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## The UN and the Global Compact

In January of 1999, at the World Economic Forum at Davos, Switzerland, UN Secretary-General Kofi Annan issued a challenge to world business leaders to subscribe to a new system of “shared values and principles” that would place “a human face on the global market place;” it was introduced as the Global Compact.<sup>1</sup> As its prime objective, the Compact asks multinational corporations to embrace nine principles respecting human rights, equitable labor, and environmental protection. Specifically, the Compact urges businesses to recognize universal standards of human rights as articulated in the Universal Declaration of Human Rights, the International Labour Organisation’s Declaration on Fundamental Principles and Rights at Work, and the Rio Declaration on Sustainable Development, by promoting discrimination-free work environments, striving to eliminate child labor, and undertaking environmental responsibility. The UN ultimately hopes that the Global Compact will forge a new cooperation amongst itself, world businesses, business associations, NGOs, and governments, by establishing a universal set of norms and standards to be respected and implemented globally.<sup>2</sup>

The Global Compact comes as an auxiliary effort to one of the current focuses of the world community, namely globalization. Globalization is a continuing process whereby all areas and sectors of social, cultural, and economic life are becoming increasingly interconnected, either through trade, technology, or increased travel and awareness; it is, according to Kofi Annan, “defining of our era.”<sup>3</sup> Many, including Kofi Annan, believe that globalization will have positive effects around the world, namely equalized trade, expanded economic opportunities, and prosperity. However, in other circles, globalization’s effects have garnered a significant amount of criticism. Those skeptical of globalization’s potential point out that despite the international community’s goal of an all-

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<sup>1</sup> See *Business and Human Rights: A Progress Report* (January 2000), available at [www.unhchr.ch/business.htm](http://www.unhchr.ch/business.htm) (preface by Mary Robinson, High Commissioner for Human Rights) [hereinafter “*Business and Human Rights*”].

<sup>2</sup> See Global Compact, available at [www.globalcompact.org](http://www.globalcompact.org).

<sup>3</sup> See Barbara Crossette, *Globalization to Top Agenda of World Leaders at U.N.*, N.Y. TIMES, 9 September 2000, at A1.

inclusive and mutually beneficial economy, the opposite effect has often resulted.

In recent years, the international community has increasingly focused on international commerce's usual result — economic inequality. Specifically, one of the hottest issues has been the prevailing exploitative business practices of multinational corporations, who continue to impose substandard working conditions and poor wages on workers in manufacturing factories in developing nations. NGO's and other interest groups view these corporations as opportunists, seeking cheaper labor costs and higher profits by establishing outlets in developing nations where labor and working condition regulations can be circumvented, the so-called "race to the bottom." Such criticism culminated in a political outcry at the 1999 Seattle World Trade Organization meeting on liberalized trade, where vehement protests over corporate human rights and environmental violations resulted in blockaded streets, numerous arrests, and ultimately, the conference's termination.<sup>4</sup> To some, the Global Compact may pose an answer to this problem. Critics, however, point out that in doing so, the effort may present several challenges. Most importantly, this unprecedented alliance may violate the UN's mandated purpose as provided in its Charter.<sup>5</sup>

In 1945, the post-World War II international community collectively established the United Nations to serve the common interest of peacekeeping and to ensure that aggressive nation-building and the horrors of the Holocaust would never occur again. As set forth in its Charter, the UN was charged with preventing "successive generations from [experiencing] the scourge of war" and such atrocities as genocide and other crimes against humanity.<sup>6</sup> Specifically, the UN's primary purposes were to "maintain international peace and security," take collective measures to prevent and remove threats to peace, and "suppress[ ] acts of aggression or . . . breaches of peace." While the Charter included other aims such as achieving "international cooperation" in problems of an economic, social or

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<sup>4</sup> See Sam Howe Verhovek and Steven Greenhouse, *National Guard Is Called to Quell Trade-Talk Protests; Seattle Is Under Curfew After Disruptions*, N.Y. TIMES, 1 December 1999, at A1.

<sup>5</sup> See Global Compact, *supra* note 2 (explaining that interest groups fear the UN's goals are being encroached upon by the globalization agenda).

<sup>6</sup> U.N. CHARTER art. 1, para.1-3.

cultural nature, its main thrust was "promoting and encouraging respect for human rights and for fundamental freedoms."<sup>7</sup>

Within years of the UN's formation, its Member States came together once again to produce one of the most significant contributions to the international human rights agenda, the Universal Declaration of Human Rights ("UDHR"). The UDHR signified the international community's first attempt to embody universal principles such as "the right to be free from torture, the freedom to move within the borders of each state," and "the right to freedom of thought and religion" in a single, all-encompassing document. It proclaimed itself as a "common standard of achievement for all peoples and all nations."<sup>8</sup> Significant and far-reaching, the document signaled the beginning of a new era, one that recognized a universal standard to which all nations and governments should aspire and potentially subscribe.<sup>9</sup> Subsequently, the UN appointed a Commission on Human Rights to monitor and to stay abreast of human rights violations globally, so as to work toward encouraging the Charter and Declaration principles.

With the changing nature of international relations, the scope and purpose of the UN has indeed become tinged with economic and commercial concerns. As often as the lines are blurred between a prosperous economy and a higher quality of living, so too are they blurred in a downtrodden economy plagued by war, poverty and great disparities in the allocation of resources. Today (and probably throughout much of history) there is a direct correlation between poor, struggling economies and human rights violations, poor labor conditions, and environmental offenses. All of these issues arguably fall under the umbrella of "maintaining peace and security," "encouraging the respect for human rights and funda-

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<sup>7</sup> *Id.*

<sup>8</sup> Universal Declaration of Human Rights, *adopted* 10 December 1948, G.A. Res. 217A (III), U.N. Doc. A/810, at 71 (1948).

<sup>9</sup> It also served as a framework for many declarations and conventions that followed, which incorporated a human rights agenda into areas such as cultural, social and economic rights, as well as the rights of women and children. *See generally*, International Convention on Economic, Social and Cultural Rights, *adopted* 16 Dec. 1966, *entered into force* 3 Jan. 1976, G.A. Res 2200A (XXI), U.N. Doc. A/6316 (1966), 93 U.N.T.S. 3, *reprinted in* 6 I.L.M. 360 (1967); Convention on the Rights of the Child, *adopted* 20 Nov. 1989, *entered into force* 2 Sept. 1990, G.A. Res. 44/25, U.N. GAOR, Supp. (No. 49), U.N. Doc. A/44/49. At 166 (1989), *reprinted in* 28 I.L.M. 1448 (1989).

mental freedoms," and "achieving international cooperation," and, thus, the aegis of the United Nations.<sup>10</sup>

#### THE GLOBAL COMPACT:

In launching the Compact, Kofi Annan has come forward with nine principles to which multi-national corporations are urged to subscribe. These include:

Principle One: To support and respect the protections of internationally proclaimed human rights within their sphere of influence.

Principle Two: To make sure they are not complicit in human rights abuses.

Principle Three: To uphold freedom of association and effective recognition of the right to collective bargaining.

Principle Four: To promote the elimination of all forms of forced and compulsory labour.

Principle Five: To promote the effective abolition of child labour.

Principle Six: To uphold the elimination of discrimination in respect of employment and occupation.

Principle Seven: To support a precautionary approach to environmental challenges.

Principle Eight: To undertake initiatives to promote greater environmental responsibility.

Principle Nine: To encourage the development and diffusion of environmentally friendly technologies.<sup>11</sup>

The first principle focuses on the Compact's human rights objectives, and asks businesses to recognize the Universal Declaration of Human Rights as a universal standard. It further asks that corporations adopt the principles articulated in the UDHR and incorporate these aspirations into their own business practices. Specifically, this involves the commitment of companies to ensure "safe and healthy working conditions, freedom of association, non-dis-

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<sup>10</sup> See, U.N. CHARTER, *supra* note 6.

<sup>11</sup> See Global Compact, *supra* note 2.

crimination in personnel practices, no forced or child labour,” and “rights to basic health, education and housing.”<sup>12</sup> In addition, it asks businesses to be active in the outer community by working to “prevent the forcible displacement of individuals, groups or communities, to protect the economic livelihood of local communities, and to contribute to public debate.”<sup>13</sup>

The second principle asks businesses to initiate an independent security method in their operations, complicit with the above standards, while encouraging an assessment of a country’s human rights situation in the larger scheme before investing in that country. More importantly, the Compact urges multinational corporations to implement specific policies that protect the human rights of currently employed workers and to establish a monitoring system to ensure that human rights are not being violated through their corporate practices and procedures.<sup>14</sup>

Principles three through six delve into labor concerns, such as collective bargaining, compulsory labor, the abolition of child labor, and the elimination of employment discrimination. The Compact seeks to encourage more genuine dialogue with workers and employers, and hopes employers will allow freedom of association in order to help foster solutions to labor problems and disputes. Moreover, the Compact seeks to achieve equilibrium in the labor market by ridding the economy of compulsory labor, thereby facilitating greater choices for families and individuals to opt for other resources, like education. The hope is that this will result in a more stable economy — one where human capital is properly valued. Finally, the Compact urges companies to institute policies to fight discrimination based on “race, color, sex, religion, political opinion, national extraction or social origin” and suggests that, in order to accomplish this, corporations furnish an environment of equal treatment and opportunity. It also asks businesses to commit to protecting children by setting age minimums for employment in correlation with compulsory schooling ages, and entirely eliminating all forms of child labor in the workplace.

Lastly, principles seven through nine urge businesses to take early but cost-effective, preventative measures to avoid environmental damage and to increase self-regulation and ensure trans-

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *See id.*

parency of their policies. It further encourages the utilization and promotion of environmentally friendly technologies.<sup>15</sup>

#### OPPOSITION

Since its inception, the Global Compact has received criticism from NGOs, some corporations, and other interest groups. Critics have questioned whether the new focuses of globalization and the Global Compact are antithetical to the UN's mandate. Moreover, several of these groups convened the International Forum on Globalization and sponsored a teach-in during the UN Millennium Summit last September. Since independent economic organizations such as the World Trade Organization ("WTO") and the International Monetary Fund ("IMF") create lending policies and have a great influence on international prosperity, the Forum questioned the close association between the UN and such groups and expressed fears that such close ties might allow large multinational corporations and others driving globalization to usurp power within the UN. According to a number of the Forum's participants, these endorsements fall outside of the UN's "worthy goals" of "promoting peace, human rights, the environment, social justice, livelihoods and democracy."<sup>16</sup>

One particular NGO, the Transnational Resource and Action Center ("TRAC"), came out fervently against the Global Compact. TRAC's director believes that the wrong message is sent when the Secretary-General of the UN stands alongside "the top executives of the companies with bad reputations in the developing world," proclaiming a partnership in promotion of globalization.<sup>17</sup> The group has also issued a report listing other flaws of the Compact, such the UN's partnership with corporations like Nike, who TRAC believes has poor human rights, labor, and environmental records. It charges that the UN, by recognizing the commitment of these companies, consequently allows them to "bluewash" their reputations and images, allowing them to be embraced by the UN simply because they have subscribed to the Compact. It further criticizes the figurative form of "'partnership'" the UN is forming with these companies, and charges it with betraying its historically established mandate in doing so. Finally, critics charge that the Compact is

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<sup>15</sup> *See id.*

<sup>16</sup> *See* Crossette, *supra* note 3.

<sup>17</sup> *Id.* (quoting Joshua Karliner of TRAC).

lacking in enforcement mechanisms and has failed in putting a procedure in place for monitoring compliance.<sup>18</sup>

Developing nations have also been critical of the Global Compact and globalization for similar reasons. Talk-shop groups and activist organizations such as the UN Conference on Trade and Development ("UNCTAD") and the Third World Network, have blamed the current direction of trade on the processes of globalization and the Global Compact. Specifically, they have asserted that these have, in fact, widened the gap between rich and poor nations.<sup>19</sup> A UNCTAD report shows that tariff reductions resulting from attempts at tearing down trade barriers more likely than not, favor industrialized nations and, thus, large multinational companies. Furthermore, they argue that talks aimed at negotiation of trade agreements participated in by the WTO, such as the 1999 conference in Seattle, exclude developing nations and are "undemocratic." All of this, they say adds up to a select handful of rich nations who dominate the negotiations and "push trade agreements through to favor their own industries."<sup>20</sup> This has had a detrimental effect on the prosperity of developing nations who rely on the advantage of lower wages to garner trade.

#### IMPLEMENTING THE GLOBAL COMPACT

The business sector's recognition and even public acknowledgment of global economic and human rights concerns is a necessary step before implementation. Already, fifty of the world's largest corporations have signed the Global Compact, committing to abide by its principles. Corporations such as BP Amoco, Royal Dutch Shell, and Novo Nordisk have "formally and publicly acknowledged responsibility for ensuring that their actions are consistent with human rights [standards by] invoking the Universal Declaration of Human Rights."<sup>21</sup> Indeed, the UN recognizes this as essential for accountability. It also believes that it is a critical component to the three-step process of engaging corporations to make the commitment as set out in the UDHR, begin setting a framework to address

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<sup>18</sup> See Tangled Up in Blue (September 2000), available at [www.corpwatch.org](http://www.corpwatch.org).

<sup>19</sup> See *Third World Seeks Fair Free Trade; Nations Want Voice in Global Practice*, CHI. TRIB., 10 February 2000, at 4.

<sup>20</sup> See *id.*

<sup>21</sup> See *Business and Human Rights*, *supra* note 1.

its own corporate responsibilities in obeying human rights, and further contribute to the force of the document.<sup>22</sup> Royal Dutch Shell, for example, publicly proclaimed its commitment to the Global Compact and pointed to its business principles, which require and articulate said “common values” as well as “support for fundamental human rights and sustainable development.”<sup>23</sup> Shell, which was present at the launching of the Global Compact, announced that it will meet the challenges of corporate responsibility and of the Global Compact.<sup>24</sup>

While some multinationals have exhibited a positive response, others are fearful of the consequences of signing such a promise. Critics have charged that the Global Compact will impose more stringent responsibility on corporations over and beyond the call of duty. The Secretary-General of the International Chamber of Commerce, Maria Livanos Cattai, issued a statement, clarifying that while business do have a responsibility to be “good corporate citizens,” they do not have an obligations to meet the demands normally imposed on governments — to ensure laws are enforced and the distribution of wealth is guarded.<sup>25</sup> In addition, the Secretary-General reiterated that meeting their obligations to shareholders, customers and employees was among the other primary goals of businesses. Indeed, reconciling these dual responsibilities presents a challenge that the Global Compact hopes to remedy. Ultimately, the UN sees the collaboration as fruitful, and as an “expanding relationship” between itself and the business community in hopes of safeguarding “basic social values.”<sup>26</sup>

#### ENFORCEMENT

The issue of enforcement will undoubtedly pose another challenge to the Global Compact. It begs the question: how will the UN congenially coerce companies into subscribing to a set of principles that can be demonstrably adopted but never incorporated? While international law, in large part, lacks the binding aspects of domestic law, countries have much to gain by endorsing a doctrine

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<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> See Maria Livanos Cattai, *Letters to the Editor*, FIN. TIMES, 24 March 1999, at 18.

<sup>26</sup> See Tangled Up in Blue, *supra* note 18.

such as that espoused in the Compact — according to the UN, joining the Global Compact has its perks.

First, the UN believes that by establishing uniform standards the Compact will provide “a common framework for the corporate sector” to address human rights, labor, and environmental norms.<sup>27</sup> A uniform definition will also provoke a coordinated effort of response for corporations, resulting in a more adequate representation of responsibility and accountability.<sup>28</sup> The Compact will further urge accountability, by requiring that businesses “post [ ] yearly update[s] on their progress . . . [whereby] they will be subject to criticism by NGOs of their performance.”<sup>29</sup> Moreover, there is another mechanism built into transparency, as “[t]ransparency and the accountability of public opinion can be as powerful a force as any enforcement mechanism that can be devised.”<sup>30</sup> Although NGOs ardently call for measures such as trade sanctions toward non-complicit corporations, or negotiating a binding code of compliance, the UN has responded that such an approach falls outside of their mandate, and would be unproductive and unrealistic to negotiate.<sup>31</sup>

#### CONCLUSION

The question remains as to whether the UN has exceeded Charter-based limitations of working toward world peace through the promotion of globalization and the Global Compact. One fact, however, is certain: in the last half-century, as the barriers between nations have become more attenuated, the world community has grown to become a complex blend of sociological, cultural, political, and economic relationships. The need of the international community to call upon those bodies that facilitate and improve these relationships, i.e., to address and answer the shifting paradigms, will only increase. This will undoubtedly require the efforts and actions of the UN.

Hopefully, as we move into the 21st century, the progress of the 53 years since the UN's creation will continue, as will the ob-

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<sup>27</sup> See *Business and Human Rights*, *supra* note 1.

<sup>28</sup> See *id.*

<sup>29</sup> See Edward Alden, *Multinationals In Labour Pledge: Trade Liberalisation Voluntary Plan Will Hold Companies To Account*, *WORLD NEWS*, 28 July 2000.

<sup>30</sup> *Id.*

<sup>31</sup> See *Business and Human Rights*, *supra* note 1.

served duty of each nation to work collectively to meet the demands of achieving world peace and universal human rights. As demonstrated, these objectives, which collectively form the goal of international cooperation, are necessarily of invaluable importance to the global community and are, therefore, ones that we all must honor and answer.

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