THE UN GLOBAL COMPACT AND THE GOVERNANCE OF

SITUATED FIRMS

David Williamson and Gary Lynch-Wood

**Introduction**

The United Nations (UN)Global Compact is a membership-based, collective action institution, which, like other such institutions (e.g., Ethical Trading Initiative), is designed to foster corporate citizenship (Bremer 2008). It urges firms to align “strategies and operations with universal principles on human rights, labour, environment and anti-corruption, and take action to advance societal goals”.[[1]](#footnote-2)The ten specific principles referred to derive from other international initiatives, such as the Universal Declaration of Human Rights and the Rio Declaration of the UN Conference on Environment and Development (Kell and Ruggie 1999).Since its establishment in 2000, the UN Global Compact has attracted extensive debate, as well as support and criticism.

This chapter considers how the UN Global Compact functions as an instrument of regulation and governance of firms. It explores the concept of ‘situated firms’ and how differences across organisations shape responses to regulation. Linked to this, the chapter considers how regulation functions on the basis of regulatee conditions, and suggests that the absence of these conditions will undermine the effectiveness of particular initiatives. This provides the basis for understanding how and why the UN Global Compact will or will not work, and indicates ways to enhance it.

**Regulatory Mixes**

The UN Global Compact can be considered a regulatory instrument if we recognise that regulation is an increasingly pluralistic concept: an intentional and problem-solving process that both includes and extends beyond the activities of states (Havinga 2006; Hutter and Jones 2007). Regulation, as now often defined, encapsulates less direct instruments (e.g., market-based and disclosure mechanisms), and alternative forms of governance, social control and influence (Baldwin et al. 2012; Braithwaite, Coglianese and Levi-Faur, 2007), and it includes those influences derived from alternative sources and institutions (e.g., consumers, supply-chains, non-governmental organisations (NGOs)). As such, voluntary initiatives and frameworks (e.g., ISO14001), codes, self-regulatory agreements (e.g., Responsible Care), and other self-governance frameworks like the UN Global Compact, are regarded as important regulatory tools. Indeed, as part of the mix, the UN Global Compact provides the UN with a scheme for attending to some of the criticisms of the social impacts of globalization but without engaging in the arduous task of enacting legally binding regulations (Vogel 2010). The framework is open to many forms of organisation (e.g., NGOs, universities),with some exceptions.[[2]](#footnote-3)

To appreciate its value as aregulatory framework, it is worth briefly outlining two issues: how firms ‘comply’ and how they are currently performing.

First, as a voluntary initiative the UN Global Compact is on the softer side of the regulatory spectrum. The compliance mechanism is a modest one, with three key processes. A firm prepares a letter of commitment which is signed by the chief executive expressing commitment to the UN Global Compact and its principles. Then, the firm should take action to support these principles. Lastly, it must submit annually a Communication on Progress (COP).The COP policy sets out key information including certain minimum requirements (i.e., a statement by the chief executive expressing continued support, a description of practical actions, and a measurement of outcomes). Thought to be central to participants’ commitments, the COP is based on concepts of accountability, transparency and continuous improvement. Apart from providing an opportunity for firms to gather data and to reflect on its practices, the COP is a public disclosure tool that provides valuable information to stakeholders (investors, consumers, NGOs). There is an official process for addressing noncompliance by signatories. Ultimately, a firm that fails to submit a COP for two consecutive years would be deemed not to have fulfilled its commitments and would face expulsion, with the firm’s name being published on the UN Global Compact website.

Second, despite it being a relatively high-profile and prominent framework that has existed on the world stage for over 15 years, membership appears limited. Though membership has grown annually, in 2015 there were only 8,381 business participants,3,863 of which were large firms and 4,518 were small and medium enterprises (UNGC 2015a). It was reported that in 2012 just 2% of the world’s listed companies participated (i.e. companies whose shares are traded on stock exchanges), which was out of a total of 46,737 (UNGC2015b). It is also interesting that in 2015 there were 5,988 COPs (by 71.4 % of the members)submitted (UNGC2015a). Perhaps more worrisome is the high number of expulsions. In 2015, there were 1,218 reported expulsions for failure to communicate on progress, of which 89% were smaller firms. Overall, more than 6,000 participants have been expelled. These levels of participation and expulsion suggest there is a regulatory problem, and that the cause of the problem has to be understood for it to be effectively addressed.

**Situated Firms**

A core part of the argument is the claim that rule-following is learnt in the act of living our lives. Bourdieu (1984), for example, argues that ‘knowledge’ is a practical ability embodied in skilful behaviour. Social codes are therefore acquired as part of a taken-for-granted background to everyday life. Regularities of behaviour as manifested in gang crime or religious devotion, for instance, can be explained in terms of their respective codes of masculinity and deliverance. This behaviour is generally implicit since it is acquired in practice, and is a practical ability since it is learnt through familiarization or ‘habituation’. Bourdieu thus refers to the learning context as a ‘habitus’, and uses it to explain, amongst others, judgements on taste and educational success. A habitus can thus be considered a system of dispositions acquired through practice. The world is made up of many different types of habitus, and these produce different practices, which are the basis for the drawing of distinctions, whether on taste, or, for current purposes, firms’ interpretations of, and relationships with, regulatory frameworks. The firm is thus the setting where skilful behaviour is learnt, and where, by inference, distinctions on responses of regulation materialise themselves.

These differences in behaviour, which can constitute deep-seated and unconscious beliefs, operate in a structured domain of activity which Bourdieu calls a ‘field’(e.g., economy, family, education, law). And since they are relatively autonomous, the fields have distinct views on what constitutes legitimate opinion and what are appropriate power relations – they have, so to speak, their own logic. The habitus, in other words, provides the practical skills to navigate a field. For example, a university lecturer would presumably have the practical skills to navigate the field of higher education, and because of this his or her view on higher education may likely be different than, say, a plumber. And since the lecturer may share and agree this with other lecturers, the habitus of the field that is higher education will constitute those shared beliefs and practices.

The rules and resources relating to the reproduction of learnt practices are diverse. Rules range from those that are intensive/shallow, tacit/discursive, informal/formalised, and weakly sanctioned/strongly sanctioned. Resources are to do with power and legitimation, about control over goods and materials, and the capacity to have command over individuals. Situated human agents operate within and determine these structural factors, and for this reason any investigation of social systems – and as argued here, the UN Global Compact – has to accommodate both structure and system dimensions. Structure, in this context, refers to those varied arrangements of social institutions (e.g. politics and religion) which influence the choices that limit behaviour, while system refers to how those institutions are configured to provide for stable arrangements, and thus for how individuals and firms collectively interact with one another. And since structure and system dimensions vary, we can see why UN Global Compact practice will differ; it is because differences that accrue from social origin and power relations have their origin and basis in the control of physical and human resources. This has implications for how regulation is carried out, with the immediate and overarching implication being that, if it is to be effective, regulation should be aligned to rule-following practices if it is change those behaviours. In other words, you do not want to hinder beyond compliance behaviour, just as you would not want to encourage non-compliance, by applying the wrong regulatory fix.

These points converge to suggest that responses to regulation can only properly be understood by examining the practices of regulated entities. Likewise, the appropriateness of regulation can only be properly understood by looking at the practice produced by that regulation, since different settings will produce different practices. Indeed, one should expect that different settings will embody different constraints and empowerments (e.g. willingness to engage with human rights) as a result of different types of habitus and fields. One would also expect many of these learnt practices to be difficult to change since a learnt consciousness develops over time and can be difficult to undo (e.g., Aoki 2007, Greif 2006). Regulators and rule-makers have to, therefore, recognise a feature they may have always known: it is difficult to change a learnt practice, since the regulation is having to overcome the constraints that result from differences in class, power, function, and so forth. The immediate implication from this is that the UN Global Compact will underperform unless it can address the constraints, and leverage the empowerments, across different types of firms. This is achievable, but only, as it will be subsequently argued, if the UN Global Compact enables the application of equivalent minimum requirements across firms, and that this is enforced through the requirement that all firms report upon the meeting of those equivalent minimum requirements. These prerequisites need to be applied to firms that have signed up to the UN Global Compact, and, more importantly, to all targeted firms if there is a wish to extend its reach and intent.

One of the reasons why the UN Global Compact may have underperformed is that it assumes a common form of regulatory response, which, given differences in rule-following behaviour within and across jurisdictions across the globe, and over time, is improbable. These differences, when looking at the firm, are evident in many areas. They are reflected in the way firms are likely to belong to industries with different technologies and logistic chains, and how this then affects their views and behaviour towards technology and logistics. These firms will also likely vary in size and this will have a bearing on how they view and tailor their provision to suit the different types of customers they service. Some firms will also be more entrepreneurial than others, with their behaviours similarly being affected by factors such as ownership structure (e.g., family run, shareholder-led businesses), geographic scope (e.g., global, local) and rates of change (e.g., static, dynamic).

Alongside differences highlighted, firms will try to differentiate themselves from their competitors, with the basis of that distinction again affecting and embodying behaviour. This can follow on from competition on internal dimensions (e.g., supply-chain expertise, ability to develop brands, use of information technology) and through aspects that are market-based and internal to the firm (e.g., a firm in a market that is homogeneous and low-cost, where it has to compete on cost, will have little choice but to leverage factors that are internal to the firm if it is to maintain its position with, or outperform, other players in the sector (Porter 1985). It also makes sense for firms which have a competitive advantage to seek to protect that benefit by making the resources that underpin the advantage difficult to copy. This can be generalised to the form that firms are competitively distinctive due to firms being unequal in their ability to acquire and utilise resources (e.g., Peteraf 1993).

The situated behaviour-regulation link is also affected by the structure of the firm. As Chandler (1962) observed, as firms grow they develop different organisational structures. These structures are associated with different behaviours (see Mintzberg 1979). Indeed, they affect the tone of the strategy making processes, and hence the preferences of the firm. It corresponds with the view that firms have bounded rationalities and cultures and these guide their decision making (Prahalad and Bettis 1986). This means firms do not always act in a rationally optimum way due to the constraints on their decision making (e.g. they do not have the time or resources to gather all the information they need to make an optimal decision), with them instead simplifying their world by choosing the first alternative that is satisfactory (Simon 1982).It corresponds with firms sticking with what has worked for them in the past (other explanations include reinforcement-expectancy learning, the efficiency of maintaining proven competences over developing new ones, performance exceeding aspirations, and difficult-to-change organisational structures). The history of the firm therefore matters, with the conditions which give rise to self-reinforcing feedback (to help maintain existing structures) being attributed to the historically embedded nature of cognitive selections, sunk costs making it difficult to switch to alternatives, complex interrelatedness (social, institutional and technical), and increasing returns when using a common method (David 1985, Arthur 1989).

A further factor affecting the behaviour of firms, by virtue of the way that it shapes the allocation and use of resources across firms, is the institutional environment. This is because institutions provide the rules of the game and these guide and restrain the behaviour of the firm (North 1990 2005). Rules can be formal or informal (e.g. norms, routines, political processes, contracts, incentives, authority, laws) and the weight given to these vary by firm. The institutional environment therefore helps to produce and sustain different behaviours. It influences the acquisition of organisational knowledge, and hence the building blocks of organisational behaviour (see Granovetter 1985).

These examples support the case that persistent differences in behaviour are inevitable. Indeed, the wider literature shows that the factors behind divergence in firm behaviour comes from many sources and provides a compelling case for different forms of firm-level knowledge. On that basis, there is a need to consider how these differences are matched in regulatory practices and approaches. Specifically, there is a need to investigate how these differences are constituted in the ‘conditions’ upon which any regulatory framework must operate. The consequent question therefore is: what conditions are required for a regulatory mechanism, like the UN Global Compact, to be effective, and how do differences across firms affect these conditions? This will make it possible to see what equivalent UN Global Compact minimum requirements might look like: or how it can be configured so it is more amenable to different situated contexts.

**Regulation Conditions**

A feature of the argument is that, to be effective, a regulatory approach requires the existence of conditions; conditions relating to firms’ characteristics and behaviours. Since an instrument relies on the existence of different conditions, then the instrument will be more effective if the conditions it assumes are – or need to be – present do in fact exist, or closely fit the social and economic conditions that shape regulated entities themselves. If those conditions are absent or poorly aligned, there will be a regulation deficit and the instrument will not achieve its full potential.

Here, a condition refers to a situation, state of affairs, or factor that must be present before something else is possible, permissible, or likely to occur. It could be declared, for example, that condition ‘X’ must be present or in place before thing ‘Y’ can take place, or thing ‘Y’ will only occur if condition ‘X’ exists. So how does this inform our views on regulation and how it functions in practice? It is posited that firms (e.g., their features, capacities, interactions with market and social contexts) provide some of those necessary conditions. That is, the characteristics of regulatees provide the conditions which determine whether they perform or fall short. Taking the firm as the unit of analysis, key questions are: ‘What *are* the conditions on the part of the regulatee that mean a particular instrument will perform, or that mean it is less or not likely to perform?’, ‘What is it about firms’ resources, behaviours, institutional settings, and circumstances that provide the conditions for successful regulatory implementation?’, and ‘Are those institutional and organisational conditions in place, in relation to given instruments or approaches?’ So far as it could be argued here, the idea of regulatee conditions has not been discussed in any explicit sense. It is recognised partly by Baldwin and Black’s (2007) model of ‘really responsive regulation’, which acknowledges the importance of taking account of the attitudinal settings of firms, their operative and cognitive frameworks, and their institutional frameworks. Yet the chapter takes this further by trying to identify those conditions that enable regulation to deliver its outcomes.

Moreover, it considers a broad spectrum of research to identify three broad conditions that determine whether and how firms will respond. These are (a) their understanding of the regulated situation, (b) their capacities to respond, and (c) their willingness or acceptance of a need to act. These conditions are referred to as follows: the *knowledge condition*, the *substantive compliance resources condition*, and the *agreement condition.* Firms, for example, have different levels of resources that can affect their ability to act, which is evidenced by the general observation that a critical factor affecting the compliance behaviour of smaller firms is their limited competence level and capacity to adopt approaches of environmentally sustainable industrial development (OECD 2007). In other words, resources affect compliance positions. There is also evidence of a corporate ‘attitude’ toward compliance (Gray and Deily 1996), suggesting that the way firms view the principles of a regulatory regime will be an important feature of the compliance process. Each condition has variability (e.g., difference levels of knowledge), the implications of which are itemised for the UN Global Compact in Table 1.

Table 1: Regulation Conditions

|  |  |  |  |
| --- | --- | --- | --- |
| **Condition** | **Meaning** | **Explanation** | **Implications** |
| Knowledge | Understanding that the regulation exists and of what its demands are. | The regulatee must have a measure of regulatory knowledge and understanding. The regulatee needs to be aware of the existence of a regulatory measure and requires a reasonable and working knowledge of its requirements. | * Are all firms aware of its existence?   + Is it promoted to all firms?   + Are all firms part of the Global Compact setting? * Are the knowledge demands of the Global Compact aligned to the knowledge capacities of all firms? |
| Substantive compliance resources | Capacity and capability (resources to meet the demands and requirements of regulation). | Regulation requires firms to have the necessary resources that enable them to achieve actual or substantive compliance. That is, the effectiveness of regulation is dependent on regulatees having the necessary resources to know what the regulations require and to then put that knowledge into practical activities. | * Are the regulatory requirements of the Global Compact aligned to the resource capacities of all firms? * Are the timeframes for compliance with the Global Compact aligned to the resource capacities of all firms? |
| Agreement | Willingness, desire, or pressure to meet the demands and requirements of regulation. | There is a need for commitment to the regulatory cause – or a level of agreement or consensus on the part of the regulatee. Specifically, the regulatee needs to ‘agree’ to compliance, or to acquiesce to the compliance process, and then respond in the right way. The term ‘agree’ is used broadly, in that agreement to comply can be ‘voluntary’, ‘desired’, or ‘preferred’, as well as ‘forced’ through appropriate enforcement or pressurised through appropriate social pressure or norms. | * What is the setting that promotes engagement? * Are the pressures to engage with, and to comply with, the Global Compact, the same for all firms? |

It is suggested that these are the essential conditions that apply to all forms of regulation, and that the way they interact will determine how different regulations perform. Importantly, it is only when all three conditions are present that there will be no regulation deficit (see Diagram 1).

Diagram 1: Regulation Conditions

No Regulation

Deficit

By looking at regulation and its relationship with regulatee conditions, it is possible to get a more sophisticated view of how measures such as the UN Global Compact may work in practice and why such instruments may underperform. For example, what knowledge deficits need to be addressed? Are these deficits likely to be greater for smaller firms than their larger counterparts? Thus, having introduced what conditions mean for our understanding of regulation, a brief look at differences and conditions in the context of the UN Global Compact can be taken. It requires, given the differences across firms, that: there is equivalent knowledge requirements on firms; there is equivalent resource requirements on firms, and; there is an equivalent level of pressure on firms to engage and comply.

**Final Comments**

The ideas outlined have important implications for schemes such the UN Global Compact. Showing that firms differ, and that differences manifest themselves as variable conditions that determine the effectiveness of particular regulatory instruments, has implications for how regulation is perceived and what can be done to improve it. It enables an understanding of why there may be regulation deficits, and how such deficits may be reduced.

As a voluntary initiative, with a modest compliance mechanism, the UN Global Compact has a set of standard and basic procedures. Firms make a commitment, take actions, and make public disclosures. The COP should reaffirm commitment, specify practical actions, and measure outcomes. Given these requirements, which are implicitly taken to be proportionate in their demands on firms, and given that there are vast numbers of firms across jurisdictions, the fact that so few firms have ‘complied’ with the UN Global Compact after more than 15 years suggests a problem exists. To move beyond easy-to-reach firms (e.g. progressive and socially responsible firms that one would expect to be first movers), the full nature of why firms are not engaging with the UN Global Compact needs to be appreciated. While this would no doubt benefit from a more substantial empirical analysis, it is nevertheless possible to suggest some tentative ways forward.

If it is accepted that poor compliance has much to do with differences across organisations, and that these differences produce multifarious firm-level regulatory practices and approaches, then it must also be accepted that these differences constitute a set of real-life and variable ‘conditions’ upon which any regulatory framework must operate. It is then arguable that regulatory deficits are only avoided when regulatory frameworks accommodate the conditions produced by firm-level differences. By inference, the demands of the UN Global Compact appear poorly aligned to conditions created by the different rule-following behaviours among firms. Only a limited number of firms have the requisite knowledge, resources, and willingness to comply with the framework.

The solution has to focus on both the regulation itself (i.e. the requirements of the UN Global Compact) and the enforcement of, or pressure to accept, those requirements among firms. A useful starting point might be to consider how and why the current signatories differ from non-signatory firms and those who have been expelled. Beyond this, an assessment has to be made on the specificity of the UN Global Compact’s requirements and the implications that arise from this. For instance, it may be the case that the requirements are not aligned to the specific requirements of different sectors and industries etc. If this is remedied by tailoring the requirements of the Global Compact then it is important, in turn, to be aware of the diminishing return that will accompany this remedy (i.e. the costs of the regulatory effort will increase as ever more specific knowledge, resource and agreement conditions are accommodated; and as new tailored solutions are implemented there will arise new and more specific knowledge, resource and agreement deficits). Because of this, the solution may need to be more radical and deep-rooted, by acknowledging the need to make the requirements of the Global Compact more open textured so that it can accommodate the variability in conditions that exists across firms, and to likewise accept that this will lead to variable levels of success until the context within which firms learn to follow rules is addressed. The view here is that a principles-based approach would seem sensible, although it could be advocated that this needs to accommodate specific minimum requirements to help minimise undesired behaviour.  General minimum requirements – whether mandatory or the existing voluntary approach – are important because of the need to ‘oblige’ compliance as a consequence of the compliance constraints that invariably accrue from the difficulty in firms’ profiles matching the requirements of the three conditions (i.e. the aim is to minimise the compliance constraints imposed by the three conditions). The use of minimum requirements within a voluntary setting, however, is likely to require a focus on ways to greatly increase the agreement condition since this can be considered to be independent of, although it is affected by, the knowledge and resource conditions.

Altogether, the intention is to facilitate a reduction of the hurdle that the knowledge, agreement and resource conditions represent, since it is essential that the constraints created by these conditions are recognised and acted upon. When it comes to enforcement and implementation, careful thought has to be given to how the knowledge, agreement and resources could be increased (while noting that this helps minimise those conditions). The use of minimum standards also provides a proper standard against which all firms must comply while allowing, and preferably rewarding, behaviour that goes beyond minimum requirements. The details around this reconstituted regulation and enforcement regime are clearly far beyond the scope of this overview, but progress will be hampered until this is done. Yet it is also an area that provides opportunities for a joint effort on the part of the UN Global Compact and the Principles for Responsible Management Education (PRME). While having unique research, educational and community service capabilities of its members and collectively, the PRME movement itself is a membership and collective action institution that is facing similar regulatory and governance challenges. It is therefore incumbent on the PRME to better understand these challenges and to diligently seek to address and resolve them.

REFERENCES

Aoki, M. (2007) ‘Endogenizing institutions and institutional changes’ *Journal of Institutional Economics*3(1): 1-31.

Arthur,B.(1989) ‘Competing technologies, increasing returns, and lock-in by historical events’ *Economic Journal*, 99: 116-131.

Bourdieu, P. (1984). *Distinction: A Social Critique of the Judgement of Taste*. Harvard University Press: Cambridge Massachusetts.

Braithwaite J., Coglianese C. and Levi-Faur D. (2008) ‘Can regulation and governance make a difference?’ *Regulation & Governance*, 1(1): 1-7.

Baldwin R. and Black J. (2007). ‘Really responsive regulation’, *Modern Law Review*71(1): 59-94.

Baldwin R., Cave M. and Lodge M. (2012).*Understanding Regulation*. Oxford University Press: Oxford).

Bremer J. (2008).‘How Global is the Global Compact?’*Business Ethics: A European Review* 17(3): 227-244.

Chandler, A.D. Jr. (1962). *Strategy and Structure: Chapters in the History of the American Industrial Enterprise.* MIT: Boston, Massachusetts (in 1969 paperback edition).

David, P.A. (1985). Clio and the economics of Qwerty. American Economic Review 75:332-337.

Granovetter, M. (1985). Economic action and social structure: the problem of embeddedness. American Journal of Sociology, Vol. 91, 481-510.

Gray W and Deily M (1996) ‘Compliance and Enforcement: Air Pollution Regulation in the U.S. Steel Industry’ journal of Environmental Economics and Management 31: 96-111.

Greif, A. (2006). *Institutions and the Path to the Modern Economy*. Cambridge University Press: Cambridge.

Havinga T, (2006). ‘Private regulation of food safety by supermarkets *Law & Policy* 28(4): 515-533.

Hutter, B. and Jones, C., (2007). ‘From government to governance: external influences on business risk management’*Regulation& Governance* 1(1): 27-45.

Kell, G. and Ruggie J., (1999) Global markets and social legitimacy: the case for the ‘Global Compact,’ *Transnational Corporations* 8(3): 101-120.

Mintzberg, H. (1979). *The Structuring of Organisations*. Prentice Hall: Englewood Cliffs, NJ.

North, D.C. (1990). *Institutions, Institutional Change and Economic Performance*. Cambridge University Press: Cambridge.

North, D.C. (2005). *Understanding the Process of Economic Change*. Princeton University Press: Princeton.

OECD. (2007) Small Businesses and Environmental Compliance: Review and Possible Application of International Experience in Georgia.

Peteraf, M. A. (1993). ‘The cornerstones of competitive advantage: A resource-based view,”*Strategic Management Journal*, 14:179–191

Porter, M.E. (1985).*Competitive Advantage: Creating and Sustaining Superior Performance*. The Free Press: New York.

Prahalad, C.K. and Bettis, R.A. (1986). The dominant logic: A new linkage between diversity and performance. *Strategic Management Journal*, Vol. 7, No. 6, pp. 485-501.

Simon, H. A. (1982). *Models of bounded rationality* (2 vols.). Cambridge, MA: MIT Press.

United Nations Global Compact (UNGC), (2015a)*Communication on Progress: 2015 Key Facts.*

United Nations Global Compact, (2015b).*Impact: Transforming Business, Changing the World.*

Vogel D, (2010) ‘The private regulation of global corporate conduct: Achievements and limitations,’ *Business and Society* 49(1): 68-87.

1. See https://www.unglobalcompact.org/what-is-gc (accessed 13 April 2016) [↑](#footnote-ref-2)
2. Micro firms (i.e., firms with fewer that ten employees) cannot be entered onto the participant database, but are encouraged to stay informed about all UN Global Compact activities. [↑](#footnote-ref-3)