Abstract: While reservations remain, the overall tone of the global governance narrative, both in its political and academic manifestations, suggests that including corporate actors holds the potential to close existing governance gaps. Focused on this potential (and potentially overstating it), MNE research has developed an implicit bias which takes the need to functionally include these actors for granted. More specifically, the deeply politically contested nature of the discussion on corporate inclusion – that is whether enterprises should assume political responsibilities and whether they should be allowed to in the first place – has received less attention than follow-up debates of how to best integrate them into governance arrangements. In order to engage in this debate and capture the dynamics and challenges of integrating business actors into governance, the paper reconstructs different episodes in the emergence of corporate agency to discuss when, how, and why MNEs became global governors. Reconstructing in particular the early and rather open debates on the role of corporate actors held within the UN during the 1970s and comparing them to rationales and justifications expressed during the later establishment of the UN Global Compact and other initiatives in the 1990s, the paper seeks to answer why and how the consensus on corporate inclusion emerged. More explicitly, why were corporate actors empowered ‘to sit at the table’ despite ongoing reservations whether they would embrace the normative responsibilities created thereby? As this debate continues today, a critical genealogy on the origins of corporate agency in global governance allows us to revisit arguments, specifically if the inclusion of business, in normative terms, continues to rest on functional needs, hope, and expectations to which MNEs might or might not live up to.

Keywords: Multinational Enterprises, Global Governance, Corporate Agency
Introduction

Whether as scholar, policy-maker, activist, or customer, multinational enterprises (MNEs) almost naturally catch our attention and cause lively debates (Cohen 2007: 93-111). Such debates are spurred by different normative assumptions on what role these actors should play in and vis-à-vis society as well as what economic, social, and political responsibilities they should assume. Recently, these debates gained further momentum since, unlike any other group of actors in world politics, MNEs have benefited from the political, social, and economic changes commonly summarized under globalization. In today’s world, these ‘new leviathans’ arguably play a more influential role in both economic and political terms as nation states remain confined by their very own borders (Chandler/Mazlish 2005). As such, while always present in academic discourse and public debate, much has been written in particular in recent years, both negative and positive, about the increased relevance of corporate actors in global governance, the need to engage and include them, and their assumingly changing role within based on such expectations (Mikler 2018; May 2015; Ougaard/Leander 2010; Harrod 2006; Held et al. 1999).

Reflecting the failure or at least shortcomings of traditional state governance, carried by the euphoria of advanced globalization as well as new technological and organizational opportunities of integration and space/time compression (Scholte 2005), an assumingly compelling line of arguments is advanced in these debates. First, as a consequence and by virtue of their organization, resources, and assets, MNEs no longer constitute but rule the global economy. In admittingly crude macroeconomic comparisons, for example, it has been argued since the 1990s that corporations have exceeded gross national products through their market capitalization and thus represent ‘larger’ economies than nation-states (Butler 2000: 150). Second, since they benefit(ed) so much from globalization, it has been argued that MNEs also have to be involved in governing it. In other words, corporate actors have been called upon to fix regulatory gaps created by the same processes which

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1 Following Dunning (1971: 16) seminal definition, the paper defines a multinational enterprise as “an enterprise which owns or controls producing facilities (i.e., factories, mines, oil, refineries, distribution outlets, offices, etc) in more than one country”. While this definition is widely accepted, various terms exist to identify the phenomenon. The term ‘enterprise’ is used to reflect that “all multinationals are enterprises but not all are incorporated” (Eden 1991: 219). Wilks (2013: 1) further adds to this discussion by arguing that the term ‘corporation’ reflects a “mildly alien usage [as an] American term with its connotation of size and unfamiliarity”. The designation as ‘multinational’ is intended to indicate that the operations of these enterprises cross but do not transcend state borders as corporate activities still take place within local contexts and ultimately national borders and that these links to home and host countries, while not definitive, at least strongly influence corporate culture and action (Kristensen/Zeitlin 2005).
empowered them in the first place (Detomasi 2007; Held/McGrew 2002). Echoing the practitioners’ hope, scholars in discourses on global and inclusive governance connected to and quickly reaffirmed this shifting role of corporate actors. Thus, both practical and theoretical debates, in mutually reinforcing ways, have turned to corporate actors in order to “reconstitute the global public domain” (Ruggie 2004). Taken together, corporate actors are “no longer seen as operating outside of the rules of international relations; now they are seen as forming an integral part of global society” (de Jonge 2017: 9). As such, corporate actors have not only been solidly established as research objects within the twin subfields of International Relations (IR) and International Political Economy (IPE). They have also been framed as global governors, which, for good or for bad, are considered as an integral part of global governance (Karns et al. 2015 (3); Avant et al. 2010a).

While brief and obviously incomplete, this snapshot of the role of corporations in global governance indicates how our discussions and thinking gravitate around the notion that “[c]orporate involvement in international relations has become a fact of political life world-wide” (Butler 2000: 149). Against this ‘fact’, research has focused on how to best integrate MNEs and ensure compliance. Running the risk of ignoring the rather wide-scale normative shift underlying such discussions, corporate inclusion is no longer thought of as the problem but as the solution. Against this background, while recognizing the need to engage with MNEs both theoretically and practically and appreciating the intellectual space carved out by global governance to be able to do so, I content that shifts in corporate agency towards political contexts are not adequately taken into perspective if one prematurely and definitively conceptualizes corporate actors as global governors. Even if enterprises engage in governance, without knowing the deeper nature, beliefs and motivational assumptions of such engagements, it should not be interpreted as evidence for a new role of corporate actors within global governance. Such early yet far-reaching interpretations, potentially taken in the first place to create air space and recognition for a new paradigm, run the danger to suggest that corporate inclusion is a *sine qua non* condition and there is no alternative to it (Wilks 2013). As such, framing MNEs as global governors naturalizes and presents as ‘facts’ what is only the recent outcome of ongoing and heavily contested debates. Coming from my own work on MNEs (Hofferberth forthcoming, 2017, 2016; Brühl/Hofferberth 2013), the notion that corporate actors willingly and holistically accept new responsibilities and are able to live up to these expectations seems to be rather optimistic and based on the notion of organizational efficiency and adaptability within and of the corporate form. The corporate form, however, itself a contingent, social construct, might be reluctant or at least slow(er) in internalizing
new responsibilities. In other words, against the light of changing normative environments, MNEs might simply be overwhelmed and unable to respond to diverse and potentially conflicting expectations (Geppert/Dörlenbächer 2014; Kostova et al. 2008). 2

Thus, instead of starting with the baseline assumption of MNEs as global governors, the paper seeks to put the underlying shifts towards such a new role into their historical contexts by reconstructing the episodes in which corporate agency in political contexts emerged and became sustained. More explicitly, why were corporate actors empowered ‘to sit at the table’ despite ongoing reservations whether they would embrace the normative responsibilities created thereby? How and why did the consensus on corporate inclusion emerge in global governance? Which justifications can be found at critical junctures such as the initial creation and ultimate failure of the **UN Centre on Transnational Corporations (UNCTC)** and, later on, the **UN Global Compact**? These questions are not meant to deny the “relatively uncontroversial claim among scholars, activists, and policymakers that corporations are significant contributors to the shape and content of national and transnational regulation and that their contributions have significant effects on social welfare”. (Danielson 2005: 411). At the same time, the precise nature and extend to which MNEs shift towards the role of more involved and responsible global governors remains to be reconstructed. As these debates continue today, a critical genealogy on the origins of corporate agency in global governance allows us to revisit and assess arguments, specifically if the inclusion of business, in normative terms, continues to rest on functional needs, hope, and expectations to which MNEs might or might not live up to.

In order to answer these questions and thereby problematize corporate agency in global governance, the paper reconstructs its origins in two ways. Assuming a reciprocal relationship between how **MNEs act** and how **we think them**, the paper offers a genealogy of corporate agency both in practice as well as in academic reflection. First, admittedly in an empirically limited and preliminary fashion due to time and space constraints, the paper retraces the corporate idea in historical perspective to indicate that it has always operated at the crossroads between politics and economics, between public and private (Ciepley 2013). Second, the paper looks into how enterprises have been discovered and framed as research objects in IR, IPE, and beyond. Presented as an **intermezzo** in the historical discussion, the focus of this section is on academic reflections and the implications of conceptualizing corporate actors as global governors. The third section, then, focuses on debates and developments in the UN during the 1990s and, through process-tracing, dis-

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2 This should not be misread as an excuse for corporate wrongdoings but rather as a caution against assuming that MNEs could easily transition into their new role as global governors.
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cusses how this period constituted MNEs and their agency in global governance. Finally, cautioning against the functionalist notion that governance gaps determine how MNEs act, the paper concludes that considering corporate agency in a open-ended fashion, both conceptually as well as substantially, helps us to better understand and ultimately determine their role in global governance. The motivation behind this is to move beyond the potentially tautological reasoning of studying MNEs as global governors because they influence world politics while concluding that they influence world politics because they became global governors. In other words, the paper proposes to study MNEs in global governance without taking their agency as global governors for granted as they continue to actively contest and negotiate their role and responsibilities and thereby leave us with an incomplete framework of limited accountability and open-ended commitments (Geppert/Dörrenbächer 2014; Levy/Kaplan 2008).

Neither Public Nor Private – The Origins of Corporate Agency

Arguably, until recently, global governance was focused on the present and thus lacked historical insights as to where its current manifestations originated from (Murphy 2014). This general observation applies to MNEs and their status as global governors as well. On the one hand, this is surprising since the need to regulate business activities across borders and their involvement therein is arguably as old as the idea of doing business across borders itself. In other words, situated at the nexus of public and private, business entities operating across borders, due to the amount of wealth and development they created, have always “stray[ed] beyond the economic realm into politics” (Robins 2002: 88). On the other hand, it is not surprising since disciplinary dynamics of economic reasoning as well as persistent state centrism within IR precluded an engagement with business in open terms. In other words, in traditional work informed by liberal theory, political activities of corporations were limited to lobbying and philanthropy while their core identity as economic actors remained unquestioned. Against this light and the lack of historically informed discussion within global governance, a brief genealogy of corporate agency is in order to reveal its contested nature, indicate the limitations of the conceptual language of public and private authority evoked by global governance, and open space to consider potential alternatives of governing multinational enterprises (Zeitlin 2007).

3 See, among others, Wolf (2010) and Wilks (2013) as important exceptions to this.

4 Recently, Kjaer (2018) and Ciepley (2013) have provided similar critiques of the public/private divide. While the latter engages in a theoretical discussion, the former, just like this paper, calls for
According to Moore/Lewis (1999), embryonic forms of the corporate idea can be dated as far back as the empires of Assyria, Mesopotamia, and Phoenicia. In these empires, a “thriving class of enterprising capitalists profiting from both state contracts and private deals” emerged and began to organize its business activities in rational fashion (Moore/Lewis 1999: 55). Equally important, their cross-border ventures were externally financed in albeit simple yet constitutive ways which represented early forms of modern-day shareholder capitalism and its legal protection through private property and corporate liability (Baskin/Miranti 1997: 29-90). Roman law further elaborated this organizational form and legally institutionalized corpora and publicani (Badian 1972: 15-7). These entities represented contractors engaged in the provision of civilian and military supplies, construction, and tax collections. Enjoying a set of legal privileges, individuals driven by private profit in these collective entities served a public function as they helped the Roman Republic to “arm, clothe, and feed its legions and fleets, pay its governors and maintain its roads” (Moore/Lewis 1999: 230). Needless to say, corpora and publicani engaged in business activities did not confine themselves to only carrying them out but, for good or bad, were actively engaged in determining the very nature of governance and expansion in the Roman empire (McLean 2003: 375).

Despite the immense volume and importance of their services, due to technological limitations, these early corporate forms operated on the local level only and did not last for long (Badian 1972: 66-81). Furthermore, their contractual foundations and thus their legal privileges and obligations were often limited, ill-defined, and only granted to individuals. As such, the important notion of unlimited corporate life – that is owners and managers come and go while enterprises last – only emerged, if at all, in rather rudimentary forms (Cohen 2007: 28-9). Hence, we should be careful to equate corpora and publicani with modern-day expressions of the corporate idea. At the same time, though, certain social and legal understandings were established and these were precisely defined by pragmatic conflations of what was later to be discussed as public and private.

‘Historicizing’ the evolution of the divide. Before doing so, a final disclaimer: As with any genealogy, it is important to emphasize that as a contingent process, it involved agency. At the same time, this agency should not be rationalized in retrospect. More explicitly, the emergence of corporate agency and in fact the overall legal, social, and cultural institutionalization of the corporate idea, is best understood as a contingent series of events and developments not rationally designed nor intentionally planned and carried out by any particular actor (Cohen 2007: 41-53). Rather, decisions at critical junctures solidified certain understandings of corporate agency and thereby shifted future horizons of possible outcomes. As such, interactions between enterprises claiming and exercising agency, whether political or economic, whether beneficial or detrimental, and those recognizing it – which does not necessarily include all stakeholders subjected to it – influenced the historical and thus indeterminate unfolding and the following account should be read in this light.
In other words, a centralized nation-state solely responsible for the security and welfare of its citizens was equally absent as was the idea of private enterprises dedicated to individual profit and stakeholder value only. Rather, at the very dawn of the corporate idea, we see a dynamic interplay between different actors that we can best describe as hybrid corporate agency as *publicani* operated between economics and politics. Any intellectual attempt in hindsight to put them firmly either in the realm of public administration or private profit is, as the very names suggest, applying categories not natural to these actors (May 2006: 4-6).

Skipping legal developments under the *lex mercatoria* during medieval times, the emergence of trading companies throughout the second half of the 16th century marks the next major period in corporate history. Emblematic of this period is the British East India Company, often discussed as the first real ‘transnational corporation that changed the world’ (Robins 2002, 2006).\(^5\) Granted a royal charter in 1600 “to take advantage of the opportunities opened up by the age of European expansion and exploration” (Robins 2006: 23), the company from the very beginning was heavily charged with public interest and engaged equally in trade, colonial rule, and war. Enjoying in particular comprehensive trade monopoly privileges, it became a major player in the establishment of both the regional and the global order in its time. At the same time, its shares were publicly traded in London and individuals were able to reap profit from its colonial activities (Phillips/Sharman 2015). Minting its own currency, exercising its own jurisdiction, and commanding its own military, the company represented both traits of the modern corporate form as much as those of a ‘quasi-state’, hierarchically governed by the Court of Directors with annual meetings of shareholders representing ‘little parliaments’ (Held et al. 1999: 239).

Interestingly, the company’s political power and entanglement in British colonial rule, time and again, created tensions for its economic rationales. Both its unprecedented rise and its tumultuous fall – it quickly unraveled following the Indian Rebellion of 1857, leaving a very troubled imperialist legacy – can thus be explained by its hybrid form and the attempt to merge commercial interest and colonial conquest (Robins 2006: 32-40). More specifically, caught between shareholder concerns and economic competition on the one hand and political-diplomatic considerations of local rulers and other European powers on the other hand, the company’s action ultimately proved imperious to the British

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\(^5\) Other, less-known companies emerging before include in chronological order by incorporation the Muscovy Company (1555), the Spanish Company (1577), the Eastland Company (1579), and the Levant Company (1581) (Harris 2000: 43-5).
public and disastrous to local stakeholders such as the population in Bengal. In addition to limited supervision and coordination due to distance and lack of technology, it was the utter disregard for the security and welfare of its stakeholders (i.e. those under its rule) as well as the lack of accountability towards shareholders (i.e. those who paid for it) that led to the failure of the British East India Company (Wolf 2010: 166-172). Among others, it was in particular Adam Smith who, as a contemporary, dissected the company and used its example as a warning against corporate agency if it became too powerful and conflated with public interest, stating that ‘negligence and profusion’ will always prevail in such hybrid contexts (Monks 1998: 12-3).

Despite Smith’s skepticism and the failure of the British East India Company, both economic and political interests were projected onto the corporate ideas in the centuries to come. More explicitly, politics recognized and used the corporation as “an invaluable tool for nation-building at the dawn of the industrial age” (Cutler 2008: 194). As such, throughout the 17th to 19th century, both in the US and the UK, incorporations occurred for the expressed purpose to provide public infrastructure, development, and welfare. As these organizations continued to grow in size and in terms of their mandates, so did their legal status (Baskin/Miranti 1997: 139-40). Codified first in the British Joint Stock Companies Acts of 1844 and 1856, incorporated entities now could hold individual rights such as owning property including facilities and shares in other enterprises, entering into contracts, as well as suing and being sued in court. The US legal system quickly followed and the US Supreme Court recognized enterprises as legal persons to be protected under the 14th amendment as early as 1886, granting them due process of the law and equal protection. Such rights, initially limited to entities granted a corporate charter, soon became obtainable ‘for any lawful business or purpose whatever’. This liberation of corporate law, meant to allow corporations to achieve their mandate, ironically shifted them away from the provision of public infrastructure towards private profit and thus marked a fundamental departure from past practices and experiences. More importantly, it not only fully constituted the modern idea of corporations but also what we today think as public and private:

“The change in the conception of the corporation marks one of the fundamental transitions from the legal assumption of the eighteenth century to those of the nineteenth. The archetypal American corporation of the eighteenth century is the municipality, a public body charged with carrying out public functions; in the nineteenth century it is the modern business corporation, organized to pursue private ends for individual gain.” (Horwitz 1977: 111-2)\(^6\)

\(^6\) Obviously, this transition was never as clear and definitive for contemporaries as it appears in hindsight. Nevertheless, the Supreme Court ruling in the US in particular initiated a new and intriguing
Together with further organizational innovation and professionalization of corporate management throughout the late 19th and early 20th century, this new legal framework established business enterprises as autonomous, hierarchically organized entities acting solely under the dispositions of what we commonly think of as the ‘modern corporation’ (i.e. an exclusive focus on profit to foster the (short-term) maximization of shareholder value). Operating throughout the period of ‘incipient globalization’ (Scholte 2005: 91-101), these newly defined business entities specifically embraced cross-border opportunities. As a consequence, multinational corporations still well-known today began to emerge. With these for the first time considered purely as economic actors, their counterpart in political terms became the centralized nation-state, solely responsible for the provision of security and welfare for its citizens and in charge of regulating business. Initiating a period later to be described as the golden age of the nation-state, controlled capitalism, and big government (Hurrelmann et al. 2007), we find both public administration and enterprises increasingly operating under the liberal narrative of a separated public from the private, situating the corporate idea firmly into the latter and in opposition to the former (Kjaer 2018; Ciepley 2013; Walzer 1984).

Consequentially, while never fully negating corporate ventures into the realm of politics, such activities outside core economic considerations in a liberal perspective were now understood as either lobbying or corporate philanthropy. Framed as activities of separate private entities interacting with the public, they no longer represented constitutive core business activities for private enterprises but rather something for which separate departments and government liaisons had to be created. At the same time, however, corporate actors continued to grow in size, turning the 20th century into ‘the century of the corporation’ (Harrod 2006). More specifically, through industrial concentration and oligopolies, the “extraordinary scale of the biggest corporations [operating at this time] confirm[ed] the visceral certainty [...] that these corporations wield[ed] substantial political power” (Wilks 2013: 5). In other words, framing corporate agency by separating it from the public never solved the underlying tensions within these very concepts nor did it prevent corporations to shift the balance with nation-states into their favor. Rather, based on the liberal trickle-down “belief that a company that made a profit on transactions made an equivalent contribution to social welfare”, it set the stage to define the role and responsi-

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7 Among others, this includes Standard Oil Exxon (1870), Coca-Cola (1889), General Electric (1890), British Petroleum and General Motors (both 1908) (Gabel/Bruner 2003: 3).

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bilities of multinational enterprises in rather limited terms and allowed Milton Friedman later quip that the ‘business of business is business’ (Dell 1990: 55).

Multinational enterprises and the implications of their actions, however, stayed on the political agenda and indeed became an explicit issue within world politics in 1964 when newly independent countries in Africa and Latin America through the creation of the Group of 77 challenged the Bretton Woods arrangements and its implicit assumption that MNEs contributed to a country’s development. Being skeptical about the liberal nature of the post-war economic order, these countries recognized the need to protect their infant industries from foreign investment and the activities of MNEs (Tesner/Kell 2000: XX-XXIII). Western countries in response perceived this as a new wave of economic nationalism and feared, indeed in many instances rightfully so, acts of expropriation and nationalization. In this heated situation, not surprisingly, the US, being by far the largest source of outward investment by MNEs at this time, spearheaded a coalition of home countries and became proactive as a vocal supporter for renewed commitment to free markets, to open economic developments, and to the protection of multinational business whose agency and impact was framed solely in economic and not in political terms (Sagafi-nejad 2008: 22-3).

Given the emerging structure of the UN, such global debates on the role and nature of MNEs mostly took place in ECOSOC and later in UNCTAD. Here, opinions clashed as the US-led coalition called for greater investment protection and freedom for corporate activities whereas the Group of 77 advocated the need to regulate the behavior of MNEs on the global level. Whereas home countries maintained their commitment to the “liberal economic dictum that FDI was on the whole positive”, host countries argued for more holistic corporate responsibilities and increasingly viewed business “as exploitative, alien, and purely profit driven” (Sagafi-nejad 2008: 40). The different positions and their underlying notions of appropriate corporate agency, noteworthy without the direct involvement of MNEs themselves but rather through intergovernmental governance, manifested in a series of mixed resolutions throughout the 1960s. On the one hand, foreign investment and corporate actors were discussed in the framework of economic development and hence considered as beneficial. In such resolutions, the UN promoted FDIs and advocated to let MNEs do what they did best: to act as economic actors. On the other hand, corporate agency was viewed outside of its economic framework and seen in tension with the political agendas of UN member states. For example, it was argued that “based upon respect for the sovereignty of the host country, [MNEs] should co-operate with local initiatives and capital, relay as far as possible on existing resources in developing countries, and
should work within the framework and objectives of the development plans with a view to supplying domestic markets and, in particular, expanding exports.\(^8\)

Overall, their ambiguity as both economic and political actors was not solved but rather enshrined in the UN, with MNEs being “viewed as either saints or demons in an increasingly polarized and fractured global economics policy environment” (Sagafi-nejad 2008: 48). In the first official attempt to bring in corporate actors themselves to discuss this ambiguity, the UN invited leading executives of extractive, manufacturing, and financial enterprises to meet with representatives of both home and host governments at two panels in 1969 and 1970. Here, similar tensions and different views then those of the past were expressed again: Whereas the first meeting in Amsterdam was characterized by cooperation and a constructive spirit, the second meeting in Medellin, Colombia, played out in a confrontational fashion. Through these meetings, however, MNEs were challenged to reflect their role in global development and confronted to consider issues such as corporate transparency, accountability, and good governance. More importantly, in advance of global governance to emerge later (see below), the rapporteur’s report for these meetings ended on a vision of “close collaboration between governments, local investors, foreign investors, and international agencies, guided by a global rather than nationalist view of development requirements” (Dell 1990: 60). In other words, both in fear of their power and in hope of positive change, MNEs were invited to play a more active role and consider responsibilities other than those of core business (Tesner/Kell 2000: 18-9).

In good UN tradition, one of the immediate outcomes of these ambiguous meetings was to create a new institution. Recognizing that the “international community has yet to formulate a positive policy and establish effective machinery for dealing with the issues raised by the activities of [multinational] corporations\(^9\), ECOSOC in particular pushed for a new body “to study the role of multinational corporations and their impact on the process of development, especially that of the developing countries, and also their implications for international relations, to formulate conclusions which may possibly be used by Governments in making their sovereign decisions regarding national policy in this respect, and to submit recommendations for appropriate international action\(^10\).” Given that there was, however, no clear consensus on the mandate of this new agency, a weak compromise emerged to establish a so-called advisory ‘Group of Eminent Persons’. This

\(^8\) Annex A.IV.12 of the final act of the 1\(^\text{st}\) UNCTAD session, 1964.


group of twenty included experts from government, business, and academia, who met in 1973 and 1974. During those meetings, roughly fifty representatives from “government, business, trade unions, special and public interest groups, and universities” were heard which was “a novel approach for the United Nations, and provided to be a most useful source of information as well as a valuable occasion for testing ideas” (Dell 1990: 64).

Ironically, since the group represented a range of different ideological and geographical backgrounds, it created more disagreement and contention. In particular, while recognizing the overall relevance of corporate actors and their impact on development, in their final report they could only agree on the minimum consensus to continue studying the role of MNEs at the global level. On that end, the group advocated to create the UN Centre on Transnational Corporations (UNCTC). Most notably, though, its very own report and the vision for a new Centre remained ambiguous, with national sovereignty emphasized just as much as corporate agency and influence was recognized (Sagafi-nejad 2008: 77-86). As neither was prioritized over the other, the UN departed on a contradicting course of simultaneous confrontation and rapprochement with the private sector. Maintaining in particular its close ties to business representatives, the new UNCTC created through ECOSOC resolution 1913 (LVII) in December 1974 very much reflected the same indecisiveness of diverse opinions that already limited the Group of Eminent Persons. However, whereas the main task of the Group was ‘only’ to get the ball rolling, the mandate of the Commission explicitly featured the task to consider international rules to govern corporate activities (Moran 2009: 92). Organized into three divisions of Information Analysis, Policy Analysis, and Advisory Services, the UNCTC however avoided this responsibility and focused on gathering, analyzing, and disseminating information on MNEs. In other words, it carved out its own niche in neutral, technical terms as it conducted important studies and surveys yet did not translate them into political action on corporate agency (Sagafi-nejad 2008: 95-108).

Arguably, while the overall climate in the UN and in particular in ECOSOC and UNCTAD, shifted more and more towards confrontation, the UNCTC through this strategy maintained a business-friendlier attitude and never provided the foundations that the Commission and its 48 member states needed to draft a legally binding code. As such, its promise remained unfulfilled as the discussion once more remained caught between the by-then familiar tension between business-friendly language of integration and the proclaimed intention of regulating MNEs (Dell 1990: 87-90). More bluntly, the very dynamics and distinctions between private and public that latter let academics and practitioners proclaim global governance, frame MNEs as global governors within, and the
conceptual imprecision that haunt this notion, originate, in terms of corporate agency in global governance at least, from these years. While none of this necessarily reflects a “weakening of statehood but rather a reconfiguration of the state, implying a shift from a welfare to a competition state”, it clearly left MNEs in a position to further exploit globalization and their new role within (Kjaer 2018: 35). Before further exploring this argument, the next section outlines how corporate agency was discovered and framed as a research object within IR and IPE.

The Intermezzo: Discovering & Framing Corporate Agency

Undoubtedly, MNEs and their role in global governance have become a major theme in the study of world politics. Somewhat less obvious and yet consequential, I content that the majority of MNE research in IR and IPE today is based on the conceptual decision to frame corporate actors as ‘global governors’. More specifically, MNEs are discussed as showcase examples of how the provision of governance in a globalized world defined by diversified agency and polycentric authority has changed as research is organized around the notion that MNEs as private actors assume a public role and provide either self or collective regulation (May 2015; Ougaard/Leander 2010; Wolf 2008; Kobrin 2008; Detomasi 2007; Ruggie 2004; Haufler 2001). The reasoning behind this is rather straight-forward and compelling at first sight: Assuming states to be either unable, unwilling or at least limited in their capacities to provide governance in a globalized world, MNEs, among other nonstate actors, have been called upon and thus are expected to contribute to different stages and activities of providing collective order and regulation (Karns et al. 2015 (3); Avant et al. 2010b; Barnett/Sikkink 2008). Further sustained through either normative claims drawn from business ethics (i.e. MNEs should assume more responsibilities), anecdotal evidence of MNEs participating in governance arrangements (i.e. MNEs indeed assume more responsibilities), or a conflation of both, there seems to be widespread agreement that the role and responsibilities of corporate actors have changed (Scherer/Palazzo 2011; Crane/Matten 2010; Holzer 2010). Because of the notoriously vague nature of

11 I would describe evidence of MNE engagement in global governance as anecdotal if it only states the fact that enterprises participate in some kind of initiative without considering the foundational beliefs and interpretive frameworks that MNEs advance within. Only considering those will reveal whether corporate commitment remains superficial, sporadic, and ultimately spurious. Again, this is not to argue that MNEs due to their very nature cannot meaningfully contribute to global governance (another one of those essentializations to problematize (Amoore 2006; O’Neill/Graham-Gibson 1999)). However, simple engagement in non-binding initiatives such as the UN Global Compact in and of itself does not tell us much.
global governance itself, however, as well as its potentially limiting focus on structure and order due to its functionalist bias (Hofferberth 2015; Wilks 2013), a short intellectual history of IR and IPE engagement with MNEs is in order to better understand reasons for and implications of discovering and framing corporate agency in this fashion. This is particularly relevant because corporate actors were discovered as research objects in IR and IPE before global governance began its victory march through the discipline(s) and rather different frameworks were used to discuss their agency in world politics (Barnett/Sikkink 2008: 70).

After being bestowed with a collective name in the early 1960s (Lilienthal 1960) and their ensuing ‘academic branding’ in other disciplines throughout the following years (Penrose 1968; Perlmutter 1969; Kindleberger 1969; Vagts 1970; Dunning 1971; Vernon 1971), IR and IPE began to systematically consider MNEs in light of the “transnational organizational revolution in world politics” (Huntington 1973: 333). Among others, Modelski can be considered as one of the pioneers to introduce MNEs in Political Science. Recognizing explicitly that “[l]arge corporations have been a feature of the industrial landscape since the beginning of this century” as well as the “remarkable recent trend of ascension of some of these organizations to a world role [due to] their size and power, and of the global functions they perform”, Modelski (1968: 64) called upon scholars to integrate MNEs in their studies of world politics and cautioned to specifically consider their ability to escape state regulation:

“[C]orporations are an important part of the present and future international systems and, even though we need not think of them as becoming governmental organizations in their own rights, their political functions as structural components of systems of world politics can only be neglected at our peril.”(Modelski 1968: 78)

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12 As with any individual recollection and summary of collective work over time, the following is subjective and does not claim full coverage of the engagement with MNEs. It does provide ideas, though, of how scholars discovered corporate agency and how they related it to issues of governance and regulation.

13 Earlier but only brief references to corporate actors can be found in Wolfers (1962: 4) and in Carlston (1962: 74-5) who argued that “[a]ctors in the international system typically may be regarded to be organizations but are not limited to states” and rather include, among others, “international corporations and state trading organizations” as well. While “[t]he inclusion of international corporations as actors in the international system may be regarded as novel and even confusing”, Carlston (1962: 75) continues to argue that “international corporations have grown in number and size to a point that they cannot be overlooked” anymore. Unfortunately, further references to MNEs in his work remain sporadic since he was interested not only in these actors but rather in ‘world society’ as such.

14 In addition to raising the issue, Modelski (1968: 68) also first introduced the notion of macroeconomic comparison between sales volume and GDPs, arguing that in 1965 “no more than approximately 40 states had central government expenditures of a similar magnitude” than MNEs. He also hosted a special issue on MNEs in International Studies Quarterly that was later published in an edited volume (Modelski 1972).
Following this call, while at the same time situating MNEs into the larger context of transnational relations, Keohane/Nye (1973) in their edited volume advanced the claim to consider world politics beyond the interaction of state actors and thereby, among a range of other actors, entities, and phenomena, opened up conceptual space to include MNEs. Wells (1973) in the same volume, for example, not only discussed the historical emergence and spread of MNEs but also how to systematize and make sense of the phenomenon in the study of world politics. More specifically, he argued to distinguish between extractive and producing enterprises and spelled out implications of how to approach and study each (Wells 1973: 107). In terms of their relationship to the nation-state, he stressed their “potential to evade influence of many governmental policies”, argued that neither home or host country could effectively regulate MNEs, and thus called for collective regulation of MNEs (Wells 1973: 97). His conceptualization, resonating deeply with dependency theory, thus effectively framed corporate agency in economic terms and as subject of and not involved in global regulation and governance (without using that phrase).

Other contributions within IR and IPE from this early time echoed the sentiment that states in practical and scholars in intellectual terms had to respond to the ‘corporate challenge’. Research on MNEs was thus mostly advanced within a “critical political economy attacking transnational economic relations in general and the role of multinational corporations in particular” (Risse 2002: 258). Galloway (1970: 503), for example, strategically stating that his work was in an “area of inquiry which has been overlooked until recently”, critically discussed the impact of MNEs on world politics and international integration. While his conclusion remained preliminary, he suggested that states should play an active role in responding to and regulating multinational corporations. Following this train of thought but spinning it into a different direction, Gilpin (1975) in his seminal work on MNEs argued that American enterprises should be seen as an instrument of US foreign policy and power, contributing to what he discussed as Pax Americana. As such, while echoing reservations against MNEs as political actors, Gilpin subjected corporate agency to his larger (Realist) research agenda and showed little interest in conceptualizing MNEs as actively involved in governance (Barnett/Sikkink 2008: 71). Ajami (1972), as the final example of early MNE research, framed MNEs as ‘corporate giants’ and emphasized, in a Marxist-inspired framework, the danger of oligopolies in terms of global social costs.

Taken together, MNEs in early academic engagement in IR and IPE were thought of as an issue for world politics and a challenge. Seemingly unable to provide regulation, the focus was on state actors to at least somehow respond to this challenge. In other words, in the original uptake in IR and IPE, corporate actors were part of the problem and not
the solution. This conceptual framework was driven by the deep-rooted assumption (and the lack of imagination to challenge it) that MNEs and their activities were of private, economic character. At the same time, no consistent theoretical framework to study MNEs emerged. Rather, we found work motivated by diverse backgrounds and different commitments. Thus, while being “all the rage and attract[ing] considerable scholarly attention” during the 1970s, nor larger, sustained research agenda on MNEs and their agency emerge at this time (Ruggie 2004: 500). With the reluctance to study MNEs in mainstream, state-centric work and the contender of transnational relations itself being simply too broad and not providing any specific frameworks to study its diverse actors, most work on MNEs during these early stages remained generic, theoretically vague or inconsistent, and limited to the macro level – MNEs were included but not fully brought in as actors-in-their-own-rights (Strange 1993). Accordingly, in their recollection of the intellectual history of global governance in IR and IPE, Barnett/Sikkink (2008: 71) notice “some increased attention to transnational corporations in world politics” but overall conclude that the work on MNEs as a broader research agenda “did not prosper in the short term”.

With the “counter-attack of realism” and the institutionalists’ answer to focus on regimes instead of further theorizing transnational relations and corporate actors during the 1980s, the intellectual history of MNEs in IR and IPE can fast-forward to the late 1980s and early 1990s (Risse 2003: 258). While other disciplines at this time more readily engaged with MNEs, calls to study these actors in IR and IPE still remained mostly unanswered. Among others, Eden (1991) and her call to ‘bring the firm back in’ for example reminded everyone that the research agenda on MNEs had barely been touched upon. More specifically, she lamented the subjection of MNEs into larger theoretical frameworks – she discussed ‘faces of MNEs’ in liberalism, nationalism, and Marxism, which she considered as the three major theoretical perspectives in IPE – and argued in particular that these actors, as main engineers of the global economy, need to receive more attention on their own terms. More specifically, Eden (1991: 218) was concerned about “IPE literature box[ing] the MNE into the undifferentiated concept of the market”. Ironically, while emphasizing the shift towards the market, scholars studying MNEs in her opinion not only failed to engage directly with MNEs but rather also reproduced a state-based framework, continuing to separate the private from the public. In this vein, still using a language that relied “on ‘business’ collectively, on the market, or on capitalism”, individual enterprises still received little attention in IR and IPE (Wilks 2013: 1). Framed as ‘big business’, research thus continued to echo its initial skepticism towards MNEs as
well as its habit to collectivize and blackbox an entire actor group throughout the 1990s (Strange 1988, 1993; Cox 1996).

At the same time, IR and IPE as such, through the intellectual openings that constructivism, the end of the Cold War and the increased globalization provided, experienced major disciplinary change. Add to this the practitioners’ debate on the changing role of nonstate actors in global governance, best documented in the Commission on Global Governance Report in 1995 (see below), it is fair to say that the study of MNEs in IR and IPE also experienced a major paradigm shift during the late 1990s. Within this new concept, both civil society actors and MNEs could be considered – in fact, “it was but a short analytical step to conclude that [both actor groups] had come to play a role in global governance” (Ruggie 2004: 501). In this light, while civil society and NGOs caught the majority of initial attention (Keck/Sikkink 1998; Florini 2000), the study of MNEs was reintroduced under the label of ‘private authority’ and intellectually closely tied into the broader notion of global governance. Reflecting the “apparent assumption by TNCs and global business associations of roles traditionally associated with public authorities” (Ruggie 2004: 502), we can think of this conceptual move as the full embrace of MNEs into global governance: According to the prevalent narrative, MNEs, whether through self-regulatory initiatives or in multi-stakeholder partnerships, became involved in the provision of collective goods (Cutler et al. 1999; Hall/Biersteker 2002a).

The lens of global governance, together with ongoing reservations held against MNEs, arguably framed these actors in interesting ways. Juxtaposed specifically against civil society, global governance reinforced the notion that corporate agency by default was “primarily motivated by instrumental goals” and different from those actors “primarily motivated by promoting a perceived ‘common good’” (Risse 2002: 256). At the same time, assuming that civil society exerts pressure on MNEs, it was quickly argued that MNEs, despite their private profit inclinations and motivations, can assume public roles and responsibilities, specifically if new governance arrangements were to be carefully designed to include MNEs in meaningful ways (Haufler 2001). In other words, due to globalization and relative power shifts away from states towards the market, MNEs assumingly were no longer just the subject of authority (i.e. “being the governed”), but also exercised authority (i.e. “becoming the governor”) (Green 2014: 29). As such, MNEs were seen as no longer confined to economics but in a more engaged role in politics. More specifically, as global governors, MNEs became “important players in the international system, and potentially significant contributors to its success” (Butler 2000: 149). In a nutshell, in light of profound alteration of the structure and the functioning of the global economy building
up towards the 1990s, there was “recognition of the need [to not only] regulate corporate behavior [but also] to engage MNCs as positive contributors to global governance” (Karns et al. 2015 (3): 19).

Why, one can argue, is this problematic? I content that captured in the notion of conceptualizing MNEs as global governors is the idea that corporate agency should be studied as it relates to governance and the agency of nation states and other nonstate actors within. In other words, discussing the emergence of private authority in global governance resonates with certain assumptions about the state and the public as such. It is arguably more concerned with discussing the new interplay between different entities rather than contextualizing let alone explaining corporate agency in world politics. As it does so, just like early transnationalism, it remains full of tensions in conceptual terms and provides opportunities for MNEs to hold on to it pre-defined roles and functions in practical terms:

“The academic discussion about the new interplay between the state, business and civil society suffers from the same flaw of not looking beyond the nation-state’s golden age. It starts out with the traditional distinctions of governments being public in form and public in purpose, civil society being private in form and public in purpose, and business corporations being private in form and private in purpose […] Identity shifts and the blurring of these boundaries are misleadingly presented as recent phenomena of the decades following the nation-state golden age, when new regulatory challenges called for a redefinition of the roles and functions of the state and private actors. It is because of their ‘traditional’ private-private identity that most of today’s corporations still react reluctantly to the issue of corporate […] responsibility”(Wolf 2010: 155)

Through essentializing corporate roles and dispositions along the private-private dimension, global governance allows us to assume rather than reconstruct corporate agency. More specifically, “[t]reating the corporation as a person [and thereby granting it agency] has the great virtue of emphasizing the possibility of corporate choice”, makes us believe in change, and enables us to conduct research on these actors in the first place (Wilks 2013: 21). At the same time, though, we should not take corporate personhood nor the nature of corporate agency for granted and essentialize its dispositions since this runs the risk of conflating theoretical assumptions and empirical observations, specifically since most MNEs remain abstract to the researcher (Amoore 2006; O’Neill/Graham-Gibson 1999). That said, corporate agency obviously pertains to economic decision-making and MNEs remain “a particular form of nonstate actors organized to conduct for-profit busi-

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15 To be fair, Cutler et al. (1999) were more focused on MNEs and their authority than Hall/Biersteker (2002a) who included instances of “apparent authority exercised by global market forces, by private market institutions engaged in the setting of international standards, by human rights and environmental non-governmental organizations, by transnational religious movements, and even by mafias and mercenary armies” (Hall/Biersteker 2002b: 4).
ness transactions and operations across borders” (Karns et al. 2015 (3): 18). The precise meaning of that commitment, however, as indicated by the historical account in the last section, might be more fluid than commonly anticipated when framed as global governors. In other words, whether perceivable in economic or political terms or in-between, corporate agency remains indeterminate and open-ended since it has to respond to changing normative environments and expectations in cross-border contexts. Global governance, without an explicit interest in the details and intricacies of corporate agency, falls short since it conveniently ignores that there is no essential ‘nature of the firm’, no motivational dispositions, whether rational or normative, to any enterprise that predetermines its actions. In the end, corporate agency is dynamic and its boundaries (i.e. what is appropriate and non-appropriate corporate action) remains subject to social interaction (Hofferberth 2017: 157-60).

Furthermore, as a shared discourse between practitioners and academics, the functionalist bias of global governance in particular affects the study of MNEs. Focused on the regulatory interplay of state and corporate actors, the framework implicitly advances a rather optimistic outlook on the potential to meaningfully integrate MNEs within. More bluntly, potentially conflating responsibilities and obligations of “what companies should be doing [with] what they are in fact doing”, the integration of MNEs might be motivated more by hope than evidence (Dashwood 2004: 191). I content this issue stems from the teleology inherent in global governance that (a) we will see more and more actors involved and that (b) this will increase the quality of governance eventually. By doing so, we arguably stressed the concepts of governance to the extent that it remains unclear which actors are (or rather should be) involved and what activities we can summarize under it. Thus, while “notable for both its conceptual novelty and practical importance”, discussing MNEs as global governors has also “hamstrung” research on these actors and left us with a rather unclear, inconclusive, and somewhat biased research agenda (Whelan 2012: 709).

More explicitly, Ruggie (2004: 502) concludes that “relatively little cumulative progress can be reported in the study of transnational corporations” as actors in their own rights. We content that MNEs have become more engaged in world politics yet the precise nature of such engagements and the roles MNEs play within remain unclear. To paraphrase Woll (2010: 138), framed as global governors, MNEs are “used to do the explaining” but are not considered as actors which “need to be explained” themselves. To discuss corporate agency and its sustainment in global governance more holistically, in the next section I
turn to more recent UN discussions and decisions on MNEs to explain how, despite all reservations, these actors have been invited to become global governors.16

**Sustaining & Expanding Corporate Agency in Global Governance**

Continuing the historical reconstruction, the late 1980s and early 1990s were characterized by a set of related macro-developments which not only put an end to the efforts of the UNCTC but also triggered a paradigm shift towards the full recognition of corporate agency in global governance. Among those developments, three stand out and mutually reinforced each other: (1) the increased pace of globalization and the continuing growth of enterprises operating across borders as well as the amount of their foreign direct investments, (2) the greater need for such investment in developing countries due to external debt and economic stagnation, (3) the overall shift towards neo-liberal politics enshrined in the Washington Consensus and the ensuing emergence of corporate self-regulation and responsibility within (Held et al. 1999: 236-82). The UNCTC responded to these developments and the changing tides as early as the late 1980s and declared the “era of confrontation has receded”, to be “replaced by a practical search for meaningful and mutually beneficial accommodations of interests” (UNCTC 1988: i). Most notably, it rebranded its annual publication as the *World Investment Report* in 1991 and thereby cast a more favorable light on MNEs (UNCTC 1991). In its 1992 report, for example, it explicitly framed ‘Transnational Corporations as Engines of Growth’ (UNCTC 1992).17 However, this was not enough to solve its own conflicted history nor provided a meaningful code to govern corporate agency in world politics, which ultimately left the Centre in a rather weak position and ripe for institutional reform (Moran 2009: 92-3).

As pressure on the UNCTC continued to build throughout the early 1990s, it delivered a draft code of conduct for MNEs to be discussed in the UN General assembly in September 1992 (Sagafi-nejad 2008: 122-3). However, after informal consultation failed to reach any consensus on the draft, it was decided by the President of the General Assembly that the “changed economic environment and the importance attached to encouraging foreign investment required that a fresh approach should be examined” (Report of the President of the General Assembly, A/47/446, 15 September 1992). It bears a certain irony, that, while failing to live up to its mandate because of internal division, the very

16 In practical terms, the next section continues the historical genealogy started in the last section.
17 Note that the *World Investment Report* series was continued by UNCTAD after the UNCTC was abolished in 1992 (see below).
reason that created the Centre in the first place – unprecedented growth of MNEs in size and numbers – also led to its abolishment. More specifically, the blow of rejecting the draft code proved to be fatal since then UN Secretary-General Boutros-Ghali, in light of the lack of consensus and obvious inability to reach agreement, decided that after less than 20 years, the Centre had to be dissolved and its different units substantially reorganized into other UN agencies. “[F]ollowing the lead of governments, which in Rio in 1992 had embraced the private sector (along with civil society) as a key actor” as well as his own inclination on the issue, Boutros-Ghali moved in particular the business-friendly research activities of UNCTC from New York to UNCTAD at Geneva and abandoned the idea of a mandatory code of conduct altogether (Pingeot 2016: 194).

Recognizing UNCTC’s ambiguous legacy of confrontation and rapprochement as one of its main failures, the new institutional arrangement clearly reflected the latter over the former. More than anything else, framing the move as the closing of the UNCTC and ensuring that only few of its activities carried over to UNCTAD was meant to signal this shift to home and host countries as well as enterprises alike. As a contemporary commenting the unfolding, Dunning (1991) discussed this as a paradigm shift from confrontation to cooperation. More explicitly, in the ECOSOC resolution on the rearrangement of the UNCTC, its mandate was reframed as and limited to the provision of “research, technical cooperation, advisory services, training programmes, and information services” (E/RES/1992/35).\(^\text{18}\) Stripped of its mandate to pursue the issue of regulating MNEs through a global code of conduct, the developments in 1992 and 1993 can be considered as a redefinition of the UN’s relationship with business at large which carried implications for the role of MNEs in global governance. With renewed emphasis, foreign investment was considered as solely beneficial and globalization, it was argued, had to be embraced (Sagafi-nejad 2008: 128-35). This development not only framed MNEs as ‘wealth creators’ and reduced governments to ‘facilitators’. More importantly, in the attempt “to attract capital to development projects and to benefit from private sector expertise”, the UN began to coalesce around a discourse of MNEs as benevolent global governors, willing to assume responsibilities above and beyond their core economic interest (Therien/Pouliot 2006: 59).

Arguably, this shift was driven more by hope and expectations as well as disappointment with past failures than facts and evidence that such a shift could be meaningfully facilitated. Most prominently, these expectations and their rather blatant nature of func-

tionalist optimism, spiced with the notion of really not having any alternative, can be found in the 1995 report issued by the Commission on Global Governance. In here, it was explicitly argued that “there is no alternative to working together and using collective power to create a better world” with governance having to be provided by “individuals and institutions, public and private, manag[ing] their common affairs [in] a continuing process through which conflicting or diverse interests may be accommodated and co-operative action may be taken” (Commission on Global Governance 1995: 2). Furthermore and in particular relevant to the subject of corporate agency, governance at the global level according to the report “must now be understood as also involving non-governmental organizations (NGOs), citizens’ movements, multinational corporations, and the global capital market” (Commission on Global Governance 1995: 3). Looking at the historical trajectory, I content that this paradigm shift and its embrace of deterministic language at least partially came about because of the rapid and unchallenged unfolding of the UNCTC and the vindication of those who had always argued in favor of promoting rather than regulating corporate agency in the political sense.

In other words, the UNCTC not only failed to create a legal code for MNEs but in its failure to do so ironically further promoted the belief that MNEs should be involved in the provision of governance. Intellectually framed in the emerging narrative of global governance and driven by a functionalist logic, notions to regulate enterprises within a matter of years had been effectively replaced by the idea to partner up and cooperate. Against the perception of significantly increased corporate power and the failure to govern these entities in the past, it was quickly taken for granted that “business, as a key agent driving globalization, can help to ensure that markets advance in ways that benefit society” (Rasche/Kell 2010: 2). Assuming the necessity of their integration, MNEs were no longer framed as the problem (or at least part of the problem). Rather, their agency in the UN and beyond was legitimized by framing them as the solution, in fact as a “consequence of globalization” (Whelan 2012: 713, original emph.).

How can this shift be explained? Arguably, “without a prior mandate from member states”, it was in particular individuals within the UN, among other Kofi Annan as Secretary-General himself (1996-2006), John Ruggie as Assistant Secretary-General for Strategic Planning (1997-2001) and George Kell as Head of UNCTAD (1993-1997), who “played a key role in this process” (Pingeot 2016: 194). To provide some more detail and in an attempt to reconstruct the justifications advanced to bring in MNEs, consider a couple of prominent speeches advanced at this time. For example, in February 1997, during his first address to the World Economic Forum in Davos, known as the gathering
of the elite of global capitalism (Pigman 2007), Kofi Annan framed UN-business relations as a partnership and solicited for corporate input (Sagafi-nejad 2008: 195). Signaling that “I am open to your advice and I look forward to hearing from you”, both the failures of the previous two decades as well as Annan’s personal commitment to development and UN reform drove the notion that business actors were indeed the solution rather than the problem. A year later, again at Davos, he stated that “[t]he business of the United Nations involves the businesses of the world”, continuing to argue that:

> “the United Nations and the private sector have distinct strengths and roles, and we are still overcoming a legacy of suspicion. But if we are bold, we can bridge those differences and turn what have been fledgling arrangements of cooperation into an even stronger force.”

What is interesting to see in the rhetoric used is both a separation from the past and sense of future ambition. Throughout the rest of the statement, this ambition becomes clear as Kofi Annan in many instances ‘pitches’ the UN to the business world. More specifically, the main arguments presented list what the UN could offer MNEs. As such, in and through his reasoning, corporate actors were no longer the issue. The new main concern was to convince them to see the value of UN-business partnerships. Other statements at this time echo the same sense of excitement and willingness to ‘bid’ for corporate favor. ‘The power of markets’, if it were to united with the authority of universal values (i.e. the UN), was no longer a challenge but an asset. In his 1999 speech – by this time, it was an annual ritual for the UN Secretary-General to appear – in Davos, Annan indicated that “our relationship has taken great strides” and that it has been “shown through cooperative ventures – both at the policy level and on the ground – that the goals of the United Nations and those of business can, indeed, be mutually supportive”. Framing globalization and the active role of MNEs within as ‘facts of life’, Annan further saw the UN in a structurally inferior position, at best able to petition rather than regulate business. The Global Compact (UNGC), that he proposed explicitly in this speech for the first time, thus was an invitation advanced in submissive language and an appeal to the good will of enterprises to become global governors. The deliberate self-framing as being without agency and thus the transfer towards MNEs thereof became most notably visible in how he ended his speech:

“We have to choose between a global market driven only by calculations of short-term profit, and one which has a human face. Between a world which condemns a quarter of the human race to starvation and squalor, and one which offers everyone at least a chance of prosperity, in a healthy environment. Between a selfish free-for-all in which we ignore the fate of the losers, and a future in which the strong and successful accept their responsibilities, showing global vision and leadership. I am sure you will make the right choice.”

The public speeches delivered by the UN-Secretary General were accompanied by a less visible series of meetings convened at the UN Headquarter and elsewhere with the International Chamber of Commerce, the Prince of Wales Business Leaders Forum, and the International Confederation of Free Trade Union (Kell 2013: 33-5). These meetings were mostly led by the Secretariat and as such did not represent intergovernmental commitment of all member states. Rather, in a rare moment of direct exercise of his mandate, and rather fast compared to UN decision-making overall, communicated in another press release on July 27, 2000 it was stated that, “[u]nder the leadership of United Nations Secretary-General Kofi Annan, global leaders from the world of business, labour and civil society met today to launch a joint initiative in support of universal values and responsible business operations.” Without any further consultation, UN member states had to \textit{ex-post facto} endorse the Global Compact which generates tensions with members states until today. More explicitly, the fact that “UN leadership made a decision to position itself on the pro-corporate, pro-globalization side of the debate to increase its legitimacy and its authority in a neoliberal world” has not been received well by everyone, even within the UN (Pingeot 2016: 196).

The willingness to go against or at least without member states can be explained in the overall emergence of global governance and the challenge for the UN to remain relevant within. Specifically, read in an inter-organizational perspective, the decision carried a certain strategic reasoning since it arguably represented the UN’s attempt “to move back to the center of debates on global governance”, with other organizations such as the G20 or the OECD gaining ground on the question of how to regulate MNEs at this time as well as countless other multi-stakeholder initiatives emerging both locally and globally (Therien/Pouliot 2006: 65). Almost in an institutional ‘race to the bottom’ between different organizational frameworks, the self-imposed inability to regulate MNEs opened up the opportunity for them to ‘forum-shop’ and only participate in those contexts


which suited them, promoting even further non-binding agreements in inter-organizational competition to be utilized by business (Karns et al. 2015 (3): 23-4).

In this light, it was precisely the voluntary and non-binding form of governance through principle-based reporting without enforcement which allowed the UNGC to quickly gather momentum after assuming operations in July 2000. Carving out a non-state, mostly corporate niche, the Advisory Council, first convened on January 8, 2002, “bringing together senior business executives, international labour leaders, and heads of civil society organizations from across the world”.25 With 35 enterprises joining in 2000, their numbers over the years grew rapidly. At the same time, NGOs remained more skep-

tical and did not join right away (see figure 1). In fact, their initial response was to call for a “Citizen’s Compact” to govern MNEs instead of governing with them (Pigman 2007: 128). However, soon after, arguably caught in the same dilemma to join to be able to interact with MNEs while not meeting on a level playing field, multiple global NGOs did join in 2003, among them ironically the World Economic Forum itself and other business-friendly organizations such as the Geneva-based Business Humanitarian Forum and others. Afraid of being left behind, other more vocal NGOs did not join until 2010-2012, with many well-known, critical NGOs still avoiding the UNGC. Nevertheless, these dynamics of rapid corporate acceptance plus at least partial blessing of civil society, together with a deep belief in potential for corporate actors to change, have been consistently highlighted and used in retrospect to justify the initiative when assessing the Compact (Kell 2013). And while it is indeed easy to frame the UNGC as a success given past experiences of the UNCTC, through its emphasis on networking and expertise, it has by now firmly established and normalized the notion of corporate global governors (Sagafi-nejad 2008: 195-8).

Another justification advanced during the critical years when the UNGC was inaugurated was its potential transition into a more binding forum. However, despite the initial positive reception among corporate actors, the UNGC in many ways and thus the overall response to the “TNC problematique” remains incomplete until today (Sagafi-nejad 2008). In terms of its efficacy, for example, “the jury is still out” on the UNGC and critics rightfully point out the limitations of its voluntary governance mode. This mode of governance has not changed over the years. Rather, in its own language, the 2018 UN Global Compact Guide still echoes the same rationales as Annan’s speeches from 1997-1999, stating that the UNGC supports business through providing “[g]lobal reach and multi-stakeholder connections, enabling business to help shape the sustainability agenda and be a force for good” (Compact 2018: 3). More importantly, whether hailed as a ‘learning network’ (Ruggie 2001) or criticized as yet another opportunity for corporate ‘blue-washing’ (Berliner/Prakash 2015), the UNGC surely did not solve the ideological debates on corporate agency which trace back to the 1970s. Rather, despite claims that ‘ideological stand-offs’ were a thing of the past in the new climate of dialogue, what the

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26 As of 2018, more than 11,500 companies, small, medium, and large, representing 44 different sectors and headquartered in 162 countries, have joined the UNGC and constitute the majority of stakeholders among the 15,293 total members. Data and classifications of membership are directly taken from the UNGC’s website, retrieved March 13, 2019. One trend that is striking when looking at corporate agency in particular is that larger companies, originally considered as the primary target group, were outranked by small and medium-sized companies early in 2016.
UN under leadership of Kofi Annan arguably did was simply siding with one end of the
discussion (Pingeot 2016: 195-6). Spreading the message that MNEs can do well while do-
ing good, the UNGC thus did ‘succeed’ in establishing the notion that enterprises should
be directly involved in any debate from hereon. As such, corporate agency had been con-
firmed and validated as a source of global regulation rather than being the object thereof.
The unintended consequence of this development, as has been shown throughout the his-
torical emergence of corporate agency and ways of responding to this academically, might
well be to take it for granted and focus only on how instead of whether MNEs should
be integrated into global governance. In other words, against a contingent and contested
history and field of study, developments around 2000 potentially marked a critical closure
in the overall discourse as we continue, both academically and politically, to reproduce
rather than challenge corporate agency in global governance. These and other ideas are
summarized in the following conclusion.

Conclusion

Framing MNEs as ‘global governors’ has become a standard exercise in IR and IPE. How-
ever, if one considers, even if only in broad strokes as proposed here, the contingent history
of the corporate idea and adds to this the rather peculiar dynamics and trends within
academic reflections brought forward in response, there is nothing natural or, in norma-
tive terms, desirable about this. Rather, while maybe overstated, it seems that global
governance and the integration of corporate actors within, resonating with “a sense that
the current era of business dominance is somewhat unique” that at least baffles the his-
torian, mostly sustains its own assumptions by framing its own facts (Robins 2002: 79).
More specifically, anecdotal evidence that MNEs “have started to engage in activities that
have traditionally been regarded as actual government activities”, spurred by the desire
to improve global governance and a willingness to become excited about any intellectual
and/or practical opening, may have been, too prematurely, taken as proof for comprehen-
sive change of corporate roles and responsibilities in global governance (Scherer/Palazzo
2011: 899). Using the same argument – MNEs have assumed new roles and responsibilities
in global governance – interchangeably as starting point and conclusion, the intellectual
engagement with MNEs arguably hamstrung itself in tautological fashion (Whelan 2012).
In particular, the readiness of MNEs to close governance gaps might have been overstated
against the background that other modes of governance failing in the past and the fact
that the discipline, undoubtedly influenced by a strong bias towards the state in the first
place, still struggles to find its place and purpose against an assumingly changed global reality (Weiss/Wilkinson 2014). More broadly, since any conversation is just as good as the questions it raises, there seem to be a surprising lack of fundamental questions on the role of MNEs in global governance in favor of more technical ones. Echoing the prior sections, I will unfold this rather strong criticism in this conclusion in three steps.

First, historically speaking, corporate agency has always been situated at and hence defined by the nexus of economics and politics. Put simply, large-scale business operating across borders with an economic rationale has always been involved in their own rule-making. Thus, distinctions or separations between the two, whether in theoretical terms or adapted from political debate, remain problematic. In fact, these distinctions are nothing but the consequence of particular discourses perpetually advanced in liberal, contractual thinking (Ciepley 2013: 156). Whether it were the publicani in Roman times, the British East India Company in the 17th century, or the public corporation tasked with the provision of infrastructure, development, and welfare in mid-19th century, it is only a brief period in time just prior to the emergence of global governance in the 20th century in which such distinctions carried relevance (Wolf 2008). With this in mind, global governance cannot be based in this terminology but rather needs to develop alternative frameworks beyond the notion of public and private, beyond the bifurcation of MNEs exercising either economic or political responsibilities (Kjaer 2018). Any assumed transition from one to the other is not new as current levels of corporate engagement in fact look rather pale compared to historical instances prior to the 20th century. In other words, current manifestations of global governance and changes thereof, at least when it comes to corporate agency, might only appear new to us if we measure them in a language dedicated to reflect such changes (Murphy 2014).

Second, if the role of MNEs has always been ambiguous, this should caution us not to essentialize corporate agency nor its assumed characteristics. Academic discussions, however, in close exchange with the practitioners’ discourse, have done just that as they sustain(ed) strong notions of ‘corporate nature’. More often than not simply post-rationalizing corporate decisions, we tend to forget that their actions are probing and based on try-and-error, given that “multinationals, however powerful, are often ill-

27 In addition to giving us the wrong language to think about MNEs and their role in global governance, more importantly it provides them with an excuse to opportunistically relate only to those responsibilities they prefer to assume at any given point in time. In other words, issues of corporate social responsibility, accountability and the lack thereof might only be a result of a distinction between the private and the public in the first place and we should not allow corporate actors themselves to determine their meanings (Hofferberth 2017).
equipped to understand or shape the social environment in which they operate, and that the tools they use are too blunt for the task at hand” (Litvin 2003: 225). In that light, corporate engagement in global governance has been explained based on reputational concerns and risk assessment but less as a consequence of internal sense-making and politics within corporate actors (Geppert/Dörrenbächer 2014). Considering in greater detail rather than in broad sweeps how individual MNEs respond to changing normative expectations advanced in global governance, both historically and in current dynamics, might be a way forward. In other words, global governance should not assume corporate agency to be determined by rational profit calculation but should consider its contingent and probing nature as it plays out in unique individual contexts (Hofferberth forthcoming).

Third and finally, summarizing the insights from recent UN debates, current notions of corporate agency, of what is appropriate and what not for MNEs, at least within the UN framework, are the result of rather unique historical and institutional dynamics since the 1970s. In other words, global governance emerged not naturally or uncontested but through historically contingent decisions, whose consequences might or might not have been anticipated at the time they were made. Among the specific dynamics, reasons internal to the UN stand out first. Here, I argued that particular individuals played an active role in inviting MNEs to the table. This was arguably motivated by the historical experience of the UNCTC and its failure to deal with the ‘MNE challenge’ in intergovernmental terms. As such, the bringing in of MNEs can be read as a decision born out of desperation and frustration with statist governance. Overall, with the first embrace at the Rio Earth Summit in 1992, the UN throughout the next years began to turn away from nation states and towards private actors. While states did not fight against this development, it was a unique moment of UN agency that set the course through critical junctures for the new role of corporate actors within global governance. Even more so, one can argue that corporate agency in global governance is a product of inter-organizational competition and an institutional ‘race to the bottom’ between different organizational frameworks to best accommodate business and carve out their own role in a world of advanced global governance beyond the nation state (Pingeot 2016: 194).

Any account of why MNEs were eagerly seen in a new role would be incomplete, though, without considering their unique assets and how they have been framed in debate. In other words, above and beyond the UN, there is an external dimension in this story which explains the shift to bring MNEs in functionalist terms. Following a broader neoliberal discourse, it was thus a perceived economic necessity and not a choice to encourage MNEs to become global governors. In other words, MNEs were invited to shift
away from their economic rationales towards a political mandate simply because they were viewed to field resources and expertise to deliver where states failed. Contrary to what individuals involved claimed (i.e. the UNGC promoted a less ideological debate and ended “decades of mutual suspicion between the UN and the private sector” (Kell 2013: 40)), I think it is fair to conclude that this very framework was equally ideological. Hence, the 1990s simply saw the replacement of an older ideology with a new one. That said, the discussion on MNEs and whether and how to regulate them reminds us, despite its current facticity, that politics (should) play a role in this. More specifically, corporate agency as it appears in the present, is the product of contingent and contested decisions in the past. To essentialize the outcome of this process and to conclude that the only option forward is to include them, at least ignores the many different shades of governance and regulation potentially available, both in conjunction with but also against MNEs. A reminder that global governance is not fate but choice and that there is more to consider than the black-and-white dichotomies of public/private, politics/economics or binding/non-binding thus seems to be in order and could help us advance debates, both politically and academically.

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