

The Global Compact as a platform for corporate accountability?

Examining the evolvement of the accountability mechanisms

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Abstract

The Global Compact is a multi-stakeholder initiative that aims to promote and legitimize the practice of CSR. The role of this initiative in securing corporate accountability has received attention both among academics and non-academics. There have recently been some internal developments within the Global Compact relating to the possibility of this initiative to hold its participants to account. With this in mind, this thesis will be a case study of the accountability mechanisms of the Global Compact focusing specifically on the evolution process and the introduction of the delisting policy. The purpose is to contribute to the academic debate regarding accountability in global governance by examining closer the recent developments in the Global Compact. This thesis concludes that there is a willingness on the part of the Global Compact to develop a stronger framework for holding participants to account. This can be seen in the numerous new policies introduced with this purpose in mind. However there have also been some setbacks during this process and accountability has again been weakened. Based on the findings in this thesis it is clear that the decision-makers of the Global Compact are aware of the weak accountability, while the purpose of the Global Compact as an inclusive learning network is still valued stronger.

Key words: accountability, global governance, Global Compact, CSR, delisting mechanism

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1 Introduction

With the process of globalization taking place, the spread of capitalism and economic freedom have reached all corners of the world. The power, both economic and political, of corporation has increased to new levels. Only the most developed countries exceed the large multi-national corporations (MNC) in terms of economic output (Detomasi 2007). With this increased level of power comes, however, greater responsibility. The issue of increased control and monitoring of activities of corporations have received much attention in scholarly research (see e.g. Aggarwal 2011; Cetindamar et al. 2007; Gilbert et al. 2011; Segger 2003; Utting 2005), and calls for stronger corporate accountability have increased (see e.g. Clapp 2005; Albareda 2008; Bendell 2004; Deva 2006; Newell 2005). Even more, the increasing power of corporation have made them powerful actors in the political area as well. As a result, alongside debates of whether or not corporations should take responsibility for their activities, academics debate about their involvement in global governance (see e.g. Detomasi 2007; Dodds et al. 2002; Elsig and Amalric 2008; Ruggie 2004; Utting and Marques (red.) 2010; Utting, and Zammit 2009). The majority of the Global governance literature has focused on what is seen as a “democratic deficit” in this governance form. Input and output legitimacy are debated among a number of academics (see e.g. Bäckstrand 2006; Benner et al. 2004; Detomasi 2007; Dingwerth 2007; Elsig and Amalric 2008; Schäferhoff et al. 2009) and one conclusion is that issues of legitimacy and accountability are difficult in the context of global governance and will most likely not be settled in the near future.

The Global Compact is one part of this global governance network and a good example of how global governance can look and function. This is a UN initiative that together with many stakeholders from different sectors, works toward promoting corporate social responsibility (CSR) and at the same time increase the accountability of companies in such tasks. A literature review of the research field shows that there are a number of authors that have interested themselves for the Global Compact, and there is a body of existing research on this topic. The debate on the issue is very polarized. Some are positive towards this multi-stakeholder initiative (see e.g. Hale 2008; Kell 2003, 2005; Kell and Levin 2003; Kimbro et al. 2011; Williams 2004) whereas others regard it with deep skepticism and have expressed harsh criticism towards to UN engagement with the private sector (see e.g. Clapp 2005; Deva 2006). The Global Compact has been criticized on the basis that it lacks legal bindings, monitoring and enforcement mechanisms, and that accountability therefore is impossible (Clapp 2005). On the other hand, others claim that it is not the purpose of the Global Compact to monitor and enforce, and that accountability can be created in other ways (Kell and Levin 2003).

1.1 Purpose and research question

The Global Compact is an umbrella for many subthemes that can be studied. There have been some recent internal developments within the Global Compact when it comes to its accountability mechanisms. It has in the face of criticism made attempts to improve its accountability mechanisms to more efficiently enforce companies to take their responsibilities serious. A requirement of annual reporting on the progress of all participants has been instated, and harsher consequences for not communicating have perhaps been reinforced (Global Compact 2011a). When the first report of companies being delisted as participants was released, some of the former opponents expressed renewed hope that the Global Compact would become a stronger force for corporate accountability (Global Compact Critics 2006). It is on these developments that my thesis will have its focus. The first part of the thesis will discuss accountability in global governance and the connection to CSR and corporate accountability. This will function as a theoretical framework necessary to situate the case study. Thereafter, the developments within the Global Compact will be analyzed, with a special focus on the delisting mechanism.

The developments in the Global Compact make an interesting study, as it will examine recent changes in how the Global Compact deals with accountability. Since some of these developments are very recent, there are not, to my knowledge, any other academic studies conducted on this specific topic. This is where my thesis can contribute to the knowledge on this subject. The purpose of this thesis is to make a modest contribution to the ongoing debate on accountability issues in the global realm. This will be done by drawing conclusions regarding the developments of the accountability mechanisms in the Global Compact.

This thesis will aim to answer the research questions:

1. How has the Global Compact's accountability mechanisms evolved over time?

1.1 How has accountability of the Global Compact been strengthened?

1.2 Delimitations

Taking into consideration the limited time and resources available, I have chosen to limit my thesis to a single case study. It is important to have clear delimitations for what is going to be studied and what is not. This is because even in a single case study it is not possible to study everything about that case (Yin 2009, p. 29). In my case this means that I will study the accountability mechanisms the Global Compact claim in their policy documents. The focus will be on the progress of these mechanisms since the start in 2000, and as a result the accountability mechanisms will be the main unit of analysis in the case.

The area of corporate accountability has grown tremendously in the last decade or two and there is now a large number of different approaches and accountability mechanism out there. However it will be outside the scope of my thesis to discuss these approaches to a larger extent. My thesis will primarily focus on the Global Compact as it is heavily debated, and further it is the largest and most globally spread CSR-initiative used by companies to date.

1.3 Disposition

This thesis has been divided into five different chapters. This first chapter has provided an introduction to the topic as well as given a research background. In addition, the research problem and purpose of the thesis has been presented. In the second chapter the methodological and material choices of the thesis will be explained and potential concerns with the thesis are discussed. The third chapter will be a theoretical framework that will function as the basis for the analysis. In this chapter, accountability in global governance will be the main theme. Problems and possibilities of accountability in a global context will be discussed. Moreover, the connections to CSR and corporate accountability will be explained. The fourth chapter focuses on the Global Compact and will present an analysis of the accountability in the Global Compact. In the fifth chapter, the thesis will finish with the conclusions that can be draw and some thoughts on the direction of future research on accountability in the Global Compact.

2 Method and Material

2.1 Research Design

My intended research design for the thesis involves a case study on the development of the accountability mechanisms in the Global Compact, specially focusing on the delisting mechanism. This case study will be framed in the broader discussion of global governance, CSR and accountability. The method used will be to conduct a desk study which will be mostly based on secondary sources i.e. previous literature and published articles. Empirical material will be used in the form of policy documents and information published on the Global Compact website as well as critical perspectives from Non-Governmental Organizations (NGOs). The first part of the thesis will be a theoretical framework in which the concept of accountability will be explained, as well as the connections to global governance and CSR. Next the Global Compact will be presented and previous studies on it will be used in order to put the case into context by discussing strengths and weaknesses with accountability of this organization. Spring boarding from this, the case study of the Global Compact's accountability mechanisms will be based on empirical material. The case study will function as an exemplary case (Bryman 2012, p. 70) in order to add to the knowledge about corporate accountability through voluntary mechanisms.

The case study design is often criticized because the findings are hard to generalize since one case cannot be considered representative for the whole. Bryman (2012, p. 69-71) instead describes the purpose with a case study as an in-depth examination of one case with the purpose to generalize the findings to theory rather than other cases. Flyvbjerg (2006) argues that the resistance against case study research is based on a number of common misunderstandings, and he sees case studies as a very good research method for social science. In similar line of thinking, Yin (2009, p 43) further argue that critics of case studies contrast it to survey research, in which the idea is to generalize to a larger population. This is not the case when conducting a case study. Instead of relying on statistical generalization a case study relies on analytical generalization, meaning that the idea is to generalize the result to some broader theory. This is true in my case as the purpose is not to generalize my findings to other initiatives working with corporate accountability and propose that my finding will be true in those cases as well. Instead focus will be more on the theoretical concepts of accountability and on this basis I believe I will be able to contribute to the understanding of the complex considerations surrounding this concept.

The reason for choosing the Global Compact for my case study is motivated by the importance of this initiative in the debate concerning CSR and accountability, making it highly relevant for my research objective. The Global Compact was one of the first global initiatives in this area and has proven popular among corporations. With more than 10,000 participants spread across 145 countries (The Global Compact 2013a) this is a huge initiative that has the potential to be hugely influential in global corporate accountability standard-setting. It is also an initiative that has been heavily debated and criticized on the basis of its

work to promote corporate accountability. In the thesis, I will therefore highlight both the intentions from the Global Compact itself and these critical voices. By examining the development of the accountability mechanisms in the Global Compact, it will be feasible to draw some conclusions regarding the work the Global Compact does when it comes to corporate accountability.

2.2 Material

As previously mentioned, the thesis will be based on secondary material i.e. previous literature on the subject. The empirical material used for the case study is made up of policy document and information from the Global Compact website. Further I will also use empirical material published by NGOs and other critics of the Global compact. This material will mostly come from the “Global Compact Critics”. This is a website that is run by the Centre for Research on Multinational Corporations (SOMO), an independent, not-for-profit research and network organization. It gathers news, background information, and opinion from critical voices towards the Global Compact. This website is the single most important source of critical material against the Global Compact. The authors of the website have since the start of the Global Compact conducted an active dialogue with the Compact through this site. Responses from the Global Compact to the critique are to some extent available on the site as well. It is common for academics to make use of this material when conducting research on the Global Compact. It is important to be aware of potential issues with the material and at all times critically reflect over the information. When using documents as a source of data it is important to assess the quality of those documents. This can be done by considering the authenticity, credibility, representatives and meaning of the document in question (Bryman 2012, p. 544). I am aware that much of the empirical material that will be used for the thesis is some form of advocacy material. However, I do not believe this will have any negative effects as I will not make any inquiries into the truth of the opinions expressed in these document, but instead use the material in order to establish the course of events: what critique are being expressed and the response from the Global Compact.

When it comes to the academic material, mostly the same criterion that was used when it comes to the empirical material is applicable to the academic sources as well. That is, the importance of critically evaluate all articles and to be aware of the potential issues. When secondary material is used there is always a small risk that the previous scholar misinterpreted the material. Moreover, just as in the case with the primary documents it is important to be critical and to recognize the perspective of the author.

The purpose has been to find different kinds of material such as academic literature, policy documents, reports and other material available in the public domain. The sampling method used for the material selection has been what is referred to as ‘purposive sampling’ (Bryman 2012, p. 418). This means that the material used in the thesis has been selected with the purpose and the research question in mind. In the selection process it is important to consider what can be thought of as - ‘whose voice is heard and who is missing’ - an issue that has to do with what kind of material is available and if that covers different perspectives on the issue. I have therefore made an active choice to include material from as wide a number of different stakeholders as possible. Due to the time constraints it is not possible to conduct a fully comprehensive study, in which all possible voices are heard. I am aware that my thesis will

only scratch the surface, and this issue will benefit from additional research in order to get a more fleshed out answer. Connected with previous issue, is the issue of what is not written. I will depend on documents available in the public domain and it is impossible to know to what extent information has been left out. I will try to address this problem to some degree by including material from a number of separate sources (the Global Compact, critical voices and academic literature).

3 Accountability in global governance

In this chapter I will develop a theoretical framework that explains accountability and the issues surrounding accountability mechanisms in global governance. Further, I will connect this to the discussion on CSR and corporate accountability. The basis for the development of the theoretical framework is a literature review of the academic research on this topic. This chapter will therefore exclusively be based on on academic literature in the field of global governance, CSR and corporate accountability.

3.1 Definition of accountability

Accountability is a concept that is hard to explain and hard to pin down in one definition. The authors writing on this subject all use similar but still a little varying definition of what accountability is. Grant and Keohane (2005) write that with accountability a relationship between actors is implied. This relationship includes the power-wielders and those that hold them to account. It means that some actors hold the right to judge others on their behavior and responsibilities and to determine sanctions if they feel the responsibilities have not been met. Further, the concept of accountability therefore implies that actors have to be accountable for their actions, meaning they have an obligation to follow accepted standards of behavior or if they fail to do so they will be judged and sanctioned. Moreover, Gilbert et al. (2011, p. 24), writing specifically about corporate accountability, see it as “providing answerability to relevant stakeholders about the consequences of a firm's actions and omissions. Accountability connotes that organizational stakeholders have a right to judge a firm's actions and omissions and hold the firm responsible for those actions or omissions.”

For my thesis I will make use of a definition Hale (2008) uses in his article. This definition helps to clarify how accountability can function in the global realm. Accountability can be seen as a synthesis of the two concepts answerability and enforcement. With answerability means “the right to receive information and the corresponding obligations to release details” and enforcement is “the idea that accounting actors do not just ‘call into question’ but also ‘eventually punish’ improper behavior” (Hale 2008, p. 75). Put differently, A will be accountable to B if B (1) know the behavior of A and (2) can but pressure on A in order to enforce a change in that behavior.

3.2 Global governance and accountability

In order to understand why accountability in global governance is difficult and how it is created, it is important to first have an understanding about both how accountability is traditionally created and how global governance changes this.

The traditional focus of accountability mechanisms are in the context of democratic states and on concepts like state authority. This is in sharp contrast to the greater inclusion of societal actors in global governance. In the state context, the primary focus is on decision-making and implementation through government mechanisms (Elsig and Amalric 2008). In a democratic system, accountability of the rulers is made possible through elections. If the decision-makers fail to meet all their responsibilities, the citizens can choose to vote them out of office in the next election. Decision-makers have to explain and justify their actions, and in this way they are accountable to citizens (Bäckstrand 2006). Grant and Keohane (2005) explain how as a result of the existence of a clearly defined public, two questions that are fundamental to accountability can be answered:

- (1) What constitutes an abuse and why?
- (2) Who is entitled to hold power-wielders accountable and why?

However, one of the most important developments in international relations in the last 20 years is the increasing involvement of non-governmental actors in global politics. There has been recognition of the 'limits of state action' in questions increasingly transnational in nature. This has raised the interest in alternative mechanism for international decision-making (Dubink et al 2008). From the 1990s and onward the concept of governance without government have been part of the international relations agenda (Albareda 2008). Global governance includes a large number of different governance models, and functions as an umbrella term for all the various aspects of creating and managing international order (Elsig and Amalric 2008). One common model of global governance is for example multi-stakeholder partnerships (Bäckstrand 2006), of which the Global Compact is one example. Proponents of these new forms of governance hold up the facts that they can capture 'governance form below', and counter issues like participation and implementation gaps (Dombrowski 2010; Haas 2004). However, a number of issues have also come to light. Critical voices question whether global governance will lead to a diffusion and transfer of power and authority from governments to networks of public-private partnerships (Bäckstrand 2006). The legitimacy and accountability of global governance is under constant scrutiny.

The issue of creating accountability in global governance lies in the difficulty in answering the two questions mentioned above. No single demos can in the same way be distinguished in the global realm. Furthermore, neither an electorate, mechanisms of representation or a parliament are present in global governance (Detomasi 2007). Hence there are crucial differences between issues of accountability globally and domestically (Grant and Keohane 2005). The question that then arise, and that is actively debated, both among academics and policy-makers, are how to enhance the accountability of global governance. Answerability is possible to create in global governance and is directly connected to access of information and transparency. Enforcement on the other hand is more complex when it comes to global actors that lack the formal authority over subjects they desire to hold to account (Hale 2008). Detomasi (2007) establishes, that in order to create accountability in global governance, there is a need for indirect mechanisms. Benner et al. (2004) further argue that it is not enough to use mechanisms of individual accountability as is common in a domestic setting. This is because of the complex constructs that global governance includes, for example multi-stakeholder networks. Instead there is a need to complement with 'collective accountability'. In collective accountability actors are accountable to all the various stakeholders in society. Stakeholders include, but are not limited to, NGOs, indigenous people, communities, business, governments and multilateral financial institutions. This collective accountability

can also be describes as mechanisms of horizontal accountability as they rely on checks and balances between the different actors (Bäckstrand 2006).

3.2.1 Mechanisms of horizontal accountability

There are a number of horizontal accountability strategies that can function as indirect mechanisms of accountability, and therefore be utilized in order to enhance the accountability of actors in global governance. Grant and Keohane (2005) and Benner et al. (2004) both account for different mechanisms of accountability possible in global governance in their articles. I have chosen focus my attention two of these - legal and public reputational accountability - as they are the most important for my case of the accountability of the Global Compact.

Accountability mechanisms operate after the fact, meaning they expose actions and then judge and sanction them (Grant and Keohane 2005). Because they work in this way transparency is of key importance in all the different accountability mechanisms. This connects to the first part of my definition of accountability, namely the answerability. Actors can only be held accountable if accurate information on procedures is available (Schäferhoff et al. 2009).

- **Legal accountability:** With legal accountability means the use of hard law. Accountability is created because of the requirement actors have to abide by established regulations and formal rules. Accountability can therefore be established through the judicial system. If actors do not abide by the law they will have to answer for their actions and sanctions is administrated (Grant and Keohane 2005). In the debate regarding accountability of companies there is a belief among many that the legal approach creates by far the most accountability. Some argue therefore that hard legislation should be adopted of on issues of CSR, instead of the voluntary nature that is common today (e.g. Clapp 2005; Newell 2005). I will go further into this issue in the next section where CSR and corporate accountability will be discussed in more detail.
- **Public reputational accountability:** This type of accountability mechanism is considered as the most important in enhancing global accountability by both Benner et al. (2004) and Grant and Keohane (2005). This approach is also the most important for my case as it is the accountability strategy commonly discussed in association with the Global Compact. Public reputational accountability functions by using the importance of good public reputations among most actors that take part in global governance networks. ‘Naming and shaming’ is an important tool in this context. Accountability is created by putting the reputations of actors that do not live up to their responsibilities at risk. This is a strategy that has proven effective because the credibility of a company, a brand, or an NGO is on the line (Benner et al. 2004). Reputational accountability is present in all the other forms of accountability and is meant to function as an accountability mechanism in itself but also in conjunction with the other mechanisms (Grant and Keohane 2005).

3.3 Corporate social responsibility and corporate accountability

Participation of firms is one of the most common denominators within global governance. Companies are an important part in many of the global governance networks. However their lack of accountability is one of the most contested issues in these networks. Corporations are by their very nature undemocratic, as they are managed by individuals and boardrooms, most without any mechanisms for elections of leaders. Some therefore question the right of corporations to participate in political decision-making (see e.g. Benner et al. 2004; Utting and Zammit 2009). There has been a rapid growth of transnational corporations (TNC) and foreign direct investment (FDI) over the last quarter of a century (Clapp 2005). Globalization has especially seen a large increase of the power of businesses. The realm of public policy-making that were ones exclusively the state authorities domain is now shared with an increasing number of powerful corporations (Albareda 2008). As a result of all these developments, a need for new thinking regarding business responsibilities in society is required. One of these new strategies is corporate social responsibility (CSR), which have come to be a very important economic, social and political question in global politics (Albareda 2008). Instead of relying on oversight from government institutions, a greater share of the responsibility is placed on the companies themselves (Detomasi 2007). With CSR, there is a shift in the mission of business to include responsibilities towards stakeholders as well as to the society as a whole (Clapp 2005). In other words, CSR is essentially a voluntary initiative undertaken by companies that will mean that companies “take responsibility and consider themselves accountable for the economic, social and ecological consequences of their operations.” (Dubbink et al 2008, p 391). It is common that CSR is based on soft laws. Using Abbott and Duncan (2000) definition, soft law is non-binding agreements that have been weakened along all or part of the dimensions obligation, precision and delegation. Nevertheless, soft laws are often accepted as norm and are therefore considered legitimate. A large infrastructure has emerged with the purpose of facilitating and coordinating and structure corporate behavior in issues concerning CSR. There has been a rapid increase in the number of accountability standards available for companies to choose from, of which the Global Compact is one alternative. These standards are intended to work as guides in that they provide corporations with a strategy how to measure, implement and report on CSR performance. The different standards vary in nature - e.g., some are principle-based standards while others are certification standards. They all however, make use of one, or a combination of horizontal accountability mechanisms (Gilbert et al. 2011).

There are a number of concepts concerning the role of businesses in society that have converged and are commonly used quite interchangeably: corporate responsibility, corporate accountability, corporate sustainability and corporate citizenship. They all refer to the necessity that corporate activities include social and environmental aspects (Albareda 2008). There are many critical voices, especially from NGOs, that question the motives of businesses that engage in CSR. Some feel that self-regulation is not enough to ensure accountability. These voices argue that there is a difference between corporate *responsibility* and corporate *accountability*. They claim that it is necessary to strengthen the legal obligations, which corporations have to abide by (Clapp 2005). Newell (2005) agrees that accountability is a better term because it is a stronger language. He sees a risk that *responsibility* obscures the power relations and gives the business sector too much power to set their own terms of conduct. This critique ties into the issues regarding the two parts of accountability that was

raised in the definition section - answerability and enforcement. To be more exact, people with this view see legal regulations as the only reliable way to create the enforcement part of accountability. They argue that soft laws and relying on bad publicity is insufficient for changing behaviors (Hale 2008). For the purpose of this thesis it is important to point out that the debate regarding hard or soft laws in issues of CSR are polarized with proponents on both sides. CSR does not necessarily equal corporate accountability, however as already described above, accountability can be created in more ways than through legal channels.

4 The Global Compact

The Global Compact is one example of how global governance can look like. However it is not an initiative that has been accepted as legitimate part of global governance by all. In the 13 years it has been in existence, legitimacy and accountability have been under constant scrutiny. There are some that claim the accountability of the Global Compact is very weak or even non-existent (Deva 2006). In order to investigate this critique further, this thesis will look closer at the accountability mechanisms the Global Compact do have, with special focus on the delisting of companies. First some background information on the Global Compact will be given in order to put the analysis more into context.

The Global Compact is a large multi-stakeholder initiative with the aim of promoting corporate social responsibility. With more than 10,000 participants spread across 145 countries (the Global Compact 2013a), the Global Compact is acclaimed to be "the world's largest and most widely embraced corporate citizenship initiative" (Deva 2006, p. 111). The main idea is that companies, in partnership with organizations from other sectors including NGOs and civil society organizations, works toward advancing ten core principles related to human rights, labor, the environment and corruption. It is one of many initiatives that works toward promoting CSR. However compared to others the Global Compact has a wide geographical reach as well as the legitimacy of being a UN initiative (Rasche et al. 2012). It was launched in 2000 and has continued to grow and develop since then. The Global Compact is a voluntary initiative that rests on ten core principles all businesses should aspire to comply with (Cetindamar and Husoy 2007). In order to become a participant, a letter must be sent to the UN Secretary General, in which support for the Global Compact and its principles is expressed (Kimbrow and Cao 2011).

The Global Compact has two objectives: (1) internalize the principles by making them part of business strategy and operations, and (2) facilitate cooperation and problem-solving in the area of CSR (Kell 2003). It is important to highlight that the Global Compact is not a binding set of regulations, and have no aspirations to be either. Instead it rests on soft laws, characterized by an absence of legal obligation, low precision when it comes to the ten principles and the delegation of implementation authority rests on the companies themselves (Rasche et al. 2012). The design as a learning platform functions as the basis for dialog, where companies can learn best practice from each other (Cetindamar and Husoy 2007). It relies on transparency, public reputational accountability, and self-interest and responsibility from companies (Kell 2003). The idea

Table 1: The ten principles

<p>Human Rights <u>Principle 1:</u> Businesses should support and respect the protection of internationally proclaimed human rights; and <u>Principle 2:</u> make sure that they are not complicit in human rights abuses.</p> <p>Labor <u>Principle 3:</u> Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining; <u>Principle 4:</u> the elimination of all forms of forced and compulsory labor; <u>Principle 5:</u> the effective abolition of child labor; and <u>Principle 6:</u> the elimination of discrimination in respect of employment and occupation.</p> <p>Environment <u>Principle 7:</u> Businesses should support a precautionary approach to environmental challenges; <u>Principle 8:</u> undertake initiatives to promote greater environmental responsibility; and <u>Principle 9:</u> encourage the development and diffusion of environmentally friendly technologies.</p> <p>Anti-Corruption <u>Principle 10:</u> Businesses should work against corruption in all its forms, including extortion and bribery.</p>

Source: Global Compact website

is that the Global Compact will promote awareness regarding the social responsibilities companies do have towards society. This in turn will increase CSR, and ultimately create norms regarding how companies should act. Nonetheless, there have been mixed responses to the creation of the Global Compact, and it has received (and still receive) a lot of criticism from NGOs among others (Deva 2006).

4.1 Legal accountability or public reputational accountability- a divided issue

In this section the strengths and weaknesses of the accountability of the Global Compact will be discussed. Since the launch of the Global Compact it has faced a wide variety of criticisms both from academic and non-academic sources. In line with the purpose of this thesis I will focus on the criticism connected to the accountability (to get a more detailed account of all the criticisms towards the Global Compact see Rasche 2009).

The voluntary nature of the Compact, and the lack of any monitoring and enforcement mechanisms, quickly became the most significant critiques (Williams 2004). This is instrumentally connected to the accountability of the Compact, as the opponents argue that the lack of these enforcement mechanisms makes it impossible for the Global Compact to demand accountability from its participants. The basis in learning, dialogue and partnership, that the Global Compact relies on, was quickly accepted by the business sector. However, especially NGOs and civil society organizations was looking for increased regulation and monitoring. They argued that the Compact would be inadequate at best, but at worst there was a large risk that it could be used as a tool for companies to “bluewash” their image in the eyes of the public (Kell 2005). Organizations like Greenpeace, Action Aid, Human Rights Watch and CorpWatch were quick to criticize the Global Compact when it was launched. Greenpeace denounced the initiative from the beginning. Human Rights Watch and Amnesty international was not as critical, although skeptical, and suggested improvements that should be made. These improvements included the strengthening of monitoring and enforcement mechanisms (Berliner and Prakash 2012). The contention between voluntary and regulatory has remained as a large conflict (Kell 2005). The accusations against the Compact are that, because of the lack of monitoring, it is impossible to verify which companies are in violation of the ten principles and subsequently to hold them to account for this. In addition, the voluntary approach lack any means of enforcing sanctions. Deva (2006) argues that these deficiencies in the Global Compact have fostered the misuse of the initiative as a marketing tool. Williams (2004) writes that critics point out the risk of adverse selection, meaning that the companies that are most eager to join are the ones in need of an improved public image, and they therefore seek to associate their name with the UN to gain legitimacy. However he acknowledges that the participation of some the highest praised companies in the world, to some degree, disprove this critique.

Georg Kell, the Executive Director of the Global Compact, is probably the most vocal proponent of this initiative. He has written a number of published articles, in which he evaluates the work of the Global Compact as well as defends against the critique directed at it. Kell (2003) is clear that the Global Compact is not and has never intended to be a monitor and regulation initiative. Neither is it a substitute for other monitor and regulation actions taken by governments. Proponents of legal accountability see the Global Compact as a hindrance in the

development of hard laws in the area of CSR. There are those that express fear that the UN will be captured by business, so that the goal of business becomes the goal of the UN (CorpWatch 2000; Deva 2006) Clapp (2005) argues that a study by the UNCTAD has shown that hard laws are the best motivating factor for companies to develop environmental policies. Companies wish to avoid being legally liable for damages and they are therefore highly motivated to act by regulation. Kell (2005) defends against this critique by explaining the role of the Global Compact in relation to other approaches backed by regulation. In his view, the Global compact is meant to function as a complement that can explore what ways existing norms can most effectively be implemented. According to Kell, regulation is indispensable however it does not stimulate innovation and positive change, as it prescribes a minimum standard under which actors are penalized, which will merely induce compliance to these standards. As a result, regulation and voluntary initiative is complementary, and both are necessary for improvements to be made (Kell 2005). In addition, he meets the critique regarding the lack of enforcement by discussing whether or not the Global Compact would have produced more results if it had been established as a regulatory instrument. His conclusion is that this would probably not be the case, as the UN tried that route before, through its Code of Conduct, without any results. Moreover, it would be extremely difficult in the current political climate to reach an agreement on a regulatory framework. The end result would be a watered down agreement that reflect the lowest common denominator of all the UN member states (Kell 2005).

Nevertheless, it is acknowledged, even from proponents of the Global Compact, that the Compact by itself does not have the strongest capabilities to hold companies to account (Williams 2004). However, this is where the Compact relies on public reputational accountability and outside actors. Many companies are very dependent on their reputation in order to maximize their profits. As a result, the proponents of the Global Compact argues, that it is enough to make use of a watchdog approach. With a watchdog approach means that outside actors hold companies to account by scrutinizing their behavior. They compare behaviors to the set of standards the companies committed to with their participation in the Compact. “Naming and shaming” should be utilized when companies do not live up to these responsibilities. Since the introduction of the annual reporting requirement (more on this in the next section), this form of accountability approach can be utilized even more effectively, as transparency from the companies are required (Kell 2005). However Williams (2004) points out that since the accuracy of the content of the reports are not monitored or verified by the Global Compact the general public will only get the information the company chooses to report. This weakness in the system makes it possible for companies to highlight areas where they have good performance, instead of areas where they have a poor record, which makes it easier to hide negative information.

4.2 Evolvement of accountability mechanisms

As can be seen in the previous section, the decision-makers in the Global Compact argue that it is not in the mandate of the initiative to be a regulatory and enforcement agency. Despite this, however, some small steps in this direction have been made during the last years. It seems that the decision-makers in the Global Compact to some degree have listened to the criticism lobbied against them, and they are actively trying to improve accountability without changing the main governing structures. The Global Compact now has some mechanisms that

are in place to strengthen the accountability of the participating companies. There has been a clear development process, and a period of trial and error, in order to institute the strategies as they are today (Kell 2012). In 2004 the Global Compact introduced a number of what they call integrity measures, with the purpose of strengthening integrity and accountability, by making it harder for participants to misuse the name of the Compact (Global Compact 2011a). A brief summary of the three integrity mechanisms that are listed at the Global Compact website will be given.

- **Misuse of association with the UN and/or Global Compact:** The name and logo policy is one of the new integrity measures. The purpose is to determine under what circumstances the companies can use the name and logo of the Global Compact. The policy “permit its participants and other stakeholders to use the Global Compact logo only in the context of their activities promoting the Global Compact and its goals, but not in any manner that suggests or implies that the Global Compact Office has endorsed or approved of the activities, products and/or services of the organization, or that the Global Compact Office is the source of any such activities, products and/or services.” (The Global Compact 2013b). This basically means that it is not allowed for participants to use the Compact logo for purely commercial purposes or economic benefits (Deva 2006).
- **Allegations of systematic or egregious Abuses:** In addition to the policy on the name and logo, the Compact has put a system in place on how to handle complaints against any of the participants. The Global Compact encourages credible complaints of systematic or egregious abuse of the ten principles. A complaint should be presented in writing to the Global Compact office, and if it is found to be credible, the office will provide guidance in what action should be taken. If the participant do not respond to the complaint, and refuses to engage in dialog within two month, the company is regarded as “non-communicating” and risk being delisted from the Compact (The Global Compact 2011a).

However, it should also be noted that the Global Compact are not intended to be a substitute for any legal action. The Compact will not involve itself in any claims of a legal nature that a party has against a participant (The Global Compact 2011a).

- **Annual reporting and Failure to communicate progress:** A policy on annual reporting was introduced as a means to strengthen integrity and promote accountability. The Communication on progress (COP) report is an opportunity for participants to communicate information regarding their actions to stakeholders and all other interested parties. The COP report should include the progress the participant has achieved in implementing the ten principles. It is a public report, that is made available to all, and a link is posted on the Global Compact website. The report is a tool that increases transparency, as well as make it possible for outsiders to evaluate the participants actions. If a company fails to submit a report by the deadline, it will be listed as non-communicating, and if a year goes by without submission the participant is delisted from the Compacts website (The Global Compact 2011a). At this time, there is not a standardized reporting format and no strict rules for what to include in the reports. The Global Compact does collaborate with the Global Reporting Initiative (GRI) and they recommend participants to use the GRI guidelines when reporting, however this is not a requirement.

COP is the strongest accountability mechanism that is currently in place in the Global Compact. The idea is that these mandatory reports will enable public reputational accountability because they are publicly available. The Global Compact encourages stakeholders to review reports with the purpose of identifying inconsistencies in the public commitment of companies and the actual business practices (Rasche et al. 2012). The critics acknowledged the efforts on the part of the Global Compact to strengthen accountability; however they are not satisfied with the new measures since they do not address the core issue of the lack of any monitoring and enforcement (Williams 2004). Even more concerning is the high number of participants that do not hand in the annual report. Deva (2006) found, that in 2006, the number of participants listed as non-communicating was as many as 25 percent of all members. He is brutal in his critique when arguing annual reporting should not be an insurmountable task, and an absolute minimum one could demand from a serious participant. He concludes that this is evidence a large number of participants do not take the Global Compact seriously, and have either joined without realizing the recruitments, or they joined with the goal of creating good PR for themselves.

4.2.1 A step closer to enforcement- delisting of companies

At the same time as the integrity measures was introduced in 2004 the possibility of expulsion from the Compact was instated. This is done through a delisting process, in which expelled companies are removed from the participant list, and instead listed as expelled on the Global Compact website. Delisting of a company takes place when the company has failed to live up to the requirements demanded by the Compact, i.e. violated the integrity measures. Almost exclusively, this is done through the failure to submit the COP report in time. As previously stated, the companies that do not hand in a COP report will first be listed as non-communicating and if a year goes by without a submission they will be delisted (The Global Compact 2013c). The first list of companies to be delisted was announced in January 2008. Since that time, a large number of companies have followed. The total number of delisted companies is up to over 4000 (Global Compact 2013d).

Although the majority of the companies that have been delisted so far have been so as a result of failure to hand in COP reports, the Global Compact have the right to delist participants if they are in non-compliance with the other to integrity measure as well. That means this policy can be used to expel companies for being detrimental to the integrity of the Compact. This could potentially address one of the strong critiques against the Global Compact. It is the policy of the Global to accept all companies that apply for membership, without any screening of suitability. As a result, even the companies with the worst reputation and track record in the world in issues of human rights and environmental protection, are members of the Global Compact. Several critics claim that as long as these companies are allowed to use the name of the Global Compact, and still continue business as usual, this initiative will have no credibility (Global Compact Critics 2007a; Global Compact Critics 2007b). With a delisting mechanism in place the possibility exist for the Global Compact to respond to this critique. There have been occasions when this possibility has been put to use. In 2011, activists send a complaint about a Lithuanian company to the Global Compact. The Lithuanian company is delisted in June 2011 after refusal to engage in dialogue with the activists (Global Compact Critics 2011). Furthermore, examples can be found where

companies have been delisted after breaking the policy on the use of the Global Compact name and logo (Global Compact Critics 2009).

The delisting mechanism has evolved somewhat since the inception. Up until July 2009 the time limit until delisting was three years. Companies that had not filed a COP report for 1 year were considered “inactive,” and firms that had not filed for 2 years were considered “non-communicating,” and then delisted after 3 years. This process was shorted in July 2009 to the current one year time limit before delisting takes place (Sethi and Schepers 2013). Furthermore, in light of the adoption of a delisting mechanism, it is also possible to see an aspiration in the Global Compact to improve its reputation when it comes to matters of accountability. The possibility of delisting companies is probably the strongest enforcement tool the Global Compact have in its arsenal for securing accountability. Kell (2012, p. 44) writes that the delisting policy “helps to challenge and eliminate free riders who fail to report on what progress they have made on their commitments to the Global Compact!”. Sethi and Schepers (2013) are more skeptical as they note that the delisting is limited to failure of handing in the COP report but no attention is still paid to the quality and content of the COP reports as long as they meet the minimum standard. However the delisting mechanism could potentially eliminate one of the strongest criticisms against the Global Compact. Although it has not happened in more than a few cases yet, it has because of the delisting mechanisms become possible for the Global Compact to expel companies that in an obvious manner use the Compact to “bluewash” their name while not putting in any effort to improve CSR or simultaneously violating human rights.

4.2.2 A weakening of accountability again? One year moratorium and improvement of reporting framework as a solution

When considering the improvements made in the policies of the integrity mechanisms, that is the adoption of the delisting policy and more lately the stricter time limits before delisting, it can be concluded that the Global Compact has a willingness to improving accountability. Unfortunately, there have also been some setbacks during this process. In 2010, the Global Compact board decided to suspend the delisting for one year for all companies located outside of OECD/G20. This was done under the assumption that this policy was too harsh, especially when applied to companies that lack resources to fulfill the reporting requirement (Global Compact 2010).

When studying the participant list of the Global Compact, it can be seen that the Global Compact has been successful in recruiting companies from developing countries. Over half its members are located outside of OECD. By examining the spread of the Global Compact in the world Bremer (2008) concludes, that in recent years, new participants have come predominantly from developing countries. When he compares this statistics with the rate of non-compliance with COP, it is possible to see a correlation. This suggests, the growth of participants have come at the price of lower levels of reporting, meaning that there is an especially low reporting rate from participants from developing countries. Similar finding can be seen when studying the list of delisted participants. There are published reports on the disproportionate number of delisted companies from developing countries after all delisting-occasions. A high number of Asian companies were removed as participants during a delisting in 2008. Of the 630 companies that were delisted roughly 30 percent (192 companies) was from China, India or Southeast Asia. Virtually all companies from the Philippines have now been delisted (Global Compact Critics 2008). In 2010 it was instead

Latin American companies that had a high rate of delistings. High numbers of companies from Mexico, the Dominican Republic and Columbia was reported as delisted (Global Compact Critics 2010). It was after these delistings that the Global Compact took the decision to place one year moratorium on delisting participants from developing countries. Cetindamar and Husoy (2007) have found that the type of companies that join the Compact differs between the developing and the industrialized countries. The participants from the industrialized countries are predominately larger TNCs whereas the participants from developing countries are smaller and medium-sized enterprises. This finding lends weight to the claim that it is because of lack of knowledge or recourses that many companies in development countries do not hand in the COP report. On the Global Compact website, it can be read, that board members expressed concern that the introduction of a stricter policy on COP had resulted in a very high number of delistings from developing countries. The statement express how they feel the COP policy needs to be reviewed and that developing countries needs some extra time in order to catch up to the stricter policy. They therefore agreed to a one year suspension on delisting of companies from these countries, between 1 January 2010 and 31 December 2010. Countries that had been delisted already in 2010 was therefore reinstated (Global Compact 2010). Sethi and Schepers (2013) express strong criticism when writing about the one year moratorium. They see it as preposterous that any company would be unable to generate the small amount of information the Global Compact demand for their report. The Global Compact board, however, argues that this moratorium is not a weakening of the COP requirement but a necessary intervention before a long-term solution can be developed (Global Compact 2010).

At the end of the one year moratorium the delisting policy was reinstated, and a large number of companies were again delisted as participants (Global Compact 2011b). The Global Compact has chosen to focus on developing the policies regarding the annual reporting as a way to solve the issue of the disproportional number of companies from developing countries that are delisted. The newest development in this area is the introduction of a Differentiation Framework. Launched in the beginning of 2011, the Global Compact introduced the possibility for companies to differentiate themselves depending on the standard of their COP reports (Global Compact 2011c). This is intended to be a solution to the different needs and experiences of companies. There are two levels of classifications - active or companies can declare themselves advanced - which is supposed to prevent the disadvantage of beginners compared to more experienced participants. The Global Compact hopes that companies will strive towards the advanced classification in order to differentiate themselves from their competitors, and to gain the approval of the public. The companies that fail to meet the minimum requirements, and are unable to achieve an active status, will have one year to improve. A Learners Platform has been developed and will offer support to these companies.

The introduction of the differentiation frameworks means a new phase face in the transparency and disclosure policy of the Global Compact has been reached. Kell expressed how this is a significant move for the Global Compact as is it will offer incentives for both smaller and less experienced participants and the more advanced companies. Furthermore, it will help the stakeholders to critically asses the performance of companies as some companies will be listed as active and some as advanced (Global Compact 2011b).

5 Conclusion: A maturity process that has improved a still weak accountability

The Global compact has faced both challenges and triumphs when it comes to the accountability issue. Looking at the Global Compact from the launch in 2000 to present time, an evolvement and maturity process has taken place. It is possible to at least see willingness on the part of the Global Compact to improve when it comes to issues of accountability. During the first years of the Global Compact, no direct policies connected to accountability had been instated. During this time the Compact was heavily criticized, especially from NGOs and civil society organizations, but also from the academic front. The strongest contention between proponents and opponents are the voluntary nature and the lack of monitoring and enforcement mechanisms. In 2004 the Global Compact decides to launch three integrity measure intended to make it harder for companies to misuse the name of the Compact. Furthermore, the policy of delisting was introduced and the first participants were delisted in 2008. Despite these positive developments, the Global Compact met some setbacks in 2010 when they argued that too many companies was delisted and therefore decided to suspend the delisting policy for one year. After this, the integrity measures were reviewed and a new differential framework was developed. In line with how the Global Compact works with other issues, this framework is based on the learning and voluntary advancement to a higher level. That the Global Compact decides to weaken their strongest accountability mechanism because they felt too many companies were delisted demonstrate that perhaps the desire for quantity beats that of quality. At least it indicates that keeping the idea of the Global Compact as an initiative for all is stronger than the willingness for stronger accountability. The decision-makers of the Global Compact are still adamant in their responses to criticism directed towards the Compact - the Global Compact should not be a monitoring and enforcement initiative and that it is very unlikely this will change in the near future. Instead the integrity measures and the delisting policy have been developed, in part as a response to criticism that the integrity and credibility of the Compact was lacking. These measures represent a positive step in the path of taking back that credibility, however it is likely that there is a need for more aggressive enforcement measures to regain full credibility among its opponents.

Since some of the policies included in this thesis are very new developments, it is still early to draw any reliable conclusions regarding what their affect will be in the future. However, one thing that is already clear is that there has not been any noticeable decrease in the rate of company delistings so far. Right before the differential framework was launched in 2011, the Global Compact announced that the total number of delisted participants had reached 2000 (Global Compact 2010a). However, the current number, just two years later, is up to over 4000 companies that have been delisted (May 2013, Global Compact 2013d). This indicates that the number of companies that do not fulfill their responsibilities is still large. Since the Global Compact has established a Learners Network and given an extra year to companies that struggle to produce a COP report, the failure to hand in the annual report can no longer be blamed on lack of knowledge on the part of the company. In order to draw any conclusion regarding the accountability of the Global Compact, it is informative to go back to the

definition for accountability used in this thesis. Answerability is dependent on that correct information is given in a transparent and correct manner. Enforcement, on the other hand, is more connected to the requirement that some sort of enforcement mechanism can put pressure on the accountable actor to change irresponsible behavior. In the case of the Global Compact's accountability mechanisms the first part can be fulfilled as transparency has increased as a result from the introduction of the COP mechanism. The annual reporting requirement has made a large amount of information available to the public about how the Global Compact participants work with CSR. However, a large drawback with this mechanism is the lack of verification of the information in the reports before they are published. This makes it hard for the stakeholders to fully trust this information as the only source on which to hold companies to account. These findings are similar to what Deva (2006) concludes after his case study on the Global Compact. He is somewhat more critical as the delisting mechanism had not been utilized at the time of his study and he comments on the lack of any pressure on companies that fail to hand in the annual report on time. The closest the Global Compact comes to enforcement is through the delisting mechanism. It can therefore be concluded that, since this mechanism has been implemented, the enforcement part of accountability has at least to some degree been improved. One of the strengths with the Global Compact is that it gives legitimacy to agenda of CSR among many companies from all over the world. However I would argue based on my empirical findings that despite some improvements in how the Global Compact holds its participants to account, these mechanisms are still quite weak. Even more problematic, is the inattention the Global Compact has displayed when it comes to mechanisms that would address verification of the content of COP reports. That the Global Compact does not possess the mandate to monitor all activities of the participating companies is one thing; however I would argue there is a difference between monitoring the companies and verifying information voluntarily reported. If the Global Compact aims to achieve better than a number of weak accountability mechanisms, this is one issue that needs to be addressed.

Because of the time constraints that have been present when conducting this thesis, my empirical study is only based on a small sample of all the potential stakeholders in this issue. Furthermore, since some of the policies included in this thesis are very new developments, it is still a shortage of academic studies that have included them when writing on the Global Compact. This research issue would benefit from more research in order to be able to draw stronger conclusions about the affects of these new accountability policies. A common conclusion in academic literature on accountability in global governance is the difficulty in establishing a reliable enforcement mechanism when hard legislation is not an option. This is a tendency that is present in my case study as well. There is a need for future research to investigate further on the potential of the delisting mechanism as a mechanism for enforcement. Moreover, one potential source for future improvements on transparency and accountability is the new differential framework. Current academic literature on accountability in global governance focuses a lot on negative publicity as a way to secure accountability. Following the possibility for companies to differentiate themselves in a positive manner in the Global Compact, the interesting question arise, what correlations there can be found between motivating factors, like standing out among the other participants in a positive manner, and the strengthening of accountability.

6 References

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