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Transnational Business Governance Interaction and Competition between Standard-Setting Initiatives: Labor Standards in Garment, Toys and Agriculture

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The TBGI Project

Transnational initiatives to regulate business activities interact increasingly with each other and with official regulation, generating complex governance ensembles. Heterogeneous actors and institutions interact at multiple levels and in various ways, from mimicry and cooperation to competition and conflict. The TBGI Project investigates the forms, drivers, mechanisms, dynamics, outputs and impacts of transnational business governance interactions (TBGI) from diverse theoretical and methodological perspectives. It is funded by a Social Sciences and Humanities Research Council of Canada grant led by Professor Stepan Wood, Osgoode.

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Transnational Business Governance Interaction and Competition between Standard-Setting Initiatives: Labor standards in garment, toys and agriculture

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Abstract

This paper analyzes interactions within standard-setting networks in the area of social and labor rights. We examine the shape of transnational business governance interactions (TBGI), pathways, and interaction mechanisms in three sectors: garments, toys and agriculture. Our comparative analysis of each of these sectors reveals meaningful differences in both the organization of regulation networks and the resulting level of competition among participants. Overall, we find that the creation of a more inclusive and more coherent standard in a whole business sector comes with the cost of weaker rules and less monitoring. These industry-specific observations provide a springboard for future studies of TBGI.

Keywords: Labor rights, Transnational business governance interactions, institutional design, manufacturing, agriculture
JEL classification: D18; D21; D63; D73; D74; F14; F23; K32; K33; L14; L15; L33; L51; L66; L67; M14

1 Introduction

Transnational business governance in the area of social and labor rights is highly fragmented and competitive. Various standard-setting initiatives with different outreach, normative content and degree of legalization try to convince companies to participate in their initiative. At the same time, we also witness a convergence with regard to their institutional design across different industry sectors. While some initiatives place themselves at the entry level and offer lower standards, others are more advanced and frontrunners in the implementation of social rights. In this system of multiple standards, some standard-setters have developed strong linkages between each other to strengthen their position. For example, in the apparel and agriculture sector some private regulatory initiatives function as easy-entry standards for more demanding standards. Some link existing standards to new issue areas, while others do not cooperate at all and have very few interactions.

During the last ten years, authors have studied the reasons for the emergence of ethical sourcing (Bartley 2007), the actor-composition and performance of transnational business governance schemes (Raynolds, Murray et al. 2007; Flohr, Rieth et al. 2010; Fransen 2011) as well as their legitimacy (Bernstein and Cashore 2007; Dingwerth 2007). Recently some scholars have set out to study the network of standards and the relationships between them (Auld, Balboa et al. 2009; Bartley and Smith 2010). With this paper we aim at contributing to the analysis of the network of standard-setters in the area of social and labor rights. We are interested in studying the shape of transnational business governance interactions, pathways, and interaction mechanisms. We argue the role of the industry association in each sector, the relationship between the main competitors as well as the type of TBG schemes within the network help us explain the type of interactions between TBG schemes. To elaborate our argument, we compare the interactions between and among standards in three sectors: garment, toys, and agriculture. Comparing across sector and standard-setting initiatives allows us to identify patterns of interactions, explain the proliferation of membership along different types of interactions and interactive effects such as competition and convergence.

The paper is structured as follows: In section 2, we conceptualize TBG interactions, in section 3 we compare the industry sectors: garment, coffee, and toy. We are aware that the role of business association and the relationship between companies in the same sector play an important role when explaining the shape of TBG interactions. In section 4 we conclude and introduce some ideas on how we would like to further develop this early draft.

2 Conceptualizing and measuring network of transnational business governance schemes

2.1 Conceptualizing TBGs

The question whether voluntary standards further a race to the top or a race to the bottom with regard to social and labor rights remains a contested and open question. We argue that in order to find an answer to the impact of voluntary standards on the improvement or deterioration of labor rights we need to know more about the relationship between standard setters and how the network of transnational business governance schemes affects the quality of the standards. We understand this as a two-step approach. The second step would be studying TBG interactions as a causal factor affecting the outcome and the impact of voluntary standards. However in this paper we take a first step in that we will discuss and analyze how the TBG schemes network came about and identify factors that shape the interactions. Consequently, we focus on social and labor rights standards in three industries, toy, garment, and coffee. In a later stage of the paper, we will include further sectors as well as environmental standards. We are interested in the interactions between these transnational business governance schemes within the same sector and across sectors. This addresses mainly what Eberlein et al call the "meso" level of schemes (Eberlein, Abbott et al. 2013, 8). We take interactions as an outcome and ask what are the driving factors that shape the TBG network within and across our three sectors. Therefore, we raise the question: How can we explain different network structures of standards within and across industry sectors? What explains the emergence of an industry-wide standard in the toy sector and why does the same market and industry structure in the garment sector lead to a fragmented standard network?
This is ultimately an empirical puzzle if we draw on the literature arguing that industry structure determines the types of interactions between TBGs (Cashore, Auld et al. 2004) or to others suggesting that public pressure may explain the performance and the composition of TBGI (Overdevest and Zeitlin 2012). All three industry sectors have a similar industry structure and companies faced strong public pressure especially during the 1990s yet empirically the structure and types of transnational business governance interaction differ between the sectors.

In this paper, we address the actors involved, the actor composition, the factors that shape the interactions between transnational business governance schemes as well as pathways and mechanisms of interaction (See also Eberlein, Abbott et al. 2013, 9). The main focus lies on the drivers that shape our interactions. We also discuss the issue of overlapping membership as part of pathways and mechanisms between transnational business governance.

We analyze the development of the interactions over time since the emergence of standards in the three sectors under investigation until 2012. Our analysis builds on seven years of research within a research project on Public Private Partnerships in the area of health, environment, and social and labor rights as well as on the empirical data of both of our dissertations on private regulatory initiatives in the area of social and labor rights in multiple sectors. Besides an encompassing document analysis, we build on approximately 106 interviews with representatives of companies, standard-setting bodies, unions, NGOs, government, bureaucracies, and, last but not least, workers in the value chain. Furthermore, the paper was inspired by regular attendance of CSR and Social Rights Stakeholder Meetings (e.g. UN Global Compact Network Meetings).

Some scholars have recently started studying the network of transnational business governance. Bartley and Smith do a network analysis of certification schemes including "Fair Trade, forest certification, sustainable seafood production, fair labor standards, and others" (Bartley and Smith 2010, 347). They theorize that the certification in the area of environment and social and labor rights forms a "*field* [sic!] of mutually attentive organizations (Bartley and Smith 2008, 26). They show that Over time between 2001 and 2006 the density of the TBG interactions have increased tremendously, and that two of the eleven certification systems they studied managed to become very central actors (Bartley and Smith 2008, 35 Table 2: centrality scores). Since their data source is the naming of other certification schemes on the website of one specific certification scheme they lack data to analyze the types of interactions between these certification schemes, namely cooperation, competition or simple co-existence. Their mapping serves as a starting point for our paper where we aim at explaining especially the types of interactions and the factors that shape these types of interactions.

2.2 Measuring transnational business governance interactions

We study interactions as a dependent variable and operationalize it through measuring competition versus cooperation between TBG schemes in a sector and across sectors. Competition is based on the organizational level: TBG schemes compete for members in a specific market and business sector. By increasing the membership, labeling and certification organizations increase their market share and create more leverage and visibility for their customers (Lohr 1998). When TBG schemes compete they for example do not share, mutually accept or benchmark their individual monitoring and auditing attempts.

Coexistence takes place if membership in different TBG schemes is non-exclusive or supplementary. In this case companies are members of different TBG schemes at the same time. Cooperation takes place if TBG schemes cooperate in the area of monitoring and auditing, in local capacity-building projects or share their experience in standard-setting with each other.

In a competitive market of TBG schemes cooperation is still possible. For example, if TBG schemes possess a different degree of obligation to the company with regard to social and labor rights cooperation between them is possible in a competitive market. This alliance strengthens their competitive position vis-a-vis other TBG schemes competing in the same market. Put it differently, in this case a standard with a lower level of legalization or a less strict content cooperates with a stricter and more legalized one, and the lower level standard does not create competition to the upper level one, but may rather work as an entry point for companies in the standard system. Furthermore, participation in such a standard system might not be exclusive to each other and be more part of a ratcheting instrument to level up the social and labor standards in a company.

We find that in the toy, garment, and coffee sector most of the relevant explanatory factors are located at the actor level as well as the system level. Eberlein et al suggest analyzing the role of actor interests, distribution of information and resources, vulnerability, and industry characteristics for shaping interactions (Eberlein, Abbott et al. 2013, 12-13). In the three industry sectors that we study we assume the same actor interests since all three are selling consumer products. Since they sell consumer products they are vulnerable to media and NGOs campaigns and consumer boycotts. The structure of the three industries is quite similar: all three sectors have long supply chains with many agents in between the producers/suppliers and the company that sells to the consumer. Due to this similarity in industry structure we can also assume market participants in all three sectors to face similar problems with regard to the distribution of information and resources. In order to control for factors that might shape the interactions of transnational business governance we hold some factors constant: we analyze TBG interactions in the area of social and labor rights. All three sectors that we look at have a comparably similar market structure, faced strong NGO campaigns during the 1990s at the time the standards emerged, and all three sectors ultimately produce consumer goods.

Consequently, what differs though between these three sectors and what we suggest as explanatory factors for the shape of TBG interactions are: the role of the industry association in each sector as well as the relationship between the main competitors as well as the type of TBG schemes within the network.

3 Comparing Transnational Business Governance Interactions in three sectors

3.1 The garment sector

The garment sector is dominated by large brand name companies such as Nike and Adidas and large multi-channel retailers such as Wal-Mart and Carrefour. The supply chain of garment is very long, and characterized by a high price pressure, short lead times and just in time production (Esbenshade 2004; Gereffi, Humphrey et al. 2005). The majority of multinational companies that sell garment in the OECD world has outsourced its production and does not possess any production sites itself. Even though the supply chains are still rather long in comparison to other sectors since the end of the multi-fiber agreement and also during the financial crisis companies have reduced the number of suppliers. This trend is parallel to the consolidation of the supplier market. Especially in Asia big sourcing agents and distributors like Li & Fung function as dominating actors between smaller suppliers and the Western brand name and retail companies. Some transnational business governance schemes try to integrate these middle men into their standard implementation projects or even created a new member category for them (see for example Fair Labor Association).

In the garment sector, with regard to Corporate Social Responsibility, TBGs are either active in the area of social and labor rights, environment or human rights. There are seven important private regulatory initiatives concerned with social and labor rights standards, among them for example Social Accountability International (For a good overview see Fransen 2011). The dominating type of transnational business governance scheme in the garment sector is the standard setter (Schäferhoff, Campe et al. 2009; Beisheim and Kaan 2010; Liese and Beisheim 2012). There is one knowledge provider, the Global Compact to which some garment companies are member too but the Global Compact only deals with social and labor rights issues in the larger frame of business and Human Rights. The service providers in the garment sector are small and fragmented and do not integrally form part of a TBG network. These initiatives are rather limited in scope, size, and regional focus. An exception is the recently founded Sustainable Apparel Coalition. They focus on life-cycle analysis of products and combine this with CSR performance. Apart from environmental standards they will include social standards in the medium term. The majority of the service providers with regard to CSR standard implementation in the garment sector focus on environmental standards and not on social and labor rights standards.

The funding of the TBG schemes differs in this sector and mainly has two models: a) PRIs set up with initial state funding (i.e. FLA and ETI), b) PRIs with initial funding by industry associations (i.e. Worldwide Accredited Responsible accredited Production). Other PRIs have mixed funding schemes like the BSCI (business associations and the German state) or FWF (NGOs and foundations).

With regard to the interactions between TBGs in the garment sector we witness both competition and supplementation between them. Competition takes place between TBGs that are similar in what they offer to companies, and if they compete in the same market i.e. for multinational companies headquartered in the North American market. An example is the relationship between the Fair Labor Association and Social Accountability International. We can see supplementation in the market of TBGs in this sector in cases where they cooperate when a) they are active in different markets (i.e. North America or Europe), an example here is Social Accountability International and Ethical Trading Initiative or b) if their degree of obligation for companies differs. In other words, if the lower standard accepts audits and certification from the higher standard and if companies can start out with complying with the lower standard and later join the higher standard too. This is the case between Social Accountability International and the BSCI. The interactions between TBGs in this sector have also changed over time. What we just described is the current shape of interactions. During the 1990s there has been no or only a few ties between them. In the 2000s competition between TBGs especially in the area of auditing, monitoring, and local capacity building programs was very strong. This changed in the mid 2000s with sector wide joint initiative on corporate accountability and workers' rights that brought together the TBGs Clean Clothes Campaign, Ethical Trading Initiative, Fair Labor Association, Fair Wear Foundation, Social Accountability International and Workers Rights Consortium to negotiate a common standards, joint auditing efforts as well a as discussion on minimum wage versus living wage. These issues are still the most conflictual issues in the sector and they also divide the TBGs into two groups. In short, the joint initiative did not find a common understanding on these issues. Nevertheless the initiative enabled TBGs to have a formalized and regular exchange and as a result of that for example Social Accountability International and Ethical Trading Initiative became official partners.

In general this sector faces the problem that the majority of companies flies under the radar and does not join a private regulatory initiative (Bartley and Child 2008). To attract more companies PRIs have also moved from concentrating on brand name companies in the 1990s to also attracting retailers in the 2000s and more recently integrating suppliers as signatory members of the PRI. The scope of PRIs with regard to leading companies in the sector is good but remains limited with regard to the actual number of companies in comparison to the number of market players.

The private regulatory initiatives in the garment sector can be grouped according to their differences with regard to the degree of the obligation stemming from their respective social and labor rights standards (Bartley 2007), their actor composition (whether they are business or NGO dominated) (Fransen 2011) as well as their funding structure. Whereas the degree of obligation is linked to their actor composition: the more they are truly multi-stakeholder and the more civil society has shaped the setting up phase, the more likely the PRI has higher obligations that member companies need to meet. The more the funding of the PRI depends only on membership fees by its company members the less likely the PRI enforces the standards. The more a PRI is able to attract companies leading in CSR the more likely other companies that are also truly interested in CSR will follow and therefore the PRI will also better perform with regard to their offers to the companies in terms of programs and tools management processes but also their overall performance with regard to the success rates in standards implementation.

With regard to standard implementation the cooperation between TBGs is low. There is no cooperation with regard to setting up management process tools at headquarters or in supply chains of multinational companies. Also with regard to capacity building projects there is little to no cooperation among them. TBGs if they cooperate they cooperate in the area of auditing and monitoring suppliers. It is important to note the success in the area of implementation mainly depends on the rule addresses and the rule targets and not on the TBG as a whole. Put it differently, TBGs that have a medium or high degree of institutionalization and obligation can only perform well with regard to the implementation of their social and labor rights standard if certain conditions in the headquarter of the multination are met. The degree of standard implementation mainly depends on the degree of commitment by the multinational company and the relationship it has to the respective supplier (Helmerich 2013).

The shadow of hierarchy of a state exercised directly or through an International Organization does not play a role when it comes to explaining the network structure of private regulatory initiatives but rather plays a role with regard to the emergence of single initiatives in the sector. For instance, back in the 1990s the US-government helped set up the Fair Labor Association, the UK-government considerably financed the setting up of the Ethical Trading Initiative, and the German government founded the BSCI predecessor, the AVE-Sektorenmodell. Besides providing the initial funding, the aforementioned states also exercised pressure on the industry to create any kind of self-regulation and openly some states also openly threatened the industry with creating some sort of more stringent hard law regulation if they do not create some sort of self-regulation.

3.2 The Coffee Sector

Coffee production, trade and consumption have a major impact in world economy. Measured by its monetary value, coffee is the second most traded commodity in the world. It is only outnumbered by oil. Coffee has always been an important good but it has even become more popular during the last decade. The retail sales more than doubled from 1990 to 2002 from $30 billion to over $70 billion, while the share for coffee farmers dropped from $12 billion to $5,5 billion (Kolk 2005). At the end of the coffee crisis, the profits of coffee as a commodity increased vastly. At the same time the North-South gap with regard to profit sharing widened as well.

The end of the international coffee regime in 1989 and the subsequent crisis in the coffee sector were a major trigger for the development of standards and private regulation in the coffee sector. While private regulation might not be a sufficient answer to these developments, its emergence has to be analyzed within these market changes.[1] Originally, world-wide coffee imports and exports were governed by a system of quotas monitored by and negotiated in the International Coffee Organisation. This system was created through the first International Coffee Agreement in 1963, and ensured stable market prices by regulating supply and demand for green coffee in the world market (Kolk 2005). At the core of the International Coffee Organisation were repetitive negotiations on successive International Coffee Agreements and the quotas renegotiated for each country. The aim of the Coffee Regime was to create a steady price regime and thereby create a stable support for the coffee producing countries in Latin America.

[1] Interview with 4C Official #1.

When international negotiations for the next International Coffee Agreement failed in 1989, the system was dissolved and coffee became subject to pure price competition. In the following years the price dropped tremendously, hitting the rock bottom in 2001, when the price at the London coffee market was about one fifth of the price in 1995 (International Coffee Organisation 2006). The main reason for this price decline was a huge overproduction by two actors: Vietnam as an emerging new coffee producer, and Brazil which substantially increased its coffee production in recent years. Due to this vast overproduction, the demand failed to meet the growing supply and therefore led to price decline (Kolk 2005). The actors in the production chain were hit differently by this crisis. While the upper level of the supply chain, namely the roasters, industry and retailers still profit from their products, the coffee farmers were struck especially hard. It seems that industry has handed down the low prices to the coffee farmers (Hamm 2004). Because of the growing unjust distribution of profits in the coffee chain, the demand for regulation and the pressure for it by transnational campaigns were growing.

Another important effect of the failing International Coffee Agreement in 1989 was that in most countries the National Implementation Bodies ceased to exist. When the coffee regime was in place, these bodies managed export quotas, but also provided technology transfer and secured quality standards.[2] After the collapse, these services were not provided anymore. Again, this especially affected the small-scale coffee growers which were more dependent on this externally provided support than collectively organized coffee growers.

These trends resulted in a growing welfare gap between coffee farmers on the one side and processors and retailers on the other side. In the middle of the 1990s this caused an outcry among the development NGOs. They called attention to this issue through strong media and lobbying campaigns. One major campaign was the Oxfam Coffee campaign (Oxfam 2002; Hamm 2004). These campaigns and, as a result, the development of a new corporate culture in the late 1990s resulted in the development of company codes of conduct by most MNCs. While most MNCs already had a general code of conduct for their general behavior, most multi-sector corporations involved in the sector felt the need to develop a special one for the coffee sector.

[2] Interview with 4C Official #1.

While coffee is a highly traded commodity good, the number of important industry players in that field is rather low. The industrial players, i.e. the distributors and roasters, are the major bottleneck in the coffee sector. While around 25 million farmers produce coffee 80 per cent of this coffee is processed by only five multinational corporations: Procter & Gamble, Tchibo, D.E. Masterblenders[3], Kraft Foods, Nestlé (ordered by increasing market share). Consequently, if only some of these five companies in an oligopolistic market join a private regulatory initiative this automatically means that the private regulatory initiative represents a big market share and has a high leverage in the market.
The vast majority of coffee used in offices and homes only comes from the five major suppliers. These products compose the category of *mainstream coffee*. There are also a large number of smaller or medium sized companies and brands (e.g. Starbucks) in this market. They play a role in in several (geographical) markets. But these companies only account for about 20% of the coffee market and produce more or less niche products. These vendors form a market of specialty coffee.

Private Regulation in the coffee sector started mainly in the specialties sector in Europe. In the 1980s, many alternative shops enriched their assortment with direct imports of coffee and other commodities. Out of this movement grew the Max-Havelaar-Certification scheme which introduced the first fair-trade label in 1992. The first product wearing this label was coffee. This was followed by the Rainforest Alliance which certified its first coffee farm in 1995 and many other specialities' brands (e.g. Starbucks and Conservation International 1998, Utz Certified 2002).

Certification and private regulation in the field of mainstream coffee took off quite late. Until today, the only initiative really focusing on the mainstream market is the Common Code for the Coffee Community (4C). The code was developed in a long stakeholder process (2001, 2007), which was initiated by the German Coffee Association and the German Development Cooperation Agency under strong participation of the industry partners. In 2003, the management was leveled up to European Coffee Foundation, to include a broader range of business actors. The Code is now implemented by

[3] Formerly known as Sara Lee.

the 4C Association. Three of the five major corporations joined the 4C. Consequently it presents around 60 per cent of the mainstream market.

Similar to the garment sector, in the coffee sector, we find two different levels of standards. On the one hand, we have the 4C representing a baseline standard with minimal requirements regarding sustainability and social rights. It has also no certification scheme, which means that only a small amount of production facilities or farms are visited by external reviewers. On the other hand, in the specialities' sector the standards are more demanding with regard to the content as well as the verification. Major certification schemes are for example Fairtrade or Organic. But since the specialties' sector is small, the amount of certified coffee is rather low in comparison to the overall coffee market.

The market for certification is not divided in geographical terms by the different PRI. Generally, the labeling organizations seem to concentrate on Latin America, which seems to be mainly inspired by the high degree of organization in these countries. The high number of cooperatives allows to source higher amounts of green coffee from one source and so eases the complexity of the supply chain. A non-representative look in German supermarkets shows that the number of African Coffees certified by a major labeling organization and sold in the Specialty sector is rather low.

In the mainstream market, one unique impediment for cooperation between private regulatory initiatives and corporations can be found: EU and US Trade Law. Due to the oligopolistic structure of the mainstream market, the cooperation between the five companies is strongly surveyed by antitrust authorities. During its creation, the 4C quickly realized that this was one major restriction[4]. While the 4C was able to obtain an exemption for the sustainability schemes they provide by arguing that this happens on a pre-competitive base, it was made clear by the antitrust authorities that a collective price premium was not negotiable. In other words, the 4C was not allowed to guarantee their producers higher-than-market prices or a fixed premium for fulfilling the standard. This decision limits

[4] Interview with 4C Official #2.

the cooperation between the 4C members and does not allow them to tackle questions like minimum wage or other price related issues collectively.

Funding for certification differs in the different schemes. In the upper level, it is normally the producer that has to pay for the certification of his harvest. If possible, he might then pass the cost for the certificate through to his customer. These cost imply a high entrance fee for the market of certified coffee, and might be seen as another reason why the more organized coffee producers aim for that market. On the level of the 4C, verification costs are covered by the 4C association. This means that the costs are more or less paid by the contributions of the industry.

3.3 The toy sector

Few big transnational companies have a large market share in the toy sector. These are companies like Matell and Hasbro (Biedermann 2003, 16; Lin-Hi 2012, 12). With regard to the market structure and supply chain organization, the toy sector is very similar to the garment sector: Multinational toy companies have entirely outsourced their production and mainly focus on R&D and marketing (Biedermann 2003, 16). On the consumer end there are a few powerful retailers like Toys R Us. The industry is characterized by a high degree of competition, price pressure, time pressure and a highly seasonal production. The main sourcing country is China. Like in the garment sector the cost of labor and raw material is increasing since the last two to three years.

In the area of social and labor rights the toy market is dominated by a single sector standard, the ICTI CARE process. The International Council of Toy Industries which is the worldwide toy industry association created a Code of Business Practices in 1995. This code was than amplified considerably in 2001 including the ban of forced labor and child labor (Lin-Hi 2012, 17). The code then evolved into a fully-fledged private regulatory initiative, the ICTI Foundation which runs the ICTI CARE Process. Set up in 2004, its members were only companies. In 2007 after strong criticism they also included civil society actors. We characterize this move in accordance to Luc Fransen as a “business-driven program looking like a stakeholder initiative” (Fransen 2012, 172) because empirically, the civil society organizations that joined the board of the ICTI Foundation are pretty much aligned to the views of the business representatives. No critical NGOs have joined the initiative. The ICTI CARE process is the only dominating standard in this industry. It does not only provide the only social and labor rights standard for this sector but also entirely manages and controls the implementation part of the standard, i.e. monitoring, auditing as well as capacity building. In sum, there is no competition in this sector between various standards. Therefore there is also a lack of drivers for a race to the top or a race to the bottom of standards. The result is an industry wide standard with a medium degree of obligation and a low degree of enforcement especially when it comes to the Date Certain Program and the seal of compliance (Lin-Hi 2012, 22-23). In addition, if we take Potoski's and Prakash's club good argument (Potoski and Prakash 2009) there is no incentive for companies in the sector for a race to the top or a race to the bottom of standards but to conserve a status quo. The argument goes: all companies in the toy sector are automatically members of the worldwide industry association. The ICTI CARE process binds all industry members to the standard. The club good "reputational gains" does not work since all companies are included and transparency with regard to implementation of the ICTI CARE standard is low so consumers or other actors cannot evaluate the performance of certain companies like Mattel or Hasbro and even less the performance and involvement of the suppliers with regard to standard implementation and corrective action plans in case of non-compliance.

The obligations for toy companies from the ICTI standard are lower than the obligations by most standards in the garment sector. The ICTI standard is comparable to the lower standards in the garment sector like WRAP and BSCI. They have in common that their transparency and reporting duties are low. Whereas WRAP does not refer to ILO core labor standards or conventions at all the ICTI standard refers to two ILO conventions. The ICTI standard included this reference only a few years ago. This was a zero sum game because at the same time the PRI weakened the standard with regard to hours of work (Lin-Hi 2012, 19). Their language in support of freedom of association is weak and vague. Concerning wages standards with lower obligations usually stress the importance of paying wages regularly according to national law but exclude the discussion of minimum wage versus living wage. Since there are no other private regulatory initiatives besides the ICTI standards there is no intra-sector PRI cooperation. Instead, the ICTI CARE process cooperates with some private regulatory initiatives from the garment sector. For example, the president and CEO of the Fair Labor Association, a private regulatory initiative active in the garment sector in the area of social and labor rights, is a member of the Board of the ICTI CARE process.[5]

[5] See ICTI CARE process. Who are we. Source: http://www.icti-care.org/governance-board.html. Last accessed on March, 12.2013.

Although they have not launched an official cooperation they share some third party monitors like Level Works[6] and they organize joint business events in China. Only one company, the Walt Disney Company, is member to the ICTI CARE process and also member with one of the initiatives from the garment section, Social Accountability International. This overlap in membership so far does not lead to any formal cooperation between SAI and ICTI CARE.

Empirical evidence suggests that the formation of a single sector standard in the toy sector in the area of social and labor rights was possible because of the way the leading companies in the sector cooperated on this matter. In a first step, their company codes converged over time. In a second step the strong role of the International Council of Toy Industries uniting all players in the market led to the creation of the ICTI CARE process and the ICTI foundation. This ultimately led to a full harmonization of the individual company codes into a common sector standard (Biedermann 2009, 34). We suspect that the roles of the industry associations as well as the relationship between the leading companies in the sector are important factors for explaining the emergence and structure of the standard network. Put it differently, whether a sector develops one or two dominating standards or a fragmented network of various standards seems to depend to a great extent on the power and reach of industry associations as well as the degree of cooperation among companies within the sector. Apart from that, the role of the shadow of hierarchy (by a state) in each sector and the role of unions and NGOs seem to be additional factors that explain the network structure as well as the types of private regulatory initiatives within the network. We will test this more rigorous when reviewing this paper with your comments after the ISA
conference.

The ICTI Foundation was set up with the initial contribution by leading companies in the toy industry. Today the ICTI CARE process is almost uniquely financed by the fees the suppliers have to pay for the seal of compliance, monitoring, and other fees. Since the industry leaders financed the initial set up this might explain the business dominated TBG structure. With the main financial burden now lying on

[6] See Level Works. Accreditations. Source: http://www.level-works.com/accreditations.php. Last accessed on March, 12.2013.

the suppliers this might explain the decreasing engagement of sector leaders within the PRI and the stalling progress with regard to implementation at the supplier level.

So far it remains unclear whether the shadow of hierarchy or any other functional equivalents (Börzel 2010; Börzel 2012) played a role in the emergence or the performance of the ICTI CARE process. First empirical evidence suggests that the state played even a minor role that in the garment sector.

3.4 Degree of cooperation between TBG schemes in the industry sectors

The three tales told above outline different patterns of cooperation between different TBG schemes. Cooperation between different TBG schemes is low if each of TBG has asecluded pool of companies it works for. There is no benchmarking or acceptance of another certificate for one specific TBG scheme. The TBG schemes do not have shared membership, (i.e. there is no case in the three sectors where companies are member to more than one TBG scheme in the same target market). Competition is high if TBG schemes address the same members on the same standard level and in the same market. Cooperation is high between TBG schemes within or across an industry sector when they cooperate with regard to standard implementation policies like policies strengthening management processes for code implementation for companies, local capacity building projects at the supplier level or at the farm level etc.

In the garment sector we see has a low level of cooperation between TBGs. We find some cooperation between a lower standard and a higher standard (e.g. BSCI-SA8000), but no cooperation between TBG schemes with the same degree of obligation for companies that are active in the same market like SAI and FLA. Cooperation between TBG schemes with high standards is only possible if they are not active in the same market like SAI and ETI. In other words, if they do not compete for the same companies as potential new members. In general the network of TBG schemes in the garment sector is highly fragmented and this also affects negatively the performance of each TBG scheme[7]. An attempt to create a common code from different TBG schemes known as the Jo-In initiative failed in the first decade of the new millennium.

[7] This will be taken up in a later version of this paper.

Since the toy sector has a sector standard and this standard is a monopoly, relationships between TBG schemes in this sector simple do not exist. Here we find only one TBG scheme in the sector, namely the ICTI CARE process hosted by the ICTI Foundation. At the same time there is a low degree of cross-sector cooperation between TBG schemes mainly active in the garment sector with the ICTI CARE process.

The level of cooperation between TBG schemes in the coffee sector is high. The main industry actors like Kraft Foods or Tchibo work together with several different TBG schemes for their brands. For example, Kraft Foods is member of the 4C and the world biggest buyer of Fairtrade and Rainforest Alliance certified coffee. Furthermore, the 4C has been benchmarked against the Rainforest Alliance Standard and aims to include more top-level standards in its project. Benchmarking means that the 4C accepts the certification of the RA to be equal to its own and does not require own verification. Here we can speak about a deep case of cooperation. The 4C has also managed to show one unique feature of cooperation by incorporating UTZ Certified as a Standard-Setter among its own members. It is foreseeable that cooperation among these two will increase in the next years tremendously. One major reason for this cooperation on industry side is the demand for certified coffee: trade & industry is simply not capable to source enough certified coffee from one source to satisfy their demand.

3.5 Explaining the differences of the TBG network in garment, toys and coffee

As shown above, the degree of competition varies tremendously across the different sectors. In short, while we find heavy competition in the garment sector, toys and garment are far more cooperative. So the explanation might be on a sectorial level.

One difference between the two sectors with the garment sector is the role that industry frontrunners took in the creation of wider systems. Both in toys and in coffee relevant business association played a major role in setting the stage for a sector-wide solution. In the toy sector, ICTI took a major role in bringing the standard forward. In the coffee sector, the project was initialized by the German Coffee Association, but soon scaled up to the European Coffee Foundation in which all important industry players take part. As we do not find this lead role in garment, it might be one part of the puzzle.

In the garment sector there was no global business association that pushed for a sectorial standard in the area of social and labor rights like in the toy industry. Even powerful regional business associations, like the American Apparel & Footwear Association or some of its European counterparts did not play a major role in the creation of the early TBGs like Social Accountability International, Ethical Trading Initiative or the Fair Labor Association. Instead as a reaction to the process some industry associations engaged in the creation of industry-driven certification schemes like the AVE Sektorenmodell (later BSCI) and the Worldwide Responsible Accredited Production (WRAP) or the non-certification TBG BSR.

But this lead role might also have had a time component. As the garment sector was one of the first sectors under attack by campaigning, it served as a role model for the others. This is true for the toy sector, where "…the CARE compliance program was established with the benefit of lessons learned from apparel and footwear industry initiatives" (Casey 2006, 9). The question we have is whether industry sectors that introduced standards later than the garment sector in some sort of a second wave in the early to mid-2000s are more likely to be business driven and less fragmented than the network of the TBG schemes in the garment sector.

Our comparison also shows that the level of cooperation does not differ if the cost of certification and/or compliance management systems is distributed differently along the supply chain. While one could have argued that the coffee sector shows that certification is easier if paid by the brand name companies, the comparison with the toy sector shows that this might not be a major influence.

Table 1. *Explanatory Factors for Sector Convergence*

	Cooperation between PRI	**Strength of Intra-Industry Relations**	**Funding by brand name company**	**Lead role of business associations**
Garment	-	-	-	-
Coffee	+	+	+	+
Toy	+	+		+

4 Conclusions and further research

The paper describes our first attempt to examine the phenomenon that some business sectors have less competition between their Transnational Business Governance than others.

In chapter two, we conceptualized our notion of competitiveness between TBG schemes and given some first ideas how to assess this for individual sectors. In chapter three we than describe the institutionalization of Transnational Business Governance in three sectors: garment, toys and coffee. Further we assess the level of cooperation and competition between in the different sectors. Here we have a mixed picture: while the level of cooperation is low in the garment sector, the other two sectors have a higher degree of cooperation. So we propose in our paper with our initial results of a comparative analysis that the organizational level of a sector, (i.e. the role of business associations and the relationship between lead firm with regard to CSR, shape the interactions of TBG schemes).

While we see less competition in the coffee and toy sector, this cooperation between companies and TBG schemes comes along under a crucial constraint: the level of legalization and normative demand is lower than in the more demanding but segregated TBGs in the Garment sector. It seems that the creation of a more inclusive and more coherent standard in a whole business sector comes with the cost of weaker rules and less monitoring. But even this low hanging fruit could not be achieved in the garment sector. The next steps for our paper are quite clear: first, we hope to sharpen our theoretical lens and widen the range of possible explanatory factors which may help us to explain the variation we see. We still have some problems with the definition of our dependent variable *competition vs. cooperation* and the creation of some clear cut-off criteria for the measurement. In a second step, this may then also result in more empirical research in the three sectors we have looked at until now. Third, we are open to include more sectors to diversify our research and to create a stronger comparative design for our study. At the moment, we feel that the examination of three cases does not give us enough empirical leverage to finalize our analysis. Currently, we think to include the banana industry as another agricultural sector and the chemical industry as a very industrialized and factory-based sector.

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