

Schwieder, Robbie

Research Report

Broadening the Global Compact agenda

Columbia FDI Perspectives, No. 189

Provided in Cooperation with:

Columbia Center on Sustainable Investment (CCSI) - A joint center of Columbia Law School and the Earth Institute, Columbia University

Suggested Citation: Schwieder, Robbie (2016) : Broadening the Global Compact agenda, Columbia FDI Perspectives, No. 189, Columbia University, Columbia Center on Sustainable Investment (CCSI), New York, NY

This Version is available at:

<https://hdl.handle.net/10419/254023>

Standard-Nutzungsbedingungen:

Die Dokumente auf EconStor dürfen zu eigenen wissenschaftlichen Zwecken und zum Privatgebrauch gespeichert und kopiert werden.

Sie dürfen die Dokumente nicht für öffentliche oder kommerzielle Zwecke vervielfältigen, öffentlich ausstellen, öffentlich zugänglich machen, vertreiben oder anderweitig nutzen.

Sofern die Verfasser die Dokumente unter Open-Content-Lizenzen (insbesondere CC-Lizenzen) zur Verfügung gestellt haben sollten, gelten abweichend von diesen Nutzungsbedingungen die in der dort genannten Lizenz gewährten Nutzungsrechte.

Terms of use:

Documents in EconStor may be saved and copied for your personal and scholarly purposes.

You are not to copy documents for public or commercial purposes, to exhibit the documents publicly, to make them publicly available on the internet, or to distribute or otherwise use the documents in public.

If the documents have been made available under an Open Content Licence (especially Creative Commons Licences), you may exercise further usage rights as specified in the indicated licence.



Columbia FDI Perspectives

Perspectives on topical foreign direct investment issues

No. 189 December 19, 2016

Editor-in-Chief: Karl P. Sauvant (Karl.Sauvant@law.columbia.edu)

Managing Editor: Daniel Allman (daniel.allman@columbia.edu)

Broadening the Global Compact agenda

by

Robbie Schwieder *

The UN Global Compact provides “a framework of reference and dialogue” designed to encourage firms to embrace “a set of core values in the areas of human rights, labour standards, and environmental practices.”¹ However, critics argue that the Compact’s corporate social responsibility (CSR) measures fail adequately to address certain development issues. To that end, this *Perspective* proposes adding two development-oriented principles to the Compact,² dealing with poverty reduction and taxation. The new principles strike a balance between encouraging multinational enterprises (MNEs) to act within their sustainable self-interest and introducing new guidelines for socially responsible business that comport with today’s development agenda, as conceived by the UN’s 2015 Sustainable Development Goals (SDGs).

Principle #1: “Businesses should assess their impact on poverty as a component of corporate performance and publicly undertake to maximize their positive impact on poverty reduction.” Poverty reduction is a central hallmark of modern sustainable development initiatives. The SDGs represent only the most recent program aimed at permanently lifting individuals out of poverty. However, CSR measures have as yet failed to address the impact of business activities on impoverished individuals and communities. This deficiency remains despite recent literature backing the “business case” for poverty-related CSR measures, which suggests that “[b]usinesses can gain three important advantages by serving the poor—a new source of revenue growth, greater efficiency, and access to innovation.”³

The proposed language accommodates short-term profitability concerns while encouraging corporate leaders to tackle the poverty agenda head-on. Simultaneously, it addresses differences in MNEs’ areas of operation, business sector focuses and internal structures by calling on MNEs to evaluate the unique impact of their corporate strategies on poverty. Among other things, these analyses might consider the effects of technology transfer and engagement with local suppliers/partners on impoverished individuals and communities. Critics might still attack such a principle as vague and easily contravened

by resourceful corporations. However, requiring internal poverty assessments will, at the very least, spur corporate dialogue on poverty reduction. Moreover, mandating that a business publicly disclose its attempts at maximizing its positive impact on poverty reduction could indicate to global consumers the depth of that organization's commitment to the poverty agenda.

Principle #2: “Businesses should work against tax evasion in all its forms, including dishonest tax reporting and tax sheltering.” In recent years, scholars and non-governmental organizations have become increasingly skeptical of firms that claim to be socially responsible while simultaneously “employing an army of accountants to try and avoid paying their full social and economic duty.”⁴ The failure of businesses to shoulder their “fair” tax burden depletes governments’ ability to provide citizens with essential educational, healthcare and security services. By mirroring one of the Compact’s existing tenets, the proposed language would equate tax evasion with corruption, encouraging businesses to ensure that they help finance the public benefits they enjoy as global citizens.

Importantly, the principle proscribes only tax evasion (i.e., the use of extralegal means to avoid paying owed taxes), not tax avoidance (i.e., employing legal strategies available under existing tax codes to minimize tax liabilities). This distinction could be attacked as too narrow, but it would be little use for the Compact to denounce what countries have purposefully allowed.⁵ Plus, an avoidance-inclusive principle would face substantial enforcement challenges, since determining whether MNEs have shouldered their full tax burden would require an enormous amount of data/manpower.

The Global Compact represents an extraordinary opportunity for encouraging corporate leaders to adopt CSR initiatives, but has so far overlooked the development impacts of corporate behavior. By adopting principles like those proposed above, the UN could start bridging that gap while securing the Compact’s position at the forefront of the CSR movement.

* Robbie Schwieder (robbie.schwieder@gmail.com) is a J.D. Candidate at Columbia Law School. The author is grateful to Klaus Leisinger, Peter Muchlinski and Rob van Tulder for their helpful peer reviews. **The views expressed by the author of this *Perspective* do not necessarily reflect the opinions of Columbia University or its partners and supporters. *Columbia FDI Perspectives* (ISSN 2158-3579) is a peer-reviewed series.**

¹ Kofi Annan, “Address of the Secretary-General to the World Economic Forum in Davos, Switzerland,” Feb. 1, 1999, available at <http://www.un.org/press/en/1999/19990201.sgsm6881.html>.

² While the Compact’s signatories may protest the adoption of new principles (especially given the UN’s 2004 pledge not to amend the instrument further), the UN can and should update the Compact when necessary to address “the most pernicious obstacles to growth and development”: Kofi Annan, “Experience shows that voluntary initiatives ‘can and do work’,” Jun. 24, 2004, available at <http://www.un.org/press/en/2004/sgsm9387.doc.htm>. If not, the Compact will become obsolete, given the ever-changing corporate landscape.

³ C.K. Prahalad and Allen Hammond, “Serving the world’s poor, profitably,” *Harvard Business Review*, vol. 80 (2002), p. 51.

⁴ Eddy Rich, cited in UNRISD, “Corporate social responsibility and development: towards a new agenda” (Geneva: UNRISD, 2004), p. 5. Indeed, scholars have called for a tax-focused Compact principle since at least 2011. See Lorraine Eden and L. Murphy Smith, “The ethics of transfer pricing,” p. 27, available at <https://business.ualberta.ca/-/media/business/research/conferences/fraudinaccountingorganizationsandsociety/documents/eden-smith-ethics-of-tp-aos-uk-final.PDF>.

⁵ Some countries have introduced laws to reduce tax avoidance (e.g., transfer pricing controls, anti-offshoring provisions), and some administrative bodies have called for more aggressive anti-avoidance CSR measures (e.g., the Principles for Responsible Investment’s 2015 Engagement Guidance on Corporate Tax Responsibility). But adopting a too-strong anti-avoidance principle when no international consensus about the legality of tax avoidance exists risks rendering it (and possibly the Compact itself) quixotic and impracticable.

The material in this Perspective may be reprinted if accompanied by the following acknowledgment: “Robbie Schwieder, ‘Broadening the Global Compact agenda,’ Columbia FDI Perspectives, No. 189, December 19, 2016. Reprinted with permission from the Columbia Center on Sustainable Investment (www.ccsi.columbia.edu).” A copy should kindly be sent to the Columbia Center on Sustainable Investment at ccsi@law.columbia.edu.

For further information, including information regarding submission to the *Perspectives*, please contact: Columbia Center on Sustainable Investment, Daniel Allman, daniel.allman@columbia.edu.

The Columbia Center on Sustainable Investment (CCSI), a joint center of Columbia Law School and the Earth Institute at Columbia University, is a leading applied research center and forum dedicated to the study, practice and discussion of sustainable international investment. Our mission is to develop and disseminate practical approaches and solutions, as well as to analyze topical policy-oriented issues, in order to maximize the impact of international investment for sustainable development. The Center undertakes its mission through interdisciplinary research, advisory projects, multi-stakeholder dialogue, educational programs, and the development of resources and tools. For more information, visit us at <http://www.ccsi.columbia.edu>.

Most recent Columbia FDI Perspectives

- No. 188, Karl P. Sauvart, Mevelyn Ong, Katherine Lama, and Thor Petersen, “The rise of self-judging essential security interest clauses in international investment agreements,” December 5, 2016.
- No. 187, Jan Knoerich, “Why some advanced economy firms prefer to be taken over by Chinese acquirers,” November 21, 2016.
- No. 186, Jose Guimon, “From export processing to knowledge processing: upgrading the FDI promotion toolkit,” November 7, 2016.
- No. 185, Frank J. Garcia, “Investment treaties are about justice,” October 24, 2016.
- No. 184, Lukas Linsi, “Less compelling than it seems: rethinking the relationship between aggregate FDI inflows and national competitiveness,” October 10, 2016.

All previous *FDI Perspectives* are available at <http://ccsi.columbia.edu/publications/columbia-fdi-perspectives/>.