure" in an annual corporate accountability workshop.¹¹ In addition to media campaigns and capacity-building programs, CERES has also established, jointly with the Association of Chartered Certified Accountants (ACCA), an award scheme for communicating best practices in sustainability reporting in North America (Association of Chartered Certified Accountants 2005).

FIGURE 3 U.S. shareholder resolutions on climate change 1994–2005.



Learning Networks

CERES' institutional structure as a coalition of diverse actors clearly facilitates inter-organizational learning processes. Three aspects warrant closer attention. First, CERES organizes an annual conference to bring together its coalition members and endorsing companies. It was just an annual gathering where people within the CERES network could meet and discuss issues of common concern until 2003, but the conference has recently taken up a more high-profile role. The new conference format places more emphasis on engaging endorsing companies and coalition members in strategic projects. This organizational change is based on the recognition that CERES does not make adequate use of its wide resources. As one interviewee reports, many people in member organizations lack a clear understanding of CERES' work and the possible contribution of their own organization to this work.¹² The conference is an attempt to increase the involvement of coalition members and endorsing companies beyond participating in CERES board meetings and committee work. In addition, greater emphasis is laid on utilizing the distinct organizational knowledge of participants in workshops and discussion groups, covering topics from "How investors worldwide

are addressing sustainability risks and opportunities,” to “Oil: closing the sustainability gap,” to “Electric power and climate change: best practices in disclosure and management,” to “The risk to companies of U.S. policy uncertainty on climate change,” to “Chemicals, consumer products and environmental health: greening supply chains to boost corporate reputations and the bottom line” (CERES 2005a).

A second example of inter-organizational learning is the investor summit on climate risk that CERES first organized in 2003 and the resulting Investor Network on Climate Change (INCR) that is led by CERES. As Amir Dossal and Michelle Fanzo (2004: 334) comment,

[w]hen participants from the U.S. government, the United Nations, Wall Street and corporate board executives were brought at the Investors Summit [. . .] this allowed participants to explore the linkages between previously separate ways of thinking. This is where innovation lies.

One result of combining previously separate ways of thinking is the 10-point “Call for action” that was issued by 10 leading U.S. institutional investors demanding new steps toward climate risk from business, Wall Street, and the U.S. Security and Exchange Commission. A report commissioned by CERES in 2005 (Gardiner & Associates), reviewing the progress that has been made since this first call for action, finds: “A further indicator of investors concern about climate risk is the degree to which investors are actively engaged in learning about the issue and how to address it.” Since 2003, members of INCR have organized and sponsored four major conferences on the issue of climate change and business risk in the United States and Europe. In sum, both the conferences and the investors’ network can be considered major examples of inter-organizational learning involving over 600 different organizations, from large labor pension funds to the United Nations.

The third example of CERES inducing inter-organizational learning is the process of mutual endorsement that leads to the formalization of relations between companies and CERES. After companies have communicated their willingness to endorse the CERES Principles, a detailed negotiation process commences that includes CERES staff members, CERES board members, and the applicant company. According to Robert Massie (cited in Nash and Ehrenfeld 1997: 515), CERES’ executive director from 1996 to 2003,

this period of negotiation is a mutual learning process in which CERES board members and firm executives explore what CERES might expect from the company and how the firm's performance might change in the future. This process helps a firm develop a stronger sense of the environmental issues it faces and can be one of the most important benefits a firm derives from its CERES involvement.

With regard to learning processes within CERES, evidence is less obvious. CERES has changed during the course of its 16-year history, from an idea advocated by only a handful of concerned investment professionals and environmental advocates to a key player in corporate environmental reporting and management, representing over 160 different organizations, millions of members, and billions of invested dollars. However, change within the institution has been driven by ad hoc decisions rather than long-term strategic planning. Nevertheless, intra-organizational change can be observed on at least two occasions. First, CERES has started to put more emphasis on its unique network of experts, from investment to labor unions and churches, by changing the format of the annual CERES conference from one of general meetings and discussions to one of strategic planning and learning. In addition, CERES has reorganized the report working groups into stakeholder teams to utilize the strength of its network. Second, CERES has increased its efforts to influence important players on key issues of sustainability such as climate change while it has downplayed its role as the provider of standardized reporting due to the successful inauguration of the GRI.

Deliberative Problem Solving

Turning to the third form of cognitive governance, I will briefly focus on CERES as a forum for problem solving. As one commentator observes (Anonymous 2000),

Since its founding in 1989, the Coalition for Environmentally Responsible Economies (CERES) has played an important role in the dialogue between businesses and environmental interests.

However, CERES has acted as a facilitator not only of dialogue, but also of problem solving. The distinct structure of CERES—with its board meetings, working groups, the annual CERES conference,

and other major events—provides plenty of opportunity for actors to meet in person and discuss issues of mutual concern. What seems important to companies is the fact that these debates take place behind closed doors, rather than in public. Hence, conflicts can be solved before they get widespread media coverage, an approach untypical for business–NGO relations.¹³ In addition, the close cooperation with coalition members has also been credited as an early warning system for corporations, signaling to them what the next big issue could be.¹⁴

Diffusion of the Regulatory Model

Similar to the FSC in forest certification, CERES has a considerable influence on the policy domain of corporate environmental reporting as a whole. In response to CERES, a range of industrial groups undertook initiatives to define corporate environmental reporting. One example is the Public Environmental Reporting Initiative (PERI) that was jointly developed by 10 major U.S. companies between 1992 and 1994, among them industry leaders such as AMOCO, Dow, and DuPont, which CERES had initially hoped to win for its own principles.

In addition to passively popularizing environmental reporting, like in the case of PERI, CERES was also actively involved in mainstreaming, broadening, and essentially globalizing the model of corporate environmental reporting with the successful establishment of the Global Reporting Initiative. As detailed accounts of the formative phase of the GRI are given elsewhere (Dingwerth 2005; Waddell 2002), I will only provide a brief summary, focusing on CERES' distinct role in the process. The GRI was set up in 1997 to harmonize and integrate existing environmental/sustainable reporting schemes. Several companies had approached CERES and raised concerns about the fragmented scope of reporting and its limited geographical reach. At the same time, the Tellus Institute, a major North American think tank in the field of sustainability, published its report "Green Metrics," a study that compared existing reporting schemes and their requirements in a single matrix, and identified overlaps between various schemes (White and Zinkl 1998). Based on this input, initial discussions on establishing a broader and harmonized reporting framework began, leading to the successful establishment of a steering committee in December 1997. Shortly after, UNEP could be won as a partner institution, a step that proved decisive,

both in terms of enhanced legitimacy through public participation, as well as in terms of scientific input. Until the GRI became an independent organization in 2002, CERES served as its secretariat and provided most of the financial resources. Although being a key driver of the GRI process, CERES managed to involve a range of other players in the deliberations that led to the draft GRI principles. In this context, it was of major importance that CERES had agreed on transforming the GRI into an independent organization with its own board of directors early in the process (Waddell 2002: 5–6). In 2005, CERES participated in various GRI working groups and is represented on its board by Joan Bavaria.

To conclude, the influence of CERES through its discursive and cognitive functions can be summarized in four points: first, CERES has considerable influence through producing and disseminating information. Its media strategy, with its focus on getting information about CERES and the risk of climate change into the business press, has been successful and can be credited with having influenced the recent increase in shareholder resolutions on climate change filed with U.S. corporations. Second, CERES shows clear signs of being an inter-organizational learning network, mainly through its annual conference and the establishment of INCR. Third, CERES has provided a forum for problem solving and early warning, mainly because it kept conflicts within the institution, rather than making them public before they were solved. And finally, CERES has forced other actors in the field to react to the general idea of corporate environmental reporting, and has successfully implemented its own global sustainable reporting scheme, the GRI.

After this assessment of the cognitive aspects of private business regulation, I now turn to the function of integration with reference to the FSC. The concept of integration has a double meaning: first, it refers to the transformation of international or transnational norms and standards to the level of private business regulation. The impact is mainly a “legalization” of functional spaces wherein rules become enforceable (through the process of certification and the threat of withdrawing the respective certificate) that were not or only reluctantly enforced beforehand. And second, integration refers to FSC principles, their underlying rationale, and resulting procedures, being integrated into national political systems or international agreements. In this case, governments may formally or informally endorse FSC standards and former state functions may be outsourced

to the FSC. In addition, public policies, both at the national and international levels, may be influenced by the operation of the FSC. Closely connected to the latter mechanism, formerly marginalized actors may gain access to policy debates and decisions at national or local levels.

Downward Integration

Analyzing the first mode of integration, the influence is most visible in the south, because the existing level of regulation there is relatively low and compliance measures including sanctions are often only reluctantly enforced in developing countries. The FSC Principles and Criteria (P&C) demand that “[i]n signatory countries, the provisions of all binding international agreements such as CITES, ILO Conventions, ITTA, and the Convention on Biological Diversity, shall be respected” (FSC 2000: principle 1.3). The recent inclusion of the core ILO conventions¹⁵ into the FSC standards is a major improvement because government compliance with these treaties has been relatively weak in many developing countries. As one FSC board member observes, the FSC is successfully bringing worker rights to the people on the ground. In this view, the process of certification leads to a stricter enforcement of labor rights for local workers. As a result, and often for the first time, social interests are considered through the influence of the FSC.¹⁶ A recent study commissioned by WWF Europe (2005: 3) comes to a similar conclusion for temperate forest regions:

Those employed in the forest industry have been some of the biggest beneficiaries of FSC certification, through the improvement in the implementation of legislation and guidelines on health and safety. A reliance on properly qualified staff, backed by improved training and a compliance with social taxation requirements have all led to improved working conditions for those working in FSC certified forests.

As a result of these positive developments, unions initially cautious of the certification issue, have “especially over the last two or three years become more involved in certification efforts. They are now actively participating in a number of national initiatives including those in Sweden, Germany and Ghana, where they have been involved in the negotiation of national standards” (Bowling 2000: 134).

A second example for the integration of international or transnational norms into the FSC framework and the resulting impact on

actors involved in forest certification can be found in the FSC accreditation standards for certification organizations that comply with the regulations of the ISO. Case studies from South Africa, for example, indicate that certification according to FSC standards was achieved more easily when ISO standards were already in place. In effect, the integration of existing standards benefits companies because costly conformance with multiple standards can thus be avoided.

Upward Integration

Turning to the integration of FSC standards into national political systems, three potential mechanisms can be observed. A first possibility is that governments endorse the FSC, for example through their public procurement policies. A recent forest product market review by the UN Economic Commission for Europe (UNECE) and the UN Food and Agriculture Organization, FAO (Rametsteiner 2002: 163) states that “[p]ublic procurement continued to become a growing source of demand for CFPs.” In addition to a range of policies already existing at the municipal level, in most cases due to the early involvement of city governments in timber boycott activities, several national governments have announced public procurement measures that directly or indirectly favor certified timber. The German government, for example, decided in 2002 that public procurement should solely rely on the FSC for wood products. In addition, the red-green coalition government also clearly stated their commitment to forest certification in general and the FSC in particular in their 2002 coalition contract (World Wide Fund for Nature Deutschland 2002). In a similar vein, the British government has enacted the “Central Government Timber Procurement Policy.” Another example is Denmark, which within the context of the fight against illegal logging, decided in 2001 to recognize the FSC label as an appropriate instrument to ensure the legality of timber imports. Altogether, procurement policies and public endorsement of forest certification exist in Austria, Belgium, France, Germany, the Netherlands, the Nordic States, Switzerland, the UK, and some states of the United States. However, as a strong environmental consciousness among voters is largely confined to OECD countries and governmental action to accommodate such views is correspondingly limited, endorsement seems to have little impact beyond industrialized countries.

A second form of integrating FSC standards into national systems can be observed in South Africa, where the government has effectively outsourced its forest surveillance operations to the FSC. Potentially, this strategy could well spread to other developing countries that control considerable portions of its forests and seek budgetary relief.

A third form of integration is better documented, namely the influence of the FSC on national policies and the corresponding empowerment of actors in national debates. The multistakeholder process of the FSC is credited with having had a beneficial influence on policy discussions and stakeholder relations, especially in countries with otherwise weak forestry governance (cf. Bass, Font, and Danielson 2001). A study in South Africa (Mayers, Evans, and Foy 2001) has revealed that stakeholder consultations on forestry have contributed to bringing actors to national debates that have so far been excluded. With regard to the actual influence of private forest governance on national forest policies, a recent study argues that while certification has in most cases been a complementary instrument to induce compliance with national laws, “[i]n countries like Bolivia, there has been a more interactive process between recent legal forest reforms and certification, where incentives to landowners that engage in certification have been specifically introduced into the forestry law” (Segura 2004: 9). A second example is Mexico, which has reacted to the increase of FSC certification occurring after 1996 (the FSC headquarter was situated in Oaxaca until 2002) with a national forestry law closely mirroring the FSC standards on SFM.

Despite considerable impact on national forest politics, the FSC’s influence on policy makers has not been driven by a coherent strategy.¹⁷ Rather than proactively influencing the problem perception of key players, the FSC more passively provided an example of a credible solution in sustainable forestry. FSC staff members report that especially on issues relating to indigenous people, the FSC has had some success in influencing policy makers and convincing them that the FSC is a solution to their problem.¹⁸

In addition to the integration of private standards into domestic environments, private regulatory schemes may also be integrated into international institutions. Consider for example the recent World Bank policy toward forest certification. It has changed from rejection to approval as a result of the Bank’s involvement with the World Wide Fund for Nature (WWF). The resulting WWF–World Bank alliance was founded in 1998 and has agreed to reach a target

of 200 million hectares of certified forests by the end of 2005. As the WWF has been a key player in the establishment of the FSC and has demonstrated its support for the FSC as the only credible global solution to forest certification on several occasions, the new Bank policy can be analyzed as one influence that the FSC has on the international political level. The Alliance states that it does not recognize any one specific certification scheme, but instead has developed its own set of 9 principles and 11 criteria for certification. However, “[a]t present, the FSC is the only certification scheme that clearly meets the Alliance criteria, although non-FSC certification schemes will be counted toward the Alliance’s target in the future . . .” (World Bank/WWF Alliance 2003: 3).

To conclude, the integrative function of private business regulation is reflected in two major trends. First, binding international agreements and national legislation, as well as transnational norms, are transferred to spaces regulated by private regulatory systems. As a result, norms and rules that have not been implemented sufficiently become enforceable through the private arrangement operating on the ground. Evidence from tropical and temperate forest regions supports the assumption that the FSC has successfully influenced, for example, the safety and health conditions of forest workers. The second integrative trend can be observed in the influence that distinct FSC rules and procedures have on national forest politics. Impacts range from endorsement of the FSC through public procurement policies to devising national forest laws that mirror the FSC’s definition of sustainable forestry. Both mechanisms of integration clearly show how closely the public policy arena is connected with the field of private regulation. On many occasions, the FSC has utilized international norms complexes, such as sustainable development and the partnership paradigm, to legitimize its distinct standards and procedures. On the other hand, public actors have equally often looked to the private realm for support of their policies or simply for solutions for their pressing problems. However, it is by no means evident that the new mode of global business regulation analyzed in this article can deliver its potential even across the globe and be equally effective in different national and regional circumstances. Acknowledging this potential limitation, recent scholarship has begun to address the scope conditions for effective and legitimate governance beyond the state in some more detail (cf. Dingwerth forthcoming; Pattberg 2005a; 2006).

CONCLUSION

The theory and empirical practice of global business regulation has changed over the last decades. International approaches and instances of business self-regulation are complemented by new forms of multistakeholder initiatives often involving nonprofit organizations alongside large TNCs in the establishment and implementation of global business standards. This transformation in itself is a remarkable phenomenon. However, when it comes to assessing the implications of this transformation of global business regulation, most debate has focused on the actual level of standard uptake and compliance issues. Hence, many observers are quick to acknowledge that the impacts of global business regulation have only a marginal status. In this article, however, I contend that the most remarkable feature of the current transformation of global business regulation and the growth in the number of coregulative, essentially multistakeholder approaches, is the additional influence through cognitive and integrative processes of governance.

To underscore this argument, the first section of this article has briefly outlined the existing research gap and the resulting questions, while section two gave a summary of possible classifications of the current empirical universe of global business regulation. Particular emphasis was put on novel arrangements that are private in nature and combine profit as well as nonprofit interests. Subsequently, section three has illustrated the rather modest success of two empirical examples, the FSC operating in the field of forest certification and the CERES that is active in the corporate environmental reporting and management domain. Finally, the fourth section has presented empirical evidence for two additional types of influence that can be attributed to private business regulation: cognitive and integrative governance.

In sum, while the general perception of many of the existing approaches in corporate social responsibility is that of “window dressing” or even “greenwashing,” the qualitative empirical analysis presented in this article suggests that next to influence through rules and standards, private schemes in global business regulation influence a range of stakeholders, including business actors, governments, and civil society organizations through processes of knowledge brokering, social learning, diffusion of the regulatory model, and integration of private standards in public regulatory environments.

These findings point into an important direction for future research. While much of the current corporate social responsibility debate conceptualizes the relation between society and corporations essentially as a one-way street where demands run from society to business, the discussion in this article suggests that we witness a reconfiguration of the relationship between public, profit, and non-profit actors. While global business regulation is formally directed toward economic actors, the institutionalized engagement with civil society creates dynamics that transcend and transform the field of corporate social responsibility as we know it.

NOTES

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: 8).

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

3. The FSC is not only prominent among environmentalists, but also among scholars. For recent research on the FSC, see Cashore et al. (2004), Gulbrandsen (2004), and Pattberg (2005a).

4. For details on the three-chamber system and the resulting rights and responsibilities of organizational and individual members, see Pattberg (2005b).

5. Currently, 79.2 percent of the certified area is in Europe and North America, while Africa, Asia, Oceania, and Latin America account for only 20.8 percent. For forest management and chain-of-custody certificates, the relation is 28.5 percent to 71.5 percent in favor of North America and Europe.

6. Personal interview with CERES staff member, January 2004.

7. Personal interview with CERES staff member, January 2004.

8. One of these new actors is CalPERS (California Public Employees Retirement Fund), which started to set aside \$200 million in a private equity fund for environmental investing in 2004.

9. Personal interview with CERES staff member, January 2004.

10. CERES has successfully continued this strategy in 2004 and 2005. See, for example, Murray (2004) and Harvey (2005).

11. Web site document (CERES 2003), on file with author.

12. Personal interview with CERES staff member, January 2004.

13. Personal interview with CERES staff member, January 2004.

14. Personal interview with CERES board member, March 2004.
15. The FSC standards demand compliance with all ILO labor conventions that are related to forestry, in particular numbers 29, 87, 97, 100, 105, 111, 131, 138, 141, 142, 143, 155, 169, 182 as well as the ILO Code of Practice on Safety and Health in Forestry Work.
16. Personal interview with FSC board member, November 2003.
17. Personal interview with FSC staff member, November 2003.
18. Personal interview with FSC staff member, November 2003.

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