

**MULTINATIONALS, SMEs AND NON-PROFIT ORGANISATIONS  
PARTICIPATING IN THE UN GLOBAL COMPACT**

***EMPRESAS MULTINACIONALES, PYMES Y ORGANIZACIONES  
SIN ÁNIMO DE LUCRO QUE PARTICIPAN EN EL PACTO  
MUNDIAL DE LA ONU***

*JOSEPH R. CARBY-HALL*

*Director of International Legal Research. Centre for Legislative Studies  
School of Law and Politics. Faculty of Business. Law and Politics  
University of Hull (United Kingdom)*

Artículo recibido el 8 de mayo de 2020

Artículo aceptado el 27 de mayo de 2020

DOI: <https://doi.org/10.46661/lexsocial.5067>

**ABSTRACT**

This paper attempts to illustrate the importance of the UN Global compact concept by examining its history and features, analysing its weaknesses and criticisms, evaluating its strengths and asking if its continuance is desirable globally. In the summing up part of the paper the conclusion is reached that the continuance of the Global Compact is essential.

**KEYWORDS:** Global Compact, The ten Principles, Worldwide impact, Sustainability, Corporate Governance.

**RESUMEN**

El artículo intenta ilustrar la importancia del Pacto Mundial de las Naciones Unidas, para lo cual examina su historia y sus características, analiza sus puntos débiles y sus críticas, evalúa sus puntos fuertes, se pregunta si es deseable que continúe a nivel mundial, y concluye que es esencial la continuidad del Pacto Mundial.

**PALABRAS CLAVE:** Pacto Mundial, diez principios, impacto en el mundo, sostenibilidad, gobierno corporativo.

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## **I. Introduction.**

### **1. Origins of the UN Global Compact.**

The then United Nations Secretary- General Kofi Annan in his address to the World Economic Forum on 31<sup>st</sup> January 1999 made his first announcement on the Global Compact and the Global Compact was officially launched at the United Nations Headquarters in New York on 26<sup>th</sup> July 2000. The UN Global Compact is a strategic initiative which supports companies (whether they be multinational or otherwise) which are committed to responsible business practices in the fields of human rights, labour, environment and anti-corruption. This United Nations -led initiative is focused at promoting activities which contribute to sustainable developments to create a happier, more dignified and prosperous world with integrity. The United Nations Global Compact<sup>1</sup> is considered to be the largest corporate sustainability initiative with some 9,000 corporate participants and 4,000 non-businesses globally over 170 countries.<sup>2</sup>

### **2. UN Global Compact Objectives.**

The objectives of the Global Compact are twofold. First. to mainstream its ten principles in all business and commercial activities as well as non-profit organisations globally and in the second instance, to catalyse actions in support of broader United Nations goals as, for example, the Millennium Development Goals (MDGs) until their expiration in 2015

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<sup>1</sup> Also known as Corporate Social Responsibility (CSR).

<sup>2</sup> Source: [https://www.en.m.wikipedia.org/wiki/United\\_Nations\\_Global\\_Compact](https://www.en.m.wikipedia.org/wiki/United_Nations_Global_Compact) (Retrieved 12th November 2019 as updated on 28<sup>th</sup> January 2020). The Global Compact Office is mandated by the UN General Assembly to promote “responsible business practices and UN values among the global business community and the UN system” (Source: *Ibid.*)

and since then, the top priority has focused on the pursuit and progress towards achieving the Sustainable Development Goals (SDGs) and the SDG's accompanying 2030 deadlines which succeeded the MDGs.

The SDGs set by the United Nations General Assembly<sup>3</sup> with the intent to be achieved by 2030 consist of 17 global goals<sup>4</sup> designed to be a “blueprint to achieve a better and more sustainable future for all”<sup>5</sup> Each of the seventeen SDGs has a list of 169 targets which is measured with 232 indicators.

Participating UN Global Compact companies are expected to act in an environmentally responsible manner in connection with the important and pressing issue of climate change, biodiversity, energy, water, sanitation, food and agriculture. Furthermore, participating companies need to focus on the important issue of social sustainability overall but particularly in the field of human rights as they apply to labour, gender equality, women's empowerment, children, indigenous peoples, the incapacitated and the poor. Although the UN Global Compact recognises that observance of human rights is primarily a government function, companies should at best contribute towards this concept or at least avoid human right breaches within the company structure.<sup>6</sup>

### **3. A Voluntary Gentleman's Agreement and Other Related Matters.**

The United Nations Global Compact is a voluntary initiative. It is not a legally binding document and thus cannot be enforced in a court of law. It is therefore legally unenforceable. Nor does the UN Global Compact police or enforce the behaviour of companies. What it does do, is to encourage multinational companies and other enterprises to adopt sustainable and socially responsible policies. It is a principle-based framework for enterprises to observe the ten principles in the fields of human rights, labour, the environment and anti-corruption. The UN Global Compact is designed to stimulate change and to promote corporate sustainability and encourage innovative solutions and partnerships.

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<sup>3</sup> The 17 SDGs form part of UN Resolution 70/1.

<sup>4</sup> These 17 SDGs consist of the following: - no poverty, zero hunger, good health and well-being, quality education, gender equality, clean water and sanitation, affordable and clean energy, decent work and economic growth, industry, innovation and infrastructure, reducing inequality, sustainable cities and communities, responsible consumption and production, climate action, life below water, life on land, peace, justice and strong institutions, partnerships for the goals. A variety of tools exist to track and visualise progress towards each of the above goals.

<sup>5</sup> Source: <https://www.un.org/sustainabledevelopment/sustainable-development-goals/> (Retrieved 22<sup>nd</sup> January 2020).

<sup>6</sup> This can be achieved in various ways; for example, develop and manufacture products and/or services which assist citizens to meet their basic needs, wherever possible to create jobs to avoid redundancies and other kinds of dismissals, promote policies which support sustainability, create partnerships with sister businesses to enjoy greater impacts on making strategic social investments as well as other novel and imaginative initiatives.

Under the Global Compact, enterprises are brought together with United Nations agencies, civil society,<sup>7</sup> and labour groups. Cities too are enabled to join the Global Compact through the Cities Programme. The Global Compact is a forum for discussion and a network for communication for companies, trade unions and other organisations representing workers, governments, NGOs, civil society and other stakeholders.

It is noted that the UN Global Compact is not a substitute to existing regulatory approaches. It assists in establishing the business case for human rights, labour standards, environmental stewardship and the fight against corruption. It is a voluntary initiative designed to promote innovation in corporate sustainability. Many of the existing standards support the UN Global Compact and are therefore consistent with its overall objectives.

Furthermore, even in an establishment which has already its own code of conduct, the UN Global Compact provides a policy framework for organising and developing corporate sustainability strategies while at the same time offering a platform<sup>8</sup> to encourage innovative initiatives and partnerships with civil society, governments and other stakeholders.

The Compact thus provides a strategic policy initiative for Global Compact participants or signatories – business and non-profit organisations – to align their practices with the Ten Principles (see below) in the areas of human rights, labour, the environment and anti-corruption. It also demonstrates that companies globally are both willing and wishing to incorporate sustainable practices which take into account people, planet as well as profits.

## **II. The Ten Principles of the UN Global Compact.**

The UN Global Compact requires companies to embrace, support and enact within their sphere of influence a set of core values in the areas of human rights, labour standards, the environment and anti-corruption. These core values make up, it will be recalled<sup>9</sup> the ten Principles of the UN Global Compact.<sup>10</sup>

In the human rights field, the first principle requires enterprises to uphold, support and respect the protection of internationally proclaimed human rights while the second principle requires enterprises to ensure that they are not complicit to human rights abuses.<sup>11</sup>

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<sup>7</sup> Civil society includes international, European, national, regional, local or sectoral charities, development NGO's, community groups, women's organisations, faith-based organisations, trade unions, professional organisations, social movements, coalitions and advocacy groups.

<sup>8</sup> Based on universal principles.

<sup>9</sup> See above.

<sup>10</sup> Source: <https://www.unglobalcompact.org/the.ten.principles/> (Retrieved 9th November 2019).

<sup>11</sup> For examples of internationally proclaimed human rights abuses, complicity in those and forced labour in the European Union Member States see the research commissioned to this author by the Commissioner for Civil Rights Protection of the Republic of Poland in CARBY-HALL. Joseph R., *The Treatment of Polish and Other A8 Economic Migrants in the European Union Member States*. Bureau of the Commissioner for Civil Rights Protection of the Republic of Poland. 2008, Warsaw (two volumes) and a Polish edition (in two volumes).

In the labour field there exist four additional principles. Thus, principle three requires enterprises to uphold the freedom of association and the effective recognition of the right to collective bargaining. Principle four requires enterprises to eliminate forced and compulsory labour while principle five requires the effective abolition of child labour. To fulfil the requirements of the sixth principle enterprises are required to eliminate discrimination in employment and occupation.

The environment field a further three principles are provided for namely, principle seven which requires enterprises to support a precautionary approach to environmental challenges, principle eight requiring enterprises to undertake initiatives to promote greater environmental responsibility while principle nine encourages the development and diffusion of environmentally friendly technologies. The tenth principle will be found in the anti-corruption field which talks of enterprises should work against corruption in all forms including extortion and bribery.<sup>12</sup>

In this latter field, it should be noted that the Global Compact was initially launched with nine principles. On 24<sup>th</sup> June 2004 during the first Global Compact Leaders' Summit, Kofi Annan announced the additional tenth principle against corruption in accordance with the United Nations Convention Against Corruption of 2003.

### **III. Commentary to round up those Ten Principles contained in the UN Global Compact.**

Enterprises which join the Global Compact are expected to set in motion changes to business operations to enable them to incorporate these ten principles in their corporate strategies, their culture and their daily activities.<sup>13</sup> They are also required to advocate the principles publicly<sup>14</sup> as well as communicate with stakeholders annually regarding the progress the enterprise is making towards achieving its goals in meeting those ten principles and efforts to support societal priorities. The Communication on Progress (CoP) constitutes a visible expression of an enterprise's commitment to sustainability and stakeholders can view it on their company's profile page<sup>15</sup> Any enterprise which wishes to join the Global Compact may do so, on condition that it commits to upholding those ten principles. The principal requirement and the most measured one to become a participant or signatory of the UN Global Compact is the production and publication of the annual CoP.<sup>16</sup> That CoP has to include in the first instance a written statement by the

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<sup>12</sup> Source: <https://www.unglobalcompact.org/what-is-gc/mission/principles> (Retrieved on 12<sup>th</sup> November 2019).

<sup>13</sup> Source: <https://www.unglobalcompact.org> (Retrieved 12th November 2019).

<sup>14</sup> Through communication vehicles such as press releases, speeches, conferences and so on.

<sup>15</sup> Companies which fail to report or to meet the criteria over time may be removed from the Global Compact initiative.

<sup>16</sup> CoPs vary considerably and therefore do not observe a standard form. There exists the Express form which asks for "yes" and "no" answers. Source: [https://www.unglobalcompact.org/docs/communication\\_on\\_progress/express-cop-faq.pdf](https://www.unglobalcompact.org/docs/communication_on_progress/express-cop-faq.pdf)

A web template. Source: [https://www.unglobalcompact.org/docs/communication\\_on\\_progress/Basic COP Step by Step Guide.p](https://www.unglobalcompact.org/docs/communication_on_progress/Basic_COP_Step_by_Step_Guide.p)

CEO of the company expressing the company's continued support for the goals of the UN Global Compact as well as its goals, secondly the CoP must include information on any practical action taken during the course of the year which indicates that the company has taken action, or plans to take action, to implement the Ten Principles, thirdly, a measurement of outcomes will also need to be given<sup>17</sup> and fourthly, the CoP must be integrated into the company's main stakeholder's communication and submit the COP for publication on the UN Global Compact website along with a summary of the contents.<sup>18</sup> Thus, CoPs provide a demonstration of commitment to transparency and accountability in the field of the UN Global Compact. It must be remembered that participation to the Global Compact is purely voluntary on the part of the enterprise and does not bind the enterprise legally.

The ten principles of the Global Compact define the enterprise's value system and its approach in carrying out its work. Those ten principles are collectively founded in the Universal Declaration of Human Rights; the International Labour Organisation's Declaration of Fundamental Principles of Rights at Work; the Rio Declaration on Environment and Development and the United Nations Convention Against Corruption.

The fact that companies declare their support for the ten principles does not signify that the "Global Compact recognises or certifies that these companies have fulfilled the Compact's principles."

Member countries of the Global Compact are expected to engage in specific business practices which benefit the people and the planet while pursuing profitability with integrity.

#### **IV. Which Establishments may Participate in, or Get Involved with, the UN Global Compact?**

The mission of the Global Compact is to "mobilize a global movement of sustainable companies and stakeholders to create the world we want. To end extreme poverty, fight inequality and tackle climate change. We need your company to join our global movement."<sup>19</sup>

Companies from all industry sectors which are registered or are otherwise properly executed under national law qualify for Global Compact participation. There are however four categories of establishments which are excluded, namely, companies which derive

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[df](#) (Retrieved 22nd January 2020) with larger and established participants submitting longer CoPs of about 10 to 12 pages sometimes incorporated into sustainability, or corporate social responsibility, Reports.

<sup>17</sup> Source: [https://www.unglobalcompact.org/docs/communication\\_on\\_progress/COP\\_Policy.pdf](https://www.unglobalcompact.org/docs/communication_on_progress/COP_Policy.pdf) (Retrieved 22nd January 2020).

<sup>18</sup> Source: <https://www.unglobalcompact.org/participation/report/cop/create-and-submit/active> (Retrieved 22nd January 2020).

<sup>19</sup> Source: *A Global Movement: Discover ways to engage.* <https://www.unglobalcompact.org/participation/tiers> (Retrieved 22nd January 2020).

revenue from the production and/or manufacture of tobacco;<sup>20</sup> companies which from the production, sale and/or transfer of antipersonnel mines or cluster bombs; companies which are subject to United Nations sanctions and companies which, for ethical reasons, are listed on the UN Vendors List.<sup>21</sup>

Company subsidiaries<sup>22</sup> are also enabled to join the UN Global Compact because this latter applies the leadership principle. An explanation is required in this instance.<sup>23</sup> If the Chief Executive Officer of a company's global parent<sup>24</sup> embraces the ten principles of the Global Compact by informing in writing the Secretary-General of the United Nations, the UN Global Compact will post only the name of the parent company on the global list *with the assumption* that all the subsidiaries participate in the Global Compact. However, subsidiaries may send a letter directly to the United Nations Secretary-General individually<sup>25</sup> to express their commitment to the Global Compact in which case they will be listed as participants. Subsidiaries will be invited to participate actively in Global Compact activities at both global and local levels.<sup>26</sup>

Until January 2020 the UN Global Compact only accepted to its participants applications from companies and other organisations employing ten or more direct employees. On 1<sup>st</sup> January 2018 it revised its criteria to accept applications, as from January 2020, with fewer than ten direct employees. Thus, all participating companies and organisations are only required to have one direct employee to apply.

It should be noted that non-governmental organisations (NGOs) and non-profit establishments may get *involved* as equal partners and important stakeholders through a number of UN Global Compact engagement mechanisms which include learning, local networks, policy dialogues and partnership projects. Thus, NGOs and other non-profit organisations play a crucial role in assisting the formation of partnerships and produce substantial action. Non-profit organisations are encouraged to observe the ten principles and to report on progress made by their organisation.

The Global Compact has strengthened and tailored its opportunities for businesses through two distinct engagement tiers to suit a company's special needs, namely the

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<sup>20</sup> This exclusion was instituted by the UN Global Compact on 12<sup>th</sup> September 2017 because tobacco products conflict with UN goals, particularly with the right to public health. The exclusion is strictly limited to companies which produce and/or manufacture tobacco or are part of a joint venture, have a subsidiary or affiliate stake in a company which produces and/or manufactures tobacco. It does not apply to the sale or distribution of tobacco, production, sale and distribution of tobacco-related products (including filters, packaging, chemicals, financing of tobacco or tobacco-related products through investment portfolios).

<sup>21</sup> Source <https://www.unglobalcompact.org> (Retrieved 13th November 2019).

<sup>22</sup> "Subsidiary" is defined as "a company controlled by another company in the sense that the parent can dominate the decision-making process of the subsidiary in relation to its financial and operating policies in pursuance of the objectives of the parent company." Source: The Global Compact's Subsidiary Engagement Policy.

<sup>23</sup> For in-depth details, the reader is recommended to consult the "*Subsidiary Engagement Policy*" which covers (a) subsidiaries joining individually and (b) subsidiaries participating through the parent company.

<sup>24</sup> For example, a holding group, etc.

<sup>25</sup> Company Subsidiaries may also send such letter *alongside* the parent company and will be listed as participants.

<sup>26</sup> Including taking an active part in the Global Compact Local Network of their host country.



participant and signatory tiers. *Participants* actively engage with the UN Global Compact at the global level and at their national and regional levels. “The participant level is ideal for leaders, but also for learners, looking to accelerate their sustainability efforts and scale up their impact across the globe.”<sup>27</sup> *Signatories* actively engage with the UN Global Compact at their national and regional levels. The participant tier enjoys more resources than that of the signatory tier. Such resources include, *inter alia*, tailored road maps for advancing the UN Global Compact goals; access to the Global Compact help desk whenever required; assistance and advice on engagement and sustainability issues; invitations to Global Compact organised events and other services required by participants.

The UN Global Compact being a voluntary initiative, the participants and signatories to it are free to end their participation at any time.

## V. Financial Contributions.

The UN Global Compact is not a formal membership organisation hence the reason why the words “participant” or “signatory” are used. The UN Global Compact is a *voluntary* initiative. As such, larger companies<sup>28</sup> which join the UN Global Compact are required to make an annual contribution to support their engagement in the UN Global Compact. The voluntary nature of financial contributions to the global initiative is preserved for smaller businesses: Signatories with annual gross sales or revenue *below* US \$ 5 million are invited only to make a financial contribution if they wish to engage fully with the local network of their respective countries. The monies received through these contributions<sup>29</sup> support both the UN Global Compact’s operations globally as well as its country-level operations.<sup>30</sup> The contributions are, *by agreement*, divided between the global secretariat and the local networks.

## VI. The United Nations Global Compact Board.<sup>31</sup>

The Global Compact Board was founded by the then Secretary- General HE Kofi A. Annan on 20<sup>th</sup> April 2006 after an extensive review of the Global Compact’s governance framework. “The establishment of the Board was aimed at enhancing the synergies between the global and local levels of Global Compact activities, providing greater integrity management and quality assurance, as well as promoting broader ownership of the initiative by all of its participants.”

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<sup>27</sup> *Ibid.*

<sup>28</sup> Companies with an annual turnover of greater than US \$50 million dollars are required to make a contribution whereas for companies below that threshold and non-profit organisations there is no mandatory fee to join the UN Global Compact.

<sup>29</sup> These contributions are received administered and distributed through the Foundation for the Global Compact which is a non-profit organisation and a charity. The contributions are therefore tax deductible in most jurisdictions.

<sup>30</sup> For additional information on finances the reader is referred to <https://www.unglobalcompact.org/about/finances> (Retrieved 14th November 2019).

<sup>31</sup> Source: <https://www.unglobalcompact.org/about/governance/board> (Retrieved 3<sup>rd</sup> February 2020).

The governing body of the Global Compact is the UN Global Compact Board. It currently consists of twenty- one members which include the chairman who the Secretary General of the United Nations, HE António Guterres and the two Vice chairpersons. The Board membership is appointed by the Secretary General and includes four constituency groups, namely business, civil society, labour and the United Nations. The Board membership acts in an unpaid, honorary and personal capacity and consists of “champions willing and able to advance the Global Compact’s mission.” Drawing in particular on the expertise and recommendations of its business members, the Board is also expected to play a role in the implementation of the Global Compact’s integrity measures.” In addition to their overall Board responsibilities, “the civil society and labour constituency groups are expected to provide close liaison to their communities and share insights into the most recent trends and best practices of corporate sustainability in their respective domains.” The UN Global Compact Board is thus designed as a multi-stakeholder body which provides ongoing strategic and policy advice for the initiative as a whole and making recommendations to the Global Compact Office.<sup>32</sup>

## **VII. The Global Compact Office.**

The Global Compact Office works on a basis of a mandate set up by the UN General Assembly as an organisation which “promotes responsible business practices and United Nations values among the global business community and the UN system.”<sup>33</sup>

## **VIII. Global Compact Local Networks (GCLNs).**

Some 106 Global Compact Local Networks<sup>34</sup> meet voluntarily to foster and advance the UN Global Compact principles in business at local, namely country level. These networks assist companies and non-profit organisations understand what responsible business means within diverse national, cultural and linguistic contexts. The local networks are independent, self-governing and self-managed entities and work closely with the UN Headquarters in New York and co-ordinate as points of contact the UN Global Compact in their respective countries.<sup>35</sup> They provide an important base to jump-start business action and awareness locally. All UN Global Compact companies and non-profit organisations are encouraged to take part in their local network and where relevant, to facilitate engagement by their subsidiaries in such networks. Those networks exist in

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<sup>32</sup> See too the Global Compact Board Terms of Reference which clarify the nomination and selection process by a Nominee Committee. These Terms of Reference also deal with operational and procedural matters. They include, the background, nominations criteria, selection of Board members and length of term, composition of the Board, Vice Chair appointment and duties, frequency of Board meetings and attendance, Board committees, nature of Board membership, expectations of Board members, Board performance review and suspension or termination of Board membership. Source: <https://www.unglobalcompact.org/about/governance/board> (Retrieved 3<sup>rd</sup> February 2020).

<sup>33</sup> Source: A/RES/68/234.

<sup>34</sup> Source: Global Compact LOCAL NETWORKS booklet.

<sup>35</sup> Source: “Engage locally – UN Global Compact.”

cities in the Americas,<sup>36</sup> Africa,<sup>37</sup> Asia/Oceania,<sup>38</sup> Europe<sup>39</sup> the Middle East and North Africa.<sup>40</sup>

Because GCLNs operate locally, their activities are based on local issues and local requirements. Such activities include, but are not limited to, collective action, support with implementation and disclosure, policy dialogue, recognition, awareness-raising, outreach events, local, regional and global networking, sharing local network experiences as, for example, annual local network forums, regional meetings for network representatives and contact persons. Local connections made to supplement the international connections created by the Global Compact at large can assist in broadening the engagement and impact of members. Additionally, there are related programmes for particular topics of interest such as the Business or Peace initiative which brings awareness to businesses and other organisations about instability and conflict as is, at the time of writing, experienced in Syria, Iraq and Iran, for example, such that the organisations may assist to address those concerns from their own perspectives and with the assistance of their local networks.<sup>41</sup>

## **IX. UN Global Compact - Cities Programme.**

The UN Global Cities Programme is dedicated to the promotion of the ten principles of the UN Global Compact<sup>36</sup> by cities and provides a framework for translating this principle-based approach to day to day urban governance and management. Its goal is to improve urban life throughout the world.<sup>42</sup> The city of Melbourne in Australia proposed in 2001 that both cities and corporations therein should be permitted to join the UN Global Compact so that they could provide a clear statement of that and other cities' commitment to positive change and to motivate participation in international dialogue. This proposal was agreed and the UN Global Compact – Cities Programme was launched in 2002. The original programme was formed in June 2001 as an urban-focused component of the Global Compact with its secretariat being based in Melbourne. Melbourne was thus the first city to join this programme.

As of 2020 there are some 132 cities which have since joined this programme.

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<sup>36</sup> Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Jamaica, Mexico, Panama, Paraguay, Peru, Trinidad and Tobago, Uruguay, USA and Venezuela.

<sup>37</sup> Cameroon, Côte d'Ivoire, Equatorial Guinea, Ghana, Kenya, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Nigeria, Senegal, South Africa, Sudan, Uganda, Zambia and Zimbabwe.

<sup>38</sup> Australia, Bangladesh, China, India, Indonesia, Japan, Republic of Korea, Malaysia, Maldives, Mongolia, Myanmar, Nepal, Pakistan, Philippines, Singapore, Sri Lanka, Thailand and Viet Nam.

<sup>39</sup> Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Estonia, France, Georgia, Germany, Greece, Hungary, Italy, Kazakhstan, , Kosovo, Latvia, Lithuania, Macedonia, Moldova, Montenegro, Netherlands, Nordic, Portugal, Russia, Serbia, Slovakia, Slovenia, Spain, Switzerland, Turkey, UK and Ukraine.

<sup>40</sup> Egypt, Gulf States, Iran, Iraq, Israel, Jordan, Lebanon, Morocco, Syria and Tunisia.

<sup>41</sup> TIINA, Mylly, *Work with a local network to advance peace*. Source: [unglobalcompact.org/un-global-compact](http://unglobalcompact.org/un-global-compact) (Retrieved 24<sup>th</sup> December 2019).

<sup>42</sup> See HORNE, Ralph, CORREIA, Joana, et al. "From Ballarat to Bangkok: How can cross sectoral partnerships around the Sustainable Development Goals accelerate urban liveability", *Cities & Health Journal*, 2020.

In April 2003 the Melbourne Model was developed which went beyond the Ten Principles. That model starts by bringing in the government resources. Civil society and business into a cross-sector partnership with the aim of developing a practical project which addresses a seemingly intractable urban issue. During 2007 to 2014 this methodology went further and integrated the partnership model with a four-domain sustainability framework named “Circles of Sustainability.”<sup>43</sup>

In 2007 the Secretariat moved from Melbourne to Global Cities Institute of Royal Melbourne Institute of Technology (RMIT) University which itself was affiliated to UN-HABITAT.<sup>44</sup> It was there that research associated with city-based responses to global climate change and globalisation took place. The sustainability indicators programme developed the Melbourne Model as a way of assessing and monitoring progress.<sup>45</sup> The Circles of Sustainability method was elaborated in 2012 to guide a city or urban region through a rigorous assessment process with one of its outcomes being the provision of an image of the overall sustainability of that city which would illustrate its strengths and weaknesses.

An Urban Thinkers Campus was set up in February 2016 at RMIT Melbourne in collaboration with World Vision International as part of the build-up of HABITAT III.<sup>46</sup> Theme was “Ethical Cities: Locking in Liveability” followed in July 2016 by a Forum on Ethical Cities in Barcelona as a collaboration between the UN Global Compact Cities Programme, RMIT Europe<sup>47</sup> and UN-HABITAT. Other activities include, *inter alia*, the panel discussions on climate change on 28<sup>th</sup> October 2019 in Chile<sup>48</sup> and 6<sup>th</sup> December 2019 in Madrid.<sup>49</sup>

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<sup>43</sup> See JAMES, Paul, SCERRI, Andy, “Auditing Cities through Circles of Sustainability”, in AMEN, Mark (Ed.), *Cities and Global Governance*, London, Routledge, 2016, pp.111-136. See too SCERRI, Andy, JAMES, Paul, “Communities of Citizens and ‘Indicators’ of Sustainability”, *Community Development Journal*, 2010, vol. 45, n° 2 and SCERRI, Andy, JAMES, Paul, “Accounting for Sustainability: Combining qualitative and quantitative Research in Developing ‘indicators’ of Sustainability”, *International Journal of Social Research Methodology*, 2009, vol. 13, n. 1, pp. 41-53.

<sup>44</sup> UN-HABITAT is a UN programme working towards a better urban future. Its mission is to promote socially and environmentally sustainable human settlements development and the achievement of adequate shelter for all.

<sup>45</sup> See Paul James and Andy Scerri “According to Sustainability Briefing Paper 1” <http://www.citiesprogramme.org> (Retrieved 25<sup>th</sup> December 2019).

<sup>46</sup> Habitat III offers a unique opportunity to discuss the important challenges of how cities, towns and villages can be planned and managed, so as to fulfil their role as drivers of sustainable development, and how they can shape the implementation of the Sustainable Development Goals (SDGs) and the Paris Agreement on climate change.

<sup>47</sup> RMIT has moved its European operations to Barcelona’s innovation and technology district. This signals RMIT’s strong commitment to the city of Barcelona and its presence in Europe.

<sup>48</sup> “*The Outcome of Climate Change begins in the Cities*” (C 40 organisation). Cities and the Ethical Forum: Cities and Climate Change. Published by Global Compact Cities Programme 28<sup>th</sup> October 2019 (Chile).

<sup>49</sup> “*Multi Stakeholder Alliances to Localise the SDGs and Climate Agreements as part of COP 25*” Panel discussion as part of COP 25 multi-stakeholder alliances to facilitate international innovation, technologies, data, and investment for effective localisation of the 2030 Agenda and Climate Agreements. Published by Global Compact Cities Programme. 6<sup>th</sup> December 2019.

## **X. UN Global Compact Leaders' Summits.**

UN Global Compact Leaders' Summits are held every three years. They bring together an international community of leaders from business, governments, labour, finance, academia, investor groups, civil society and United Nations personnel for a multi-stakeholder stocktaking on progress towards the achievement of the Global Goals at all levels, namely, international, national, regional and local levels.

The first UN Global Leaders' Summit was held in New York at the UN Headquarters on 24<sup>th</sup> June 2004. It was chaired by Kofi Annan, the then Secretary General. The summit aimed at bringing "intensified international focus and momentum" to the UN Global Compact.

The second UN Global Compact Summit which adopted the Geneva Declaration on Corporate Responsibility<sup>50</sup> was chaired by Secretary-General Ban Ki-moon at the Palais des Nations in Geneva on 5<sup>th</sup> and 6<sup>th</sup> July 2007.

The 2010 UN Global Compact Summit took place in New York on 25<sup>th</sup> and 26<sup>th</sup> June. This Summit marked the tenth anniversary of the launch of the UN Global Compact. It focused on the top ten recommendations for improving sustainable event management processes; amongst them reinforcing the Global Compact brand by choosing host venues which are participants of the Global Compact. As part of the strategic approach to sustainable event management, planners should ensure that they consider environmental risks in selecting cities/locations which do not uphold a commitment to Global Compact principles. Ask potential event partners to meet Global Compact expectations for purposes of renewable energy before contracts are finalised. The Global Compact can be a guide for delegates of future conferences by helping them understand how they express

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<sup>50</sup> The Geneva Declaration was agreed by the participants of the UN Global Compact Leaders' Summit of 5<sup>th</sup> - 6<sup>th</sup> July 2007. The participants pledged to pursue a more sustainable and inclusive economy. Following the preamble of the Geneva Declaration in which was stated that "Business, as a key agent of globalisation, can be an enormous force for good." The Declaration is divided in three parts, namely the role of business in society, actions for UN Global Compact Participants and actions for governments with a total of 21 points to observe. On the role of business in society the Declaration provides that responsible business practices contribute to social and economic inclusion, helping to advance international cooperation, peace, development and human rights protection. It invites business to establish partnerships and collaboration with governments, civil society and labour, and states that, in countries afflicted by conflict and weak governments, investors and companies can play a more helpful role by engaging rather than divesting – provided they act in line with the Global Compact principles. The Declaration calls on investors to encourage companies to be transparent and pursue responsible business practices, while lenders should ensure that their loans are in line with international standards. Investors should also urge governments to act responsibly and uphold laws and international norms. For their part Global Compact participants should follow a principles-based approach in their strategies, operations and culture. That involves encouraging their supply-chain and business partners to commit to the TEN Principles and to carry out advocacy on climate change and development. In accordance with the Declaration, governments should cultivate environments with effective economic institutions and supportive policies which promote stability, transparency and entrepreneurship. It urges governments to support an open international trading system, discourage protectionism and ratify and implement international instruments on labour standards and against corruption.

their commitment to sustainability as they plan their travels. Create volunteer green teams of students to raise awareness on Global Compact sustainable event initiatives.<sup>51</sup>

The UN Global Compact Leaders' Summit 2013 met on 19<sup>th</sup> and 20<sup>th</sup> September 2013 at the Grand Hyatt in New York and was chaired by Ban Ki-moon the UN Secretary-General. The theme was "Architects of a better world" which aims to link the UN universal values with a new global architecture for corporate sustainability. As the MDG deadline approaches, the Summit will set its stage to shape and advance a post 2015 development agenda and forward an architecture for business to contribute to global priorities such as climate change, water, food, women's empowerment, children's rights, decent jobs and education at unprecedented levels.<sup>52</sup>

The UN Global Compact Leaders' Summit 2016 was held on 22<sup>nd</sup> and 23<sup>rd</sup> June in New York. It dealt with making global goals local business to jump-start business action everywhere on the SDGs. The multi-year strategy of the UN Global Compact is to drive business awareness and action in support of achieving the Sustainable Development Goals by 2030. Ban Ki-moon who chaired the Summit said "All of you are leaders in the campaign for a world without poverty, a thriving planet, a vibrant and inclusive global economy life of dignity for all. This is the vision of the Sustainable Development Goals agreed upon by the Member States of the UN. Last year's adoption of the 2030 Sustainable Development Agenda, together with the historic Paris Climate Agreement on climate change sent a powerful message far and wide; we cannot continue on our current course. The Paris Agreement will reinforce climate action and make important contributions to realizing the Sustainable Development Goals.<sup>53</sup> Governments and the private sector must align their investment and infrastructure decisions with the Sustainable Development Goals and with the goal of limiting global temperatures rise to below 2 degrees Celsius. The Paris Agreement and the SDGs give the private sector an unprecedented opportunity to create clean energy, climate-resilient, sustainable economics."<sup>54</sup>

Launched in 2000 the UN Global Compact was initiated to bring businesses and the United Nations together to give a human face to the global market. When businesses unite, they can be a powerful force for good by upholding universal principles in the fields of human rights, labour, the environment and anti-corruption. Although important advances have taken place in these fields by 2020, much still needs to be done in all fields, but particularly in the fields of climate change and widening inequalities, to achieve the Sustainable Development Goals by the deadline of 2030. The UN Global Compact stakeholders need to unite to transform the Global Compact's collective aspiration into

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<sup>51</sup> Source: <http://www.leaderssummit2010.org> (Retrieved 14th November 2019).

<sup>52</sup> Source: <http://www.leaderssummit2013.org> (Retrieved 14th November 2019).

<sup>53</sup> The reader is recommended to read the Nordic Cooperation article JAMHOLT, Andre, *40 Years of Experience have Proven its Point: Sustainability Financing Activity Works*. SDG Knowledge hub. Available in: <https://sdg.iisd.org/commentary/guest-articles/40-years-of-experience-have-proven-their-point-sustainable-financing-actually-works/>

<sup>54</sup> Footnote inserted by the author. Source: <https://www.un.org/content/speeches/2016-06-22/remarks-2016-un-g> (Retrieved 15th November 2019).

reality. “Through the local networks and over 10000 companies around the world, the UN Global Compact is taking corporate sustainability from the hinges of the mainstream and uniting business for a better world.”<sup>55</sup>

## **XI. CoPs and their Relationship with the Delisting of Global Compact Participating or Signatory Companies.**

### **1. General issues on the Communication on Progress (CoP).**

CoP reports provide a demonstration of commitment to transparency and accountability in the field of the UN Global Compact requirements. There are however a great number of companies which are delisted from the UN Global Compact list by reason of their failure to submit a CoP report and by their failure to respect the terms and conditions of the UN Global Compact Ten Principles and its other goals, namely the SDG goals. Since 2000 there have been thousands of companies which have been delisted. Thus, failure by a company to produce a CoP Report within a given period of grace would risk the company being delisted. Participating and Signatory Companies of the UN Global Compact are identified as global leaders in corporate social responsibility and as such enhance their reputation as companies which adhere to, and incorporate the high principles demanded by. the Global Compact and its goals. Furthermore, they enjoy the facilities offered by the UN Global Compact office, the benefits of large information resources and the linking in with other companies worldwide which observe the same high standards of good corporate responsibility, UN agencies and civil society. There is therefore a certain “panache” for a company to be a participant/signatory of the UN Global Compact.

The UN Global Compact has no mandate to enforce or police compliance with its high principles and goals, nor is it able to assess participant/signatory companies’ performance in fulfilling those principles and goals. Delisting a company is its only tool to deal with a non-performing company. It is this tool which strengthens the UN Global Compact’s *credibility*. Furthermore, the *integrity* and reputation of the UN Global Compact, of the participant/signatory companies which comply to the high corporate responsibility global standards and indeed the UN itself, are maintained by delisting non-performing companies.<sup>56</sup>

Delisted companies include both small and medium-size enterprises (SMEs) as well as larger companies and are also proportionally represented among industry sectors and countries. This indicates that the CoP framework is equally relevant across business size, sector and country.<sup>57</sup>

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<sup>55</sup> Source: <http://www.unglobalcompact.org> (Retrieved 14th November 2019).

<sup>56</sup> It should be noted that a delisted company is not barred from petitioning the Secretary-General of the United Nations to be reinstated upon production of a CoP Report.

<sup>57</sup> On aspects of the delisting of companies see HAMILTON, Leslie., WEBSTER, Philip, *The International Business Environment* (4<sup>th</sup> Ed.), Oxford, Oxford University Press, 2018; KHOURY, Stefanie, Whyte, David, *Corporate Human Rights Violations: Global Perspectives for Legal Action*, London, Routledge, 2017; NEGISHI, Kanako, “A Comparative Study of the Delisting Ratings of Firms from the United Nations

## 2. Reporting on the Sustainable Development Goals (SDGs).

There is currently an evolution taking place on sustainability and transparency which is rapidly becoming the new paradigm for conducting business. The UN Sustainable Development Goals (SDGs) have brought about a new era of global development objectives to tackle the world's most pressing problems. The active participation of business is a principal driver in achieving those goals. The best practices for corporate reporting on the SDGs have yet to be established. The UN Global Compact and the Global Reporting Initiative (GRI) have formed a ground-breaking initiative, namely reporting on SDGs to address this challenge. Representatives of leading businesses are invited “to join the Corporate Action Group as part of the Action Platform to help influence a greater multi-stakeholder movement that will play a pivotal role shaping the future of corporate reporting on the SDGs. Reporting on the SDGs aims to leverage the GRI S – the world's most widely used sustainability reporting standards – and the Ten Principles of the UN Global Compact. By doing so businesses are able to incorporate SDG reporting into their existing processes, ultimately empowering them to act and make achieving the SDGs a reality. The Principles for Responsible Investment (PRI) initiative is also a partner of the platform, helping to increase the value of corporate sustainability disclosures for the financial community.”<sup>58</sup>

## 3. Why Report?

Reporting to stakeholders in a transparent and public manner is fundamental for companies committed to sustainability. Transparency builds trust! The annual Communication on Progress (CoP) is a key component to the UN Global Compact commitment. CoP reports informs the decisions of consumers, local authorities and their communities, and civil society organisations which are all expecting greater transparency from businesses. Whereas that was a voluntary activity at one time, there is a trend towards mandatory reporting. The CoP acts as a good starting point!

The benefits of sustainability reporting include integration of corporate sustainability into operations, improving a company's reputation, enhancing the Chief Executive Officer's commitment, internal information sharing and strengthening relationships with stakeholders and investors.<sup>59</sup>

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Global Compact in the International Management Environment”, *Journal of Robotics, Networking and Artificial Life*, 2018, vol. 5, n° 1, pp. 679-682; and . ZAHARY, Patrick Watne, “What types of US companies join the United Nations Global Compact? An Empirical Analysis of Voluntary Initiative Engagement and New Moral market Place Approaches”, M.A. dissertation. Colorado State University, 2010.

<sup>58</sup> Source: <https://www.unglobalcompact.org/take-action/action-platforms/sdg-reporting> (Retrieved 23<sup>rd</sup> January 2020).

<sup>59</sup> Source: <https://www.unglobalcompact.org/participation/report> (Retrieved 23<sup>rd</sup> January 2020).



#### **4. Features of the Communication on Progress (CoP).**

Submitting an annual CoP is at the heart of the company's commitment to the UN Global Compact. It provides important information to stakeholders. The overall format of the CoP is flexible and can be prepared in any language so long as it meets the minimum requirements (as below). Due to the fact that participants of the UN Global Compact are all at different stages in their sustainability stages, CoPs are categorised in three differentiation levels based on the depth of their disclosure.

The Global Compact's CoP policy gives the key information including the minimum requirements for each CoP. What are these minimum requirements? These are threefold. First, a statement by the Chief Executive Officer expressing continued support for the UN Global Compact and renewing the participant's ongoing commitment to this initiative. Second, a description of practical actions the company has taken, or intends to take, to implement the ten principles in each of the areas namely, human rights, labour, the environment and anti-corruption. Third, a measurement of the outcomes.

Based on the company's self-assessment, as stated above, a CoP falls into one of three different levels of maturation namely Global Compact Advanced, Global Compact Active and Global Compact Learner. At the GC Advanced level are included the CoPs that qualify as GC Active and in addition cover the company's implementation of advanced criteria and best practices. At the GC Active level are included CoPs which meet the minimum requirements and at GC Learner level are included CoPs which do not meet one or more of the minimum requirements.<sup>60</sup>

CoPs are made publicly available on the website of the UN Global Compact as soon as they are submitted by a participant/signatory. This enables companies to communicate their efforts to support and uphold the Ten Principles of the UN Global Compact. Recent growth, – both in terms of their numbers and their sophistication - is largely driven by demand from key stakeholders which include investors, civil society, governments, and consumers. CoPs provide stakeholders with information to enable them to make informed choices about the companies they interact with and stakeholder vetting is pivotal to transparency and disclosure as a means of driving performance.<sup>61</sup>

#### **5. Delisting of companies and non-business participants from the UN Global Compact.**

The Global Compact requires participant companies to communicate annually with stakeholders on their progress by integrating the Ten Principles and the SDG goals into their policies. This communication is done through the Communication of Progress (CoP) report. Companies which fail to issue a CoP within one year are classified as non-

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<sup>60</sup> In a sample year at the GC Advanced level 4,160 CoPs were received, at the GC Active level there were 43,979 CoPs received and at the GC Learner level there were 5,851. This gives the reader an idea of annual sample figures. Source: <https://www.unglobalcompact.org/participation/report/cop> (Retrieved 24<sup>th</sup> January 2020).

<sup>61</sup> Source: <https://www.unglobalcompact.org/participation/report/cop> (Retrieved 24<sup>th</sup> January 2020).

communicating, those which do not communicate for two consecutive years are classed as “inactive” and face being “delisted” in the following (third) year if non-communication persists. The delisting of companies policy was introduced in 2004 and the Global Compact Office started delisting companies by the end of 2007. The *raison d’être* for the reporting framework is in the words of the Global Compact<sup>62</sup> that “Reporting to stakeholders in a transparent and public manner is fundamental for companies committed to sustainability. Your company’s annual CoP is a key component of your commitment to the UN Global Compact. There are several powerful drivers for non-financial reporting that are pushing companies to act responsibly and report on their actions: Mainstream investors are considering environmental, social and governance (ESG) information in their strategies. Non-financial information is informing the decisions of consumers, local communities and civil society organizations that are all expecting greater transparency from businesses. Once only a voluntary activity, there is a trend towards mandatory non-financial reporting. The CoP serves as a good starting point, and in some cases meets government requirements. Benefits of sustainability reporting include integration of corporate sustainability into operations, improving your reputation, enhancing the commitment of your CEO, internal information sharing and strengthening relationships with your stakeholders and investors.”

The policy for ensuring accountability by requiring the production of CoPs is beneficial because its content is publicised in important documents, such as the annual report, which are usually approved by the company’s board and bears the company’s stamp and the CEO’s signature.

Non-business participants are required to submit a Communication on Engagement (CoE) every two years. If they fail to submit a CoE within the given period they are given the status of “non-communicating” participants for one further year. They are therefore delisted after the third year. This policy came into effect on 13<sup>th</sup> October 2013. The reasoning behind the CoE policy consists of the disclosure of specific activities which a non-business participant takes to support the UN Global Compact and its results. The CoE has a flexible format and may be prepared in any language.<sup>63</sup> Andreas Rasche<sup>64</sup> explains clearly the inter-relationship between business and non-business participants. “The Compact understands itself as a business-driven initiative, which, has clear links with NGOs, associations and also labor organizations. Non-business participants are vital actors, especially when considering the role of partnerships (SDG 17) and the general need for collaboration between business and society.”

On delisting the learned author continues<sup>65</sup> “The delisting of non-communicating NGOs is a welcome move. It shows that the Compact takes its own integrity measures seriously and hence strengthens the accountability of the initiative. In the long run, the Compact

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<sup>62</sup> Source: <https://www.unglobalcompact.org/participation/report> (Retrieved 30th January 2020).

<sup>63</sup> Source: <https://www.hnglobalcompact.org/library/186> (Retrieved 30th January 2020).

<sup>64</sup> Source: <https://www.boscbcsr.dk/2016/11/23/un-global-compact-silently-expels-more-than-2300-non-business-participants/> (Retrieved 30th January 2020).

<sup>65</sup> Source: *Ibid.*

will only thrive if businesses, NGOs, and, most of all, governments, trust it. And trust, as we all know, is not cheap, it must be earned over time.”

As of 26<sup>th</sup> January 2020 it is reported that 12,833 participants have been delisted for repeated failure to communicate on progress in integrating the initiative’s sustainability principles into their strategies and operations by the required deadline in accordance with the CoP policy .<sup>66</sup> This is an alarming figure when compared with a total of some 13,000 Global Compact participants and other stakeholders (composed of roughly 8,000 businesses and roughly 4000 non-business entities) spread over 170 countries. The integrity of the UN itself, the UN Global Compact and that of the companies and non-business entities acting within the Global Compact initiative can only be maintained if non-complying companies are delisted.

The Head of Communication on Progress in the Global Compact Office posited<sup>67</sup> “We are moving forward on transparency and disclosure through a dual complementary approach. On the one hand we are driving a strict enforcement of our integrity measures to ensure that every business participant disclose information on its progress, every year. On the other we are introducing a platform that provides incentives and recognition for businesses at all levels to make a meaningful progress towards a comprehensive implementation of the principles in strategy and operations. In conjunction with the stronger enforcement of its COP policy, the Global Compact has introduced a differentiation framework to motivate companies at all levels to strive for greater integration of the principles. The framework...categorises business participants based on levels of progress disclosure.”

## **XII. Criticisms Addressed at the Global Compact.**

### **1. A Global Compact without teeth?**

The Global Compact has gums but no teeth<sup>68</sup> because there is weak and virtually no effective independent monitoring, and no enforcement provisions. It is described to be “more like a guide dog than a watch dog”<sup>69</sup> because it does not focus on enforcing discipline; its focus is rather on providing resources, learning, dialogue and partnership with a mandatory disclosure framework. Without enforceable and/or monitoring provisions, the UN Global Compact fails to hold companies responsible.<sup>70</sup> This criticism

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<sup>66</sup> Source: <https://www.unglobalcompact.org/participation/report//cop/create-and-submit/expelled> (Retrieved 30th January 2020).

<sup>67</sup> Source: <https://www.unglobalcompact.org/news/95-01-20-2011> (Retrieved 31<sup>st</sup> January 2020).

<sup>68</sup> It cannot bite but it can chew!

<sup>69</sup> Source: <https://www.unglobalcompact.org> (Retrieved 13th November 2019). See too the 2015 interview with the Executive Director, Linda Kingo in Janelle Dumalon “*Global Compact: A guide dog, not a watch dog*” 14<sup>th</sup> October 2015 dw.com. (Retrieved 12<sup>th</sup> November 2019).

<sup>70</sup> See “Whose Partnership for Whose Development? Corporate Accountability in the UN System beyond the Global Compact.” Global Policy Forum Europe (Ed) (2007) <http://www.scribd.com/doc/17222782/Global-Compact-Alternative-Hearing-2007> Hearing at the United Nations 4<sup>th</sup> July 2007.(Retrieved 26<sup>th</sup> January 2020).

was also expressed by a number of authors such as Bigge and Rizvi in 2004,<sup>71</sup> Nolen in 2005<sup>72</sup> and Deva<sup>73</sup> and Thérien and Pouliot in 2006.<sup>74</sup>

Granted that the UN Global Compact has no teeth, it does have gums for its participating/signatory membership is required to report on its progress annually by means of a Communications of Progress (CoP) document.<sup>75</sup> Should it fail to do so, the participant establishment's status is downgraded from active to non-communicating. A participant/signatory who fails to communicate progress for two years in a row will normally be expelled and its name will be published. The delisting of a company exposes it to significant negative public attention. Furthermore, non-communicating companies can become active participants by posting their CoP report, thus companies which have been expelled may reapply for membership by producing that document to the Secretary-General of the United Nations. There may thus not be direct enforcement provisions in the UN Global Compact, but there are indirect effects in that participants who are delisted would receive negative public attention thus encouraging them to reapply.

## **2. Joining the UN Global Compact to Increase a Company's Corporate Image and/or Influence.**

As illustrated above, the UN Global Compact has adopted a set of integrity measures through its CoPs to safeguard its philosophy and to avoid potential abuse. Furthermore, the UN Global Compact has developed its own logo<sup>76</sup> which appears frequently in its publications and official documents. The use of the logo is strictly regulated<sup>77</sup> and the

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<sup>71</sup> BIGGE, David M., "Bring on the Bluewash. A Social Constructivist Argument against using Nike v Kasky to attack the UN Global Compact", *International Legal Perspectives*, 2004, p.12 and RIZVI, Haider, UN Pact with Business Lacks Accountability, Global Policy Forum, June 2004. Available in: <https://www.globalpolicy.org/component/content/article/225/32254.html> (Retrieved 27<sup>th</sup> January 2020).

<sup>72</sup> NOLAN, Justine, "The United Nations Global Compact with Business: Hindering of Protecting the Protection of Human Rights", *University of Queensland Law Journal*, 2005, vol. 24, n° 2.

<sup>73</sup> DEVA, Surya, "Global Compact: A Critique of the United Nations 'Public-Private' Partnership for Promoting Corporate Citizenship", *Syracuse Journal of International Law and Communication*, 2006, vol. 34, n° 1, p. 146.

<sup>74</sup> THÉRIEN, Jean-Philippe, POLUIOT. Vincent, "The Global Compact: Shifting the Politics of International Developments", *Global Governance*, 2006, vol. 12, n° 1, p. 67.

<sup>75</sup> The UN Global Compact is not a performance or assessment tool. It does not make judgments on performance nor does it provide a seal of approval. A CoP report or document includes a description on the ways in which the enterprise supports the UN Global Compact and its ten principle and goals. The UN Global Compact holds the opinion that this kind of openness and transparency encourages improved practices by participants/signatories.

<sup>76</sup> Although similar to the United Nations logo, there are four unique elements to the UN Global Compact logo. The first element is the wording "United Nations Global Compact" or "We support the United Nations Global Compact," the second element is the globe symbol; the third being the customised symbol of the United Nations olive branches below the globe; with the fourth element being a clear blue space surrounding the logo.

<sup>77</sup> Permission must be sought in advance in writing prior to any use of the logo. Participants and signatories are requested to provide a sample of the document via the online logo request system and indicate where the logo will appear. Penalties exist for breach of that policy. They include, changing the participant's status from "active" to "non-communicating", delisting, or the taking of legal proceedings. See the UN Global Compact Logo Policy for detailed information.

same restrictions apply to its use as those which apply the general United Nations logo.

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In spite those weak and modest safeguards, a significant number of enterprises which claim Global Compact membership can do so to increase their corporate image and influence, by claiming falsely that they participate in philanthropic activities as a reason to remain a participant of, or for an entry door to, the Global Compact. Critics have used the expression “bluewashing”<sup>79</sup> or “blue”<sup>80</sup> to describe this phenomenon namely, the misuse by companies to achieve dishonestly their own aims to participate in, or obtain admission to, the UN Global Compact under false pretences by alleging their activities to be of an altruistic, charitable or benevolent nature.<sup>81</sup> Indeed the criticism relating to “bluewashing” came from a member within the United Nations personnel for it was uttered by Maude Barlow in December, 2008 who was at the time senior adviser on water to the President of the United Nations General Assembly. Similarly, criticisms from within the United Nations on the UN Global Compact emanated from Peter Utting<sup>82</sup> who was Deputy Director of UNRISD<sup>83</sup> and David Andrews<sup>84</sup> who was Senior Adviser on Food Policy and Sustainable Development.

There also existed at one time two informal networks consisting of organisations which, and people who, were critical of the UN Global Compact’s lack of enforcement mechanisms in its provisions as well as its lack of progress. One of these was known as the Global Compact Critics<sup>85</sup> who were critical of the UN Global Compact not only because it contains no mechanism to sanction participating companies for non-compliance with the Global Compact principles but also, and as importantly, that the it contradicts the high principles demanded by the Global Compact by admitting to its ranks companies with dubious humanitarian and environmental credentials. Furthermore, this organisation was critical of a company’s continued participation as a participant in the Global Compact which was not demonstrated by the company’s progress or actions. This organisation was officially closed in February 2015. It recommended interested parties to

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<sup>78</sup> Those policies, published by the United Nations, feature in the United Nations Business Guidelines.

<sup>79</sup> See “UN’s new Water Advisor calls the Global Compact “bluewashing” Global Compact Critics, 10<sup>th</sup> December 2008. <http://www.globalcompactcritics.blogspot.com/2008/12/uns-new-water-advisor-calls-global.html> (Retrieved 26<sup>th</sup> January 2020)

<sup>80</sup> See “*Tangled up in Blue: Corporate Partnerships at the United Nations*” K. Bruno and J. Karliner (2000). Source: <http://www.corpwatch.org/article.php?id=996> (Retrieved 26<sup>th</sup> January 2020)

<sup>81</sup> See KNIGHT, Graham, SMITH, Jackie, “The Global Compact and its Critics: Activism, Power Relations and Corporate Social Responsibility”, in LEATHERMAN, Janie (Ed.), *Discipline and Punishment in Global Politics*, New York, Palgrave Macmillan, 2008.

<sup>82</sup> ZAMMIT, Ann, UTTING, Peter, *Beyond Pragmatism: Appraising Business Partnerships*, UNRISD, 200. (Retrieved 26<sup>th</sup> January 2020).

<sup>83</sup> The United Nations Research Institute for Social Development is an autonomous agency engaged in multidisciplinary research on social dimensions of contemporary problems affecting development.

<sup>84</sup> Global Compact Critics “Global Compact’s real home should be in the General Assembly of the UN”, 7<sup>th</sup> April 2009. Source <http://www.globalcompactcritics.blogspot.com/2009/04/global-compacts-real-home-should-be.html> (Retrieved 26<sup>th</sup> January 2020).

<sup>85</sup> For more detail see <https://www.web.archive.org/web20070908054562/http://www.globalcompactcritics.net/> (Retrieved 26<sup>th</sup> January 2020).

get in touch with the Centre for Research on the Multinational Corporations SOMO website.<sup>86</sup> The second such organisation was the now defunct Alliance for a Corporate-Free United Nations<sup>87</sup> which consisted of numerous international NGOs led by Corpwatch.<sup>88</sup> This organisation also criticised severely the UN Global Compact's weaknesses and vagueness of, *inter alia*, its Ten Principles.

### **3. A lack of clarity and vagueness of the Ten Principles make these hard to implement.**

The Ten principles of the Global Compact have been criticised as being unclear. Several authors have commented on this issue. Bigge<sup>89</sup> in 2004 and Nolan<sup>90</sup> in 2005 suggested that the Global Compact lacks precision and that its content relating to the Ten Principles is unclear and too well explained to the participants/signatories/stakeholders. Deva<sup>91</sup> in 2006 talks of a lack of concrete guidance given on those principles with little or no precision which is needed for inclusion in a code of conduct. Furthermore, the lack of precision creates vagueness to such an extent that unscrupulous companies would be enabled to circumvent them. Murphy<sup>92</sup> on the other hand considers the UN Global Compact to be a Code of Conduct which provides the minimum ethical standards for companies to observe.

### **4. Calls by Civil Society to delist offending companies**

Destroying native lands and communities in the name of greed remains a major issue in the 21<sup>st</sup> century!

According to the Ayoreo -Totobiegosode Indians in Paraguay, the UN Global Compact is being used as a tool to mask human rights and environmental abuses. The leaders of that tribe contacted the UN Global Compact office expressing their concern and

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<sup>86</sup> Global Compact Critics: Last blog post <http://www.globalcompactcritics.blogspot.com/2015/02/last-blog-post.html> (Retrieved 27th January 2020) .(Researcher SOMO, 27<sup>th</sup> February 2015.) The Amsterdam based Centre for Research on Multinational Corporations (SOMO) is a critical, independent, not-for-profit knowledge centre on multi-nationals. Since 1973 it has investigated such corporations and the impact of their activities on people and the environment. SOMO provides custom-made services which include research, consulting and training to non-profit organisations and the public sector. It strengthens collaboration between civil society organisations through its worldwide network. In those three ways, it contributes to social, environmental and economic sustainability. (Source: <https://www.somo.nl/about-somo/>). See too that organisation's interesting and ambitious strategic plan for 2016 – 2020 at <https://www.somo.nl/somo-strategic-plan-2016-2020/> (Both retrieved 27<sup>th</sup> January 2020).

<sup>87</sup> Source: <https://web.archive.org/web/20090604212210/http://www.corpwatch.org/section.php?id=101> (Retrieved 27<sup>th</sup> January 2020).

<sup>88</sup> Founded in 1996 the San Francisco Bay area- based Corpwatch's mandate is to provide accurate, timely and easily accessible articles, reports and data on violations by multinational corporations to activist media, the general public and policy- makers. Put briefly, this organisation holds corporations accountable.

<sup>89</sup> BIGGE, David M., *op. cit.*, p. 1.

<sup>90</sup> NOLAN, Justine, *op. cit.*, p. 460.

<sup>91</sup> DEVA, Surya, *op. cit.*, p. 129.

<sup>92</sup> MURPHY, Sean D., "Taking Multinational Codes of Conduct to the Next Level" *Columbia Journal of Transnational Law*, 2005, vol. 34, n° 2, p. 389.

frustration at the company known as Yaguarete Porá S.A. which has been illegally clearing the Ayoreo's forest to make way for beef destined to Europe, Russia and Africa. They asked that the company be expelled from the UN Global Compact. The company was charged and heavily fined for clearing the forest and for concealing important evidence of uncontacted Ayoreo tribal members living there. It will be recalled that human and environmental rights form part of the Global Compact's Ten Principles. In spite of this flagrant breach of the Global Compact's principles it said that it neither has the resources, nor the mandate to conduct investigations into any of its participants. Although this was the right answer to give because investigations do not form part of the Global Compact work, it would have been thought that the company's illegal actions would be sufficient to delist Yaguarete Porá which carried on promoting its partnership of the UN Global Compact. The Director of Survival International put it aptly when he said "This makes an utter mockery of the UN Global Compact. If the UN doesn't make sure companies displaying its logos abide by the rules, such initiatives become entirely meaningless. Yaguarete should be forced to leave the compact immediately."<sup>93</sup>

An international group of civil society organisations, including Somo, requested the delisting of a Brazilian mining company Vale from the UN Global Compact. The civil society organisations claimed that Vale infringed the Compact's principles on human rights, labour rights and environmental rights because that company failed to carry out reasonable and adequate risk assessments, not taking the necessary measures for prevention and mitigation and also failing to adopt non-repetition measures after the Mariana Dam (in Minas Gerais State) collapsed in 2015 and previously the collapse of the Brunadinho Dam (also in Minas Gerais State) which killed 165 persons, and left 160 missing persons and 138 homeless. Following such pressure, Vale withdrew from the UN Global Compact on 28<sup>th</sup> May 2019 after the civil society called for the company to be delisted.<sup>94</sup>

## 5. Further criticisms on the UN Global Compact continue.

The UN Global Compact has received further criticised from "A Global Ethic Now!" which is a German internet learning platform of the Global Ethic Foundation. The criticism- some of which is déjà vu emanating from a foreign source with a novel and confirmatory slant is fivefold and quoted verbatim,<sup>95</sup> as follows (i) "Mere minimal standards. The ten principles of the Global Compact are minimal standards that rest upon documents already recognized in the majority of states and already anchored in national lawmaking." (ii) "Lack of control. Conceived as a forum of learning and dialogue, the Global Compact deliberately abstains from sanctions and other measures of control.

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<sup>93</sup> Source: "UN fails uncontacted Indians" Survival International (5th July 2007). <https://www.survivalinternational.org/news/7443> (Retrieved 28th January 2020).

<sup>94</sup> Source: <https://www.somo.nl/organizations-ask-united-nations-to-delist-vale-from-global-compact/> (Retrieved 28th January 2020).

<sup>95</sup> Source: [https://www.global.ethic.now.de/0d\\_weltethos-und-wirtschaft.0d-03-106-global-com-kritik.php#](https://www.global.ethic.now.de/0d_weltethos-und-wirtschaft.0d-03-106-global-com-kritik.php#) (Retrieved 27th January 2020.)

Observance of the principles is not directly controlled. The only check on observance is the yearly progress reports, which are not subjected to further controls.” (iii) “Misuse as advertising. The participating businesses are not verifiably committed to the observance of social and ecological minimum standards, but they profit from a good name of the UN (so-called “blue-washing” as a play on the UN colour).” (iv) “Minimal acceptance. Although some 3,700 businesses have joined the Compact to date, this is just a tiny fraction of the 65,000 trans-national concerns active world-wide.” And (v) “Costly reporting requirements. For small and middle-sized businesses, the requirement to report annually is prohibitively labour-intensive and costly.”

There is indeed much substance, with little or nothing to disagree upon, in each of the well thought out afore-mentioned five criticisms! What is said on the Ten Principles constituting mere minimal standards (in (i) above) in most countries is so true; the deliberate abstention of controls (in (ii) above) with the weak check through what is said in the CoPs with no further checks thereafter is also a valid criticism; the verification of companies on social and ecological standards not being effective (in (iii) above) the participants benefit from the UN Global Compact logo; as for the minimal acceptance (in (iv) above) even the then Executive Director of the UN’s voluntary sustainability initiative Mr Georg Krell admitted that<sup>96</sup> “even in our strongest markets, the Global Compact is not yet at scale. Only when we have critical mass at country level will corporate sustainability lead to the big transformation. From our angle we would need at least 20,000 active participants to make global transition inevitable.” That figure is unlikely to be reached in the immediate future. Indeed, CoPs are costly both in time and finance (in (v) above) for SMEs but particularly for the small companies which do not enjoy the same resources as multi-nationals.

## 6. Convalence Ethical Quotation System.

Criticisms of a general nature have also been voiced by the Convalence Ethical Quotation System in Geneva.<sup>97</sup> They include the following critical remarks, namely (i) that the UN Global Compact “serves as a PR tool and helps to disguise the true goal of private enterprise which is profit making. The UN serves thus as a ‘bluwashing’ tool.” (ii) that this initiative “would only provide a superficial contribution to development but not touch the inequal (*sic*) structures of the system.” (iii) regarding the legally non-binding character “of the membership there is neither serious monitoring nor any kind of sanctions. In 2004 less than 60% reported (*sic*) taking any action in compliance with the ten principles.” (iv) that the non-binding nature of the Global Compact allows companies freedom on “how far they want to go in the implementation of any measures. This reduces the effects to minimal solutions which have to be accepted by the UN without having any possibility to intervene.” (v) that “Furthermore this initiative is seen as an expression of what critics

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<sup>96</sup> Source: The Guardian 26<sup>th</sup> March, 2012 Jo Confino reporting, <https://www.theguardian.com/sustainable-business/cleaning-up-un-global-compact-green-wash> (Retrieved 27<sup>th</sup> January 2020).

<sup>97</sup> See BANDI, Nina, *United Nations Global Compact: Impact on its critics*, Covalence Analyst Papers 13<sup>th</sup> September 2007.



call ‘global corporatism.’ There are a lot of stakeholders but none of them is directly accountable to the public about their performance.” (vi) that there is an “ambiguity between micro interventions and macro issues. At the surface companies would support small projects without assessing the global impact and at the same time they would be lobbying behind the scenes against general binding frameworks, which would allow more transparency and a far-seeing and sustainable approach to the development issue.” (vii) that side effects to the Global Compact are apparent. “The participants stress that they consider this initiative as being complementary to other measures. The opponents deny this and stress that the voluntary approach serves as a substitute for a binding code of conduct for transnational corporations.”

### **7. The Joint Inspection Unit’s (JIU) Report entitled “United Nations Corporate Partnerships: The Role and Functioning of the Global Compact” (2008 – 2009)<sup>98</sup>**

Although *deeply flawed* and *inaccurate*, the Report written by the Joint Inspection Unit (JIU), an external review body of the United Nations, was most critical of the Global Compact. The Global Compact Office responded<sup>99</sup> to put the record right and categorically stated “This is the third time that the Global Compact Office has provided detailed comments on the report. The JIU chose to publish its final report without regard to most of the Global Compacts corrections and comments.” It is proposed to deal *briefly* with some of the allegedly *unjustified* criticisms meted at the Global Compact by the JIU. The numbers below refer to the original JIU paragraph containing the specific criticism.

3. One of the criticisms was that since the Global Compact does not police companies, measure their actions and enforce its principles, it cannot be ensured that companies associated with the UN image and reputation effectively comply with its basic principles. The Global Office response was that this was one of the most fundamental misrepresentations contained in the report. It said “the Global Compact incorporates a Communications of Progress Policy annually on progress in implementing the ten principles – or face expulsion. One of the main purposes is to instil accountability with respect to companies’ commitment and help guard against possible misuse of the UN affiliation. To further protect the integrity of the UN the Global Pact incorporates a strict brand and logo use policy.”<sup>100</sup>

6. Another criticism was that the JIU inspectors were unable to obtain the participants’ independent view on the Global Office performance and the initiative’s success because, in line with the JIU’s methodology, they were denied a preliminary desk review, interviews with 50 or more UN officials and participants in the initiative, surveys and in depth analysis of the results, Furthermore, the JIU sent an electronic survey in three

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<sup>98</sup> Source: <https://www.unglobalcompact.org/news//109-03-24-2011> (Retrieved 31<sup>st</sup> January 2020).

<sup>99</sup> See “United Nations Global Compact. United Nations corporate partnerships: The role and functioning of the Global Compact JIU/REP/2010/9. A response from the Global Compact Office.” Updated 24<sup>th</sup> March 2011.

<sup>100</sup> *Ibid.* at p.1.

languages to 90 Global Compact local networks with a response rate of 43%. Two additional surveys were designed for business and non-business participants but could not be launched because the GCO declined to provide their contact information on grounds of confidentiality, sharing instead the results of its own recent survey of business participants. The response was that the JIU's request came after the GCO had concluded several surveys of participants for reports to be launched on the occasion of its tenth year anniversary. Numerous participants requested the GCO not to share their contact information with third parties. In addition, several of the Global Compact's surveys asked the same or similar questions as those asked by the JIU survey. Also, the Global Compact's annual implementation survey is conducted by an independent and reputable partner.<sup>101</sup>

11. The JIU said that the Ten Principles were adopted in four areas of action,<sup>102</sup> each deriving from four major UN instruments. These focus instruments/principles embrace a number of UN universal values which are found in the Preamble and Article 1 of the Charter of the United Nations. "Regrettably they do not include the pursuit of peace and development."

The Global Compact Office stated that "This is not correct, While the Global Compact principles focus on widely recognized areas of environmental and social performance, the second objective explicitly states that the initiative seeks to 'catalyse actions in support of broader UN goals, including the Millennium Development Goals (MDGs).' Almost since its inception, the GCO has engaged companies and stakeholders on the issue of business and peace, resulting in a number of tools to address the role of business in conflict and post-conflict environments. Likewise, the business role in advancing sustainable development has been the subject of countless efforts under the Global Compact's umbrella...Implying that the Global Compact does not pursue peace and development as focus areas wilfully ignores a substantive portion of the initiative's work over the past 10 years."

13. The JIU alleged that the Global Compact not having been given a clear mandate or "carte blanche" under the terms of the agenda item "Towards global partnerships" of the 2000 General Assembly six resolutions. The GCO retorted that "Later resolutions (especially A/RES/64/223 and A/RES/62/221) have given the Global Compact a much clearer mandate tasking it with specific functions."<sup>103</sup>

17. A statement was made by the JIU that a review of all General Assembly resolutions on global partnerships provided no reference whatsoever to the GCO's self-set objective of facilitating/encouraging dialogue and partnerships among key stakeholders in support of the Ten Principles and broader UN goals.

The GCO said that this statement was "incorrect" and gave the instance of resolution A/RES/64/223 which states that "the vital role of the Global Compact Office continues

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<sup>101</sup> Namely, the Wharton School of Business at the University of Pennsylvania. *Ibid.* pp. 1-2.

<sup>102</sup> They include human rights, labour, the environment and anti-corruption. *Ibid.* p. 2.

<sup>103</sup> *Ibid.* p. 2.

to play with regard to strengthening the capacity of the United Nations to partner strategically with the private sector in accordance with the General Assembly mandate” and furthermore encouraged “the Global Compact to continue its activities as an innovative public- private partnership to advance United Nations values and responsible business practices within the United Nations system and among the global business community, including through an increased number of local networks.”<sup>104</sup>

29. The JIU talked of “the Secretary-General’s annual report to the General Assembly...” The GCO pointed out that “As noted in our earlier comments, the Secretary-General’s report to the General Assembly is a biennial report. Even this simple correction was disregarded.”

40. Relating to non-business actors the JIU mentioned that few civil society organisations which account for 8% of the participants “are internationally renowned with global reach.” In response to this statement the GCO stated that “This fails to acknowledge that civil society or labour engagement in the Global Compact does not require formal participant status, as the focus of the initiative is corporate sustainability. Many CSOs are active contributors at the global and/or local level without having joined the initiative.”

54. The JIU stated that “Non-business participants are also required to sign a letter committing to the ten principles and pledging to take part in the activities of the Global Compact by participating in local networks, engaging in partnerships and specialized initiatives and providing commentary to companies and other COPs.” Again, the GCO found that statement to be incorrect for non-business organisations “need not become formal participants in order to engage with the initiative. They are welcome to join the initiative, and there is a process to do so, but there is no requirement to do so.”

55. The JIU pointed out that the GCO were unable to determine what criteria the GCO applied for selecting participants. Global Compact officials argued that that the admission of companies was not *per se* a certification of good behaviour. They reiterated that the initiative was about learning, dialogue and partnerships and that its role is to assist companies in implementing the principles and provide them with the tools and resources to communicate progress on their pledges. The GCO response was that “The Global Compact participants are not ‘selected’ for participation which would imply some kind of endorsement by the UN. As a truly global initiative and a learning platform, the initiative seeks to remain open to a wide range of businesses from around the world and at various levels of corporate responsibility performance. Consequently, the vetting process is minimal to allow for broad participation. World check results are shared with the relevant Local Network which is also consulted to see if there are any reasons precluding a company from participation in the initiative.”<sup>105</sup>

60. The JIU stated that “the Global Compact’s principles are principles of behaviour and as such needed to be translated into concrete standards and actions, compliance with which should be monitored by special mechanisms.” The GCO reply was “The Global

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<sup>104</sup> *Ibid.* pp. 2-3.

<sup>105</sup> *Ibid.* pp. 3-4.

Compact has always stressed its primary role as a platform for dialogue and learning. The Global Compact is a complement to and not as substitute for, government action. The initiative offers a number of practical materials to help business in their implementation of the principles. Monitoring the performance of over [8,000] businesses falls outside the mandate of the initiative and is not practical. Instead the initiative focuses on transparency offering a disclosure framework that facilitates monitoring by third party stakeholders (governments, investors, employees, business partners, etc.) that have strong interests in holding the company accountable for its corporate sustainability commitments.”<sup>106</sup>

67. Regarding the NGOs engagement, OIOS expressed concern in its 2006 audit that NGOs might get direct access to the UN through the Global Compact without going through the usual screening and accreditation process without going through the Department of Economic and Social Affairs (DESA) and the Division of Public Information (DPI). At that time the GCO said that a newly recruited NGO coordinator would facilitate the mechanism of monitoring the engagement of non- business participants. The inspectors could not identify any progress in this respect. The GCO’s reply clarified that issue. It said “the Global Compact does not provide access to UN decision making processes to NGOs. That still requires the usual screening and accreditation procedures. The NGOs participating in the Global Compact, whether as signatories or not, just participate in learning and dialogue events and other activities related to the Global Compact’s objectives. In fact the Global Compact works in the other direction, projecting the UN agenda into the world and engaging private sector actors to take action in support of UN goals.”

69. In connection with the JIU survey, 23% of the respondents said that they were not aware of the integrity measures; 46% believed that they should be implemented more vigorously in respect of allegations received; 43% said that they were consulted regarding the de-listing of companies and 18% said that they had been involved in the handling of complaints relating to business participants. The GCO responded by saying that “Given the low sample size and the limited range of respondents, the percentages were misleading. The JIU survey did not capture a representative sample of Global Compact stakeholders.”<sup>107</sup>

72. The GCO informed the inspectors that 73 cases had been received, of which only 29 had been handled through the dialogue facilitation process. The inspectors could not obtain detailed figures on the number and type of allegations received, handled and resolved or the number of companies de-listed. The GCO.s response was that this “information was offered by the Global Compact Office but was not taken up.” Moreover “information about integrity cases, is shared with [the] Global Compact Board Members prior to every Board meeting – oversight of the implementation of the integrity measures is one of the Board’s main functions.”

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<sup>106</sup> *Ibid.* p. 4.

<sup>107</sup> *Ibid.* at pp. 4-5.

84. The JIU said that some Global Compact officials consider the association of the GCO with the Office of the Secretary-General critical in the initiative's success and that it should be maintained. "However given the criticism the initiative has come under, the Inspectors are of the opinion that maintaining a close association between the GCO and the Secretary-General entails a reputational risk for the Organization" The GCO's response was that "The Global Compact Office does not believe the initiative poses a reputational risk to the UN. To the contrary, its actions in building the UN's capacity to better understand corporate responsibility are helping to safeguard the Organization from potential risks the UN faces across the UN system from partnerships with the private sector that do not expect partners to support UN values such as those embodied in the Global Compact principles."<sup>108</sup>

87. The JIU criticised the percentage of contributions made to the Global Compact as being 5% of the costs being retained by the GCO and 2% paid to the Foundation for services provided. To this allegation the GCO responded that "This is incorrect. The Global Compact Office does not pay the Foundation for the Global Compact for services provided or for anything else."

113. The JIU considered that the GLO is encouraging participants to engage in partnerships for advancing the other UN goals such as the MDGs. Such partnerships go beyond the implementation of the principles and scope of the GCO's mandate. The inspectors hold the opinion that their promotion fit better in the UNOP/UNFIP mandate. The inspectors' opinion was thought by the GCO to be totally wrong.

117. The JIU held the opinion that the Board only met twice a year which is insufficient to ensure guidance and monitoring with no follow up and reporting at subsequent meetings on the few recommendations adopted. The GCO found this to be "incorrect. There is indeed follow up and the Global Compact Office has followed all the Board's recommendations. Agenda items are followed through at the next meeting and/or via email between meetings. Matters arising between meetings are also dealt with via email. Given the high-level representation of Board members, their busy schedules and the fact that the Board meetings are typically chaired by the Secretary-General it would be very difficult to arrange more meetings of the Board. Likewise, working group output has been quite prolific, particularly in the areas of anti-corruption, human rights and environment."<sup>109</sup>

125. The JIU considered that Leaders' Summits held every three years were intended to be the Global Pact's highest decision-making forum yet, the 2004 and 2007 summits were a public relations events attended by a relatively small number of participants, and only a few strategic decisions were adopted. The GCO categorically did "not agree with this characterization. The detailed reports of the events show otherwise...at the 2004 Leaders' Summit the Global Compact adopted the 10<sup>th</sup> principle on anti-corruption a milestone in the initiative's evolution." The GCO has also noted that the JIU has not

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<sup>108</sup> *Ibid.* at p. 5.

<sup>109</sup> *Ibid.* at p. 6.

mentioned the “2010 Leaders’ Summit and the New York Declaration. All Leaders’ Summits have played an important role in setting the strategic direction of the future.” The 2007 Leaders’ summit needs to be added by this author to the GCO response. There were a total of 1,027 persons at the Summit, namely 638 from companies, 95 from government entities, 76 from international organisations, 65 from international business organisations, 62 from international non-government organisations, 45 from academia, 28 from the Global Compact network, 13 from foundations and 5 from international labour organisations. This is hardly “a relatively small number of participants” as suggested by the JIU. Furthermore, the Geneva Declaration was adopted at that Summit. Such declaration is hardly a public relations exercise and contradicts the JIU statement.

## 8. A General Comment on the JIU Report.

The response from the Global Compact Office to the JIU Report is of great importance and makes for essential reading. This document provides a host of information on what the Global Compact functions include and clarifies a great number of issues which appear vague. The answers of the GCO confirms a significant number of issues relating to the GC’s valuable work, its powers and mandate. Above all, it corrects misconceptions by putting matters right in a manner in which the ordinary person in the street, - or to use the well- rehearsed legal jargon phrase, “the man on the Clapham Omnibus” or the “Butcher in Perry Bar” - would understand.

Upon reading this document the *overall uneasy, polemic and strained relationship* which existed between the Joint Inspection Unit and the Global Compact Office at the time of the Report in 2011 is readily noticeable.<sup>110</sup>

What is also noticeable is the fact that the Joint Inspection Unit had *possibly not done its homework* in some areas by suggesting that the Global Compact Office was acting *ultra vires* its mandate when the JIU should have carried out deeper research and identified the two later resolutions, namely A/RES/64/223 and A/RES/62/211, which gave the GCO a clearer mandate tasking it with specific functions.<sup>111</sup>

*Serious Carelessness* too features in the content of the JIU report! JIU should have known that the Secretary-General of the United Nations reports to the General Assembly on a biennial basis and not on an annual one. The fact that the GCO corrected that error and numerous other errors all of which were ignored by the JIU in its Report aggravates such carelessness.<sup>112</sup>

The same may be said of the “self-set objectives of encouraging and facilitating dialogue and partnerships among key stakeholders in support of the ten principles and Broader

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<sup>110</sup> United Nations corporate partnerships: The role and functioning of the Global Compact. JIU/REP/2010/9.

<sup>111</sup> See pp. 154 *et seq.* above.

<sup>112</sup> See pp. 156 *et al.* above

United Nations goals”.<sup>113</sup> JIU should have been *more diligent* by consulting A/RES/64/223 which provides for this vital role of the GCO.

Furthermore in finding that “it cannot be ensured that companies associated with the United Nations image and reputation effectively comply with its basic principles” the JIU *misrepresented fundamentally* what the Global Compact is all about and the function and policy of the CoP which if not observed, results in the company being delisted.<sup>114</sup>

With so many *inaccuracies* featuring in the JIU Report, it would appear that the Inspectorate was either ill-informed, not well prepared to carry out this important task or simply negligent in doing so.<sup>115</sup>

### **XIII. Resulting from those Criticisms is the UN Global Compact worth its salt?**

The above criticisms and concerns constitute a formidable barrage of accusations being made against the Global Compact concept. It cannot be denied that some criticisms such as the non-enforceability of the Global Compact, or no monitoring of compliance or the vagueness and weakness of the Ten Principles looked at as such and in a narrow and limited way, could validly attract criticism. Similarly, the accusations made by civil society to delist a company by reason of its anti-social and anti-environmental behaviour, or to welcome companies with a bad reputation to the Global Compact also deserve criticism as they are backed by hard facts. The same may be said of blue-washing which is also based on *fact*.

Other criticisms however such as micro intervention and macro issues, or criticisms that the initiative is complementary to other measures or again that the initiative would only provide a superficial contribution to development but not touch the unequal structures of the system, or the reputational enhancement of large multinational companies at the expense of people in need or the environment, are all based on *supposition*.

As for the numerous criticisms found in the JIU Report, the Inspectors have obviously missed the very spirit, the very point and the very ethos on what the Global Compact is all about and to add insult to injury that Report misrepresented,- voluntarily or involuntarily,- numerous fundamental issues regarding this initiative. As such, the Report is a non-starter and therefore should be considered as a document which *misrepresents*, *misinforms* and *misleads*. This Report should therefore be *ignored* totally.

In spite of those criticisms, whether they be based on fact, on supposition or ignorance created by lack of knowledge or negligence, the UN Global Compact is certainly worth its salt for a number of important reasons briefly analysed below. It should also be pointed out that the great majority of the criticisms occurred before 2010 with very few criticisms being made thereafter. Could it be that critics have educated themselves on the *raison*

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<sup>113</sup> See p. 133 above.

<sup>114</sup> See pp. 144 - 148 above.

<sup>115</sup> Namely JIU/REP/2010/9.

*d'être*, value and therefore the benefits which the Global Compact has brought about since its creation?

### **1. The Difficulty in Implementing Vague Principles explained.**

On the issue of their difficulty to implement because the Compact's principles are vague, Georg Krell, the Founder of the UN Global Compact talked of the Compact being "a moral compass"<sup>116</sup> for the participants which addresses corporate diversity through a *learning-based approach* thus allowing companies to conceptualise and integrate the Compact's Ten Principles into their company policies. Those principles are not vague and allow companies to implement these in a manner best suited to them and put into operation as a managerial task to be completed and observed. Dr. Andreas Rasche put it aptly when he said<sup>117</sup> "many critics want the Compact to be a clearly structured code of conduct against which compliance can be measured....the very idea of the Compact is the creation of a learning network that is used by business and non-business participants to share innovative ideas and best practices as to how the ten principles can be implemented. The ten principles provide a 'yardstick' for the exchange of ideas, learning and discussion and are not meant to be benchmark against which to assess compliance. The goal is to establish consensus and best practice on what, for instance, 'a precautionary approach to environmental challenges' or not being complicit in human rights abuses' means within a firm's respective region or sector over-specified principles could even turn out to be counterproductive since they would clearly limit the scope of possible solutions right from the beginning. The ten general principles rather provide corporations with the opportunity and highlight the need to 'fill' the 'emptiness' in their context of application."

Kell also spoke of this aspect when he said<sup>118</sup> "The Global Compact has often been criticised for what it never pretended to be. From the beginning, the Compact was designed as an initiative for *learning, dialogue* and *action*, without making judgements about individual participants. Critics wanted a code with enforcement. However, the UN has neither a mandate nor the resources to follow such a pathway."<sup>119</sup>

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<sup>116</sup> G.Kell "The Global Compact: Origins, Operations, Progress, Challenges" Journal of Corporate Citizenship 11 (2003) pp.35 – 49 at p.47.

<sup>117</sup> RASCHE, Andrea, "A 'Necessary Supplement' What the United Nations Global Compact Is and Is not", *Business and Society*, 2009, vol. 48, n° 4.

<sup>118</sup> See KELL, George, "Global Compact: Corporate Engagements at the United Nations", Great Transition Initiative, February 2006. Available in: <https://greattransition.org/publication/global-compact> (Retrieved 5<sup>th</sup> February 20120).

<sup>119</sup> See the UNDP-sponsored handbook which talks in favour of the general (rather than specific) nature of the Ten Principles. The Global Compact recognises that "company approaches are very different. It highlights the flexibility of the Compact and the fact that there is considerable scope for adapting the initiative to the specific needs and situation of the individual participant." United Nations Development Program (2005) *Implementing the Global Compact – A booklet for Inspiration*. Copenhagen p. 8. (Italics inserted by way of emphasis by the author).



## **2. The Compact is Not Accountable, is Not Independently Monitored and Verified – An explanation.**

Critics of the Global Compact say that the lack of monitoring, sanctions, enforceable regulations and independent verification fosters the misuse of the Compact as a marketing tool.<sup>120</sup> It has never been the intention of the drafters of the Global Compact that it should be a compliance-based document. Nor has it ever pretended to be an accountable, monitored or verified document. From its very beginnings the Global Compact was tailored in such a way as not to draw upon the enormous resources needed to enforce its provisions on participating companies particularly since those resources are unavailable. What is expected of companies under the Compact is *proactive behaviour* through its *learning* approach and not compliance, regulation and verification. This however does not mean that there exists no monitoring at all. There is an alternative method to monitoring which is the CoP.<sup>121</sup> It will be recalled that participants of the Global Compact are required to report annually on their progress in implementing the Ten Principles and any other matters. If they fail to produce a CoP within the year the participant is listed as “*non-communicating*”. If the participant fails to submit a CoP in the second year the participant is termed as “*inactive*” and is “*delisted*” at the end of the third year if non-communication persists.<sup>122</sup>

The participants’ CoPs which outline their activities during the course of the year are submitted to the Global Compact Office and act as a source of information for that Office. More importantly however, CoPs are addressed particularly to the Global Compact stakeholders<sup>123</sup> who vet these CoPs and judge for themselves (a) the degree and effectiveness of the participants’ corporate behaviour and (b) whether to file complaints to the Global Compact Office for purposes of investigation. In a published interview<sup>124</sup> Georg Kell the retired Chief Executive Director of the Global Compact said “The main contribution of the Compact...has been shining a light on issues and obliging participants to disclose annual performance changes in these critical areas. In this regard the Compact is quite unique. While participation is voluntary, once a corporation is in, it must disclose relevant information, or it will be...forced out and publicly shamed.”

It is also the case that *verification* of the Global Compact is not achievable. But then verification is not, - nor was it ever intended to be, - the aim of the Compact. Dr Andreas

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<sup>120</sup> See DEVA, Surya, *op. cit.*, and RIZVI, Haider, *op. cit.* In their opinion the Compact is a public relations “smoke screen” which allows multinationals to “bluewash” their damaged image.

<sup>121</sup> In order to standardise CoPs, participants are required to follow the G3 Guidelines of the Global Reporting Initiative (GRI 2007). Prior to 2007 there was no standardisation of such Reports and participants were free to use any form of their choosing.

<sup>122</sup> See the discussion on Delisting at pp. 146 - 148 above.

<sup>123</sup> For example, civil society, NGOs, academic institutions, trade unions and all others who may have an interest.

<sup>124</sup> By Allen White, Senior Fellow at Tellus Institute who interviewed Mr Kell about the genesis and evolution of the Global Compact and the prospects for driving corporations beyond incremental change. See KELL, George, “Global Compact: Corporate Engagements at the United Nations”, *op. cit.*, (Retrieved 29th February 2020).

Rasche<sup>125</sup> put it very aptly in discussing his three points in this context, namely (a) the development of indicators; (b) the issuance of a mandate and (c) the accessibility of resources. In connection with (a) above, he says “even if desired by the Compact, monitoring of participants would be nearly impossible since it requires performance indicators relevant to *all* companies in all countries and sectors. Without such performance measures a meaningful comparison of monitoring results, and thus the creation of sanctions, is not only impossible, but, at the same time would weaken the Compact’s accountability since sanctions would be perceived as arbitrary.”

Regarding (b) above, “the Global Compact has no mandate to monitor or verify compliance with its principles. Since the Compact is embedded within the UN system, the establishment of legally binding regulations would require the support of the UN General Assembly which” quoting H.G. Ruggie<sup>126</sup> “in the current international political climate is very unlikely to evolve even if such a compromise were to be established, it would reflect ‘ the lowest common denominator’ of the currently 193 UN Member States and thus echo a weak mandate. Moreover the rise of the Compact reflects the change from the antagonistic and confrontational UN-approach towards MNCs in the 1970s and early 80s – exemplified by attempts to establish a legally binding code of conduct which produced a lot of debate, yet no results - to a more cooperative partnership agenda that emerged in the mid-1980s and still continues. Thus attempts to transform the Compact into a legally binding code of conduct would not only miss sufficient political support but also would not fit the current climate of cooperation and collaboration between the UN and business.”

As for (c) above, the Global Compact has neither the logistical nor financial resources “to effectively monitor MNCs and their supply chains, let alone SMEs around the world...annual (or even biannual) monitoring of corporate behaviour would require personal, logistical and financial resources that are way beyond the Compact’s current capacity.” The learned author concludes that “a variety of factors prevent the Compact from being a tool for regulation, most of all its underlying idea of creating space for learning and cooperation between business and non-business actors. Of course, measures like the annually required COP reports are essential to strengthen the case for accountability, however do not reflect a compliance mechanism in the narrow sense.”

Those criticisms having been explained and answered in the light of what the UN Global Compact has never *intended* or *pretended* to be, such Compact is certainly worth its salt.

### 3. Global Compact as a Supplement?

Dr Andreas Rasche makes an interesting and original suggestion by outlining the role of the Compact as a *supplement*<sup>127</sup> “to national regulation and voluntary regulative CSR

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<sup>125</sup> RASCHE, Andrea, *op. cit.*, pp. 20 *et seq.*

<sup>126</sup> RUGGIE, John Gerard, “Trade Sustainability and Global Governance”, *Columbia Journal of Environmental Law*, 2002, vol. 27, n° 2, p. 303.

<sup>127</sup> RASCHE, Andrea, *op. cit.*, p. 22.

standards to lead future critical assessments in a more fruitful direction which enables the initiative to learn from and leverage the suggestions made by critics.” He argues that the UN Global Compact is best understood as an instrument which supplements existing national regulations towards corporate behaviour. He says<sup>128</sup> “The learning-based approach is a supplement because it can and should never replace national and international regulatory systems but rather comes in (1) where corporations are willing but have trouble putting regulations into practice and thus need to learn about implementation and (2) where regulations fail or are not yet sufficiently present and thus need to be developed.” There is much merit in outlining the Compact’s function in that way, but only where such regulations exist. Where they do not exist, this argument is inapplicable.<sup>129</sup>

#### **4. The Worldwide Impact of the Global Compact.**

It is a known and well accepted fact that the Global Compact is one of the pioneers of corporate sustainability. The impact of this initiative has been such as to have changed practices, ideas and policies world-wide and created a culture of awareness on ethical issues. The Global Compact is the world’s largest voluntary corporate sustainability initiative. Mr Georg Kell said of the Compact that<sup>130</sup> “the biggest impact we had is changing mind sets on a truly global scale, not just in one country or in one sector but virtually across the globe where many many companies are now aligned with the UN. They are aligned with universal principles and they are on a journey of understanding that long term success and alignment and support with UN goals goes (*sic*) hand in hand.”<sup>131</sup>

#### **5. Acknowledgement of the Global Compact by the UN General Assembly and UN Member States.**

The work of the UN Global Compact has been acknowledged by not only the United Nations General Assembly but also by UN Member States, such as the G8. The UN Member States, noting the increase in the number of public-private partnerships worldwide welcomed the efforts of all partners, including the private sector to engage in development and recognise the critical role which the private sector plays in bringing about the internationally agreed goals.

The UN General Assembly renewed the Global Compact’s Office mandate in December 2018. Furthermore the UN Office supported that initiative in its Resolution entitled “Towards global partnerships: A principle-based approach to enhanced cooperation

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<sup>128</sup> *Ibid.*

<sup>129</sup> For an analysis and its reasoning see *Ibid.* at pp. 22-32.

<sup>130</sup> Source: Interview with Georg Kell, Executive Director, UN Global Compact at p. 1 of 10pp. <https://www.globalcompact.ca/interview-with-georg-kell-executive-director-un-global-compact> (Retrieved 7<sup>th</sup> March 2020).

<sup>131</sup> See too “*Impact: Transforming Business, Changing the World*” which is a comprehensive assessment of the evolution of corporate sustainability available since its launch in 2000. Global Compact 2015.

between the United Nations and all relevant partners.”<sup>132</sup> This Resolution recognises, *inter alia*, “the vital role the UN Global Compact Office continues to play with regard to strengthening the capacity of the United Nations to partner strategically with the private sector.” Furthermore, the activities of the Global Compact are “in accordance with its General Assembly mandate to advance United Nations values and responsible business practices within the United Nations system and among the global business community”. The Resolution emphasises the promotion of gender in global partnerships and welcomes the Women’s Empowerment Principles<sup>133</sup> by requesting the Global Compact Local Networks to promote those Principles widely. The important role played by those networks in spreading United Nations principles and values and facilitating partnerships internationally has been welcomed by UN Member States.

## 6. Summing up the evidence.

It is submitted that each of the aforementioned criticisms is unjustified by reason of the critics’ lack of understanding, their ignorance or their supposition of the Global Compact concept. These critics have criticised this concept on what *it is not*, rather than on *what it is* intended to be by its drafters. An attempt has been made in each of these criticisms to explain what the Global Compact concept *is intended to be*. The analytical discussion which has taken place above in the case of each of those criticisms needs no repetition in this summing up, suffice to illustrate what initially led to the creation and reasoning behind the Global Compact itself in 2000 which clearly illustrates what the concept *is intended to be*, namely a voluntary corporate sustainability initiative to align company and non-profit organisation strategies with universal principals on human rights, labour, environment and anti-corruption and take actions which advance societal goals. In an interview with Georg Krell, the founder and former Executive Director of the Global Compact his response was<sup>134</sup> “So, it was a speech called “The Global Compact” and it called on business, in an era of globalization, to take on more responsibility, not just to look for profit, but also to build social, environmental and governance pillars. We looked at what can the UN offer? We looked for principles derived from international frameworks that in theory have long been endorsed by governments but which in practice are lagging in terms of implementation. So, we came up with 10 principles derived from the Universal Declaration of Human Rights, the Fundamental Principles and Rights at Work [International Labour Organization], the Rio Declaration on Environment and then later on the UN Convention Against Corruption the idea was very simple embrace the principles, make them part of your strategic orientation and translate them into operations. And, where you can, take action to support UN goals, enter into partnerships, initiatives and so forth. So it was just a speech we made the front pages of international papers...and we thought ‘job done’. But the reaction to the speech was so overwhelming that we felt

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<sup>132</sup> A/RES/73/254.

<sup>133</sup> Source: <https://www.unglobalcompact.org/about/government-recognition> (Retrieved 8<sup>th</sup> March 2020).

<sup>134</sup> The interview took place on 23<sup>rd</sup> June 2015. Source: <https://www.globalcompact.ca/interview-with-georg-kell-executive-director-un-global-compact/> (Retrieved 10<sup>th</sup> March 2020).

compelled to actually try to translate this lofty speech into an operational initiative and that's where the real journey started intended as a speech, but then due to popular demand, gradually it led into an enormous building effort.”

#### **XIV. Conclusions on the Global Compact concept.**

Since its beginnings some twenty years ago, the UN Global Compact's *evolution* has been remarkable. The Compact has become the largest voluntary corporate sustainable initiative in the world enjoying some 8,000 companies of various shapes and sizes and some 4,000 non-profit organisations in some 152 countries. The aims of the Global Compact are to introduce a human face to businesses by encouraging them to cultivate ethical, altruistic, sustainable social and environmental practices in addition to their commercial ones. The Ten Principles which are enshrined in various United Nations declarations and treaties include human rights, labour standards, environmental standards and the suppression of corruption. Corporations and other organisations which seek membership to the UN Global Compact have to incorporate these Ten Principles in their company's or organisation's policies, daily procedures and strategies and report on them in their Communications on Progress (CoPs). Public reporting is an essential feature to the UN Global Compact's integrity and provides a basis for the delisting of companies by naming and shaming them.<sup>135</sup> In addition to the inclusion of the Ten Principles in their policies, companies and other organisations are encouraged to participate and report on other United Nations initiatives such as the Sustainable Development Goals. (SDGs)

*Corporate responsibility* is the key feature of the Global Compact which means that the top company leadership understands that long-term financial success includes three non-financial pillars, namely social responsibility, environmental stewardship and good governance. Failure on any one of those three pillars signifies that long-term financial success of a company cannot be guaranteed. From its very beginnings the Global Compact has aimed at transforming business by recognising that “the most important contribution business is making to development and the UN agenda is how business conducts itself.”<sup>136</sup> Many countries which have integrated this thinking at board level recognise the importance of good ethics which include, *inter alia*, the empowerment of women at the workplace and in the community, transparency, the inclusion of poor people, vocational training, engagement in partnerships, the upcoming SDGs and disclosure on an annual basis through their CoPs. Failure to do so spells delisting of the company or the organisation.

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<sup>135</sup> It should be noticed that the reason why companies or organisations are delisted is not necessarily because they did not submit a CoP within the relevant period or did not include in their company policies their observance of the Ten Principles and other UN goals, such non submission could result from situations where the media in a particular country is weak and therefore the impetus to initiate a CoP or continue one is also weak; or in circumstances where the paper work is excessive, or again in situations where there have been a change in management, a restructuring of the company, a take-over bid or a crisis in the company. Alternatively, in cases where there is simply a non-disclosure mentality.

<sup>136</sup> Source: <https://www.globalcompact.ca/interview-with-georg-kell-executive-director-un-global-compact/> (Retrieved 12<sup>th</sup> March 2020), p. 6.

“Philanthropy has a role of its own to play, but this should not be a substitute for *sustainable practices*. For a company the main risk for not being sustainable, is erosion of trust and damage to the brand” said Georg Kell<sup>137</sup> The word “sustainability” is a new mantra. Corporate social responsibility programmes are now *integrated* into the strategies of large corporations. Sustainability has become a precondition for a company’s survival and growth. Good environmental and social stewardship based on values and sound ethics go hand in hand with financial success. The business case for sustainability had evolved gradually as the framework conditions for market success have changed<sup>138</sup> over time and continue to do so. The main costs for not being sustainable include punitive fines, erosion of trust and damage to the brand. Georg Kell epitomised the sustainability element as follows. “The Global Compact has been one of the pioneers of modern corporate sustainability. It helped to change mindsets and practices on a truly global scale. It created over 200 resources and guides widely used in many countries and languages and pioneered concepts like ‘ESG’ (Environmental, Social and Governance) which was coined in our 2004 publication ‘Who Cares Wins.’ We also launched sister initiatives, including PRI (Principles for Responsible Investment) in 2005, PRME (Principles for Responsible Management Education) in 2007 and SSE (Sustainable Stock Exchanges in 2009, all of which are thriving.”<sup>139</sup>

Judging from the evidence above, there is a significant *correlation* between the UN and the ethical<sup>140</sup> businesses world in achieving the current two goals of the Global Compact, namely the Ten Principles and the SDGs. The very fact that the Global Compact enjoys a membership figure of over 12,000 consisting of companies of various sizes, non-for-profit organisations<sup>141</sup> and well over 100 country networks, some of which are very active,<sup>142</sup> signifies that such correlation does exist. It needs to be stressed and carefully noted however that this correlation is not universal. The Global Compact Office has still much work to do to take on board companies which still hold the opinion that their only responsibility lies towards their shareholders and that profits are their sole aim with all other features, such as corporate social responsibility, charitable, environmental and governance issues being mere embellishments. The Global Compact has thus still a great deal of work to do to attract and persuade businesses to incorporate ethical and environmental matters in their policies.

<sup>137</sup> KELL, George, *Beyond Philanthropy: How Big Corporations Deal With The Issue Of Sustainability*, 6th December 2018. Available in: <https://www.generali.com/info/discovering-generali/all/2018/Beyond-philanthropy> (Retrieved 12<sup>th</sup> March 2020).

<sup>138</sup> Framework conditions for market success have changed because of the advances in technology and the rise of transparency, a premium on early and good stewardship and governance change which imply that responsive behaviour towards stakeholders and others is a winning approach to earn trust.

<sup>139</sup> Source: <http://www.greattransition.org/publication/global-compact> (Retrieved 12th March 2020).

<sup>140</sup> In contrast to non-ethical businesses which often exist. Some of these have featured in this chapter and include, *inter alia*, the cutting down of rain forests, the pollution of seas and rivers, the production of pornography, child labour, trafficking of women and children for prostitution and other purposes, drug trafficking, forced labour and so on for purposes of short-term profits.

<sup>141</sup> Consisting of civil society and academia and in addition cities’ and local authorities’ programmes.

<sup>142</sup> Examples of activities include the formation of partnerships, the organisation of events, convening meetings, organising conferences, taking important policy decisions, networking, making important suggestions and much more.

It will be recalled that an important *criticism* directed at the Global Compact was the lack of a more prescriptive and compliance-based approach to advancing the Compact's principles. There is little doubt that legislation is more effective in achieving a given result than are legally unenforceable and voluntary programmes. However, such compliance-based regimes do not take into consideration the complexity of the situation in different countries. Globally, there are numerous countries which suffer from corruption and /or weak/failed governments. Although there may be legislation in those countries such laws are not implemented which makes enforcement of business or other activity almost impossible. As such, global frameworks like the Global Compact can be more effective than compliance-based regimes by reason of their inspirational, educational and motivational character. It is therefore important that the Global Compact keeps its current status of legal unenforceability.

What is noticeable is the *detached and autonomous way*, - unlike other UN programmes, - in which the Global Compact has evolved since its creation in 2000. The UN Global Compact's network governance<sup>143</sup> according to Georg Kell "has been mostly beneficial. It saved the Compact not only from bureaucratic overload but also from certain death."<sup>144</sup> He then went on to say that the "Compact's network- based government structure, with over" a hundred "affiliated but independent country-based Compact Networks under the aegis of a central office has been a real strength. This network structure emerged from a series of consultations around the world to search for an optimal governance model."

At the beginning of this chapter Kofi Annan's address to the World Economic Forum in Davos, Switzerland on 31<sup>st</sup> January 1999 proposing the UN Global Compact was briefly mentioned. We end this chapter by quoting his reasoning for suggesting the creation of the Global Compact and make some concluding remarks on the future of the Global Compact.

In his address Kofi Annan said<sup>145</sup> "Specifically I call on you, to embrace, support and enact a set of core values in the areas of human rights, labour standards and environmental practices. Why these three? In the first instance because they are all areas that you businessmen and women can make a real difference. Secondly. They are areas in which universal values have already been defined by international agreements including the Universal Declaration, the International Labour Organisation's Declaration of

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<sup>143</sup> With the support of business and other stakeholders, the UN Global Compact's governance framework was adopted by the then UN Secretary General Kofi Annan on 12<sup>th</sup> August 2005 following a year-long international process co-led by Georg Kell and John Ruggie. That process included studying networked governance models of other cutting-edge global action and solution networks and holding focus groups with participants and stakeholders which included governments, academics and local networks. The resulting governance framework distributes governance functions among several entities so as to engage participants and stakeholders at the global and local levels in making decisions and giving advice on matters of greatest importance to their role and participation in the UN Global Compact and to reflect the initiative's public-private and multi-stakeholder character. Source: <https://www.unglobalcompact.org/about/governance> (Retrieved 12th March 2020).

<sup>144</sup> KELL, George, "Global Compact: Corporate Engagements at the United Nations", Great Transition Initiative, February 2006.

<sup>145</sup> Source: <https://www.un.org..speeches.kofi-annans-address-world-econo...> (Retrieved 25<sup>th</sup> March 2020).

Fundamental Principles and Rights at work, and the Rio Declaration of the United Nations Conference on Environment and Development in 1992. Finally, I chose those three areas because they are ones which I fear that, if we do not act, there may be a threat to the open global market and especially to the multilateral trade regime.”

This initiative has been realised to a great extent during the first twenty years of its operation because many companies and other organisations have risen to the challenge by joining the UN Global Compact as members and observing the Ten Principles and the other United Nations goals to which they have subscribed and which are, not only good for their businesses but also pose “a threat to the open global market and multilateral trade regime.” This said, there is still a great deal more work to be done to achieve this initiative even better. With such momentum the UN Global Compact is destined to go from strength to strength but it is more likely and realistic, judging from its twenty year membership history and the significant number of de-listings which have taken place and which will continue to do so in the future will not achieve its membership target whatever that target be.<sup>146</sup> Furthermore, realism dictates that it is not every company which aspires to the ethical ideals and corporate social responsibility standards exercised by some multinationals and SMEs and which “give globalisation a human face,” there are companies whose principle aim is to maximise profits at all costs by using for example child or slave labour or the use of a myriad of other invented forms of exploitation<sup>147</sup> in the production of their goods.

Furthermore, the rapid advance of modern technology also has an important role to play in the ethics field.<sup>148</sup> The internet has both a benevolent side as well as a dark side. The benevolent face of the internet democratises information while the dark side facilitates criminal activity such as drug abuse, radicalisation and indoctrination, bullying, human trafficking and much more. Correctly used, the internet can be beneficial to society; incorrect and evil use can destroy society.

Its membership to the UN Global Compact would depend entirely on the path a business chooses to take in connection with technology. Did not Georg Kell say<sup>149</sup> the UN Global

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<sup>146</sup> It will be recalled that one of the Global Compact’s goals was to have 20,000 participating companies by 2020 a number Mr Kell considered would signify critical mass which can lead to catalytic change. That figure was never achieved by that year. Source: “*All Grown up? The UN Global Compact at 15*” by Adva Saldinger 30<sup>th</sup> June 2015, <https://www.devex.com/news/all-grown-up-the-un-global-compact-at-15-86448> (Retrieved 3rd March, 2020).

<sup>147</sup> See the research commissioned by the Polish Government to this author entitled *The Treatment of Polish and Other A8 Economic Migrants in the European Union Member States*. See too CARBY-HALL. Joseph R., “The Continuing Exploitation of Economic Migrants and Other Vulnerable Workers” in CARBY-HALL. Joseph R. (Ed.), *Essays on Human Rights – A Celebration of the Life of Dr Janusz Kochanowski*, Warsaw, Ius et Lex, 2014, pp. 94-134.

<sup>148</sup> See CARBY-HALL. Joseph R., “The Taylor Review 2017. A Critical Appreciation of a Selection of its Content.”, in CARBY-HALL. Joseph R., MELLA MÉNDEZ, Lourdes (Eds.), *Labour Law and the Gig Economy: Challenges posed by the digitalisation of labour*, Abingdon, Routledge, 2020 and MELLA MÉNDEZ, Lourdes (Ed.), *Regulating the Platform Economy: International Perspectives on New Forms of Work*, (with the editorial participation of CARBY-HALL, Joseph R.) Abingdon, Routledge, 2020.

<sup>149</sup> At an interview. Source: <https://www.globalcompact.ca/interview-with-georg-kell-executive-director-un-global-compact/> 23<sup>rd</sup> July 2015. (Retrieved 23rd March 2020).



Compact “is a big movement now but I have to say that it’s not yet transformative because the majority of companies are still sitting on the fence, pretending shareholder values are all they are concerned about, ‘that profit is the only imperative we have, that the rest is not our responsibility.’ So we still have to win over many companies which are still sitting on the fence. But for the first time we can see a tipping point is possible. So if we keep growing the initiative worldwide, both large and small companies, we can change markets from within. Actually, I believe that already a silent revolution is taking place because these 8,000+ companies employ more than 60 million workers and have a huge footprint. What these companies do and how they have changed what they’re doing already had a huge impact.”

Company policy makers need to look into the future in a realistic and positive manner while at the same time the events of the past need to be considered as a learning curb. A level playing field by knowing what is ethical, fair and just needs to be cultivated by company policies. Generally speaking, the world is inter-connected and companies need to work on what connects the citizens of the world for they have the same aspirations and needs irrespective of their creed, culture, language and nationality. A company’s reputation is primordial to its financial success. Georg Kell put it aptly when he said<sup>150</sup> “Much of the metrics we are using today are based on industrial-era-scale-and-scope thinking where environmental, social and governance (ESG) were considered externalities and simply didn’t show up in accounting records. But today we know that these issues increasingly have material relevance. Indeed, there is now strong empirical evidence that shows an overwhelming correlation between ESG factors and financial success. Since these factors have a direct relationship with reputation and are connected to the purpose of the company, there is now a renewed interest in this new polar star.”

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<sup>150</sup> Source: <https://www /interviews/2018/12/7/2q2ooBbqcpeajyp3shwuroijcyp4rd> (Retrieved 23<sup>rd</sup> March 2020).

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## **Annex**

*Global Compact Local Networks Brochure*

Source:

[https://d306pr3pise04h.cloudfront.net/docs/networks\\_around\\_world\\_doc%2FLN\\_Brochure.pdf](https://d306pr3pise04h.cloudfront.net/docs/networks_around_world_doc%2FLN_Brochure.pdf)

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