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The Global Compact and Civil Society

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The Global Compact and Civil Society: Averting a Collision Course[1]

Peter Utting[2]

Anyone from the United Nations who attended the 2002 World Social Forum (WSF) in Porto Alegre, Brazil, would have been struck by the fact that whilst many activists are critical of the UN, they still believe in the organization. In sharp contrast to the demands for a radical downsizing or abolition of organizations such as the WTO, World Bank and IMF, many civil society organizations are calling for a reformed but strengthened UN. Criticism, however, is building, notably on the question of UN relations with transnational corporations (TNCs). Recent "partnerships" between UN organizations and TNCs symbolize the increasingly close nature of this relationship. The most high profile of these is the Global Compact, which by the end of 2001 had enlisted the support of approximately 400 companies in 30 countries. These companies have agreed to adhere to nine principles related to human rights, labour standards and environmental protection. At the WSF the Global Compact came in for some heavy criticism.

In an article on UN-business partnerships published by UNRISD in 2000, this author suggested that one of the risks associated with the warming of relations between the UN and TNCs was that of heightened tensions between the UN and certain civil society actors. During the past two years such tensions have indeed escalated. This is most evident in communications between the Global Compact office and the US-based NGO Corpwatch. Arguments between a UN office and a particular NGO shouldn't come as a surprise. Of concern in this case, however, is the fact that Corpwatch acts as the Secretariat for the Alliance for a Corporate Free UN which is composed of several well-known and respected northern and southern-based research and advocacy groups such as Third World Network, the Institute for Policy Studies, Focus on the Global South and the Brazilian Institute for Social and Economic Analyses (IBASE). At the WSF it was evident that these organizations have assumed a leading role in the global "movement" that is trying to construct an alternative to the contemporary model of economic globalization. Amongst the 5,000 organizations present at the WSF, and many that could not make it to Porto Alegre, such organizations have considerable legitimacy.

Given that part of the Global Compact's *raison d'etre* is the promotion of new forms of "good governance" based on multi-stakeholder dialogue and collaboration, it is unfortunate that such an initiative is providing a basis for confrontation with some sectors of civil society. Why the tensions? Several concerns have been raised:

- few effective mechanisms are in place to ensure that companies comply with the Global Compact principles;
- rather than systematically address and internalize all nine principles, companies can pick and choose among the principles and corporate activities they want to deal with;

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- the Global Compact does more to enhance the image and legitimacy of big business than improve social and environmental standards;
- the "social learning" theory and "best practices" approach that underpin the Global Compact are flawed as they tend to ignore key pressures and institutional contexts that encourage companies to raise standards, divert attention away from "bad practice", and ignore fundamental structural and other factors that encourage corporate irresponsibility.

Research being carried out at the United Nations Research Institute for Social Development (UNRISD) on UN-business partnerships and corporate social responsibility has raised similar concerns and suggests that another approach is needed. How might things evolve? Basically one can envisage three scenarios.

First, the UN can pursue the current course of engaging TNCs via fairly weak voluntary initiatives. Leaving aside the question of whether such patterns of engagement are effective in promoting corporate social responsibility, such a path suggests a collision course with a vociferous sector of civil society. Such tensions would seem to contradict the spirit of what the UN has been trying to achieve for over a decade in terms of global governance arrangements involving improved relations with civil society.

Second, the UN can heed the calls not only of the Alliance for a Corporate Free UN but also of the United Nations High Commissioner for Human Rights and other Global Compact stakeholders, who have suggested that the Global Compact be modified or redesigned to allow greater scope for compliance with the nine principles. Some of the ideas or proposals for reform involve the screening of potential corporate participants, greater transparency about which companies are involved in the Global Compact, obliging companies to report on all nine principles, greater attention to and public disclosure of feedback and commentary from non-corporate stakeholders, independent monitoring of compliance, greater controls on how companies use their association with the UN, and other safeguards to guard against companies using the Global Compact for essentially PR purposes.

Potentially, a redesigned Compact could serve a dual purpose of improving UN-civil society relations and making it a more effective instrument to promote corporate responsibility and accountability. The unintended consequence, of course, might be that business would sign off. One of the main backers of the Global Compact, the International Chamber of Commerce, has made it overtly clear that it would "look askance" at any such moves. In the case of large TNCs, some would argue that this may not be a bad thing: they are already involved in voluntary corporate responsibility initiatives and "best practice" reporting, and from the perspective of social and sustainable development, there may be little added value to be obtained from their involvement in the Global Compact. Where corporate disengagement might be more of a problem is at the level of some developing and transitional countries where the Global Compact could play a role in raising awareness of corporate responsibility issues and where there may be greater scope for "social learning". Another potential benefit of TNC involvement in the Global Compact is that it could serve to bring TNCs under the remit of international law – albeit weak forms of "soft" or customary" law – such as the Universal Declaration of Human Rights. It has often been assumed – incorrectly – that such human rights norms target

states and not corporations. The Global Compact could help to redress this misperception by making the connection between corporations and some aspects of international human right law more explicit.

The third scenario consists of continuing with the Global Compact experiment, with or without major reforms, and pursuing an alternative approach elsewhere in the UN system. The Global Compact has always stated that it is not meant to be a substitute for other "regulatory" approaches at the international level that rely on monitoring and enforcement. In practice, however, it is just about the only game in town that extends to a significant number of corporations. A basic concern with UN-TNC partnerships in general is that they reflect a shift in approach whereby lukewarm voluntary initiatives have crowded out important mechanisms and institutional arrangements involving new forms of international law, oversight or monitoring of TNC activities, mediation or arbitration of disputes, and critical research into regulatory alternatives and the social, environmental and developmental impacts of TNCs. Several proposals, involving the UN system, have emerged which could serve to correct this imbalance.

- Friends of the Earth International has proposed that the World Summit on Sustainable Development consider a Corporate Accountability Convention that would establish and enforce minimum environmental and social standards, encourage effective reporting and provide incentives for TNCs taking steps to avoid negative impacts.

- The International Forum on Globalization has advocated the creation of a UN Organization for Corporate Accountability that would provide information on corporate practices as a basis for legal actions and consumer boycotts. Christian Aid has proposed the establishment of a Global Regulation Authority that would establish norms for TNC conduct, monitor compliance and deal with breaches. Others have called for the reactivation of the defunct United Nations Centre on Transnational Corporations, some of whose activities were transferred to UNCTAD a decade ago.

- The Sub-Commission on the Promotion and Protection of Human Rights has established a Working Group on TNCs which is considering a Code of Conduct for TNCs and has drafted a set of Human Rights Principles and Responsibilities for TNCs and Other Business Enterprises. The Working Group has also proposed the establishment of entities to assist with the implementation of the Principles and to monitor compliance.

- There have been calls for a Special Rapporteur on TNCs to be established by the Human Rights Commission and for some existing Special Rapporteurs to deal with problems involving TNCs. The need to extend international legal obligations to TNCs in the field of human rights and to bring corporations under the jurisdiction of the International Criminal Court has also been suggested.

- United Nations agencies could impose or broaden procurement standards related to social and environmental norms on the companies they do business with.

- For many years trade unions and others have urged the ILO to strengthen its follow-up activities and procedures for examining disputes related to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, which have remained extremely weak.

- UN agencies like UNCTAD, UNDP, UNEP and WHO, as well as the ILO, should not shy away from critical research and policy analysis on TNCs and their social, environmental and developmental impacts in developing countries, as well as on regulatory initiatives.

Movement on these ideas and proposals has been either extremely slow or non-existent. If the UN is serious about the question of promoting corporate social responsibility as well as good governance and multi-stakeholder participation, the time has surely come to consider such alternatives more seriously.

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