CHAPTER 14

Corporate Social Responsibility: A New Framework for International Standard Setting?

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Introduction

The theme of this book: *What's Wrong with International Law as a Regulatory Framework for International Relations?* is particularly interesting from an international labor law perspective. Since the International Labor Organization (ILO) was founded (in 1919) the ILO was supposed to be the international institution that provides a regulatory framework aimed at improving labor conditions for employees around the world. Since then, 189 conventions have been concluded, covering issues ranging from hours of work (ILO Convention no. 1) to working conditions of domestic workers (the most recent convention, no. 189).[1] Taking this outcome into account, the conclusion tends to a positive answer: the ILO provides for an extensive regulatory framework in this field. So what could be wrong?

Since the legal instruments of the ILO are directed to states that have to adopt, to implement and to guarantee the application of the rules of the conventions, currently the question is raised whether this is sufficient and adequate in a world that is characterized by the globalization of the economy and the internationalization of businesses. International enterprises – hereafter multinational enterprises (MNEs) – that operate on a global scale, have become the big players, escaping from state interventions. That might imply that the – so far – successful regulatory capacity of the ILO has to be supplemented by new instruments. The ILO instruments have some weaknesses that are inherent in the legal and political nature of international instruments. First of all implementation and transposition into national law is needed.[2] So states are

1 The ILO conventions are quite often accompanied by recommendations providing more practical guidelines for the application of the conventions. The number of recommendations is even higher than the number of conventions. Cf. J.-M. Servais, *International Labor Law* (Kluwer Law International, London: 2009)

2 Unless international norms have a direct or self-executing effect according to the national constitutional system of a country. But that is quite rare for two reasons: the constitutional system does not recognise direct effect and secondly the individual provisions of a treaty do not comply with the requirements of having direct effect.

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responsible for the implementation of the standards laid down in the conventions and if they do, they can do it in a way that suits them, as long as they respect the minimum level set by the convention. Secondly, the content of the ILO conventions is rather general due to its necessity to be applicable in all "member" states. They usually contain vague and mostly minimum standards. They are not focused on issues that fit the needs and wants of businesses. In a globalised world in which borders have lost their importance in particular in international economic activities of MNEs and these businesses feel a need for transnationally applicable rules, new instruments have to be developed and are developed on a different basis and linked to the structures and capacities of transnationally operating businesses.

In the literature, as well as in practice, the concept of *corporate social responsibility* has been presented and promoted as a new tool for social policies on the level of MNEs. They have become the addressees of these new policies and have to develop suitable and effective instruments.

This development aligns with initiatives by various international organizations dealing with labor standards with an effect that goes beyond the national borders. The ILO itself took such an initiative by adopting in 1998 *The Declaration on Fundamental Principles and Rights at Work*. In the face of the ongoing globalization of the economy, the ILO adopted more recently (2008) another declaration on *Social Justice for a Fair Globalization*. I also refer to the Organisation for Economic Cooperation and Development (OECD) that establishes sets of rules that also deal with social issues to be applied transnationally. Its main instrument is the *Guidelines for multinational companies* of 1976, updated in 2000. In the third place the World Trade Organization (WTO) can be mentioned as an organization that inserts social clauses into their agreements.

Apart from these international organizations other ones are also dealing with labor standards. The United Nations has adopted treaties in this field.[3] In the European hemisphere the European Union (EU) has the most outspoken position with a whole body of laws, also addressing enterprises. Next to the EU, the Council of Europe has built up a system of treaties concerning social issues: the European Social Charter. In the Americas regional international organizations are active in the social field.[4]

3 I refer the International Covenant on Economic, Social and Cultural Rights (1966) 993 UNTS 3 and the International Covenant on Civil and Political Rights (1966) 999 UNTS 171.

4 In the Americas, although not to the same extent as in Europe, labor and social rights are recognized by institutions as Free Trade Agreement of the Americas (FTAA), Mercosur (with its Social Labor Declaration) and CARICOM (Declaration of Labor and Industrial Relations

All these international instruments have a certain deficiency in common: there is a lack of application in horizontal relations (unless the parties apply the instruments voluntarily). Businesses are usually not addressed and even if so, they are not directly (legally) bound by these international rules.[5]

The question thus arises whether there are alternative routes for deploying internationally social policies from which companies and the workers they employ, can benefit.

Recent incidents underline the importance of the issue at stake. I refer to the Bangladesh garment factory accident in April 2013,[6] the deadliest factory accident ever known, as well as to the reported number of accidents that occur in Qatar during the construction of the sport grounds for the World Cup football in 2024.[7] They have drawn the attention on the issue whether and if so how international labor law can provide an effective set of rules preventing violation of elementary working conditions, such as safe and healthy working conditions.[8] The instruments of international labor law seem not to be so effective that these accidents can be prevented, although these issues are at the top of the list of the International Labor Organization, as I indicated above.[9] The fact that accidents like these are still happening – and these are only the tip of the iceberg – illustrates the difficulty for international organizations as the ILO to operate effectively in guaranteeing these minimum standards, despite the serious efforts it makes. An alternative route to be explored is addressing not only the governments of the countries but also the enterprises directly. That fits perfectly with a development that can be traced since the last decades: the creation of *corporate social responsibility* policies (CSR) in the world of

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Principles), although part of trade policies. Cf. L. Compa, "Labor Rights in the FTAA" in J. Craig and S.M. Lynk (eds) *Globalization and the Future of Labor Law* (Cambridge University Press, Cambridge: 2006). In Africa and South East Asia social policies on (regional) international level are less developed.

5 Generally speaking that is even the case for EU legislation in this field since EU Directives in which labor and employment issues regulated, don't have a direct horizontal effect.

6 Cf. B.T. Haar and M. Keune, "One Step Forward or More Window-Dressing? A Legal Analysis of Recent CSR Initiatives in the Garment Industry in Bangladesh" (2014) 30(1) *International Journal of Comparative Labor Law and Industrial Relations* 5–25.

7 Cf. The Guardian, "Qatar World Cup: 185 Nepalese Died in 2013 – Official Records," Friday 24 January 2014 available at < http://www.theguardian.com/world/2014/jan/24/qatar-2022-world-cup-185-nepalese-workers-died-2013>.

8 The examples can be multiplied by many more. Another recent one is Apple. It has been attacked also because of the poor working conditions in China where I-phones and I-pads are produced. Well-known examples of the past are Nike and Outspan.

9 ILO Declaration on Fundamental Principles and Rights at Work of 1998.

the entrepreneurs, initiated and supported by societal organizations among which trade unions, international as well as national, and other NGOs.

The question that thus arises is whether corporate social responsibility as it is developing, is a potentially effective means to achieve the goal of improving employment and labor conditions to a decent standard cross-border. Is another regulatory framework needed and available, an alternative to the common international regulations, such as ILO conventions?

Before going into the main question I shortly clarify what is or can be understood by Corporate Social Responsibility (CSR).

The Concept of CSR

Neither international legal sources nor the literature provide a precise definition of CSR. Actually the concept is rather vague which is directly connected to what has to be understood by responsibility: who has to be addressed for being (not) responsible and for what? It not only encompasses social issues such as labor standards (in a wide sense) but it is also directed to environmental issues. Usually these two types of issues are combined in the concept of social responsibility. For companies it can hardly be split up since both are part of production costs. Moreover, public reactions to damage to the environment can have an important impact since companies might fear reputation damage. However, since I restrict myself in this contribution to labor I have to leave that combination aside.

The term CSR can be approached from different angles, not only from a legal but also from a political or moral point of view. Companies feel themselves morally obliged to deploy social policies in their business activities. Usually that will not be sufficient. Political and societal pressure will help, just as legal obligations will do. In this contribution I look at arrangements made by stakeholders themselves. These arrangements can take various forms. What they have in common is that they are the result of consultations of and negotiations by stakeholders. They range from codes of conduct to agreements according to private law.

The adjective "corporate" means that a social policy has to be developed and put in practice on the level of companies as part of their business. That does not imply that states have no obligations with respect to corporate social responsibility. Social responsibility can be and often is seen as a shared concern being responsible for enhancing, encouraging and facilitating social policies on company level. But not only companies and their boards are involved. Also other institutions participate in the development of social policies at the

enterprise level.[10] I refer to national as well international trade unions, but also Works Councils, at national and at international level. Involvement of these workers' representing bodies is not a precondition for establishing a CSR instrument. Companies do so, too, on a unilateral basis.[11]

Studies on CSR show that a great variety exists as to what CSR contains. The concept of what can qualify as "social," is quite broad. It ranges from referring to the ILO core conventions, such as prohibition of forced and child labor, trade union freedoms, anti-discrimination, expressing a fundamental (social) rights approach, to subjects as health and safety at work, information and consultation, working hours, wages, training and job security and even subcontracting and restructuring.[12] In a European context it seems easier to identify the issues of companies' policies as *social*. The EU sources indicate quite precise what social measures have to be taken. And also the European Social Charter of the Council of Europe provides a more elaborated bunch of social rights.[13] But even in case international organizations are making serious efforts to develop a more common meaning of what "social" contains or should contain, still it is mainly at the national level that the content is defined.

A Short History

The CSR concept stems from the fifties of the last century. It appears at first in the company management environment in North America to express the idea that companies and business men are part of the society to which they belonged. The latter felt or ought to feel responsible not only for the profitability of the company but also for the effects that the production of goods and services have for society. Bowen stated that CSR consists of

10 In particular trade unions and workers' representing bodies, such as works councils.

11 In practice trade unions, works councils or other NGOs are consulted. By establishing unilaterally a code companies usually respond to a societal appeal to do so.

12 Cf. I. Schömann, A. Sobczak, E. Voss and P. Wilke, *Codes of Conduct and International Framework Agreements: New Forms of Governance at Company Level* (European Foundation for the Improvement of Living and Working Conditions, Dublin: 2008) 21ff.; and K. Papadakis (ed), *Cross-Border Social Dialogue and Agreements: An Emerging Global Industrial Relations Framework?* (International Labor Organization Publications, Geneva: 2008) 71ff.

13 The content can be general, in particular when the provisions of the charter refer to so-called programmatic rights. The opinions of the supervisory body (the European Committee of Social Rights) shed light on the more concrete content of these provisions. The problem is that the interpretation of the Committee does not have a binding effect on the member states. That is the competence either of the national legislator or of the courts.

> [T]he obligations of businessmen to pursue those policies, to make those decisions, or to follow those lines of action which are desirable in terms of the objectives and values of our society.[14]

More recently it has been phrased in terms of *good company or corporate governance*. This can be interpreted generally in two ways. The first is that the managers have to adopt decisions which not only take into account the obtaining of profits for the shareholders but also, and in a wider sense, the interests of the workers, of the citizens potentially affected, of the public authorities, and of the consumers. The second interpretation entails that good company governance requires managers to fulfill the requirements primarily to satisfy the interests linked to the *raison d'être* of the existence of the company, which is none other than making profits; and secondarily, to attempt to avoid damaging other interests which may arise en route to the satisfaction of the primary interests, whether these are labor, environment or consumer related. A crucial element of this interpretation is that the company, and not the managers personally, will be held responsible for violations of these interests, except in exceptional cases. The linkage between CSR policies on enterprise level and the operation of the company or companies has become even clearer when companies are confronted by reputation damage which immediately affects the profitability of the company. The cases of Outspan oranges and Nike and Adidas sports products in the seventies, eighties and nineties of the last century have shown how important people's reactions on the market of buyers were for the reputation of the companies. Worldwide actions of the protestors targeted social policies (exploiting local employees in Asia), politics (Apartheid in South-Africa) as well as environmental policies (pollution of the seas and oceans).

Meanwhile, CSR has become a generally accepted way of doing business. It has been laid down in regulations or other less strict documents of various international organizations such as the above mentioned ILO, OECD and UN at the global level[15] and European institutions[16] and those of the Americas, as well as in policy documents of companies, mainly multinational

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14 H.R. Bowen, *Social Responsibilities of the Businessman* (Harper, New York: 1953)

15 International trade union confederations are active as well in this field as international human rights and environmental organisations are.

16 The EU has CSR adopted it as an official policy of the EU, since 2001: *GREEN PAPER, Promoting a European Framework for Corporate Social Responsibility*, of 2001, COM(2001) 366 final; and in 2011 in a Communication from the European Commission, *A Renewed EU Strategy 2011–14 for Corporate Social Responsibility*, COM(2011) 681 final.

or transnational enterprises, whether unilateral declarations, codes of conduct or agreements.

CSR Regulations

A short overview of the international documents on this issue shows that several international public institutions have been active in drafting declarations and guidelines dealing with CSR policies. To summarise the most important, in chronological order

- The OECD adopted Guidelines for multinational companies in 1976, revised in June 2000;
- The ILO adopted the tripartite declaration of principles concerning multinational companies and social policy in 1977, modified in November 2000;
- The United Nations Global Compact (Global Compact) was launched on July 26, 2000, following a proposal by the secretary general in 1999 at the Davos global economic forum;
- Other international organisations have proposed increasing numbers of diverse instruments to provide a framework for CSR (for example, Social responsibility 8000 – SA 8000 – Certification in 2001).

These instruments have their weaknesses as well as their strengths. A weakness, as reported by stakeholders in CSR and more in particular by transnational companies, is the heterogeneous, complex character of the international regulatory landscape on CSR. The multitude of international instruments, lacking identical objectives and a clearly defined scope and content, is at least for companies, but not only for them, an obstacle to accept and apply them. Sometimes they even compete with each other using different standards. A strict (legally secured) hierarchy between them does not exist,[17] although the OECD recognizes that the ILO is "the competent body to set and deal with international labor standards." The OECD guidelines explicitly refer to the 1998 Declaration on Fundamental Principles and Rights at Work of the ILO: "The provisions of the Guidelines echo relevant provisions of the 1998 Declaration, as well as the 1977 ILO Tripartite Declaration of Principles

17 Both other instruments mentioned above are less important. The ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy of 1977 (amended in 2006) makes only one reference to the Global Compact instrument. The SA 8000 document is not even mentioned.

concerning Multinational Enterprises and Social Policy."[18] The Commentary to the guidelines puts both instruments on the same line: directed to "the behaviour expected from enterprises and intended to parallel and not to conflict with each other."[19]

The second weakness undermining the effectiveness of these instruments is the absence of a (legally) binding effect on companies, as discussed above. The ILO Declarations are addressed to member states as the principle actors in this field. They are obliged to ensure that action is taken by the private entities. The OECD Guidelines are broader in scope[20] and directly address the (international) enterprises themselves, the parent companies as well as the subsidiaries: "according to the actual distribution of responsibilities among them, the different entities are expected to co-operate and to assist one another to facilitate observance of the Guidelines."[21] However, the Guidelines have a voluntary nature that is well expressed by the wording "encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of responsible business conduct compatible with the Guidelines."[22] Nevertheless it is a major development of the last ten to fifteen years that the approach of acting in compliance with international norms of responsible business conduct is widely accepted. Previously the domestic law of the countries where the company or their subsidiaries were located, had to be obeyed and applied meaning that guidelines of international organizations could not override local law. Since the amendments of 2000 and 2011, companies have to observe the principles "within the framework of applicable law, regulations and prevailing labor relations and employment practices"[23] which means that transnational companies while operating within the jurisdiction of particular countries, may be subject to national as well as supra-national levels of regulations.[24] That justifies companies' application of supra-national regulations that go beyond the standards provided by local law. Although not legally secured, their application may prevent companies from simply relying on the less stringent standards of the domestic laws. If this is the case for the application of the OECD guidelines, it seems obvious that when a more coercing regulation on the

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18 International Labor Office, Geneva, 2006.

19 OECD Guidelines 2011, no. 48, 37.

20 They are not restricted to the internationally recognized core Labor standards as laid down in the core ILO conventions, but go beyond.

21 OECD, *Guidelines* 2011, Ch. I, 4, 17/18.

22 OECD, *Guidelines* 2011, Ch. II A, 13, 20.

23 OECD, *Commentary to the OECD Guidelines*, 2011, Ch. V, 35.

24 Cf. B. Hepple, *Labor Laws and Global Trade* (Hart Publishing, Oxford and Portland: 2006) 82.

company level exists, for instance an agreement, such a regulation will have a greater impact on the practice of CSR in the transnational company.[25]

Since the CSR regulations lack legally binding effect and an enforcement mechanism, the CSR regulations cannot be seen as hard law. It has the characteristics of soft law which does not necessarily lead to less effectiveness.[26] Although the various stakeholders – trade unions and other workers' representing bodies, other NGOs, governments' putting pressure on the companies[27] – play different roles, they all contribute substantially to good practices. Even employees can do so when they put inside the companies pressure on the management. Therefore the strength of the whole bunch of CSR regulations and policies lies in the structure built by the various stakeholders, including the companies and their boards. The power of societal organizations, sometimes in combination with the mobilization of the public indignation and subsequent behavior on the buyers' market, is an important element as well as structures of compliance within companies.

A New Approach: A Privatized Regulatory Framework

The development pictured above has given rise to a new approach which Bob Hepple has called "Privatising Regulation": creating new forms of regulating industrial relations in a transnational setting.[28] It has appeared that the traditional approach, namely regulating by public international organizations within the legal framework of international standard setting, is not as successful as had been expected and perhaps once was. The increasing role of multi- and transnational companies in a globalized economy, beyond the borders of national states, as well as the growth of the chains of parent companies, subcontractors and suppliers, has weakened or even undermined the effect of the traditional way of regulating. It does not fit the new development of an economy that operates across borders. A new structure was felt needed.

Since a public law structure for this international environment is failing we have to look for an alternative approach. International companies operate in

25 Although this is also dependent on its content and its wording.

26 Cf. M.A.G.-M. Alhambra, B.P. ter Haar and A. Kun, "Soft on the Inside; Hard for the Outside. An Analysis of the Legal Nature of New Forms of International Labor Law" (2011) 27 *International Journal of Comparative Labor Law & Industrial Relations* 337–363.

27 Governments of countries also use measures that facilitate companies observing the CSR principles in practice, for instance in public procurement procedures.

28 B. Hepple, note 24 at 69–87.

an international environment and regulate their relations on a contractual basis. Therefore private law as regulatory scheme is becoming an important tool for them. That is not only the case for governing the mutual relations inside the international companies as well as the relations between the company and its contractors as suppliers or customers, but also for regulating the industrial relations in the company and its subsidiaries. This shift has been noticed, as I said before, in international organizations as the OECD (and the WTO) by introducing guidelines for companies to be used when operating nationally and internationally. A step further was the development by the companies of their "own" regulations, initiated by themselves in or without cooperation with other stakeholders, national as well as international trade unions or workers' representing bodies.[29] Private corporate codes were adopted. The reasons for doing so varied. Among others there were also good economic reasons for that. Good employment practices were considered as beneficial for the company and might outweigh the costs. An improvement of employee morale was expected, the labor turnover might be lower, fewer accidents may take place, product quality should rise, consumer and investor confidence should increase and industrial peace was more secured. A second economic advantage from a managerial point of view was advocated: the possibility for the central management to use the codes and agreements in order to get more grips on the policies and practices of the subsidiaries, sub-contractors and suppliers assuring long-term contractual relationships.[30]

The success of these new instruments can be illustrated by the overtime increase of the number of these codes. Until the nineties of last century the number was quite low. But since the last two decades the number has increased. It started by codes of conduct mainly.[31] Since the nineties the number of framework agreements has gone up to more than 125. A main difference between codes and alike on the one hand, characterized by a unilateral action of the company, and international framework agreements on the other is that the last ones are products of negotiations between the management and the trade unions and other workers' representing bodies (mainly – European – Works Councils), sometimes in cooperation with NGOs.[32] Research has shown

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29 In this respect European Works Councils, active in transnational companies with their seat in the EU, have often took the initiative.

30 Cf. B. Hepple, note 24 at 71.

31 It is hard to estimate the number of codes since they are not all registered. The number is at least more than 80.

32 I do not go into the content of these instruments. It varies greatly. See studies mentioned in note 16.

that the coercive power of agreements was much stronger than of the other instruments. The managing board felt bound by what it had agreed upon with its partners.[33]

The lack of a hard-law status of these regulations as well as their weak legal enforceability affect the operational value of these codes. Their operational value depends on various factors. One of them is the content of the codes. The more precise and concrete the norms are phrased, the more effective the provisions of the codes and agreements are. Other factors that may contribute to a higher operational value are: the support by the managing board, the involvement and commitment of the counterpart (trade unions), the transparency of the instruments and the way they are implemented and the compliance procedures.[34]

Analyses have shown that the way of implementation of CSR policies, as laid down in codes or agreements, is important if not decisive for their actual application in the company, its subsidiaries and their sub-contractors and suppliers. As to the two latest entities of the chain, an effective strategy is to include clauses in the contract with the sub-contractors or the suppliers that forces them to apply the CSR measures in their own company on penalty of fines or even termination of the contract, potentially construed as a breach. Irrespective of the enforceability of such clauses, in practice the power of the transnational company is sufficient to ensure that the sub-contractor or supplier complies.[35]

Since a legally binding effect does not exist, the compliance procedures seem to be the most important factor, of course apart from completely voluntary application in the whole chain. Mainly similar to the usual international compliance procedures, transnational companies use a monitoring or control mechanism. Till now the monitoring system has been best developed. It is based on reporting and focused on gathering of information on the nature and ways the endorsed CSR policies are actually applied throughout the transnational company. Usually it is a special task of the human resources department of the company. An increasing number of transnational companies has resorted to monitoring through social dialogue, thus including the trade unions or workers' representative bodies in the furtherance of the compliance with CSR.[36] A weakness of the existing compliance systems is that a systematic monitoring

33 Schömann *et al.*, note 12.

34 See Literature, note 12.

35 The lack of an effective legal framework causes mainly problems when a whole chain of sub-contractors and (sub-)suppliers exists.

36 I. Schömann *et al.*, note 12 at Ch. 5.

of sub-contractors or suppliers seems to be absent. That even seems the case when the transnational company imposes obligations on them by way of a contract.

The way the control and verification of the application take place varies. It can be forms of self-evaluation or an integral part of general business auditing. It has to be noted that external verification is not common. Another method is a sort of external rating by independent agencies, be it for inclusion in indexes, for certification, qualifying for labels or for verifying the companies' social reports or practices. However, obstacles in this respect could be the diversity of audit standards and the credibility of rating agencies.

It seems logic that a system of effective sanctions does not exist. An international authority to impose sanctions on offenders does not exist and is hardly possible since there is no effective legal framework and the whole structure rests on private law arrangements. Moreover, the content of the standards to be observed is rather general and vague. Sanctioning by private law is not easy either, since a claimant might face serious problems due to complicated international private law procedures.

Conclusion

Under the heading of "what is wrong with international law as a regulatory framework" I have analyzed whether the existing system of international labor law is capable to tackle a problem that is directly related to the globalization of the economy and as its result: the internationalization of economic and business activities. The international organization in this field, the ILO, falls short to "impose" effectively its labor standards on companies that operate internationally. It has no jurisdiction. In the meantime a development has taken place entailing a kind of transnational regulation by way of arrangements made at a transnational company level by the involved parties themselves. Although these regulations lack legally binding effect, they seem to rule in a certain way the behavior of these companies and the chain of companies linked to them commercially or for business reasons. Corporate social responsibility can be seen as a new and modern means to reach a result similar as the traditional institution, in particular the ILO, pursues: improving or at least preventing deterioration of the employment conditions of the employees, pursuing social objectives. It could be supposed that this approach in which the companies themselves are directly involved, is an effective expression of the notion of social responsibility of enterprises. It is what Hepple has called "privatising regulation." If international public law, *in casu* by the ILO, cannot offer an

effective protection due to a lack of legal competence of imposing their standards to private parties, the question has to be answered whether a more privatized legal system can do that. As we have seen such a new system, lacking a firm legal regulatory framework, has several weaknesses. It will take time to assign jurisdiction to an international court; the regulatory legal framework for such a court is still to be developed. A first start can be to investigate whether an effective compliance system can be created. Developments at OECD level, by the establishment of special organs can be promising and can serve as good practice. I refer to a compliance system in which the employers (BIAC), employees (TUAC) and national institutions (NPCs) are involved under the umbrella of a coordinating body (CIME).[37]

As Weiss has suggested[38] a public-private policy mix in which ILO organs and OECD bodies cooperate with private companies and their partners as parties that establish common decent labor standards, can function as an alternative for a unilateral approach by the international institution acting on its own. It also offers the possibility of a mix of hard and soft law. In other words: it can be seen as a form of privatization of rules of international public (labor) law or of a transposition of international public law into the private entrepreneurial sphere.

37 BIAC stands for Business and Industrial Advisory Committee; TUAC for Trade Union Advisory Committee. National Contact Points (NCP) are public bodies and responsible for encouraging enterprises to comply with the Guidelines. They are assumed to mediate. The umbrella organisation, The Committee on International Investment and Multinational Enterprises (CIME), has a kind of interpreting function and operates very pragmatic. Cf. I. Daugareilh, “La dimension sociale des principes directeurs de l’OCDE à l’intention des entreprises multinationals” (2008) 3 *Revue Générale de Droit International Public* 567–599.

38 M. Weiss, “International Labor Standards: A Complex Public-Private Policy Mix” (2013) 29(1) *International Journal of Comparative Labor Law and Industrial Relations* 19.