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Labour Aspects of Corporate Social Responsibility Emanating from the United Nations Global Compact: the Global Case and that of the EU and the United Kingdom

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Abstract. This essay attempts to define the corporate social responsibility (CSR) concept while treating the triple bottom line (TBL) and other concepts. The ten principles of the United Nations social compact are discussed and analysed in the light of company practical commitments in their capacity of global compact partners. An analysis and evaluation follows on international framework agreements (IFAs), the European Union and the United Kingdom global compact network and its benefits. The epilogue treats, inter alia, the focusing from shareholder to stakeholders, the Global Compact's tentacles, the CSR concept being elevated to the central stage, some criticisms and future perspectives of CSR, IFAs and the Global Compact.

Keywords: *Corporate Social Responsibility, United Kingdom, European Union, UN Global Compact.*

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1. Prolegomenon

The concept of Corporate Social Responsibility (CSR) has developed considerably during the last fifty years. In 1999, at the World Economic Forum held in Davos, Switzerland, the then United Nations Secretary General, Kofi Annan proposed the concept of the UN Global Compact which resulted in catapulting the CSR concept to the highest global level. The UN Global Compact has some 8,000 participants all of which consist of commercial enterprises. There are 4,000 additional non-company participants which consist of NGOs, government, university business schools and others, making a total of 12,000 participants.

This chapter proposes an analysis on the relationship between the concepts of CSR and that of the UN Global Compact and related matters in the global, European and British contexts. With this in mind the allied concepts of corporate social responsibility, the ISO 26000 and the triple bottom line will feature. Various aspects relevant to the United Nations Global Compact will then be treated, followed by the European Union and globalisation and the United Kingdom network dimension. An epilogue will sum up the analysis.

2. Corporate Social Responsibility, ISO 26000 and Triple Bottom Line

Three issues allied to corporate social responsibility need to be mentioned, discussed and analysed. These include the meaning and definition of the concept of Corporate Social Responsibility, ISO 26000 on social responsibility and the concept of the Triple Bottom Line.

2.1. Meaning and Definition of Corporate Social Responsibility

Corporate Social Responsibility (CSR) is a process of assessing a company's impact on society and evaluating its responsibilities towards, *inter alia*¹, its employees by attracting, maintaining and retaining a happy workforce and be an employer of choice. CSR also known as "corporate

¹ Because CSR also includes the food chain, its customers, the environment and the community at large.

conscience”, “responsible business”, “sustainable business”², “corporate responsibility” or “corporate citizenship” is a form of “self-regulation integrated into a business model”³. CSR comprises a policy whereby a business monitors and insures its active compliance with the law, ethical values and standards and national and international norms. With some models a company’s implementation of CSR goes well beyond compliance with legislation and engages on a long term basis “in actions that appear to further some social good beyond the firm’s interest and that which is required by law”⁴ including respect for communities and persons therein and the natural environment. The concept of CSR demands a change of emphasis in the business world from maximising company profits and shareholder returns to satisfying the interests of a broader section of society and/or policies beneficial to mankind such as the environment, poverty, education, healthcare, charities, ethical and other allied issues.

CSR therefore aims at embracing the responsibility for corporate actions and at creating a positive impact on the environment and stakeholders which include a company’s customers, suppliers, investors, local and wider communities, employees, workers and others.

With so many aspects to it, CSR is defined variously depending on the objectives and policies which a company wishes to pursue. It is therefore difficult to have a standard definition of CSR policy which is applicable to all companies. There is however one motive which is universal; namely, that companies operating a CSR policy should not be focused only or solely on the maximisation of profits. Companies generally have a two point agenda, namely (a) to improve qualitatively⁵ (sometimes referred to as the *inner circle*) and (b) quantitatively⁶ (referred to as the *outer circle*).

² “Sustainable” means involving CSR activities which the company or firm is able to maintain without affecting adversely, (even if the firm or company is experiencing changing fortunes such as financial crises) the business missions, aims and goals of that firm or company.

³ See D. Wood “*Corporate Social Conscience Revisited*” Academy of Management Review. vol. 16 n. 4 (October, 1991) at pp. 691-718.

⁴ For an analysis of the CSR concept see A. McWilliams, D. Siegel “*Corporate Social Responsibility. A Theory of the Firm Perspective*” Academy of Management Review (2001) vol. 26, pp. 117-127 and A. McWilliams, D. Siegel, P. Wright “*CSR: International Perspectives Working Papers*” (0604) Troy. New York. Department of Economics, Rensselaer Polytechnic Institute (2006).

⁵ Namely the management of processes and people within the company, e.g. shareholders, clients/customers, financial analysts and employees and trade unions all of whom have to do with the marketplace and workplace.

⁶ Namely the nature of, and quantity on, the impact on society as a whole, e.g. the environment and NGOs and the government and the community at large.

Stakeholders in every company are increasingly taking an interest in the activities of the company and how these activities have an impact on the *outer circle*, namely society, the environment, local and general welfare, local or wider communities, *etc.* Definitions therefore vary depending on the policy to be pursued by a company or organisation. Thus the World Business Council for Sustainable Development defines CSR as a “continuing commitment by businesses to contribute to economic development while improving the quality of life of the workforce and their families as well as of the community and society at large”⁷. A more general definition given by Mallen Baker is that⁸ “CSR is about how companies manage the business process to produce an overall positive impact on society”. Business for Social Responsibility defines CSR as “Operating a business in a manner that meets or exceeds the ethical, legal, commercial and public expectations that society has on business”. The European Commission defines CSR as “A concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis”⁹. CSR “concerns actions by companies over and above their legal obligations towards society and the environment. Certain regulatory measures create an environment more conducive to enterprises voluntarily meeting their social responsibility”¹⁰. The Financial Times defines CSR as “a business approach that contributes to sustainable development by delivering economic, social and environmental benefits to all stakeholders”¹¹. The definitions given above show clearly the differing views expressed by the various organisations on the CSR concept. However, the central theme which resonates clearly time and time again in each of those definitions, is that of *altruism* on the part of companies which manifests itself in different ways namely businesses exceeding their normal legal obligations towards the environment, the community and society at large. The Financial Times put it admirably when it stated that CSR

⁷ Source: <http://www.wbcscd.org/work-program/business-role/previous-work/corporate-social-re> (Retrieved 3rd August, 2015) Publication by Richard Holme and Phil Watts “*Making Good Business Sense?*”. (January 2000).

⁸ Source: <http://www.mallenbaker.net/csr/definition.php> (Retrieved 1st August, 2015).

⁹ Source: COM (2001) 366.

¹⁰ See “*Communication from the Commission to the European Parliament, the Council, the European Social and Economic Committee and Committee of the Regions. A renewed European Union strategy 2011 – 14 for Corporate Social Responsibility*” COM/2011/0681/final. For an interesting analysis see Alexander Dahlsrud “*How Corporate Social Responsibility is Defined: An Analysis of 37 Definitions*” (2006) John Wiley and Sons Ltd. and ERP Environment.

¹¹ See <http://lexicon.ft.com/Term?term=corporate-social> responsibility – (CSR).

is a concept with many definitions and practices. The way it is understood and implemented differs greatly from each company and country. Moreover, CSR is a very broad concept that addresses many and various topics such as human rights, corporate governance, health and safety, environmental effects, working conditions and contribution to economic development. Whatever the definition is, the purpose of CSR is to drive change towards sustainability¹².

This comment is echoed by the World Business Council for Sustainable Development which said

stakeholders throughout the world have revealed that CSR means very different things to differ people, depending upon a range of local factors including culture, religion and government or legal framework conditions. There can be no universal standard [...] business is not divorced from the rest of society. The two are interdependent and it must be insured through mutual understanding and responsible behaviour that business's role in building a better future is recognised and encouraged by society¹³.

So as to prevent the reader from suffering indigestion, it is not proposed to coin yet another definition! The definitions given above serve to send the right message to the reader without having to add additional ones. The development of CSR from its controversial origins is beginning to be accepted as a legitimate business function.

2.2. ISO 26000 – Social Responsibility

In 2010 the International Organisation for Standardisation released ISO 26000 which consists of a set of *voluntary* standards¹⁴ intended to assist companies which implement CSR in their policies. This ISO which is applicable to all types of businesses and organisations whatever be their activity, size or location, provides assistance and guidance to businesses

¹² *Ibid.*

¹³ Source: <http://www.wbcsd.org/work-program/business-role/previous-work/corporate-social-re> (Retrieved 3rd August, 2015).

¹⁴ Although launched in 2010, it took five years of negotiations with different global stakeholders to bring it about before international consensus was reached. These stakeholders consisted of representatives from businesses, NGOs, governments, consumer groups and trade unions. There was a working group set up consisting of some 500 experts.

and organisations in clarifying what social responsibility consists of, helps them translate principles and aspirations into effective actions and shares global best practices with regard to social responsibility.

It is important to note that this ISO does not provide for any requirements to be met. It only provides a guide. This means that “it cannot be certified to, unlike some other well-known ISO standards”¹⁵.

The company’s or organisation’s relationship to society at large and to the environment in which they operate is a critical factor in their ability to continue to operate in an ethical and transparent manner which contributes to the welfare and health of society. It is also being increasingly used as a measure of their overall performance.

2.3. The Triple Bottom Line Concept

Another concept closely allied to CSR is that of the “Triple Bottom Line” (also known as TBL or 3BL). So as to account for the importance of social and ecological considerations in doing business some organisations/companies advocate the concept of the Triple Bottom Line, namely social, environmental (or ecological) and economic. These three divisions are also called “the three Ps” standing for “people, planet and profit” or the “three pillars of sustainability”¹⁶. This concept, as explained by Business Ethics¹⁷, assumes that a company, being a moral community member, has social responsibilities to fulfil. As such, a company needs to weight its actions on three independent *long term sustainability* scales, namely *economic sustainability*, *social sustainability* and *environmental sustainability*. Triple Bottom Line accounting is practised by profit-making organisations, non-profit-making bodies as well as governments. In the private sector, a commitment to Corporate Social Responsibility (CSR) implies a commitment to transparent reporting about the material impact of the business for its ethical behaviour on the environment and the

¹⁵ Source: <http://www.iso.org/iso/home/standards/iso26000.htm> (Retrieved 13th September, 2015).

¹⁶ See John Elkington “*Cannibals with Forks: The Triple Bottom Line of Twenty-First Century Business*” (1997) Capstone, Oxford and “*Triple Bottom Line*” The Economist 17th November, 2009. <http://www.economist.com/node/14301663> (Retrieved 13th December, 2015).

¹⁷ See <http://philosophia.uncg.edu/phi361-matteson/module-3-social-responsibility-professio> (Retrieved on 13th September, 2015).

community. The Triple Bottom Line is one framework for reporting this material impact.

The word “people” or the expression “social sustainability” treats fair and beneficial business practices towards the labour force of a company, the community at large and the area¹⁸ in which the company operates. A TBL company has a policy of providing benefits for many constituencies without exploiting any group within them. Thus, a portion of the profits made by a company on the marketing of finished goods needs to be spent by the company going back to the original producer of the raw materials, namely the food chain if the company is in the food production industry¹⁹. A TBL company does not employ child labour, nor does it allow its suppliers to do so, it pays its workers and employees fair wages and ensures that its suppliers do so as well, such company and its suppliers should maintain a safe working environment and ensure that working hours are reasonable taking into account the circumstances of the company. Nor would a TBL company exploit the community at large and its workforce. A TBL company should aid the community in granting part of its profits to the community by providing, for example schooling, medical care²⁰, social centres, etc.

The word “planet” refers to sustainable environmental practices which implies that a TBL company tries to respect, as far as is reasonably possible, its environmental footprint in all its forms, whether they be forests²¹, the sea, the natural habitat of animals and plants and so on. If that is not possible, such company should minimise any possible harm to the environment. Furthermore, such company should reduce its ecological footprint by not wasting electricity, gas, water and other energy products such as LPG²². It should also manage its non-renewables policies in such a way as to reduce manufacturing waste and rendering toxic waste, either safe or safer, prior to its disposal. A life cycle assessment of products

¹⁸ Such “area” could be the locality in which the company operates, a whole country if a national company or other countries in the world in which multinational companies operate.

¹⁹ For example, in the case of fair trade coffee, the company must ensure that the raw materials themselves, in Colombia or African countries are respecting the norms of fair trading. The same applies to chicken farms in the in the case of corn-fed chickens or free-range eggs.

²⁰ In Cyprus the Ioannou Foundation finances a special children’s hospital.

²¹ The Leventis Foundation in Cyprus partly finances the regeneration (tree planting and gardens) of the former Amiantos asbestos mine in the Troodos range of mountains.

²² Liquid Petroleum Gas which is a refined petroleum gas used as a green replacement fuel in vehicles which have been converted.

should be in place which evaluates the environmental cost of a manufacture from the time it is manufactured, through to the time when it is sold and put into full use and to the time when it is disposed of. This life cycle is known by the expression “cradle to grave”. The ecological footprint also includes such matters as over fishing in certain sea areas (which is illegal) and the depletion of resource such as the protection of certain species of animals such as elephants or birds, for example, golden eagles.

The word “profit” describes the economic value which the company enjoys after the deduction of all inputs including the capital of the company.

When one talks of the “bottom line” in business accounting one understands it to mean the profit or loss which the company or organisation has recorded at the very bottom line of its financial statement. In the last forty five or so years environmentalists and social justice activists have wanted to define “the bottom line” in broader terms by introducing the notion of *full-cost accounting* and by thus adding to the economic bottom line two further bottom lines, namely the environmental and the social bottom lines.

A practical example will serve to a better understanding of the triple bottom line concept in the context of full cost accounting. A non-profit organisation such as a charity may have a policy and the financial means of offering opportunities for employment to blind persons who are classed as unemployed or unemployable. Vacancies for such employment exist in a company which deals with the recycling of toxic waste. Full scale accounting takes into consideration the totality of this financial situation. The non-profit charity obtains monies from benefactors. Those monies are then distributed into the community as follows. Those blind persons will cease to be on the unemployed list by no longer seeking unemployment benefit or Job Seekers’ Allowance (JSA) or/and also disability benefits from the government (and therefore will no longer be a financial burden upon the tax payer). The social benefit will be the employment of those blind persons. On the environmental benefit front, the recycling by those blind persons of the toxic waste on the principle that “the polluter pays” will normally lie on the company which has disposed its toxic waste in a river thus polluting it. The environmental benefit is the actual recycling itself. However, other benefits may ensue in that persons who were contaminated by the toxic waste will no longer need medical treatment on the National Health Service (NHS) as a result of this recycling thus saving costs to the tax payer. The full cost accounting takes into account, and is calculated in accordance with, the

triple bottom line concept. In this manner the totality of the real costs is established by taking into account not only the economic costs of the company but also those relating to the environmental and social benefits. Having analysed the concept of corporate social responsibility and its two associated concepts, it is proposed to discuss (a) the connection between Friedman's doctrine and the CSR and the TBL concepts followed by (b) some of the features of the United Nations Global Compact.

2.4. The Connection between Friedman's Doctrine and the CSR and TBL Concepts

The immensely influential economic philosopher Milton Friedman²³ holds the opinion that the sole beneficiaries of company profits are shareholders of that company and that it is up to those latter in their private capacity to distribute to charities or other social institutions at their discretion, some of those profits made in repayment for the risk – profit and loss – they take in investing in the company. According to Friedman the sole persons to whom the company is socially responsible are the shareholders themselves. The company's aim is solely to maximise profits and to return a portion of those profits to shareholders who constitute the economic source, the drive or the prime movers of the business. It is not for the company's executive personnel to decide to which social institutions monies should be defrayed. The company should therefore have no social responsibility towards the community it serves or society at large because its only concern should be to make profits for the company and its shareholders. In Friedman's words

There is one and only one social responsibility of business – to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud.

Friedman's stockholder doctrine is not consistent with the concept of corporate social responsibility because, were the company to make donations to a charitable institution, it would not be acting in the best interests of the company and its shareholders. It would be different however were the shareholders decide personally to make such donations

²³ In "*Capitalism and Freedom*" (1962) University of Chicago especially Chapter VIII entitled "Monopoly and the Social Responsibility of Business and Labor".

if it is their wish. There is thus freedom for the shareholders themselves to donate to the community on a voluntary basis if they wish so.

The Corporate Social Responsibility and Triple Bottom Line concepts are therefore diametrically different from Friedman's doctrine in that companies are seen under both the CSR and TBL concepts, and indeed ISO 26000, as organisations owing moral obligations which are not the same as, and do not fall within, Friedman's economic arguments.

Friedman separates companies from society and the community by putting the onus of social responsibility on the shareholders' shoulders. On the other hand CSR views companies as members of a moral and ethical community which owe to that community at large certain responsibilities. They include at least three types of responsibility, namely economic, legal and moral, ethical or social responsibilities and possibly a fourth one, namely a philanthropic responsibility.

Regarding the company's *economic responsibility*, the CSR concept recognises that a company's primary policy is to make a profit for without such profit the company cannot fulfil its moral, ethical and philanthropic responsibilities. A company has a *legal responsibility* to obey the law whether it understands it or not for the legal saying *ignorantia juris neminem excusat* applies under British law. Corporate morality demands much more than observing the strict law *à la lettre*; such company needs to obey the *spirit* of the law and in doing so go much further into what the *intention* of the law is by observing the social good intended by that law and thus achieve the best results for all concerned and not solely the best economic results for the company²⁴. *Moral, ethical or social responsibility* implies that a company should go beyond the letter and spirit of the law (as explained above) and in making financial profits, use part of those profits by acting responsibly and ethically towards society and the community. This responsibility is the

²⁴ The privatised energy market in the UK is a perfect example to illustrate this phenomenon. The "Big Six" as they are called, have been named in the media as breaking the *spirit* of the law in many respects with the worst being N power, closely followed by Scottish Power and British Gas and three others. They have been described as "ripping-off" their stakeholders namely their customers with inaccurate bills, extortionate prices, singularly poor and dramatically inefficient service. These companies may obey the letter of the law but certainly do not obey the spirit of the law. The same may be said of the large supermarket chains where their employees receive wages at or just above the national minimum wage laws. Companies making enormous profits sometime will purposefully break the laws in order to make even greater financial profits knowing full well that the fines for breaking such laws being insignificant are worth paying. The greatest culprits are banks many of which have been named in the media and fined by the courts or other regulatory bodies for acting illegally.

solar plexus of the CSR concept. The company as a *legal persona*²⁵ is required to act as a responsible body in the community because it forms part of that community. Such legal person is required to act as any natural person in society would act. In addition, philanthropy also plays a significant part in the CSR context. *Philanthropic responsibility* requires a company to behave in a generous manner towards the community by providing such things as health care, schools for the disabled, social centres, welfare centres, parks and gardens, sports centres including swimming pools and other social amenities all of which have nothing to do with the business carried out by the company concerned. In brief, the company, as a member of the community, is required to do something for that community to benefit it even though it reaps no financial gain, at least directly²⁶.

Thus the CSR concept in ascending order requires (i) a company which has made financial profits that it should act (ii) not only within the bounds of law but also (iii) within the spirit of that law. Such company should (iv) also be bound within the boundary of morality and ethics in a socially responsible manner, and (v) it should act in a philanthropic manner if it had met the other four criteria above, namely criteria (ii) to (v). Criterion (i) however is essential for if the company has not made any profit or is a loss-making company, it is unable to fulfil the other criteria and therefore cannot act responsibly to its stakeholders amongst them, its employees and the community to which it belongs.

The Triple Bottom Line (TBL) concept is another concept of Corporate Social Responsibility (CSR). The TBL concept like the CSR concept both assume that the company being a member of the community owes that community some social responsibility. Both the CSR and TBL concepts, it will be recalled²⁷, do not accord with Friedman's doctrine. The difference between the CSR and the TBL concepts is that this latter concept focuses on the word "sustainability" as analysed above. Such sustainability is *long*

²⁵ Companies are treated in law as having a separate legal personality from that of its members upon incorporation in accordance with a particular country's laws. Companies thus have legal rights and obligations and can enter into contracts, sue and be sued in their own name. See *Salomon v Salomon & Co. Ltd.* [1896] UKHL 1 and Companies Act 1862 and 2006 s. 7 (1) (2) and s. 16 (2). See too (1897) 13 LQR 6; Otto Khan Freund (1944) MLR 54 and Murray A. Pickering "The Company as a Separate Legal Entity" MLR 31 n. 5. September 1968 pp. 481 – 511.

²⁶ For the company may well reap *indirect* gains by maximising its clientèle, by enhancing its reputation, by being honest and trustworthy, caring, and not appearing greedy for profits. Such companies do exist in the United Kingdom namely the John Lewis Partnership including Waitrose and Marks and Spencer.

²⁷ See p. 6 *supra*.

term. It requires a company to balance its actions on three separate long term fronts namely the *economic* sustainability, the *social* sustainability and the *environmental* sustainability fronts, each of which is independent of the others.

Economic sustainability must be long term otherwise the business would not be a viable one. Its bottom line must therefore be economically tenable. *Social sustainability* which is also long term has the effect of sharing with the community the company's economic success. The bottom line in the social sphere requires of the company to create an atmosphere in which all within it are able to succeed for it is better for a community to succeed along with the company rather than for the company to succeed solely by itself. Thus both the company and the community to which the company belongs both continue to succeed and thrive under the banner of good will. As for *environmental sustainability*, it is recognised that natural resources will not last forever and that resources which have been destroyed by man should, as much as possible, be re-instated and that therefore they need to be protected for the sake of future generations. Furthermore, natural resources which have been destroyed by man for commercial use, such as the rain forests or asbestos, coal or other mines, should as much as possible be returned to their former natural state. A moral community should not cause harm to itself and to other such communities and their future generations. As such, the bottom line suggests for some protection of the environment in which mankind lives. Where damage to the environment has already been caused, for example the asbestos mine in Cyprus mentioned above, efforts should be made to the re-forestation of the damaged mountain, such damage and re-forestation treat the bottom line.

To sum up the reasoning behind the analysis of economic, social and environmental sustainability, it may be said that where companies have TBL policies which benefit not only the company but also the community both, the company and the community, it is thought would benefit. It should also be noted that ISO 26000²⁸ is relevant in the equation to both the CRS and the TBL concepts.

²⁸ See p. 3 *supra*.

3. The United Nations Global Compact

Launched in the year 2000 the Global Compact is a strategic policy initiative for businesses committed to operating in a sustainable and socially responsible manner²⁹.

So as to facilitate and encourage the making of a positive impact by companies towards their stakeholders, the environment and society as a whole, the United Nations Global Compact includes among its membership academics in various disciplines, higher and further educational establishments, governments and governmental departments, non-governmental organisations (NGOs), employers' associations, trade unions and any other interested parties. The main actors in the UN Global Compact are, of course, the businesses themselves, whether small or medium sized companies (SMEs) or multinationals which, when they enter into voluntary international framework agreements (IFAs), requires them to fulfil the obligation of submitting annually a communication on progress (COP) report which, until 2014, was not required by the other non-business member actors who act in an advisory capacity through intercourse with business participants, by educating the public at large on the CSR concept and its benefits or otherwise and sharing their knowledge and expertise with all those who ask for these. Since 2014 however a reporting requirement has been introduced for non-business participants called the Communication on Engagement (COE). To be noted is the fact that the COE is less prescriptive than a COP³⁰.

3.1. The Ten Principles

The ten principles of the United Nations Global Compact³¹ derive from four international documents which include the Universal Declaration of

²⁹ Source: <http://www.unglobalcompact.org/AboutTGC/index.html> (Retrieved 23rd July, 2015).

³⁰ Source: E-mail to the author from Mr. Steve Kenzie UNGC UK secretariat dated 21st September, 2015 and see too <https://www.unglobalcompact.org/about/integrity-measures> especially the part entitled Communication on Progress/Communication on Engagement Policies.

³¹ The United Nations Global Compact was launched in 2000 by a former Secretary-General of the United Nations Kofi Annan "to harness the power of collective action in the promotion of responsible corporate citizenship". It is believed by many to be one of Kofi Annan's most significant legacies. (Source: Global Compact Network United Kingdom).

Human Rights³²; the Declaration on Fundamental Principles and Rights at Work of the International Labour Organisation³³; the Rio Declaration on the Environment and Development³⁴ and the Convention against Corruption of the United Nations³⁵.

The mission of the United Nations Global Compact is the achievement of corporate sustainability. This requires companies to foster in their strategies, policies, procedures and practices, certain *fundamental minimum values* and observe certain *fundamental minimum principles* when carrying on their respective businesses. Such minimum values and principles are restricted to four different areas, namely human rights, labour, the environment and measures against corruption. By acting with integrity and in a responsible manner in those four fields companies should reap numerous financial and other³⁶ benefits.

The United Nations Global Compact is designed to encourage companies to act as socially responsible members of the international community by committing to certain principles. There are ten principles provided for by the Global Compact. In the *human rights* field they include the support, respect and protection of internationally proclaimed human rights by companies and businesses³⁷ as well as ensuring that they are not complicit to human rights abuses³⁸. In the *labour* field companies and businesses are required to uphold the notions of freedom of association and the effective recognition of the right to collective bargaining³⁹, the elimination of all forms of forced and compulsory labour⁴⁰, the effective abolition of child labour⁴¹ and the elimination of discrimination with regard to employment

³² G.A. res. 217A (III) U.N. Doc A/810 at 71 (1948). The Universal Declaration of Human Rights was drafted by the U.N. Commission on Human Rights in 1947 and 1948 and adopted by the U.N General Assembly on 10th December, 1948.

³³ Adopted on 18th June 1998 (revised on 15th June, 2010) covering four fundamental principles and rights at work namely, (i) freedom of association and the effective recognition of the right to collective bargaining; (ii) the elimination of all forms of forced and compulsory labour; (iii) the effective abolition of child labour; (iv) the elimination of discrimination with regard to employment and occupation.

³⁴ United Nations 1992.

³⁵ United Nations Treaty Series vol. 2349. Doc.A/58/422. Entered into force on 14th February, 2005.

³⁶ For example, reputation, respect, reliability, stability, trust and so on.

³⁷ United Nations Global Compact Principle 1.

³⁸ *Ibid.* Principle 2.

³⁹ *Ibid.* Principle 3.

⁴⁰ *Ibid.* Principle 4.

⁴¹ *Ibid.* Principle 5.

and occupation⁴². In the field of the *environment*, companies and businesses should adopt a precautionary approach to environmental challenges⁴³, undertake initiatives to promote greater environmental responsibility⁴⁴ and encourage the development and diffusion of environmentally friendly technologies⁴⁵. In the *prevention of corruption* field companies and businesses should work against corruption in any of its forms including extortion and bribery⁴⁶.

These ten principles encourage businesses to adopt socially responsible and sustainable practices, report on their implementation and share best practice with other members⁴⁷.

3.2. The Four Labour Principles

In the context of this research programme it is only the aforementioned *four labour principles* with which we are concerned. All four of the labour principles of the United Nations Global Compact, namely freedom of association/collective bargaining, the prohibition of forced/compulsory labour, the abolition of child labour and employment/occupation discrimination, mirror the provisions of the ILO's Declaration on Fundamental Principles and Rights at Work. That Declaration calls upon the countries which have ratified it to apply its principles in accordance with the original intent of the core Conventions upon which the Declaration is itself based. Each of these four labour principles is *fundamental*⁴⁸ to the workplace in that companies – whether large multinational⁴⁹, medium or small – should adopt and incorporate them at company level. It may therefore be said that the ILO's policy is to put to

⁴² *Ibid.* Principle 6.

⁴³ *Ibid.* Principle 7.

⁴⁴ *Ibid.* Principle 8.

⁴⁵ *Ibid.* Principle 9.

⁴⁶ *Ibid.* Principle 10.

⁴⁷

Source:

<http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html>
(Retrieved on 25th July, 2015).

⁴⁸ In that these principles are now accepted globally by almost all countries whatever stage their economic development has reached, whatever their culture be and whether or not they are signatories to the relevant ILO Conventions. Such countries' laws – whether hard or soft – are expected to respect those four fundamental principles.

⁴⁹ As will be noticed below (at pp. 5 and 6) international framework agreements (IFAs) are invariably concluded by multinational companies. Agreements of small and medium enterprises (SMEs) also feature on the international stage.

use those four fundamental principles by encouraging the business world to adopt them through the Global Compact.

A Global Compact Labour Working Group was established in May 2008 under the auspices of the Global Compact Board⁵⁰ and is chaired jointly by the presidents of the IOE and UNI Global Union respectively.

A Webinar Series has been established between the International Labour Office and the Global Compact Office. Webinars are conducted by ILO experts and offer participants practical guidance, advice and resources which further the four labour principles of the UN Global Compact⁵¹.

⁵⁰ This working group is jointly chaired by the international social partners, namely the International Organisation of Employers (IOE) and the UNI Global Union. The IOE is the largest network in the private sector globally with a membership of over 150 businesses and employer organisation members. The IOE is the recognised voice of business in labour policy matters taking place in the ILO, the UN and the G20. It represents national business organisations in guiding corporate members on, *inter alia*, issues concerning corporate social responsibility, international labour standards, human rights, occupational health and safety and international industrial relations. The UNI Global Union based in Nyon, (near Geneva) Switzerland, is a world trade union federation for skills and services which includes national and regional trade unions. It was founded on 1st January, 2000 and has a membership of 20 million, some 900 affiliated trade unions in 140 countries. When founded in 2000 it was called the Union Network International but it changed its name to NUI Global Union when a merger took place in March 2009 with four organisations, namely Media and Entertainment International, International Federation of Employees, Technicians and Managers, International Graphical Federation and Communications International.

⁵¹ Examples of webinars convened jointly by the ILO and the UN Global Compact include (a) the webinar of 6th May, 2015 in attempting an answer to the question “How can companies uphold freedom of association and the effective recognition of the right to collective bargaining?” This one hour webinar examined how companies may improve the climate of labour management relations, particularly in countries where no adequate institutional or legal framework exist for *recognising* trade unions and for *collective bargaining*. It addressed challenges multinationals may face in their respective workplaces and their communities of operation to bring about *freedom of association*. (b) The one hour webinar of 7th November, 2014 with ILO experts treating *occupational health and safety* in the *construction* industry. This webinar aimed at providing practical guidance to enterprises wishing to focus on health and safety as an integral part of their business model. (c) The one hour webinar held on 5th September, 2014 on *forced labour* and its implications for business conducted by ILO specialists. The discussion focused on the important role of business in the global efforts to eliminate modern forms of slavery and the ILO Protocol and Recommendation to Convention n. 29 on forced labour. (On forced labour and modern slavery see the research carried out for the Commissioner for Civil Rights Protection of the Republic of Poland (Dr. Janusz Kochanowski) by Jo Carby-Hall “*The Treatment of Polish and Other A8Economic Migrants in the European Union Member States*” (2008) Bureau of the Commissioner for Civil Rights Protection Warsaw particularly Chapter VIII entitled “Exploitation and Abuse” at pp.183 – 260 and Jo Carby-Hall “*The*

The Multinational Enterprises Engagement Unit (ENT/MULTI) is responsible for the follow up of the ILO's "Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy" (MNE Declaration)⁵² which is the ILO's key tool for promoting labour standards and principles in the corporate world. One of its important means of action is the promotion of the MNE declaration among governments, employers, workers and the business community through collaboration with international organisations such as the UN Global Compact.

3.3. What Practical Commitments do Companies have in their capacity of Global Compact Partners?

Global Compact partner companies have an important number of obligations to fulfil in order to retain their partnerships.

In the first instance they need to play an effective part in the Global Compact: Companies are therefore required to make the Global Compact and its ten principles an integral part of the company's strategy, policy, organisational culture and daily operations. Secondly, by acting responsibly, companies are required to advance the Global Compact concept through an active outreach to customers, clients, consumers, employees and the general public. Thirdly, companies need to incorporate at the very highest company level – namely their governing board – the Global Compact and its ten principles. In the fourth instance companies' annual or sustainability reports should describe the manner in which they implement the Global Compact's principles⁵³. Finally, partner companies

Continuing Exploitation of Economic Migrants and other Vulnerable Workers" in "Essays on Human Rights: A Celebration of the Life of Dr. Janusz Kochanowski" (Jo Carby-Hall (Ed.)) (2014) Jus et Lex. Warsaw. at pp. 97 – 134.) See too the panel discussion held on 16th July, 2013 hosted jointly by the ILO and the UN Global Compact on the child labour platform to eliminate *child labour in global supply chains*. (Source: <http://www.ilo.org/empent/units/multinational-enterprises/lang-en/index.htm> (Retrieved 27th August, 2015).

⁵² Of March 2014.

⁵³ It should be remembered that the partner company also has an obligation to submit annually a Communication on Progress (COP) to the Global Compact office. A new partner company is exempt from this obligation during its first year of partnership but thereafter a COP needs to be submitted annually.

need to contribute to broad development objectives, including the Millennium Development Goals⁵⁴, through partnerships.

3.4. International Framework Agreements

Global or international framework agreements (hereinafter called IFAs) may well prove effective as a means of advancing the implementation of the four Global Compact labour principles and in addition improve industrial relations⁵⁵. It should be noted at the outset that IFAs do *not* form part of a CSR initiative because CSR is a totally different concept. This author would not agree, for having said that, IFAs are sometimes referred to in the CSR discussions because of the way in which multinationals respect in their IFAs the rights of employees as provided for in international documents. What distinguishes CSR from IFAs is that these latter are negotiated between the international social partners⁵⁶, with the aim of establishing an ongoing relationship between them. These agreements provide a common platform which addresses, *inter alia*, the four Global Compact labour principles both at company and at national and international law levels. The IFA normally commits the SME or multinational to apply equal standards for all its subsidiaries and branches globally. These standards may more often than not also be applicable to the SME's or multinational's supply chain even though such a supply chain company is, or companies are, not signatories to the IFA. They

⁵⁴ In 2000 at a summit of world leaders there developed under the auspices of the United Nations the Millennium Development Goals (MDGs) of which there are eight. The target was to eradicate global poverty and human suffering by 2015. Although success has come about in some countries especially in Asia, other countries in Africa, the Middle East and the Latin American continent are far from meeting their targets by 2015. The MDGs consist of (i) the eradication of extreme poverty and hunger, (ii) the achievement of universal primary education, (iii) the promotion of gender equality and empowerment of women, (iv) the reduction of child mortality, (v) the improvement of maternal health, (vi) combating HIV/AIDS, malaria and other diseases, (vii) the ensuring of environmental sustainability and (viii) a global partnership for development.

⁵⁵ On IFAs see Owen E. Herrstadt "Are International Framework Agreements A Path to Corporate Social Responsibility?" 10 U. Pa. J. Bus. & Emp. L.187 (2007) and by the same author "Corporate Social Responsibility, International Framework Agreements and Changing Corporate Behaviour in the Global Workplace" Labor & Employment Law Forum. vol. 3 Issue 2. (2013) pp. 263-277. See too Siglinde Hessler "International Framework Agreements: Possibilities for a New Instrument" Source: <http://column.global-labour-university.orh/2012/01/international-framework-agreements>.

⁵⁶ Namely between a multinational company and one or more global trade unions.

equally apply to contractors and sub-contractors because in practice the company informs them of the IFA provisions. Should such supply chain, contractor, sub-contractor, branch or subsidiary infringe the IFA provisions, the global social partners jointly may deal with the case and try to find a satisfactory solution by means of their social dialogue. The United Nations Global Compact may thus be viewed as the initial step in effectively developing a forum to monitor CSR internationally.

The mutual advantages of IFAs for trade unions and employers are numerous. One of these is that an IFA may prove useful in situations where trade unions are weak or where trade union membership is low. Another advantage is that time to carry out negotiations at various company locations is either reduced considerably or completely eliminated. A further advantage is that trade unions prefer to negotiate rather than have unilaterally imposed terms and conditions on employees by the employer. Such negotiated agreements form part of the social dialogue which for European Union Member States' companies encourages, and puts into effect the European social dialogue policy. Another advantage is that negotiated terms and conditions of employment are more readily acceptable to unions and their membership than employers' unilaterally imposed ones thus having the effect of diminishing or eliminating industrial disputes from occurring. An additional advantage is to standardise terms and conditions on a global basis where companies operate in numerous countries⁵⁷.

What is important to both global social partners is the fact that there must be a mutual clarity and understanding on the *contents* of the agreement and how it will *apply* on a global basis in the case of multinationals. Care must therefore be taken in both the *language* and *content* of the particular IFA when it is being drafted so that the intention of the social partners be completely clear and transparent. This would avoid future problems of interpretation and misunderstandings as to intention and enforcement.

Enforcement raises another problem. Is an IFA a legally enforceable document as is the case in most of the world's countries' collective agreement laws or is it a gentleman's agreement enforceable in honour only and through the industrial relations system as is the case in the

⁵⁷ To be borne in mind is the fact that these advantages to one or both of the social partners are not open to all global trade unions or employers. Depending on the industry concerned, IFAs are more numerous in some, as for example in Union Network International, than in other industries as for example, International Food Workers.

United Kingdom⁵⁸? To the best of this author's knowledge the legal status of an IFA has not been tested in a court of law. A further complication would be, were an IFA to be legally tested, which of the laws in the different countries in which the multinational or SME operates, is applicable? It is suggested that the IFA being an international framework document, (and therefore constitutes, as such, soft law), it is legally unenforceable in a court of law unless the document specifies such an intention and a particular country's law as being applicable. Judging from the current IFAs' contents examined by this author, such intention does not exist therein. Alternatively voluntary international labour arbitration may be another available opening⁵⁹. Again, such a clause does not appear in current IFAs⁶⁰. What is undoubted however is that IFAs constitute an important contractual (albeit non-legally enforceable) development in a globalised industrial relations setting. An examination of existing IFAs shows clearly that the global social partners wish to keep the law out of industrial relations⁶¹ and therefore do not wish to be legally bound. Should problems arise, most IFAs provide procedures for settling disputes and IFA interpretation matters. Such procedures may include *joint training* and/or *joint action* programmes or *joint monitoring* programmes to ensure that the global agreement core provisions are respected by national/workplace agreements. A majority of IFAs include a procedure whereby the global trade union federation may intervene should a company not respect the agreement terms.

⁵⁸ See J. R. Carby-Hall "The Collective Agreement – Legal Enforceability?" Managerial Law vol. 35. Nos 1 and 2 (1993) MCB University Press.

⁵⁹ See Christopher J. Bruce and Jo Carby-Hall "Rethinking Labour – Management Relations. The Case for Arbitration" (1991). Routledge London and New York.

⁶⁰ The Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO, Geneva 28th March 2006) Article 59 entitled "Settlement of Disputes" provides that "Multinationals [...] jointly with [...] organisations of [...] workers [...] should seek to establish voluntary conciliation machinery [...] which may include provision for voluntary arbitration". This document provides recommendations on what would be the desirable behaviour of multinationals in, *inter alia*, industrial relations. Although not specifically provided for in the Declaration, it is suggested that the term "industrial relations" includes industrial disputes.

⁶¹ A good example is the 2012 Siemens IFA (See below) where a dispute arose between the multinational and the IndustriALL Union. And where there was no provision for binding arbitration or any other form of dispute resolution. (Source: <http://www.industriall-union.org/siemens-anti-union-campaign-bullies-workers-out-of-organizing> With such lack of enforcement mechanism in IFAs, (a) the *credibility* of an IFA becomes questionable and (b) frustration and *resentment* through lack of expectations may occur.

The total number of IFAs signed by the global social partners is believed to be in the region of ninety eight⁶². These IFAs apply to a variety of different industries with the first of these having been signed in 1988 by Danone, the French food processing multinational, followed by the French ACCOR chain of hotels in 1995. It was not until the year 2000 that other multinational companies followed suit, among them IKEA⁶³, the Swedish furniture and furnishing multinational, Chiquita, the American banana multinational, Endesa and EDF, the Spanish and French electricity and gas producers respectively, Faber-Castel & Staedler, the German pencil and other office materials manufacturer, Statoil, Lukoil and ENI, the Norwegian, Russian and Italian petrol, diesel, heating oil, etc. producers respectively, Carrefour, the French supermarket giant, Telefonica, France Telecom and OTE, the Spanish, French and Greek telecommunications multinationals respectively, retailers such as H&M in Sweden, car manufacturers in Germany (Volkswagen and Daimler-Chrysler) and France (Peugeot-Citroën and Renault), Siemens the German electrical goods manufacturer⁶⁴, and on 20th March, 2015 IndustriALL and ThyssenKrupp signed an IFA on the promotion of fundamental rights in which 150,000 workers in some 80 countries worldwide are covered and many more⁶⁵.

Since its creation in 2000 the Global Compact has grown into the “world’s largest corporate citizenship and sustainability initiative” with more than 12,000 participants, including more than 8,000 Multinational

⁶² Source: Global Union Federations (GUF) website.

⁶³ The IFA agreement between IKEA and the Building and Wood Workers’ International (BWI) (known at the time of signature of the IFA as the International Federation of Building and Woodworkers) was originally concluded in 1998. It was developed further in 2001 and renamed the IKEA Way on Purchasing Home Furnishing Products. Source: IKEA, BWI, December 19th, 2001, <http://www.bwint.org/default.asp?Index46&Language=EN>; IKEA Way on Purchasing Home Furnishing Products. See <http://www.bwint.org/pdfs/iwayma.pdf>

⁶⁴ International Framework Agreement between Siemens AG, the Central Works Council of Siemens AG and the IG Metall and the IndustriALL Global Union of 25th July 2012. Source http://www.industrialunion.org/sites/default/files/uploads.documents/siemens-gfa-2012-english_final_O.pdf (Retrieved 7th August, 2015).

⁶⁵ IFAs have also been signed in Brazil, Malaysia, Switzerland, the United Kingdom, Indonesia, Denmark, Sweden, the Netherlands, Australia, the Philippines, Portugal, Canada, Japan and African countries. See too “*International Union Rights: Focus on Global Framework Agreements?*” International Centre for Trade Union Rights, vol. 18, Issue n. 2 (2011) in which many such agreements are discussed and analysed.

and SME businesses from 145 countries⁶⁶ and 4,000 non business partners.

3.5. What Matters are Included in the IFAs?

Something needs to be said on what matters are included in the IFAs. The four fundamental labour principles of the UN Global Compact (see above) appear in all IFAs. In addition, the contents of core ILO Conventions or some of these, such as trade union recognition and that of its affiliates also feature. Other matters may include a variety of issues provided for by ILO standards as for example, health and safety at work, hours of work, minimum wages, the protection of trade union or worker representatives, occupational training and so forth. Thus apart from the four fundamental labour principles and references to core ILO Conventions, IFA contents vary from one agreement to another depending on what the global social partners require to include therein. The important fact to be borne in mind is that these kinds of global agreements are *framework* agreements. Such agreements provide only a framework or a structure to be filled in as required with other matters and details relevant to the needs, industrial relations systems, customs and traditions of the social partners following negotiations between them at national and/or workplace levels.

3.6. Criticism of the Global Compact Concept

The Global Compact is not without its critics! As early as 2001 while the Global Compact concept was in its infancy, a panel⁶⁷ consisting of five NGOs⁶⁸ expressed grave doubts on this concept. The NGOs considered that the “Global Compact with corporations is fundamentally flawed and

⁶⁶ Source: <http://www.unglobalcompact.org/ParticipantsAndStakeholders/index.html> (Retrieved 25th July, 2015). This is hardly representative of the approximately 65,000 transnational businesses worldwide. (Source: Peter Utting “*Why all the fuss?*” 1 UN Chronicle (2003).

⁶⁷ An NGO Panel on Corporate Accountability held at the United Nations on 16th February, 2001. (Source: <https://www.globalpolicy.org/component/content/article/225/32152.html>) (Retrieved: 29th July, 2015).

⁶⁸ Namely, Women’s International League for Peace and Freedom, Global Policy Forum, CorpWatch, Health Action International and the Institute for Policy Studies.

that it endangers the integrity of the United Nations”. One of the NGOs questioned the tactics of this venture.

We feel it sent a very bad signal at a very crucial time. Was it tactically the right or strongest move for the UN to put forth this relatively weak compact when the peoples of the world and many governments in fact, were questioning globalisation and the antics of corporations like never before.

Another NGO was more pragmatic when its representative said

But the Compact does embody a classical vague statement of principles that does not provide rules for specific situations or complaint procedures of any kind. Nor does it include any form of systematic monitoring. Instead the UN offers corporations an opportunity to exhibit their code-related “best practices” on a special website www.globalcompact.org. This allows companies to demonstrate adherence by carefully selected examples only. Corporations signing up are able to claim the legitimacy of a wide-ranging code under the prestigious United Nations while only having to adhere to it symbolically.

He went on to say “Secretary General Kofi Annan quickly established relations with the private sector when he assumed his post, in particular with the International Chamber of Commerce. The ICC has been a major player in the Global Compact, ensuring that it remained toothless. It was at that level that the agreement was struck”. Another NGO representative considered that while a few other NGOs supported the Global Compact “there are a large number of groups that have serious reservations and have asked the Secretary General to suspend and reconsider the program”. Such reservations included (a) the *wrong relationship*, namely that “Partnerships should be between entities that share goals – the UN and corporations do not”. (b) the *wrong companies* such as “Known violators of human rights norms [...] [which] are part of the Global Compact [...]. These companies are not merely plain violators but leaders in advancing the ugliest sides of globalisation [...] Moreover they are unrepentant about their role”. (c) the *wrong image* in that “from a corporate point of view, clearly the partnership with the UN fits in to a public relations strategy of wrapping themselves in the UN flag and saying we understand about human rights and we are doing something about it. They get the benefit of the ‘mutual image transfer.’ The UN [...] gets the downside – an association with companies that are loathed by millions”. In addition “a company might get to use the UN logo”. (d) *no monitoring and no*

enforcement because the Secretary general's office said that "it does not have the capacity or mandate for monitoring and enforcement and the ICC has made it clear that this condition is a pre-requisite for business participation". (e) the *ideology* issue. "The Secretary General has made it clear that he fundamentally supports the form of globalisation as it exists today – open markets and free trade. The Global Compact is essentially a legitimizing project for corporate globalisation by integrating human rights, labour rights and environmental protection. But many citizen movements do not accept the current version of globalisation, if it were given a human face".

At the "Public Eye on the Global Compact"⁶⁹ press meeting, leading NGOs expressed harsh criticisms on that concept. One was heard to say that

The continuous 'blue washing' harms the image of the UN as well as the development of effective standards for the trendy topic of Corporate Social Responsibility [...] The extent to which the rhetoric and reality diverge is demonstrated by the various unpunished offenses committed against the ten Global Compact principles.

Another said "the UN must ultimately set internationally-binding CSR standards to corporate behaviour and see to their adherence. The world does not need more declarations of intent from corporations, but real action that can be measured and monitored". Yet another was of the opinion that "While the Global Compact plays an important role in promoting corporate learning on human rights, without a robust accountability mechanism the potential to improve the human rights of business will be limited"⁷⁰.

"The Economist" says that the Global Compact is toothless. It published a special report on CSR and dedicates two paragraphs to the Global Compact. It says that

A soft code that is proving popular is that of the United Nations Global Compact. To sign up, companies need only to commit themselves to ten broad principles – such as promoting environmental responsibility and working against corruption – and report their progress once a year. Yet the concept is toothless. Critics say it just provides cover for companies from China and elsewhere which cheerfully sign up to it and then more

⁶⁹ Held in the Palais des Nations in Geneva on 4th July, 2007 and organised by the Berne Declaration.

⁷⁰ Source: <http://www.globalpolicy.org/global-taxes/32267-ngos-criticize-qblue-washingq-by-t> (Retrieved 30th July, 2015).

cheerfully ignore it. But one thing, George Kell⁷¹ [...] is no softie. CSR is a child of openness, he says. Corporate responsibility in recent years has been driven by globalisation. If markets stay open, it will continue to spread. But openness should not be taken for granted: The day markets close, CSR is over⁷².

The whole of the above criticisms is summed up in the statement that “Its voluntary nature, along with its lack of monitoring and enforcement mechanisms, lead many to view the Global Compact as a toothless ‘bluewashing’ public relations tool ineffective in responding to the business and human rights crisis”⁷³.

3.7. Communication on Progress (COP)

An annual Communication on Progress (COP) report must contain information consisting of (a) the continued support by the company or its chief executive officer for the Global Compact’s ten principles. (b) the activities and concrete actions taken by the company during the previous year to maintain/encourage the Global Compact and (c) the outcomes resulting from such actions⁷⁴.

A COP has four basic functions. The first is to improve transparency and accountability. The second function is to show continuous performance/improvements. The third function is to illustrate the integrity of the UN Global Compact and the fourth to assist the building up of a growing repository of corporate practices to promote social dialogue⁷⁵.

The Global Compact office epitomises the situation as follows:

The public availability of Communication of Progress information promotes transparency and disclosure, allowing stakeholders to ensure companies live up to their commitment to the Global Compact Principles. It also provides stakeholders with material information to

⁷¹ Who was the Global Compact’s former chief executive officer.

⁷² The Economist. 17th January, 2008.

⁷³ Source: Joint Inspection Unit, United Nations Corporate Partnership: The Role and Functioning of the Global Compact. UN doc. JIU/REP/2010/9 (2010). See too Jon Entine “*United Nations Global Compact: Ten Years of Greenwashing*” Ethical Corporation (2010).

⁷⁴ Source: <http://www.unglobalcompact.org/COP/index.html> (Retrieved 30th July, 2015).

⁷⁵ See previous footnote *supra*.

make informed choices about the companies they interact with, whether as customers, investors or employees. Stakeholder vetting is the cornerstone of the Global Compact's mission to promote transparency and disclosure as a means of driving performance⁷⁶.

One of the numerous e-mails sent to the author by Mr. Steve Kenzie⁷⁷ stated that

All UNGC signatories are required to report annually in a COP to their stakeholders on the progress they have made with respect to implementing the principles [...] Signatories are expected to report on the labour principles, or explain why they have not, but the rules regarding the COP are not prescriptive. Companies have considerable latitude to choose what information they disclose and as those reports are in the public domain, it is expected that they will be responsive to their stakeholders⁷⁸.

3.8. *Delisting*

In 2008 the Global Compact office delisted 394 companies because of the fact that these companies were considered to be “inactive”. Such Companies are considered as “inactive” if they miss two consecutive deadlines in their submission of a Communication on Progress (COP) report. COPs are public statements on progress made by companies in the course of implementing the Global Compact's ten principles. Such reports are required annually of all business participants. By January 2010 the total number of “inactive” companies which were delisted stood at 1,840⁷⁹. As of September 8th, 2015 there were 5,624 companies delisted by the UNGC⁸⁰ and by the time the reader gets to read this chapter there will be

⁷⁶ Source: http://www.unglobalcompact.org/COP/analyzing_progress/index/html (Retrieved 25 July, 2015).

⁷⁷ Source: E-mail from the UNGC-UK Secretariat dated 31st August, 2015.

⁷⁸ Annual Reports may be consulted on the UN Global Compact website. <https://www.unglobalcompact.org/library/229>.

⁷⁹ Source: *Ibid.*

⁸⁰ Source: E-mail of Mr. Steve Kenzie, UN Global Compact Network- UK Secretariat, dated 21st September, 2015 to this author. A complete list of delisted companies may be found at <https://www.unglobalcompact.org/participation/report/cop/create-and-submit/expelled>.

many more delisted⁸¹ companies. The vast majority of these delisted companies are SMEs rather than large multinationals⁸².

A delisted company may re-apply but practice shows that it is in very few cases that companies wish to re-apply.

Inactive companies cannot use the Global Compact logo for any purpose until a COP has been issued. The Global Compact logo policy is to encourage its use when the company is listed. It states “We Support the Global Compact”⁸³ The initiative currently includes 3,380 business participants in “active” standing, while 401 companies are listed as “non-communicating”, an expression which is *cautionary* for companies which missed one deadline in submitting a COP. According to the Global Compact’s Integrity Measures introduced in 2005, new signatories to the Global Compact enjoy two years from the date of joining to prepare and submit their first COP. After the first submission a COP is expected annually.

Among the delisted companies there are only a few well known ones which feature. They include Ernst & Young, Brazil, Air India, Agencia EFE (Spain), Pedronas Energy (Philippines) and Editora Globo (Brazil). The vast majority of delisted companies appear to consist, as stated above, of Small and Medium sized companies, many from the developing world. It appears that very few delisted companies re-join the Global Compact which indicates either that it had no significant commercial impact on the company or that the annual COPs proved to be an additional burden on the administrative processes of the company especially if they were SMEs or had nothing positive to report in their COP relating to the four labour (and remaining six) principles of the Global Concept or that they simply are not dedicated to that concept. It also appears that the most compliant countries were companies operating in Germany, the United Kingdom and South Korea whereas the least compliant were companies operating in China, Brazil, the Philippines and the Dominican Republic.

⁸¹ The term “expelled” rather than “delisted” is used in that report.

⁸² Source: E-mail of Mr. Steve Kenzie, UN Global Compact Network- UK Secretariat dated 21st September, 2015.

⁸³ The logo is a way to show commitment and raise awareness of this initiative. It normally features on corporate websites and corporate sustainability reports. Companies and other organisations must first seek permission and submit a sample of desired usage, each time before using the logo.

In virtually every case companies are delisted for failure to submit a COP rather than for actions contravening the UNGC principles or information included or omitted from their COP⁸⁴.

It should be noted that the UN Global Compact seeks to advance its principles through the active engagement of the corporate community in co-operation with civil society and representatives of organised labour. The initiative is not designed, nor does it have the mandate or resources, to monitor and measure participants' performance. However, with the aim of protecting the integrity of the Global Compact, the initiative has adopted the integrity measure called the Communication on Progress (COP) as explained above⁸⁵. Therefore, the UNGC does not monitor or measure participants' performance. By design, that role is left to companies' stakeholders. The UNGC encourages transparency, thus empowering stakeholders to hold companies to account.

Granted that the *vast majority* of, and *main reason* for, delisting a company is its failure to submit a COP, other reasons also exist. These include the following, namely that the company no longer exists, the company failed to engage in dialogue, participants requested withdrawal, other reason(s) related to the integrity measures, the consolidation of commitment transferred under the parent company, mergers and acquisition, transfers of commitment and non-applicable issues⁸⁶.

Most of the reasons given above are self-explanatory, but one reason mentioned, namely "failure to engage in dialogue" needs a more detailed explanation. This reason is the one more likely *related* to a breach of an IFA. The word "related" is used advisedly because the expulsion or delisting is not *directly* related to the breach. In order to "safeguard the reputation, integrity and good efforts of the Global Compact and its participants, the dialogue facilitation process is a transparent means to handle credible allegations of systematic and egregious abuse of the Global Compact's overall aims and principles by a participating

⁸⁴ Source: E-mail to the author from Mr. Steve Kenzie, UN Global Compact Network – UK dated 21st September, 2015.

⁸⁵ Source: E-mail dated 31st August, 2015 to this author sent by Mr. Steve Kenzie, UN Global Compact Network – UK Secretariat.

⁸⁶ Source: Delisted companies_09202015[1].xlsx [protected view Excel file] attachment to e-mail of Mr. Steve Kenzie UN Global Compact-UK secretariat dated 21stSeptember, 2015 addressed to the author. This Excel file contains a listing of all companies globally which have left the UNGC. It also contains the companies' joining and leaving dates, their industry sector and the reason(s) for their removal from the list.

organization⁸⁷. Where a credible allegation, as described, is brought to the attention of the UNGC Board, it will compel the parties to the allegation to engage in a dialogue and seek a resolution. Should the UNGC signatory not engage in the dialogue in good faith, the company will be expelled. (i.e. delisted). The company is not expelled directly as a result of the breach itself because the UNGC does not have the capacity to conduct a credible investigation of an allegation of this type. Such disputes are sometimes referred to a National Contact Point for the OECD Guidelines for Multinational Enterprises, which has a more rigorous complaints procedure at its disposal.

4. The European Unions and Globalisation

Labour standards in the European Union represent core values which the EU supports, fosters and encourages. Agreements have been reached between the European social partners on a variety of topics, freedom of association and collective bargaining, child and forced labour being some of them. These agreements normally refer employers to the minimum international standards contained in ILO instruments such as conventions, declarations and other materials.

The ILO Declaration on Fundamental Principles and Rights at Work adopted in 1998 and the World Summit for social development in 1995 were instrumental in, and formed a basis for, the establishment of international standards. Resulting from these international instruments the European Commission issued a communication in 2001 on the promotion of core labour standards and the improvement of social governance in the context of globalisation. It re-affirmed the importance of the ILO as THE central body in the promotion of global core labour standards when it said

core labour standards such as non-discrimination in employment and equal opportunities for men and women are guaranteed by EU law. Freedom of association and collective bargaining are enshrined in the Charter of Fundamental Rights of the European Union, which gained legal force on 1st December 2009 with the coming into force of the Treaty of Lisbon. Although the EU does not expect developing countries to match its own high labour standards, it does not tolerate

⁸⁷ Source: <http://www.unglobalcompact.org/about/integrity-measures> (Retrieved 1st September, 2015).

labour practices in its trading partners that fall below international norms”.

The European social partners, namely BusinessEurope and the ETUC have expressed a commitment to the adoption of collective agreements which set out minimum labour standards. Commenting on corporate social responsibility, BusinessEurope stated in 2011 that “multinational enterprises provide part of the solution to safeguard human rights making a particular positive contribution in countries where governance is weak, by increasing prosperity and social standards, and improving education”⁸⁸. A mention has been made of some of the IFAs entered into by European multinationals⁸⁹ which provide for core labour standards and which include the global right of workers to form and join trade unions of their choice⁹⁰, and a framework to promote global social dialogue and negotiate on health and safety, training, climate change and restructuring⁹¹.

It is evident that there is an important “rapport”, “rapprochement” and “consensus” between the European Union labour standards and the international standards provided for by ILO instruments as well as, in particular the European Convention on Human Rights of the Council of Europe, which has been described by the Court of Justice of the European Union as “a special source of inspiration” for EU human rights principles⁹².

Corporate behaviour with respect to worker rights, nationally and globally form the key which opens the corporate social responsibility door. Honouring international labour standards constitutes the true benchmark for measuring the concept of corporate social responsibility.

5. The United Kingdom Network

Under this heading it is proposed to treat the United Nations Global Compact local networks generally, followed by the history of the United Kingdom network and its development. Something will also be said on its

⁸⁸ Source: <http://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dic> (Retrieved 30th July, 2015).

⁸⁹ For examples of some of these see immediately above.

⁹⁰ Peugeot-Citroën (2006 extended in 2010).

⁹¹ GDF Suez (2011).

⁹² Source Paul Graig and Gráinne De Búrca “*EU Law Text, Cases and Material*” (6th Edn) OUP (2015) at p. 380.

structure and membership. There will then follow a discussion on the membership of firms with less than ten employees to join officially the global compact initiative. Finally, some benefits of the global compact will feature.

5.1. UN Global Compact Local Networks Generally

Local networks⁹³ assist in advancing corporate sustainability at the grassroots level by assisting companies in understanding what responsible business means in the national context.

Companies face unique challenges to operating responsibly and have different opportunities to make a positive impact. Companies which enjoy a worldwide presence and their supply chains need to understand locations far from their headquarters and view sustainability through local optics. Local UNGC networks advance the policies⁹⁴ of the UN Global Compact at national level. These networks help companies understand what responsible business means within different national, cultural and language contexts and facilitate outreach, learning policy dialogue, collective action and partnerships.

Furthermore as a result of those networks local connections may be made by companies with other businesses, NGOs, government departments, stakeholders, universities⁹⁵ and so on.

5.2. History and Development of the United Kingdom Network

A number of British signatories to the U.N. Global Compact met in 2003 to explore the possibility of founding a U.K. network which is in accord with the Global Compact's programme of establishing local networks. Within three years the UK network grew from an informal body to becoming a formal fee-paying one with a constitution⁹⁶ policies⁹⁷ and a

⁹³ UN Global Compact Local networks are independent, self-governing and self-managed entities but work closely with the UN Global Compact HQs in New York and act as a point of contact for UN Global Compact signatories in the country.

⁹⁴ For example, the UNGC ten principals and other policies.

⁹⁵ Universities can give specialist guidance to companies in many fields including the sustainability commitments required of the company.

⁹⁶ The U.K. Network which is the membership's focal point of *co-ordination* and *communication* aims at (i) providing the UK signatories with the facility to *consider* and *advance* matters of concern and mutual interest; (ii) providing a mechanism through which

formal structure consisting of a chairperson, a steering committee, an Advisory Group and Board⁹⁸ and a secretariat consisting of three sustainability hubs⁹⁹. Working groups have also been formed where companies wish to address an issue through such groups¹⁰⁰.

performance and *reporting* on U.N. Compact principles can be improved by mutual support; (iii) enabling participants to share and exchange *practice* and *experience*; (iv) providing *input* to the Global Compact on its *future development* and *activity*; (v) *promoting* the Global Compact principles throughout the UK business community; and (vi) helping *promote* and *support* the Global Compact worldwide.

⁹⁷ Namely, policies on each of (i) equality and diversity; (ii) anti-corruption and (iii) health and safety.

⁹⁸ An advisory group consists of multinational companies, small and medium enterprises (SMEs), government observers, trade union representatives and representatives of non-governmental organisations (NGOs). The functions of an advisory group consist, *inter alia*, in pursuing the aims and setting the direction of the network, approving the activity programme of the network, reporting to the network membership at plenary meetings and overseeing the work of the secretariat. The Advisory group and Board Members consist of a chairman and seventeen members. Source: <http://globalcompact.org.uk/about-the-uk-network/advisory-group/>.

⁹⁹ Formerly provided by the International Business Leader's Forum (IBLF) and since 2013 by the Sustainability Hub in Clerkenwell. Source: <http://www.globalcompact.org.uk/about-the-uk-network/> (Retrieved 2nd August, 2015).

¹⁰⁰ Activity orientated working groups in the United Kingdom included the following: (i) *Small and Medium Enterprises Working Group* treating numerous objectives such as the provision of practical support, guidance and tools which are easy to use for SMEs, increase SME membership in the UK, CSR reporting and mentoring and support for UK SMEs and Communication of Progress (COPs) for SMEs. (ii) *Network Liaison Working group* with the aim of UK network representation at external events, assistance, emerging networks with governance issues and placing emerging networks in contact with other working groups on a needs basis. (iii) *Communications Working Group* with the objective of providing a mechanism to exchange information with the UK network and further afield, sharing information on the UN Global Compact and inspire interest and participation elsewhere and serve as a communications base between the UK network and the UNGC office. (iv) *Communication on Progress Working Groups* in 2009, 2011 and 2012 with the aims of reviewing the process of submission and assessment of COPs for network members, ensuring that sufficient guidance is obtained for COP producers and receivers and that it is adequately communicated and engaging with other national networks to share COP experience, aligning the UK network peer review process with new Global Compact COP standards and extending of peer review procedures to accommodate advanced COP category. (v) *Women's Empowerment Working Group* in 2012 with the aim of updating participants on the UNGC activity surrounding the Women's Empowering Principles with an outline of the UK network potential activities. (vi) *Rio+20 Corporate Sustainability Forum (CFS) Working Group* with the aims of defining and implementing the UK's engagement on this issue, opportunities to involve the UK network and best practice. (Source: <http://www.globalcompact.org.uk/about-the-uk-network/working-groups/> (Retrieved 1st September, 2015).

The executive director of the Global Compact Network United Kingdom talked of the function of local networks. He said “Local networks perform the critical task of rooting the Global Compact within a national context – linked to local priorities and needs – and provide opportunities for participants to improve understanding and share experiences on their work to advance the Global Compact principles, partnerships and reporting”¹⁰¹.

5.3. Structure and Membership

Within the structure of the Global Compact Network United Kingdom there are four strategic partners. They include Cynnal Cymru-Sustain Wales¹⁰², the Department for International Development, UK Government¹⁰³, the Trade Union Congress (TUC)¹⁰⁴ and the United Nations Association of Great Britain and Northern Ireland, (UNA), UK¹⁰⁵.

As of August 2015 the Global Compact UK network membership consists of seventy five organisations which include a variety of multinational companies involved in, *inter alia*, (a) management consulting,

¹⁰¹ Source: <http://www.globalcompact.org.uk/> (Retrieved 30th August, 2015).

¹⁰² This strategic partner is a networking organisation which enables its members to learn from each other and discover good practice in Wales. This organisation works with people and organisations across a broad range of issues, from climate change to economy and fair trade to health. It increases understanding of sustainability issues and good practice and raises awareness of practical resources encouraging sustainable living in Wales. Source: <http://www.cynnalcymru.com>.

¹⁰³ A government department set up in 1997 whose aim is to fight global poverty thus widening the UK’s aid programme beyond its traditional economic development. Its objective is to “make global development a national priority and communicate it to audiences both in the UK and overseas [...] [it] is also involved with creating new ‘aid relationships’ with governments of developing countries”.

¹⁰⁴ The TUC represents 66 British trade unions with a total membership of six and a half million members. The TUC campaigns for rights of workers and social justice. Historically the TUC reached a peak of some twelve million workers but since the 1980s and 1990s membership has declined. For an analysis and reasons for that significant decline see Jo Carby-Hall “*Le Syndicalisme en Grande Bretagne: État Actuel et Perspectives*” in “*Le Syndicalisme Contemporain et son Avenir*” (Professor Henryk Lewandowski (Ed)) (1995) Wydawnictwo Uniwersytetu Łódzkiego at pp. 74-112.

¹⁰⁵ This Association is the UK’s leading independent policy authority on the United Nations. It is independent from the United Nations and receives no funding whatsoever from it, consequently it can be critical of its decisions and of its activities by calling for reform to enable the UN to become better equipped to fulfil its fundamental functions.

technology and outsourcing services, (b) the oil, gas and refining industry, (c) the mining and quarrying industry, (d) sustainable investing using technology, (e) semiconductor intellectual property supplier, (f) advisers on risk associated with business responsibility in government, CSR and sustainable development, (g) insurance, (h) energy and energy forecasting solutions (i) global energy market, (j) outer ware retailers, shoe retailers, consumer goods, (k) business, medical, professional imaging, (l) satellite and radio services to organisations working in remote and hazardous areas, (m) catering services, (n) premium drinks, brewers, ethical bottled water, (o) waste management services, technology services, (p) forensic products and services, (q) intelligence agencies, (r) security services, (s) resource exploration and development services, (t) healthcare services, (u) social innovation services, (v) financial services, (w) experiential learning, (x) home improvement retail services, (y) stone, concrete and landscaping services, (z) creative design and software engineering, etc.. In addition to those multinational companies, its membership also includes university business schools in the UK such as Aston Business School which provides inspirational learning and business engagement, Hull University Business School dedicated to responsible leadership for the complex world, Leeds Business School which offers an international business learning experience and universities such as the Universities of Middlesex, South Wales, Winchester and Essex. Global law firms such as Clifford Chance and Freshfields Bruckhaus Deringer, international chartered account firms as for example, KPMG and Mazars and the Chartered Institute of Management Accountants (CIMA) also feature as members. Global banks, such as HSBC, Standard Chartered and the Royal Bank of Scotland, the Staffordshire Chambers of Commerce, an international Christian relief organisation, a children's charity, the Equality and Human Rights Commission, the Royal Institute of Chartered Surveyors and a company specialising in the supply chain engagement solutions also feature on the list¹⁰⁶.

Companies which wish to participate in the Global Compact need first to consult the application guidelines¹⁰⁷. In the second instance, a letter of commitment¹⁰⁸ will need to be signed by the highest executive of the

¹⁰⁶ Source: <http://www.globalcompact.org.uk/about-the-uk-network/members/> (Retrieved 1st September, 2015).

¹⁰⁷ To be found at <http://www.unglobalcompact.org/HowToParticipate/HowToApply.html>.

¹⁰⁸ A sample letter of commitment will be found at <http://www.unglobalcompact.org/index.html>.

company, who will normally be the chief executive officer. The letter of commitment needs to express (a) commitment to the United Nations Global Compact and its ten principles, (b) engagement in partnerships to advance broad United Nations goals and (c) an annual submission of a Communication of Progress. (COP). Finally when the application¹⁰⁹ has been completed it needs to be submitted to the secretariat for processing.

5.4. Global Compact Membership of Enterprises with Less than Ten Employees

The United Nations Global Compact does not currently allow enterprises with less than ten employees to join *officially* the UNGC initiative and database. However, the Global Compact UK network while respecting that policy on small companies, nevertheless argue that

We are conscious of the valuable contribution that smaller organisations can bring to the network. One of our primary goals is to present members with diverse views on the Global Compact's issue areas and including the perspective of smaller organisations is important to us. Therefore we have established a list of organisations that wish to engage with the Network, but cannot join formally. This allows micro enterprises to stay informed of opportunities to engage with the UK Network.

Thus, the possibility is given to small enterprises to be *informed* about the opportunities to engage with the UK network's activities. Furthermore, although most of the UK Network events are for members only "we are prepared to make exceptions to our attendance policy on a case by case basis".

This policy is indeed commendable, encouraging and forward looking!

5.5. Benefits of the United Nations Global Compact

It will be recalled that the United Nations Global Compact is a purely *voluntary* initiative with the aims of (a) mainstreaming its *ten principles* in global business activities and (b) *catalysing actions* to support the United Nations' goals.

¹⁰⁹ Which can be made on line or on paper.

The benefits of companies participating in the United Nations Global Compact are numerous and include (i) advancing responsible corporate citizenship through leadership; (ii) managing risks by taking a pro-active stance on critical issues; (iii) producing practical solutions to contemporary globalisation problems, sustainable development and multi-stakeholder corporate responsibility; (iv) sharing and learning good practices; (v) accessing the UN's broad knowledge on development issues; (vi) improving corporate management, employee morale, productivity and operational efficiencies; (vii) leveraging the UN's global reach and convening power with governments, business, civil society and other stakeholders¹¹⁰.

6. An epilogue

Six matters need highlighting within this epilogue.

6.1. Refocusing from Shareholders to Stakeholders

This research shows that CSR and the UN Global Compact have both had the effect of *refocusing* the business profits ethos from the shareholders to the stakeholders. Such stakeholders are numerous and include not only the employees or workers employed by the company, but also the customers, suppliers and frequently their supply chains. Each of these stakeholders is directly and contractually connected with the company. Other indirectly connected stakeholders may also include NGOs and charities, governments or government departments, trade unions, the media and at times activist groups. Granted that this refocusing is taking place, it is important to note that the number of Global Compact participating companies is statistically significantly smaller, at some 8,000 companies¹¹¹, than the overall number of companies which function globally which includes 45,508 companies *listed* in stock exchanges round

¹¹⁰ Source: http://www.globalcompact.org.uk/about-the-uk-network/about-the_un-global-compact/ (Retrieved 1st. September, 2015). When joining the United Nations Global Compact, companies are required to make an annual financial contribution. This also applies to those companies joining the UK network.

¹¹¹ This figure excludes the 4,000 non-business partners. See p.14 *supra* for an explanation.

the world¹¹². The number of formal *unlisted* companies globally constitutes a wild guess as there is no central quantifying organisation, such as an international registry of companies, in existence. It has been suggested that 115 million such companies operate globally most of which are SMEs. It is therefore unwise to overstate the shareholder/stakeholder *refocusing element* which has come about as a result of the UN Global Compact, other than to say that the Global Compact has a long way to travel to reach the total global figure of listed and unlisted companies. To put in in another way, the Global Compact and CSR both of which are designed to encourage companies to act as socially responsible members of the international community are but two pebbles on a multibillion pebbled beach!

6.2. The Numerous Tentacles of the Global Compact

The road to achieving shareholder/stakeholder refocusing may be a long one, but the principle-based framework of the Global Compact¹¹³ relating to companies operating globally will have the effect, it is suggested, of shortening the long road ahead to shareholder/stakeholder refocusing. These “tentacles” include the numerous *local networks*¹¹⁴ such as the one

¹¹² Source: Quora at <https://www.quora.com> (Retrieved 12th September, 2015). See too the informative materials of the World Bank Data of new businesses registration from 1980 to 2014.

¹¹³ Namely (a), its ten principles in the area of labour, human rights, the environment and anti-corruption and (b) catalysing actions in support to broader United Nations goals, as for example, the Millennium Development Goals. See <http://www.unglobalcompact.org/AboutTheGC/index.html> (Retrieved 17th September, 2015).

¹¹⁴ The function and use of local networks are described as “clusters of participants who [...] advance the United Nations Global Compact and its principles within a particular geographic context. They perform [...] important roles in rooting the Global Compact within different national, cultural and language contexts, and also in helping to manage the organizational consequences of the Global Compact’s rapid expansion. Their role is to facilitate the progress of companies (both local firms and subsidiaries of foreign corporations) engaged in the Global Compact with respect to implementation of the ten principles, while also creating opportunities for multi-stakeholder engagement and collective action. Furthermore networks deepen the learning experience of all participants through their own activities and events and promote action in support of broader UN goals”. Source <http://www.globalcompactnetwork.org/en/the-un-global-compact-eng/global-compact> (Retrieved 3rd September, 2015). See too Local Network Report, 2012 published in 2013.

which exists in the United Kingdom¹¹⁵, the one hundred and two *networks set up globally*¹¹⁶, a cities programme¹¹⁷ whose aim is to improve urban life in cities throughout the world and *Rotary International* partnered with the UN Global Compact¹¹⁸, each of which encourages businesses globally to adopt sustainable and socially responsible policies and report on their implementation. Each of these “tentacles” whether they be within companies, national or global has the effect of spreading the UN Global Compact message within the business world itself, within cities within countries and globally. To that extent the Global Compact and its numerous “tentacles” act as a good missionary for spreading its message across the business world.

¹¹⁵ See pp. 20 ss. *supra*.

¹¹⁶ Some of these include the United Nations Global Compacts, Australia founded in January 2003, India in November, 2003, Bulgaria in January 2003, Syria in October, 2008, France in 2004, Spain and so on.

¹¹⁷ Source: <http://www.citiesprogramme.org> (Retrieved 7th September, 2015.) In 2001 Melbourne in Australia suggested that both cities and companies should be allowed to join the UN Global Compact. Its argument was that “this would provide a clear statement of a city’s commitment to positive change, as well as motivating participation in international dialogue”. This suggestion was accepted and as from 2002 the UN Global Compact Cities Programme became operative. It should be noted that the Melbourne Model as of 2003, went beyond the UN Global Compact ten principles and in 2007 it went further “by integrating the partnership model with a four-domain sustainability framework named ‘Circles of Sustainability’”. Source Paul James and Andy Scerri “*Auditing Cities through Circles of Sustainability*” in “*Cities and Local Governance*” M. Amen, N.J. Toly, P.L. Carney and K. Segbers (Eds) (2011) Ashgate at pp. 111 – 136. See too Andy Scerri and Paul James “*Communities of Citizens and Indicators of Sustainability*”, *Community Development Journal*, vol. 45. n. 2, 2010 at pp. 219 – 236 and Andy Scerri and Paul James “*Accounting for Sustainability: Combining Qualitative and Quantitative Research in Developing Indicators of Sustainability*” *International Journal of Social Research Methodology*, vol. 13. n. 1. 2010, pp. 41-53. As of 2013, there were 80 member cities in that programme with Melbourne being the one created first in June 2001.

¹¹⁸ Source: http://empathysurplus.com/rotary/?recruiter_id=2 (Retrieved 3rd September, 2015). It should be noted that Rotary International played a part in the chartering of the United Nations. See http://www.unglobalcompact.org/newsandevents/news-archives/2009_11_07.html and <http://www.rotaryfirst100.org/history/history/un/#.VCC3aEsYOxE> (both retrieved 3rd September, 2015).

6.3. CSR Elevated by the UN Global Compact onto the Global Centre Stage

Before the UN Global Compact came into being, the CSR concept did not enjoy a role on a global centre stage. CSR was certainly talked about and practiced by some companies but did not enjoy the status of being on that centre stage¹¹⁹. It was thanks to the Global Compact with its 8,000 participating companies worldwide described as “the largest voluntary corporate citizenship network of its kind”¹²⁰ that the CSR has since been elevated onto that stage. Furthermore, the global CSR contents form a kind of soft international law on such issues as workers’ rights, human rights, ethical behaviour, environmental responsibilities and general international morality rules all of which spell on the international stage the contents of CSR programmes. It may therefore be said that the UN Global Compact is the document which monitors and gives awareness on the international stage of the CSR concept.

6.4. Criticisms on the Global Compact

There has been some criticism on the UN Global Compact most of which is not unjustified¹²¹. Having discussed this aspect, what has already been said suffices to accentuate and highlight the main points.

The first point to highlight is the fact that the UN Global Compact does not contain any mechanism whatsoever which sanctions member companies which do not comply with the UNGC ten principles. This makes the Global Compact a toothless institution. Secondly, the Global Compact admits among its partners, companies of dubious repute both environmentally and from a labour standards point of view. This means that companies have in the past and/or are actually in the present not respecting one or more of the Compact’s four labour and the six other principles. In the third instance, the company’s continued participation as

¹¹⁹ See for example the research carried out in Jo Carby-Hall “*Responsabilité Sociale de L’Entreprise en Common Law et Développement d’Une Corporative Social Responsibility*” in “*Quelle Responsabilité Sociale pour l’Entreprise? Approches juridiques, nationales et comparatives*” (Professor Philippe Auvergnon (Ed)) (2005) Presses Universitaires de Bordeaux at pp. 161-177.

¹²⁰ See Mc Kinsey & Co “*Assessing the Global Compact’s Impact*” (11th (May, 2004) from the UN Global Compact website:

http://www.unglobalcompact.org/docs/news_events/9.1_news_archives/2004_06_09/imp_ass.pdf

¹²¹ See pp. 000 ss. *supra*.

a partner of the Global Compact concept does not depend upon the manner in which the company is behaving in connection with respecting the ten principles of the compact. There is thus no effective checking by the UNGC Authorities on the companies' ongoing activities. The lack of effective monitoring and enforcement procedures and the non-accountability of companies¹²² therefore make a mockery of the Global Compact's principles. Critics say that companies are able to misuse the Global Compact as a public relations instrument for "bluewashing"¹²³ as "an excuse and argument to oppose any binding international regulation on corporate accountancy" and a door of entry "to increase corporate influence on the policy discourse and the development strategies of the United Nations"¹²⁴.

6.5. International Framework Agreements (IFAs)

With the globalisation of production and markets being on the increase, it has become necessary to develop a system of international labour regulation¹²⁵. The International Framework Agreement (IFA) which is a relatively new development¹²⁶ attempts to provide such international labour regulation. IFAs are agreed between global trade union federations and/or works councils and companies' plants globally and they have the function of defining fundamental labour standards¹²⁷. They also normally extend those labour standards to the *suppliers* of the company which has entered into an IFA. Although IFAs suffer from the same weaknesses as other international instruments which provide for international labour

¹²² Source: "Whose partnership for whose development? Corporate accountability in the UN system beyond the Global Compact". Forum Europe (Ed.) (2007) <http://www.scribd.com/doc/17222782/Global-Compact-Alternative-Hearing-2007>.

¹²³ See K. Bruno and J. Carliner "Tangled Up In Blue: Corporate Partnerships in the United Nations", (2000).

¹²⁴ G. Knight and J. Smith "The Global Compact and its Critics: Activism, Power Relations and Corporate Social Responsibility" (2008) <http://www.scribd.com/doc/17030875/The-Global-Compact-and-its-critics> in Discipline and Punishment in Global Politics: Illusions of Control (2000).

¹²⁵ It should be noted that instruments for the international regulation of labour already exist. Examples include the OECD Guidelines for Multinational Enterprises (March, 2012 and 2013); the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (28th March, 2006) as well as other ILO instruments. The problem with each of these is that the sanctions are weak or non-existent.

¹²⁶ See pp. 12-14 *supra*.

¹²⁷ These fundamental labour standards treat generally the ILO core conventions.

regulation, namely effective legal sanctions, it may be said that at least IFAs having been concluded and agreed by the global social partners, can be monitored and implemented by the employee representatives thus giving IFAs a strong binding (albeit not necessarily a legally binding) character. Furthermore, companies being generally anxious to maintain their reputation tend to respect the labour rights contained in IFAs lest negative publicity has an adverse effect on the company's reputation through its non-observance of such labour rights.

It is noted that most IFAs are concluded by European companies. IFAs concluded in Asia, North¹²⁸ and South America and Africa are a relatively a new phenomenon¹²⁹. The reason for this is that within the countries of those continents there does not exist a culture of social dialogue whereas in Europe the social dialogue concept is encouraged and developed through both European and national policies¹³⁰ and legislation¹³¹. The social dialogue tradition¹³² encourages and facilitates the conclusion of IFAs by reason of the fact that the social partners are experienced in negotiations and in reaching compromises and have a strong commitment towards cooperative labour regulation. Furthermore, respect for

¹²⁸ In the USA for example, there is neither a culture nor basis for social dialogue and in many cases employers do not recognise trade unions.

¹²⁹ The excellent work performed by the Global Union for Skills and Services (UNI Global) to encourage the effective conclusion of IFAs by multinationals in those continents should be particularly noted.

¹³⁰ In the case of the British Isles see Jo Carby-Hall "*The Social Dialogue in the United Kingdom and its Effectiveness*" in "*Przyszłość Prawa Pracy*" (Professor Zbigniew Hajn and Dagmara Skipień (Eds)) Wydawnictwo Uniwersytetu Łódzkiego (16th October 2015) at pp. 601-643.

¹³¹ For example, the laws on redundancy (See Jo Carby-Hall "*Redundancy in the United Kingdom*" in "*I Licenziamenti per Riduzione di personale in Europa*" Professors Bruno Veneziani and Umberto Carabelli (Ed.) SOCRATES PROGRAMME (2001) Cacucci Editore at pp. 387-537); transfers of undertakings (Jo Carby-Hall "*Transfer of Undertakings in the United Kingdom*" in "*La Transmisión de Empresas en Europa*" Professors Bruno Veneziani and Umberto Carabelli (Eds) SOCRATES PROGRAMME (1999) Cacucci Editore pp. 187-263); health and safety at work (Jo Carby-Hall "*Health, Safety and Welfare at Work*" Managerial Law vol. 31 No 1/2 (1989) MCB University Press); contracts of employment (Jo Carby-Hall "*The Contract of Employment: Nature and Formation*" Managerial Law vol. 25 No 5 (1983) MCB University Press to name but a few.

¹³² The works councils, co-determination, supervisory boards and so on systems, which exist in various European countries are social dialogue based rather than being based on an adversarial system.

fundamental labour rights¹³³ spells good corporate management and an important element in the acquisition and retention for customers.

IFAs should contain a number of essential features. In the first instance they should contain *comprehensive labour standards*¹³⁴, be *transparent*, and *clear, unambiguous*, not subject to different interpretations and worded in such a way that they are readily understood in all the countries in which the company operates.

In addition to containing the core international standards the IFA should in the second place cover the *entire enterprise* which would include the supply chain, the company's subsidiaries as well as any joint ventures. Thirdly, the IFA must be *implemented* in a meaningful manner which signifies that implementation has to be communicated in a way in which the average employee or worker and all those such as the suppliers in whichever country fully understand its implications. Furthermore, training is essential at all company levels in order that everyone understands the standards required and the way in which they are applied in the company.

Finally, the IFA needs to be *enforced*. Legal enforcement of IFAs agreed to by the social partners is somewhat problematic¹³⁵ for the reasons already given, but it can be enforced in other ways, for example through global industrial relations, agreed to by the global social partners. An agreed dispute resolution system is essential to solve any problems caused were the IFA terms and conditions to be breached by either of the social partners. Such a system would ensure the integrity and seriousness of the procedure. Arbitration agreed to between the global social partners has already been mentioned¹³⁶ but conciliation and mediation may be other options available to resolve a dispute. Whatever enforcement mechanism is agreed between the global social partners, such agreed procedure must be transparent. One method used to achieve transparency is constant or

¹³³ Namely the core labour rights as provided by the following eight ILO Conventions these being, the Forced Labour Convention, 1930, Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, the Equal Remuneration Convention, 1951, the Abolition of Forced Labour Convention, 1957, the Discrimination (Employment and Occupation) Convention, 1958, the Minimum Age Convention, 1973, and the Worst Forms of Child Labour Convention, 1999.

¹³⁴ These standards need to be consistent with the ILO standards which include the prohibition of child and forced labour, discrimination, freedom of association and collective bargaining.

¹³⁵ For a discussion on some of the reasons see p. 13 *supra*.

¹³⁶ See footnote 131 above.

intermittent *monitoring*¹³⁷. Another method used is the publication of the agreed disputes procedures to all concerned which would stress the fact that the settlement of any problems which arise will be decided on an equitable and fair manner¹³⁸.

To be effective, IFAs should therefore contain the matters mentioned above, namely the labour standards, transparency, clarity and unambiguous materials, the coverage of the entire enterprise, meaningful implementation and enforcement other than legal enforcement. IFAs effectively entered into by the global social partners spell the improvement on an international scale of working standards. More however needs to be done than simply the global partners entering into an IFA. The necessary training, including its resourcing, of the key actors needs to be undertaken, there must be effective communication between all the sites in which the company operates globally, such communication extending to governments, trade unions and/or works councils.

6.6. The Future Perspectives of CSR, IFAs and the Global Compact?

Looking towards future perspectives, it may well be that CSR and IFAs will prove functional in eliminating many of the evils which currently exist at the beginning of the 21st century, particularly poverty, the ever decreasing employee and worker rights as well as social security rights¹³⁹,

¹³⁷ By trade unions, another or other outside independent bodies such as NGOs, or an individual with international industrial relations experience or again an independent government body which specialises in international industrial relations disputes procedures.

¹³⁸ It be noted is the fact that some IFAs do not provide for an enforcement method to be used. The IKEA IFA for example is one such agreement. The social partners therefore have no recourse whatsoever to any method of settling differences of opinions in the interpretation of the IFA's terms. The IKEA IFA provides for the setting up of a "global compliance and monitoring group" without developing this notion by mentioning specifically any form of dispute settlement. Source: <http://www.bwint.org/default.asp?Index=46&>.

¹³⁹ At least in the United Kingdom where worker rights are systematically eroded by government policies and where the many rights given to workers thanks to European Union legislation are, at the time of writing, particularly vulnerable by reason of the British government intending to re-negotiate its terms for remaining in the European Union. The social rights in those negotiations are particularly vulnerable. For an analysis of those loss of rights see Jo Carby-Hall "*Main Measures Taken in the Fields of Social Security, Pensions and Labour Law in the Fight Against the Economic Crisis. The British Position*" in "Formas Laborales Frente A La Crisis A La Luz de Los Estándares De La OIT" Professor

human rights generally and particularly in employment and environmental issues. The Global Compact will be the very instrument which will propel CSR programmes to develop internationally and to find answers to problems which are most likely to occur in the latter part of the 21st century.

“Large streams from little fountains flow. Tall oaks from little acorns grow”¹⁴⁰. For the future may the concepts of Corporate Social Responsibility and the United Nations Global Compact and their respective tributaries, such as International Framework Agreements, Triple Bottom Line, *etc.* result in large streams expanding into rivers and mighty oak trees growing ever taller.

José Luis Gil y Gil (Ed) (2014) Juruá Editorial (Portugal) at pp. 319 – 379. See too Jo Carby-Hall “*Access to, and Retention of, Employment of Disabled Persons – The British Legal Framework*” in *Revista Derecho Social y Empresa*. Supplement No 1, April 2015 “The Right to Work of Persons with Disabilities: National Experiences in the EU and International Contexts” Editorial Dykinson (Spain) at pp. 250-275.

¹⁴⁰ D. Everett in “*The Colombian Orator*” (1794).

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