

## Appendix L **Global Theaters of Action: Civil Regimes**

In *A CIVIL REPUBLIC* (chapter 9) we defined a global regime as a system of authority with rules that are not all derived from government. The rules are derived from social compacts made among businesses and non-governmental organizations. Business in this case follows the rules set outside its sphere of commercial (competitive) activity. A common ground for global rules can develop in any sphere—art, accounting, mining, law, medicine, science, religion, education, or business. Our question is how inter-sector rules may develop in a global regime for the common good.<sup>1</sup>

A *civil* global regime develops through international bodies of authority. Examples are the Forestry Stewardship Council, the International Standards Organization (ISO), and the Law of the Sea. Stakeholders in these regimes develop a public domain through uniform standards and systems of accountability. This type of regime is organized with tri-sector stakeholders like international business organizations (IBOs), international governmental organizations (IGOs), and non-governmental organizations (NGOs).

Global actors create “soft law” (norms), which under many circumstances can be more effective and binding than the “hard law” created by nation states. This reduces the need for rules and laws set by

intergovernmental organizations. The critical question in these cases is one of compliance.<sup>2</sup>

Global rules (norms) are difficult to categorize, but we have described them in the Third Sector as social and cultural as distinguished from financial and economic. They are created in the professions—in medicine (e.g., public health and safety) or law (e.g., fairness and justice), and in religious life (e.g., compassion and faith), family life (e.g., caring and nurturing), and education (e.g., truth and reason). We have described norms in capitalist markets, typically, by the norms of business (e.g., profits and productivity) and distinguished them from Third Sector norms (e.g., fairness and cooperation). We asked: how could these different norms come together in global markets?<sup>3</sup>

In this Appendix we want to examine how development toward a civil regime can happen in markets through "global theaters of action." As we shall see in Theater 1, *business actors* (e.g. trade associations) can work toward being a civil regime. These actors are international business organizations (IBOs) that can dominate world regions, but—with government encouragement and Third Sector participation — could develop global public norms. They could develop core values like democracy, transparency, and accountability.

In Theater 2, we will see how *social actors* work to build a civil regime. These are international non-governmental organizations (INGOs) that seem powerless and ineffective in the economy, but can also be strong and effective, helping business to develop civil markets.

In Theater 3, we will discuss how *political actors* build civil regimes. These actors are intergovernmental organizations (IGOs) that advance capitalist markets, but which, on the other hand, could advance civil markets. They can work with IBO/INGO contracts and establish public accountability in markets. With a little push, and incentives for cooperation, these IGO/IBO/INGO actors could transform capitalist regimes into civil regimes.

### ***Theater 1: Business Actors***

All business actors operate with a set of rules. Public planning begins with trade associations when they have begun to look like civil regimes. Trade associations develop social agreements that work for the common good. (By social agreements we mean those non-legal norms -- folkways, customs, conventions, standards, codes, and mores -- that guide their conduct; no government demanded these norms.) Our focus will be on how justice norms (e.g., fair trade) and democratic norms (e.g., elections in

associations) develop in these regimes. These associations need support from nations and the United Nations.<sup>4</sup>

As we illustrate below, some trade associations qualify as “partially civil” as they introduce standards (non-legal norms) into their markets for the common good. This is the point where public planners begin their work.

Let me preface this summary-sketch in Box 1 below by saying that civil regimes develop in global markets just as democratic governments develop in political territories: slowly. Civil regimes develop through an “electoral process,” “political representation,” “voting procedures,” “autonomous judiciaries,” etc. In this case of the aluminum industry (see Box 1), we will see how IBOs move toward alignment with the values of civil society.

### **Box 1. The Aluminum Industry**

(A Partially Civil Regime Responding to Core Values)

1) *Competitors collaborate to establish a democratic organization.*

The Aluminum Association, Inc., (AAI) is a (democratic) confederation of U.S. producers of primary aluminum, recyclers, and makers of semi-fabricated aluminum products. Member companies operate more than 200 plants in 35 states. The U.S. aluminum industry is the largest in the world, annually producing about \$35 billion in products and exports. Top markets for

the industry are transportation, beverage cans and other packaging, and infrastructure. The U.S. industry produces more than 22 billion pounds of metal annually and employs 143,000 people with an annual payroll of \$4.8 billion. Aluminum is one of the few industries left in America that impacts every community in the country, either through physical plants and facilities, recycling, heavy industry, or consumption of consumer goods.

Headquartered in Washington, D.C., the AAI provides leadership to its member competitors through its programs and services, which enhance aluminum's position in a world of proliferating materials of comparable kind. It lobbies the government and to increase aluminum's status as a "material of choice" and remove all "impediments to its fullest use." In the process, it pays attention to its reputation. It wants to avoid social problems in the production and distribution of aluminum products.

The AAI holds periodic elections for its board of directors. It has a written set of bylaws, maintains a magazine, keeps statistical reports for production and export, and does not share price information to avoid antitrust action. It collaborates with other trade groups, like the National Association of Aluminum Distributors, and allows foreign firms to be members.

2) *A trade association develops standards for its industry.*

Industry competitors develop certain standards in their market sector, some technical and others social. For example, aluminum is technically alloyed with small amounts of one or more elements, such as copper, manganese, silicon, magnesium, or zinc, to enhance desired characteristics such as increased strength, corrosion and resistance. The AAI promotes the global norms set by the American National Standard (ANSI) alloy designation systems for wrought aluminum, cast alloys, and other aluminum products. The AAI

registers chemical composition limits of alloys, assigns alloy designations, and publishes registration records. It strives to maintain standards in its own self-interest and for the common good. It wants to maintain a good reputation and aims to achieve "environmental, societal, and economic objectives."

3) *The association develops civic goals and internalizes norms.*

This aluminum association promotes the goals of environmental protection as set by government regulatory agencies but it also goes further on its own. It supports research and education that addresses other environmental issues that are "pertinent to the American public." It organized an environmental committee and "work groups" to honor "civic goals." Its promotion of "environmental performance" includes managing workshops and membership meetings to assist in regulatory compliance, thus for our purposes, *internalizing civil norms*. It has "proactive voluntary emission reduction programs" and research programs that cultivate better environmental performance in the industry. The AAI collaborates with governments to advance environmental protection.

Examples of two projects in the association are the Voluntary Aluminum Industrial Partnership (VAIP) program with the federal EPA, and its own Pollution Prevention Program. The AAI claims that the "aluminum can is solid value, not solid waste" and seeks to advance a recycling system that benefits the environment as well as the industry. It works with governments to include energy and natural resource conservation as well as landfill savings. The industry benefits because the recycling system serves as an "above-ground mine," a critical component of its metal supply. The AAI reports an investment of hundreds of millions of dollars to develop a system of more than 10,000 recycling centers nationwide.

4) *The association promotes profit and public values together.*

The Aluminum Association, Inc. advocates environmental protection. It wants "every package to pay its own way in the recycling stream" and "encourages market-based incentives for recycling programs." It claims that most of the aluminum cans produced today are already being recycled. "The industry wants every can back and will continue to drive the rate of return higher." The demand for used cans is "strong and virtually guaranteed."

5) *Going global.*

The AAI plans to join global efforts to advance *public values* such as safety and health. Industry executives have spoken out in support of those efforts. At a May 2001 meeting of the International Aluminum Forum, Alcan Inc. executive vice president Richard Evans said that it is time to rethink basic beliefs about aluminum as an industry. Key among his proposed initiatives were to: 1) aggressively adopt global best practices for environment, safety, and health, 2) maintain credible and accessible databases, 3) promote market efficiency and transparency, 4) promote global industry exchange, especially by bringing Russia and China fully into the group, and 5) position aluminum on the "sustainability map."<sup>5</sup>

There is nothing special about the aluminum industry. It may or may not work for the common good in the global market and may not live up to its standards; our point is that there are thousands of trade groups like aluminum that seek to do good and do well at the same time. They are part of the (relatively) civil polity of markets. Trade groups like the AAI are

partly civil; they develop in markets that are based on systems of dominance and are exploitive but they are also organized with certain democratic rules and standards; they bring civil order and some fairness into the market.

Public planners in these cases would encourage trade associations to forge stronger links with science federations, environmental advocates, and citizens' groups in the Third Sector. If this does not happen, these measures of civility that we noted above could disappear in global competition. Trade associations too often develop into cartels that rule market sectors. They can have an adverse affect on developing countries that do not have the power to counter their influence. Hence it is the task of international governmental organizations like the UN to encourage trade groups to partner with Third Sector associations to create systems of public accountability. How could this be done?

### Third Sector Connections

In the summary sketch in Box 1, we can see norms that are connected with core values emerging within an industry like aluminum. Now let us see what could be done to advance the important work started by the aluminum industry.

In a public plan negotiated by the US Commerce Department in collaboration with the UN, this aluminum industry could be invited to work

with environmental organizations, professional groups, scientific associations and with IGOs, like the UN Environmental Programme.<sup>6</sup>

Public planners should see trade associations as part of this transition between capitalist markets and civil markets. Trade associations are oligarchies but they also have democratic principles. The AAI is chartered as a democratic (nonprofit) association, the first step in civil development within this business sector. If corporate members in this association were to see “too much control by a few,” they have a legal right in the United States to act on the problem through federal courts. The courts will enforce their member right to vote in their association.

The best leaders in any trade association want the standards that they have established to represent them and their craft. This is true whether the market sector is aluminum, computers, housing, cars, or clothing. In the aluminum industry, members want to ensure high-quality products while promoting “best practices” for health, safety, and environmental protection. It is in their self-interest as an industry. They want to avoid government regulation and to make a strong case for products to their customers. These factors serve to advance civility in the market.

Note the direction of civil development (illustrated in Box 2, below). A business corporation is a “command system,” but in coming together in

trade associations like the AAI, competitive corporations organize a relatively democratic non-governmental federation. The members bind together like a community, create rules and get a sense of what is right and wrong. This happens in every federation, whether its members are firms, or churches or schools, or a learned group of scientists. And as core values like justice and democracy enter a market sector like aluminum, a step is taken toward a civil market. This is the framework in developing a civil governing system around the world.

**Box 2. Economic Actors: Developing Toward Civil Regimes**

Business Corporations ⇒	Confederations ⇒	Civil Regimes
Competitors ⇒ (Corporate Command Systems)	Trade Associations ⇒ (Democratic Organization)	Public Accountability Systems (Business/NGO Contracts)

Public accountability systems develop from civil associations when they establish standards, monitoring systems, and authorities to enforce compliance. This has begun to happen through the collaboration of multinational business with international non-governmental organizations (INGOs).

The International Labour Organisation (ILO) is an INGO that helps global regimes standardize norms of safety and health for workers worldwide. When a corporation links with the ILO in the global Third Sector, it agrees to standards on health, safety, and freedom of contract for its workers. The ILO maintains a system of inspections to oversee those standards. It makes some 6,500 ratifications on standards and nearly 1,500 reports each year. Reports on compliance are carried out by ILO's Committee of Experts on the Application of Conventions and Recommendations, which consists of twenty independent persons of high-standing and eminent qualifications in appropriate legal or social fields. Members of the committee are drawn from all parts of the world, appointed for a period of three years by the governing body of the ILO acting upon nominations by the director general.

So, these are steps in building a civil regime. It is for economic actors (global firms and trade associations) to develop contracts with INGOs who are social actors. This ideal is what civil planners are working to fulfill now through the UN and affiliated agencies. This type of inter-sector planning aims for a global economy that is competitive, safe, responsible, cooperative, transparent, profitable, and accountable. It is a system of international exchange that promotes a culture of respect,

patience, and tolerance. Social actors, then, have a role in building civil regimes around the world.

### ***Theater 2. Social Actors***

Non-governmental organizations are growing in size and number. Estimates show that up to 70 percent of the 2 million NGOs in the United States have been created in the last three decades. The number of NGOs operating internationally—those with a significant presence in three or more countries—has quadrupled over the same period of time, to 30,000.<sup>7</sup> Their presence was made visible at the annual conference of the World Trade Organization (WTO) in Seattle in December of 1999, when activists fighting for labor, health, consumer, and environmental standards joined together in public protest. These and other citizen protests around the world, including those at the WTO conference in Cancun, Mexico, in 2003, were coordinated by thousands of NGOs with an increasing “global presence.”

Global NGOs can solve certain social and environmental problems more capably than business or government. They are in world coalitions to give public standards international prominence. For example, NGO activist groups provide solutions to problems in Bangladesh, where 5,000 of them work on literacy and economic development programs. In the United States

there are over a million NGOs helping to solve problems; many of them with international ties.

INGOs are working to keep global problems from happening in markets, sometimes to the consternation of world leaders.

While CEOs and government leaders were working to ratify a treaty permitting mining in Antarctica in 1988, a coalition of 200 NGOs formulated a counter-proposal to set the continent aside as a “world park.” Using data from Greenpeace’s Antarctic monitoring station showing the fragility of the region, the Antarctic and Southern Ocean Coalition marshaled so much public support for its proposal that the mineral treaty was abandoned; today Antarctica is a world park in which most commercial enterprises are forbidden.

NGO activist organizations in the U.S. and environmental and health groups in Europe rallied consumers against the bio-agricultural industry’s efforts to introduce genetically modified foods onto supermarket shelves without sufficient testing of their ecological and health effects. In response, major supermarket chains announced that they would refuse to stock products that include genetically modified foods as ingredients, and baby food manufacturers have said they will ban these ingredients as well. Faced with hard criticism, Monsanto, one of the leaders in the field of genetic

modification of crops, dropped plans to deploy its “Terminator” seed technology, which renders crop plants sterile and makes it impossible for farmers to save seeds from one season to another. The Terminator debate continues, and inter-governmental organizations like the EU are part of the resistance movement.

Social actors (NGOs and citizen action groups) have also begun to play an important role in providing consumers with public information about business standards. SmartWood certifies wood that is harvested by sustainable methods; Green Seal promotes environmentally friendly products; California Certified Organic Farmers certifies food that meets its organic standards.<sup>8</sup> Massive consumer boycotts coordinated by NGOs have pushed clothing, shoe, toy, and other companies to address the issues of sweatshops and child labor.

As the power of INGOs has grown on the world scene, the United Nations has supported their efforts. But tensions exist between non-governmental organizations, the UN and other inter-governmental bodies, and international trade organizations. The debate over the Global Compact sponsored by the UN is a case in point.

At the World Economic Forum in Davos, Switzerland, in January of 1999, governments and business leaders met to discuss the “rapidly growing

world economy.” At this meeting UN Secretary-General Kofi Annan called for a “Global Compact” between the United Nations and the business community, challenging business leaders to enact nine core principles derived from international agreements on labor standards, human rights, and environmental practices. In exchange, he promised that the United Nations support for free trade and open markets.<sup>9</sup>

Fifteen months later, addressing the Millennium Forum at the United Nations on May 22, 2000, Annan called again for the establishment of new standards on the world scene; INGOs, he said, could work with business to develop the economy in a humane way. To that end, the Global Compact would post “best practices” standards and proposals made by the companies themselves on a UN website; NGOs could then evaluate the proposals and claims, and companies would use the same forum to respond or issue rebuttals to criticism.<sup>10</sup>

The United Nations has accepted business as a foundation for development but its agencies know that they do not have the power to enforce compliance with the Global Compact. This has been a concern of civil society leaders and members of the UN itself.<sup>11</sup>

Carol Bellamy, executive director of UNICEF, has said, “It’s dangerous to assume that the goals of the private sector are somehow

synonymous with those of the United Nations because they most emphatically are not.” Kenny Bruno, part of a global movement called the Citizens Compact on the United Nations and Corporations (whose alternative proposal is discussed below) expressed strong dissent on the new UN policy.<sup>12</sup> James A. Paul, executive director of the Global Policy Forum (an international nonprofit, with links to the UN, that addresses the problems of globalization), stated, “Multinational corporations are too important for their conduct to be left to voluntary and self generated standards.” Other UN supporters have argued that a strong international legal framework must be developed to govern the behavior of global corporations.

These and other civil society leaders argue that the UN-sponsored Global Compact could provide too much legitimacy for multinational firms still engaged in human rights violations and environment destruction. Indeed, critics point out that by agreeing to the Global Compact, business associations insisted on a policy of “no monitoring.” In 2000, Maria Livianos Cattui, the secretary general of the International Chamber of Commerce, said, “Business would look askance at any suggestion involving external assessment of corporate performance, whether by special interest groups or by UN agencies. The Global Compact is a joint commitment to

shared values, not a qualification to be met. It must not become a vehicle for governments to burden business with prescriptive regulations.”<sup>13</sup>

NGOs have called for UN policies on monitoring and others have gone further. The NGO CorporateWatch summarized recommendations made by civil society leaders, which included a proposal to eliminate the World Trade Organization; it included support for international agreements such as the Kyoto Protocol and an alternative “compact” with business. The Citizens Compact, formulated by a group of NGOs participating in the movement cited above, is endorsed by more than 70 human rights and environmental groups from around the world and lays out a foundation for cooperation between the UN and non-business, non-governmental groups. These “social actors” believe that new relationships are needed to build a civil economy.

NGOs support the UN Sub-Commission on the Promotion and Protection of Human Rights, which is composed of 26 independent members and is the main subsidiary body of the UN Commission on Human Rights. The sub-commission, looking at human rights, has called the WTO a “nightmare” working against developing countries. Its working group on transnational corporations decided, at its 1999 session, to draft its own alternative code of conduct for corporations, focusing on human rights.<sup>14</sup>

Clearly, civil society organizers have a lot of work ahead and they are not all angels. For example, some Third Sector organizations have become too dependent on business. They seek financial resources, technology, and expertise from business to advance nonprofit goals. Civil society planners are suspicious of such partnerships. There is a gap between the cup and the lip, the ideal and the real. When a big firm gets involved with an NGO it usually becomes the dominant player shaping the values of its affiliate; sometimes business will even buy out a nonprofit NGO.

Despite this criticism and counter-trend, nonprofits still play a constructive role. They raise the profile of human rights, labor standards, and environmental issues in the context of business. UN/NGO public policy networks focus upon such public issues as landmines (led by the International Campaign to Ban Landmines), corruption (led by Transparency International), the construction of large dams (led by the World Commission on Dams), and debt relief (led by Jubilee 2000).<sup>15</sup> These are all linked to business, and they are all important efforts toward the common good. But what is missing? What is missing is a network of *global systems of accountability*.

When industries develop codes of conduct, they take a first step toward responsibility, but not accountability. The Japan Federation of

Economic Organization, for example, adopted the Keidanren Charter for Good Corporate Behavior and senior Japanese business leaders have established the Caux Principles, which blend Eastern and Western ethical traditions. The One World Trust, which was formed fifty years ago and is headquartered in Britain, has gone further; it is defining roles for stakeholders, looking to promote codes of conduct that can be audited by independent monitors, and setting specific objectives in specific market institutions.<sup>16</sup>

These two examples—one from the business order, one from the Third Sector—represent some building blocks for a system of accountability with enforcement but we are talking about programs that change the structure of markets worldwide, strategies that stop the decline of civil society and correct deficiencies in the market as a capitalist system.

So, one more “theater” remains to help establish a new civil order beyond the conditions laid down by capitalism and nationalism. This theater helps to generate the basis for world peace and justice.<sup>17</sup>

### ***Theater 3. Political Actors***

In a civil plan governments should not grow larger by trying to regulate markets, or by adding laws and new agencies to supervise corporations in global markets. Rather, their role is to contribute to the

development of a civil (self-governing) economy. Governments—and international governmental organizations (IGOs), including the United Nations—must develop systems of accountability that are credible, legitimate, and transparent.

In the discussion that follows we will make some proposals for how the United Nations and national governments—as political actors—can help bring core values into international markets. The UN can help trade-and-NGO associations govern markets. But first, to underscore the importance and urgency of these efforts, we will look at what critics have to say about three of the major international political/economic actors, the World Bank, the International Monetary Fund (IMF), and the WTO. This is where nations and world business collaborate without the participation of Third Sector organizations.

### The Need for Change in International Finance and Trade Institutions

The World Bank was established, along with the International Monetary Fund, to facilitate Europe's recovery in the wake of World War II. Today it describes itself as a “development bank” and states its mission “to fight poverty and improve the living standards of people in the developing world.” For at least two decades, however, civil society leaders have argued that the combination of “stabilization,” “structural,”

and "sectoral adjustment" policies at the World Bank and the International Monetary Fund have in fact had a devastating impact on the very societies they have pledged to assist. A review of data from official and academic sources on a total of eighty-three Third World countries that have received substantial IMF financing during the past twenty years supports that critique.

Civil society advocates, like Walden Bello of the Philippines, call for a complete overhaul of these financial and trade institutions. They are dysfunctional, he says bluntly, because all three are based on the wrong paradigm for meeting their objectives.<sup>18</sup>

Bello argues that the WTO has "institutionalized" free trade above all public goods—the good of the environment and the core values of justice, equity, and community. Furthermore, the WTO makes decisions in "non-transparent backroom sessions" where "majority voting" favors "a few big trading powers that impose their policies on the majority of the member countries"; in other words, the WTO is run by capitalist regimes intent on developing their own economic agendas but contributing to the decline of civil society worldwide.<sup>19</sup>

What to do?

Civil society leaders believe that it is essential for citizens to develop more control over their own local economies and natural resources. They have proposed that the UN should convene a conference like Bretton Woods (which brought the World Bank and the IMF into existence in 1944) to discuss a “new financial architecture” that brings these core values into the decision-making processes of international finance and trade organizations in a more democratic way.

Different groups have proposed various plans under the auspices of the United Nations. These groups include the 37-member Globalization Subgroup of the international UN Millennium Forum, a twelve-member NGO Hemispheric Social Alliance, and the International Forum on Globalization, which has fourteen NGO members. This is where the action is today.<sup>20</sup>

Let us begin to see what can be done to add the Third Sector and its values within the UN programs.

### Reinvigorating the UN Environmental Programme

The stated goal of the UN Environmental Programme (UNEP) is to achieve sustainable development, and it invites the participation of business, the scientific community, NGOs, youth, women, and sports organizations in this effort. Much has been accomplished under its auspices, including

agreements on the control of transboundary movements of hazardous wastes and their disposal (Basel Convention), on trade in endangered species of wild fauna and flora (CITES), on migratory species (CMS), and on the protection of regional seas.<sup>21</sup>

Each division of UNEP works in partnership with industry, and has projects of direct relevance to market sectors.<sup>22</sup> But could the UNEP—an influential international body—launch new initiatives to promote inter-sector regulation and thus change the structure of markets from the inside?

The answer is yes.

First, here are some formal steps UNEP could take to that end:

- 1) Consult with trade associations to create *bylaws* that express environmental principles and create specific standards.
- 2) Support trade associations that work with Third Sector *scientific associations* and *professional monitors* to report on how member firms follow the principles and standards expressed in association bylaws.
- 3) Work on civic partnerships with business and tribunals that contract with international lawyers to develop *procedural justice* on compliance.<sup>23</sup> (Trade associations then bring the “facts of noncompliance” in accord with environmental charters and any final decision in disputes.)
- 4) Publish models for effective business/NGO partnerships, models for arbitration, and models on the effective tribunals.

Second, the UNEP now prepares training manuals on the “valuation” of environmental goods and services and economic policy instruments, helping the leaders of “economies in transition” to develop free-market economies. These manuals could describe and disseminate the environmental protection mechanisms listed above, including models for social partnerships, tribunals, and dispute resolution (i.e., settling cases of noncompliance with a trade group’s bylaws and charter norms).

Third, the UNEP works closely with commercial banks, investment firms, and insurance companies to encourage the incorporation of environmental concerns into business priorities. By signing a UNEP-brokered agreement, leading insurance companies and commercial banks have pledged to integrate environmental factors into business operations. But there is much to be done to specify what that agreement means by putting it into force within industries “on the ground.”

Let’s look at particulars. UNEP is working at the industry level on persistent organic pollutants (POPs), industrial chemical products such as PCBs, byproducts such as dioxins and furans, and pesticides such as DDT. Negotiations concluded in March 1998 on the establishment of a UN Economic Commission for Europe (UNECE) agreement to address the issue of POPs, which in turn began negotiations on a legally binding global

agreement on POPs in June 1998. Members of the International Council of Chemical Associations (ICCA) have stated their commitment to sound chemicals management, and to the goal of reducing the potential human health and environmental risks that may be associated with these substances.<sup>24</sup> This is a beginning.

But many chemicals are still subject only to "voluntary risk management" by the companies that produce them. The uses of most substances identified as POPs have been discontinued or limited within the countries represented by the ICCA, which also coordinates the activities of "responsible care" and other voluntary industry initiatives, and in theory supports a legally binding international agreement to establish a process to identify the potential risks of POPs and develop appropriate "risk management" standards. But the UNEP has not as yet brought *scientific* associations to work with such trade associations on these issues.<sup>25</sup>

In a civil market plan, science *associations* (not just individual scientists) would help define criteria for identifying POPs as candidates for international action.<sup>26</sup> They would take responsibility for evaluating chemicals within a science-based, transparent risk-assessment process, and for working with business for designing policies for specific market sectors.

In sum, the UNEP could do much more to develop civil markets by encouraging trade associations to collaborate with professional and scientific associations. It could ask business-Third Sector partnerships to write environmental principles into *global charters* and *specific bylaws*, and business firms to pledge to stand by their principles, agreeing to act jointly with outside monitors and arbiters. Monitors, in turn, would report to the UNEP on problems of compliance and provide annual reports on the advancement of environmental values in market sectors. This should offer a model and a new vision for UN agencies.<sup>27</sup>

#### A New Vision for UN Agencies

There are a growing number of intergovernmental organizations (IGOs) in the United Nations that may be developed further in the future. These IGOs are given a standing invitation to participate as observers in the sessions and the work of the General Assembly with permanent offices at Headquarters. There is, for example, the Permanent Observer Mission of Palestine to the United Nations, the Permanent Observer for the African Union, the Asian-African Legal Consultative Organization, the Office of the Permanent Observer for the Caribbean European Community, and the Delegation of the European Commission.

There is a growing diversity of regional political/economic alliances—the EU, the Association of South East Asian Nations, the North American Free Trade Agreement, MERCOSUR, and other Latin American agreements. Are they capable of becoming engaged in what civil society activists call *fair trade* along with free trade?

Civil development in world markets means that systems of exchange should become compatible with the principles of the Global Compact and the UN Charter. Let's illustrate another strategy for building civil market regimes by looking at the United Nations Conference on Trade and Development (UNCTAD).

UNCTAD is a principal organ of the UN General Assembly. It has responsibility for “the forty-eight least developed countries”—for helping them integrate into the world economy, that is, adjust to globalization, but it also supports the Commission on Sustainable Development in trade and environment. Its goals are to optimize free trade, investment, and development opportunities for countries, but it could equally optimize *fair trade* and *civil investment* and more. It could develop civil markets by focusing attention on civil trade, civil investment, civil technology, and sustainable development through these countries. It would model such mechanisms as public accountability systems, social charters, and ethical

investment practices. It would devise models and promote examples of them through its publications, which include the *Trade and Development Report*, the *World Investment Report*, and the *Least Developed Countries Report*. If it did so, civil society values would become vital as a more visible part of UNCTAD's activities.

Let's add more to this picture.

Few people realize that UNCTAD helps to organize stock markets and commodity exchanges in developing countries. UNCTAD follows conventional (business) models of investment. It does not encourage *social* investment—managing social/economic accounts for the common good—but we would argue that social investment should be part of the training for finance ministers and stock and commodity analysts.

In its publications, UNCTAD should describe how social (civil) investment is developing in the United States, for instance, as we discussed in Chapter 5. It should point out that during 1999, financial investors in this country allocated \$2.16 trillion to screened portfolios with ethical guidelines, and that these trillions represented about \$1 out of every \$8 under professional management. This practice should be described in detail UNCTAD's models and publications for global and developmental finance.

In Box 3, we've listed the principles guiding the Advocacy Fund of Trillium Asset Management as an example of the social funds that introduce core values into the allocation of capital worldwide.<sup>28</sup>

### **Box 3. Bringing Core Values into Financial Market Structures**

#### **Trillium Asset Management Corporation**

- 1) Support sound environmental practices and policies.
- 2) Support global human rights.
- 3) Support positive labor practices
- 4) Support positive labor-management relations.
- 5) Support corporate philanthropy and investment in local communities.
- 6) Avoid military contracting with the U.S. or foreign governments.
- 7) Respond to product safety issues.
- 8) Support ethical management practices.
- 9) Support alternatives to animal research and testing.
- 10) Balance the interest of company constituencies such as shareholders, employees, communities, suppliers, and customers.
- 11) Respond to shareholder activism.

Currently UNCTAD's reports analyze global trends and develop policy recommendations for governments and business, but we would say they could do more to foster global trade based on the principle of justice. When UNCTAD supplies "optimal policy frameworks" that local and transnational enterprise can develop, for instance, these should include

recommendations about community development corporations and procedural justice in trade associations.

With regard to the latter, global corporations have been defining their role as “corporate citizens,” but real citizens have access to courts and due process. Since there is no world government, due process for “corporate citizens” should develop in those civic partnerships created by trade associations and NGO groups. In planning for a civil market, due process would include the following mandates for global trade associations:

- 1) No citizens (*translate: members of global associations*) should be accused of violating a rule of behavior unless they have known about the rule before their misconduct.
- 2) The accused are entitled to know the charge against them, to know the evidence adduced in support of the charge, and to have a fair opportunity to collect and present their own evidence.
- 3) The judge or arbiter in a contract must be disinterested, unbiased, and attentive.

Business law in the United States supports “due process” for trade associations but even in this country it is not widely advertised. UNCTAD publications could stress “due process” mechanisms and principles in its educational materials as basic to the organization of markets and “fair trade.”<sup>29</sup>

UNCTAD has hosted conferences on the international oil industry and promotes science and technology products together with U.S. business. Business leaders regularly serve as observers in intergovernmental sessions and work on UNCTAD commissions (e.g., the Commission on Trade in Goods and Services and Commodities, the Commission on Investment, Technology, and Related Financial Issues, and the Commission on Enterprise). These commissions should become forums through which the agency promotes justice-oriented markets and mechanisms of conflict resolution. In a civil market plan, these conferences would include NGOs prepared to work in civil regimes.<sup>30</sup>

## **Conclusion**

A global regime is a system of authority whose authority is derived from social compacts made among non-governmental organizations like trade associations and Third Sector organizations. With inter-governmental support, a common ground for rules can develop in any sphere of market activity—art, accounting, computers, mining, law, medicine, science, religion, and education. Business then follows the rules set outside its normal sphere of commercial activity. In this way, global actors create “soft law,” which can be more effective than the “hard law” created by nation

states. The critical question in these cases becomes a matter of compliance with these norms.

A global civil market is established through the collaboration of IGOs, IBOs, and NGOs. A civil market is advanced through public accountability systems and the United States and the UN play a mighty role in advancing this cause.

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<sup>1</sup> Stephen Krasner, a regime analyst asks, “Who are the participants in a regime?” The participants could be a mix of state actors, private actors, non-governmental organizations, or some combination of the three. How then, he asks, does a regime hold together? See Stephen Krasner, ed., International Regimes (Ithaca, New York: Cornell University Press, 1983). For our purposes, a “global civil regime” is a system of authority made up of norms to which people doing business give consent for their common good. A global civil regime could be a region of communication (e.g. ILO rules) where people create standards with a view to justice and the common good. We noted that in these regimes, an industry federation (trade association) might develop an agreement among its member corporations to produce chemical products that follow safety standards. It may work in concert with Third Sector organizations like the

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International Confederation of Free Trade Unions and the Union of

Concerned Scientists, following the standards they see fit for markets.

<sup>2</sup> Common law may develop first as soft law, which is essential for global commerce to exist. (Government law often begins in common law.) Tony

Porter, States, Markets, and Regimes in Global Finance (New York: St.

Martin's Press, 1993); Volker Rittberger, Regime Theory and International

Relations (Oxford: Clarendon Press, 1993). Roberto Unger uses the term

"formative context" to mean something similar to Habermas's concept of

"lifeworld," that is, to designate the need for consensus in establishing

norms. For Habermas, the implicit norms to which we all agree as human

beings are the principles to which all actors appeal when confronting what

they deem unacceptable. See Roberto Mangabeira, The Critical Legal

Studies Movement (Cambridge: Cambridge University Press, 1987).

<sup>3</sup> The first answer was: there is "osmosis" that occurs as people in different sectors talk to one another with different norms and values. These different

norms transfer between people communicating in different sectors of the

economy. This can work for the common good, as when, for example,

government learns efficiency from business and business learns democracy

from government. Or, as we argued in Chapter 3, it can work toward decline

as the values of one sector like business can overwhelm all others.

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<sup>4</sup> Social norms and etiquette—like who opens the door for whom, who bows most deeply, who first extends their hand in greeting another person—are universal to cultures everywhere; they are not categorically good or bad. They vary from one culture to the next, and are learned so early in life that compliance with them is almost unconscious whereas violation of them may be seen as a serious affront. With regard to business, industries also generate social norms in the production of products—circular saws, nails, light bulbs, shoes, lumber, and cosmetics as well as requirements for human safety—and though these norms may never have been officially codified, corporate compliance is essential for a market to exist.

<sup>5</sup> Industry News, 18 May 2001, available at <http://www.aluminum.org/dailya.cfm?docid=478>.

<sup>6</sup> There is a need for interdisciplinary studies here. In the aluminum industry, for example, *economists* should study how European competitors are working to avoid tariff barriers by moving semi-fabrication operations out of tariff zones and sending tariff-bearing metal through non-tariff regions; they should also consider how a shortage of primary aluminum in the U.S. Northwest would cause Japan, China, and other Asian countries to line up with the United States for Russian, Australian, and Gulf state

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supplies. *Sociologists* should study how free trade advances the power of the largest aluminum companies in the United States, Europe, and Japan.

*Political scientists* should study how global associations develop as a civil regime that advance the values set by UN agencies. *Civil market planners* should study how large companies invest with democratic principles. *Public policy analysts* should study how global standards in aluminum might be certified through UN agencies.

<sup>7</sup> The most up-to-date and comprehensive reference to international organizations is the Yearbook of International Organizations, 40<sup>h</sup> edition. This yearbook contains entries on the most important 30,000 organizations active in about 300 countries and territories, from formal structures to informal networks, from professional bodies to recreational clubs.

<sup>8</sup> A forewarning: business and government interests control some nonprofit organizations. NGO activist Curtis Runyan says, “Groups like the Greening Earth Society and the Global Climate Coalition are nothing more than well-funded industry PR firms.” See Curtis Runyan, 27 October 1999, paper issued by the Worldwatch Institute (1776 Massachusetts Ave. NW, Washington, D.C.), <http://www.worldwatch.org/mag/1999/99-6.html>. Also see the November/December 1999 issue of World Watch magazine.

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<sup>9</sup> Since that Davos Forum, the United Nations has been promoting partnership-based approaches to achieve the aims of this compact. See <http://www.unglobalcompact.org/> .

<sup>10</sup> The posting of “best practices” is similar to the custom of other world groups of “socially-responsible business” that advance corporate responsibility. But Pierre Sane, head of Amnesty International, has warned that only independent monitoring with public reporting of the companies’ performance—along with strong enforcement mechanisms such as sanctions—would give the Global Compact credibility. See Pierre Sane, Global Compact press conference at United Nations headquarters, 26 July 2000 (available through Amnesty International).

<sup>11</sup> For a diversity of information on this subject, see <http://www.corpwatch.org>.

<sup>12</sup> Common Dreams Newscenter, published on Friday, May 26, 2000, by Inter Press Service <http://www.commondreams.org/headlines/052600-02.htm>.

<sup>13</sup> Maria Livanos Cattai, "Yes to Annan's 'Global Compact' If It Isn't a License to Meddle," International Herald Tribune, 26 July 2000.

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<sup>14</sup> This is an abbreviated statement by CorporateWatch. See

<http://www.corpwatch.org/trac/globalization/un/tangled.html#ff>.

<sup>15</sup> There are many other cases of good work going forward. The United Nations and international NGOs have created a network to prevent the sale of diamonds from funding conflicts in southern Africa. Another network (led by the Coalition to Stop the Use of Child Soldiers) pushes for the adoption of an optional protocol to the U.N. Convention on the Rights of the Child, which would end military recruitment of persons less than 18 years of age. Meanwhile, the UN experiments with tri-sector partnerships (government, business, and Third Sector) to bring water and sanitation to the poor; the issues of water and sanitation have been at the crux of many discussions at the UN World Summit. Citizens from various countries around the world have come together to make a contribution to “comprehensive sustainable development through social threefolding.” This is called the Global Network for Social Threefolding (GlobeNet3 or GN3). GlobeNet3 advocates an approach that addresses “ecological, economic, political, cultural, social, human, and spiritual aspects” of development. It seeks to advance “social threefolding,” which refers to “civil society” resistance to totalitarian tendencies in states (governments) and markets. It also refers to the critical engagement of civil society (Third Sector) with business and government to

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solve problems in an atmosphere of mutual respect. See Global Net 3, <http://www.globenet3.org/ch15.shtml>. For more on these “events reports” from the summit, see the World Summit on Sustainable Development, at <http://www.bpd-waterandsanitation.org/english/wssdportal.htm>. Also see “Tri-sector Relations at the United Nations,” at <http://www.globenet3.org/ch15.shtml>.

<sup>16</sup> See One World Trust, <http://www.oneworldtrust.org/htmlaboutus/aboutus.htm>. On mechanisms for compliance, see <http://www.oneworldtrust.org/Ch99/htmlGAP/method/accmodel.htm>.

<sup>17</sup> These corporate codes of conduct are the first stage for development, but independent authorities that can enforce compliance need to develop with them. On civic partnerships, see Peter Utting, “UN-Business Partnerships,” at <http://www.globalpolicy.org/soecon/tncs/2001/0727tw.html>.

<sup>18</sup> Bello argues that these institutions are imprisoned within paradigms that create outcomes contradicting their own objectives. Bello is co-director of Focus on the Global South, Bangkok, Thailand, and a professor of public administration and sociology at the University of the Philippines. See <http://www.s11.org/bello.html>.

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<sup>19</sup> At the meetings of WTO ministers in Seattle, Washington, and Cancun, Mexico, many of the developing nations of Latin America and Africa refused to support the policies of the wealthier nations in the European Union and the United States, balking at the subsidies given to farmers in developed nations that keeps free trade from benefiting their farmers. See Stephen J. Glain, "For Poor Nations, a Pyrrhic Victory," Boston Globe, 16 September, 2003 F1.

<sup>20</sup> Some opponents to the WTO say that world finance institutions should be connected to the UN's ECOSOC, to place them under stronger international authority. Others recommend a civil society organization be established as an advisory group to the WTO. Some argue that civil society organizations should serve as a countervailing power inside the UN, just as the U.S. House of Representatives balances power in the U.S. Senate.

<sup>21</sup> Other international treaties have been implemented under UNEP's auspices. See the United Nations Environmental Programme, <http://www.un.org/partners/business/unep.htm>.

<sup>22</sup> For example, a UNEP division called the Technology, Economics and Industry (TIE), encourages decision makers in government and business to adopt practices that are cleaner and safer for the environment.

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<sup>23</sup> The list of recent studies on procedural justice in organization is quite extensive. For one, see S. Alexander, & M. Ruderman, "The role of procedural and distributive justice in organizational behavior," Social Justice Research, 1 (2), 177-198, (1987). Aristotle and Thomas Aquinas were aware of the relations between standards and rules of evidence and inquired into the principles of "procedural justice." Roscoe Pound, *Justice According to Law* (New Haven: Yale University Press, 1951).

<sup>24</sup> On ICCA, and other global chemistry associations involved here, see <http://www.icca-chem.org> and [intfacts@acs.org](mailto:intfacts@acs.org); [www.acs.org/international](http://www.acs.org/international).

<sup>25</sup> The North American Commission on Environmental Cooperation (NACEC) has adopted a program on managing persistent toxic substances.

<sup>26</sup> See the International Council of Chemical Associations, <http://www.chem.unep.ch/pops/iccappops.html>. According to industry associations, the process should use numerical screening criteria to identify possible POPs to determine the need for further risk assessment or a reevaluation of current risk management.

<sup>27</sup> Changing global rules (as in environmental protection, job safety, and health) can have a huge impact on the well-being of small businesses as well. Small and medium-sized businesses (SMEs) in the chemical industry,

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for example, face problems in marketing skills and in access to long-term finance and relevant information sources. Given the key role of chemical industry SMEs with respect to employment and sectoral competitiveness, an action program is needed to support their development. See [http://www.cefic.be/Position/Tea/pp\\_tm016.htm#environment](http://www.cefic.be/Position/Tea/pp_tm016.htm#environment).

<sup>28</sup> Trillium Asset Management is a registered investment adviser founded in 1982, headquartered in Boston, Massachusetts. It is an employee owned firm. See [www.trilliuminvest.com](http://www.trilliuminvest.com). Religious institutions are also actively engaged in social investment, including the Roman Catholic Church. See Dolores Kong, "Being Invested," Boston Globe, 30 May 2001, C.

<sup>29</sup> For discussion on justice principles, see Edmund Cahn, The Predicament of Democratic Man (New York: Macmillan, 1961); Giorgio Del Vecchio, Justice: An Historical and Philosophical Essay, ed. by A. H. Cambell (Edinburgh, Scotland: Edinburgh University Press, 1952). On "corporate citizenship," see the Conference Board of Canada's news release at <http://www.newswire.ca/releases/April1999/27/c6316.html>. The Journal of Business Ethics regularly lists its 100 "Best Corporate Citizens." See also *Business Ethics* magazine, <http://www.business-ethics.com/index.html>.

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<sup>30</sup> UNCTAD brings together the business sector, non-governmental organizations, and government representatives from 172 countries to develop operational partnerships. It is a perfect place to advance a concept of justice and democracy in free markets. Many intergovernmental and non-governmental organizations, including business associations, have observer status and participate actively in its work. It has a staff of approximately 400 in Geneva, Switzerland. UN Conference on Trade and Development, <http://www.un.org/partners/business/unctad.htm>.