

IS THE TIME RIPE FOR BINDING NORMS FOR CORPORATE ACCOUNTABILITY?

Stephen Stec, Alexios Antypas and Magdalena Paszkiewicz
Central European University

IUCN Academy of Environmental Law, 10th Colloquium
University of Maryland School of Law
July 4, 2012

Burke and Smith

- British East India Company
- Edmund Burke led impeachment proceeding in Parliament against company governor-general of Bengal
- Adam Smith, *The Wealth of Nations*: the East India Company showed that the separation of ownership and management in joint stock companies invariably leads to reckless risk taking.

3 essential flaws in the corporate structure

- the impetus to dominate markets and create monopolies,
- the speculative behavior of companies in which executives are not owners, and
- the absence of regulatory mechanisms to check abusive behaviors overseas

(Robins, 2006)

What is corporate accountability?

- ISO 26000: "responsibility of an organization for the impacts of its decisions and activities on society and the environment, through transparent and ethical behavior that contributes to sustainable development, including health and the welfare of society; takes into account the expectations of stakeholders; is in compliance with applicable law and consistent with international norms of behavior; and is integrated throughout the organization and practiced in its relationships.."

7 core subjects and 2 fundamental practices

- The core subjects are:
- organisational governance, human rights, labour practices, the environment, fair operating practices, consumer issues and community involvement, and development.
- The two fundamental practices are: stakeholder identification and engagement and recognising social responsibility.

Scope of Norms

- E.g.: Governance Principles for FDI in Hazardous Activities (2008)
- ◉ Corporate values and principles of good citizenship
- ◉ Corporate performance
 - Sustainability reporting
- ◉ Resp to and relations with recipient countries
- ◉ Company sustainability policy
- ◉ Transparency and stakeholder relations

Corporate Accountability – recent history

- 1992 - Agenda 21 chapter that was not accepted; GRI
- ISO 26000 on social responsibility
- Other voluntary initiatives

Certification schemes

- Social Accountability Accreditation Services certify compliance with social standards
- AA100 AccountAbility series of standards provides operational guidance on sustainability assurance and stakeholder engagement
- ISO 26000 guidance on social responsibility

Binding norms

- Call for a convention at Johannesburg
- Renewed calls for global framework convention

Sustainability Reporting

- History of voluntary initiatives
- New trend towards binding norms
 - Corporate Sustainability Reporting Initiative
- Driven by institutional investors (Aviva), insurance industry
 - (Ioannou and Serafeim 2011)

“Report or Explain”

- Also the approach of the GRI and the UN Global Compact
- Applies to listed and/or large companies
- Opt-out with rationale

Why the shift?

Voluntary Codes – pro and con

◉ East India Company

Pro: increases awareness and acceptance, ownership

- “flexibility” – one size fits all approach encourages a minimum compliance mentality

Con: findings of Locke (2012) in labor field

- Codes etc do not deliver sustained improvements over time
- Businesses, particularly suppliers, drift in and out of compliance
- Need for collaboration
- Modern production methods (just-in-time) etc mean that some industries are prone to market pressures that result in abeyance of standards.

◉ “Flexibility”

Compare w/ Johannesburg

- Johannesburg Declaration on Sustainable Development agreed on the *'need for private sector corporations to enforce corporate accountability, which should take place within a transparent and stable regulatory environment'* (paragraph 29)
- Plan of Implementation committed to *'enhance corporate environmental and social responsibility and accountability'* through encouraging *'industry to improve social and environmental performance through voluntary initiatives'* (paragraph 18)

Calls for a “global policy framework”

Zero Draft para. 24

- 24. We call for a global policy framework requiring all listed and large private companies to consider sustainability issues and to integrate sustainability information within the reporting cycle.

Informal Draft para. 24

- [24. [We call for a [n effective – Switzerland] global policy framework [, building on the global compact and global reporting initiative, – Switzerland] [the strengthening of the existing international mechanisms aimed at incorporating sustainability standards into the functioning of the business sector as well as setting up – Montenegro] [requiring [all / which promotes and encourages publicly – Australia] listed and large – Japan, Switzerland delete] private [- Norway delete] [and public – Switzerland] companies /encourage the private sector – Canada] - [that are listed – Switzerland] to [consider / take – Switzerland] [taking note of all – Kazakhstan] sustainability issues [into account in conducting their activities, to implement corporate sustainable development policies – Switzerland] and to integrate sustainability information within the [ir – Switzerland] [appropriate – Kazakhstan] reporting cycle [s – Switzerland]. – RoK delete paragraph] – EU bracket paragraph; G77 under consideration] – US, Canada, G77 delete para; New Zealand delete and some concepts can be moved to other parts]
- [24. alt We encourage the private sector to consider sustainability issues and to integrate sustainability information within their reporting cycle. – Canada]

Zero Draft para. 104 dec

- [104. dec We recognize the need to establish a process aimed at agreeing on and developing a reliable and robust global system for national sustainability accounting and reporting across the world. We also recognize the need for a global commitment on corporate sustainability reporting for all listed companies based on the “Report or Explain” principle to introduce comparable, reliable and output oriented accounting and reporting systems as complement to financial reporting. The Global Reporting Initiative launched in Rio in 1992 can serve as reference for such a commitment and its enforcement. – EU, Switzerland, Norway; US, New Zealand reserve]
- [104 dec alt We encourage all organizations to disclose environmental and social performance in accordance with international recognized standards such as the global reporting initiative. –Canada]

The Future We Want

- 46. We acknowledge that the implementation of sustainable development will depend on active engagement of both the public and private sectors. We recognize that the active participation of the private sector can contribute to the achievement of sustainable development, including through the important tool of public-private partnerships. We support national regulatory and policy frameworks that enable business and industry to advance sustainable development initiatives taking into account the importance of corporate social responsibility. We call on the private sector to engage in responsible business practices, such as those promoted by the UN Global Compact.
- 47. We acknowledge the importance of corporate sustainability reporting and encourage companies, where appropriate, especially publicly listed and large companies, to consider integrating sustainability information into their reporting cycle. We encourage industry, interested governments as well as relevant stakeholders with the support of the UN system, as appropriate, to develop models for best practice and facilitate action for the integration of sustainability reporting, taking into account the experiences of already existing frameworks, and paying particular attention to the needs of developing countries, including for capacity building.

Conclusion

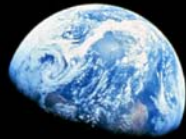
- The scene shifts towards 2015
- Corporate Sustainability Reporting Initiative will reboot
- National standards will spread
- The issue of binding norms will not go away



LITTLE MISS SUSTAINABILITY

uncsd2012.org

earthsummit2012.org



Thank
you!

Stephen Stec

stecs@ceu.hu