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**“Transnational private regulation in the areas of health, environment,  
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(Nicole Helmerich und Olga Malets)

**The multi-stakeholder approach in the United Nations:  
unprecedented perhaps, but not unexpected**

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***Abstract***

The proliferation of multi-stakeholder initiatives and standard-setting – in areas as diverse as environment, labor or financial reporting – is a much discussed phenomenon in transnational private regulation. Multiple actors from NGOs, corporations, scientific communities, sometimes also from governments and international organizations negotiate collectively on regulatory arrangements for the global economy. The growth and normative appeal of transnational regulation through multi-stakeholder arrangements is puzzling, however. There are significant shortcomings of the underlying governance model. A lot of times, stakeholder inclusion is neither representative nor balanced, decision-making lacks transparency, and accountability mechanisms are absent. This paper suggests to address this puzzle by bringing international organizations into the picture. It locates this interest in the history of the United Nations global conferences. Over the last four decades, they have evolved into public-oriented events of global norm-setting in which processes of institutional entrepreneurship were instrumental in constructing the normative appeal of multi-stakeholder governance. Endorsement of stakeholder governance at the global conferences of the new millennium is therefore perhaps unprecedented, but it is not unexpected.

## *Introduction*

The proliferation of multi-stakeholder initiatives and standard-setting – in areas as diverse as environment, labour or financial reporting – is a much discussed phenomenon in transnational private regulation (e.g., Fransen & Kolk 2007; Hall & Biersteker 2002; O'Rourke 2006; Tamm Hallström & Boström 2010). In this stakeholder model or “post-sovereign hybrid form” of governance (Bäckstrand 2006: 493), multiple actors negotiate collectively on regulatory arrangements for the provision of stability in the global economy. Multi-stakeholder governance brings actors from diverse social spheres, like NGOs, corporations, governments, international organizations, and scientific communities together and is a means to accommodate competing interests in policy-making. A characteristic feature of these arrangements is that the traditional hierarchical relationship between government actors as ‘subjects of control’ and private or civil society actors as ‘objects of control’ is diminishing (Schäferhoff et al. 2009). With states as only one type of actor among others, the logic of work in the stakeholder model of governance is not external control but rather self-discipline (Djelic & Quack 2003). Ensuing standards and principles or other forms of ‘soft law’ underpin this logic.

Despite its shortcomings, the cross-sectoral, multi-stakeholder model of governance is perceived today as “the most legitimate and effective form available” in global governance (Khagram & Ali 2008: 149). This paper seeks to understand why, following Bartley’s (2007:310) suggestion that state-based actors play “key roles in creating and negotiating global orders”, including multi-stakeholder arrangements as the future form of international cooperation moving beyond traditional nation-state multilateralism. It locates this interest in the history of the United Nations global conferences and summits, drawing among others on Bäckstrand’s (2006: 469) argument that after the Rio de Janeiro ‘Earth Summit’ (1992) these events “have emerged as an important arena in which experiments with new forms of stakeholder participation have gained prominence” (see also Brühl & Rosert 2008). Among the UN’s global conferences, the two-part World Summit on the Information Society (WSIS) (Geneva, 2003 and Tunis, 2005) stands out. After the UN General Assembly decided that the WSIS should be organized as a multi-stakeholder event (GA Resolution 56/183), the summit was labelled an “innovation” and “critical juncture in global governance” (Dany 2008; Kleinwächter 2005). The underlying view was that the WSIS provided an “unprecedented design” for political access of non-state actors to decision-making bodies and agenda-setting arenas in the UN (Steffek & Nanz 2008: 25).

The hype around the WSIS, however, sometimes missed the point that the multi-stakeholder approach has become *the* model for non-state actor participation in intergovernmental forums (Selian 2004; Susskind et al. 2003). Although the UN was originally set up as the primary international arena for governments to make decisions on collective action for international peace and security, it evolved into a world organization in which the supremacy of the nation-state in deliberations on subjects from poverty to peace and security, from disputed borders to women’s rights to the protection of fish in the sea is challenged (Arts 2003; Friedman et al. 2005; Thakur & Weiss 2009). The history of UN global conferences is indicative of this process. Over the last four decades, the UN’s Economic and Social Council convenes global conferences and summits to raise awareness for boundary-spanning problems like environmental degradation, financing for development or governance of the Internet. Their significance rests in their normative power (Bernstein 2000). UN conferences are important arenas for the construction of global norms, including the “pro-NGO international norm”

which puts pressure on states and international organizations to include non-state actors in policy processes (Reimann 2006: 46).

This paper's analysis of the ways in which UN global conferences turned into a platform for the rise of the stakeholder model of governance shows that construction of this norm cannot sufficiently be understood with a 'view from the top', as suggested by Reimann (2006) or other scholars in International Relations. Over the years, non-state actor involvement has taken on a life of its own. There were subtle changes at play in the participatory arrangements for non-state actors in UN global conferences, giving momentum to the perceived success and normative appeal of the stakeholder model of governance. The paper's argument goes that these changes were crucial in the more recent rise of a rule-based (rather than act-based) understanding of global governance in which engagement of different stakeholders in decision-making has become a standard of appropriate behavior.

To embed the Information Society Summit in its history and provide an analytical framework for the rise of the stakeholder model in the UN, exploration of the "institutional entrepreneurship" notion and its underlying processes is useful (e.g., DiMaggio 1988; Greenwood & Suddaby 2006; Hardy & Maguire 2006; Seo & Creed 2002; Wijen & Ansari 2006). Rather than assuming a watershed in international diplomacy, processes of institutional entrepreneurship highlight how subtle changes have been taken place in the participatory arrangements for non-state actors, asking how actors were breaking "away from scripted patterns of behavior" (Dorado 2005: 388) in order to create new institutions through 'bricolage' (Djelic & Quack 2003; Lawrence & Suddaby 2006), i.e. multi-stakeholder arrangements as a legitimate form of governance.

Arguing along these lines, three claims are made; namely (1) that emergence of the stakeholder model of governance is the result of subtle changes in the UN, (2) that the history of non-state actor involvement in UN global conferences helps explain why the stakeholder model of governance is perceived as legitimate, which supports the view (3) that multi-stakeholder arrangements gained in strength because they were encouraged or created by international organizations (see, e.g. Conca 2006; Falkner 2003). The latter claim provides the context of this paper's focus on UN summitry as an explanatory variable for the normative appeal of stakeholder governance. To illustrate diffusion of this governance form, the next section provides a brief review of multi-stakeholder standard-setting. It shows that a 'shadow of hierarchy' with boundaries between public and private actors at the blurring end of the continuum seems to be pertinent for transnational private regulation through multi-stakeholder standard-setting (Botzem & Hofmann 2010; Knill & Lehmkuhl 2002; Tamm Hallström & Boström 2010). Discussion of how *private* transnational regulation is will therefore seal the paper.

### ***Multi-stakeholder standard-setting***

There is a shift from public to private forms of governance with private authority on the rise and a de-centering of regulation underway. There is broad agreement that multi-stakeholder standard-setting has grown strong as a regulatory form because of a disjuncture between globalizing supply chains and a lack of regulatory capacity at the global level (Fransen & Kolk 2007; O'Rourke 2006; Tamm Hallström & Boström 2010). Pattberg (2005), for instance, argues that governments have lost their monopoly in authoritative problem-solving and rule-making. Taking as examples the Coalition for Environmentally Responsible Economies (CERES) and the Forest Stewardship Council (FSC) the argument is made that private governance has taken root as a 'functional equivalent' to public forms of governance.

CERES and FSC may be considered early role models for transnational rule-making with the former founded in 1989 to devise codes of corporate conduct for the endorsement of environmental principles. After initial partnership with the UN Environmental Program and growing funding from UN sources, CERES evolved into the Global Reporting Initiative (GRI) in 1997 to integrate and harmonize non-financial reporting schemes (e.g. Khagram & Ali 2007). The FSC was founded in the wake of the Rio Earth Summit (United Nations Conference on Environment and Development/UNCED) as an independent and not-for-profit organization to promote the responsible management of the world's forests with a certification scheme. Pattberg (2005) finds that transnational rule-making capacity is demand-driven and crystallizes into institutionalized forms if it meets with a broad inclusive idea, which helps to integrate resources that reduce transaction costs or improve the strategic positions of the business and nonprofit actors involved.

More recently, Pattberg and Dingwerth (2009) revealed the institutionalization of multi-stakeholder standard-setting. They found “something akin to a standard model around which the *design, rhetoric, and process* of [these] transnational rule-making organizations converge” (idem: 7). Analysis of thirteen cases from forest certification schemes, CSR codes of conduct and the World Commission on Dams (WCD) shows that transnational rule-making through multi-stakeholder standards rests (a) on a division of labor between a board of directors, a permanent secretariat and a larger stakeholder body (design); (b) strong emphasis on inclusiveness, transparency, accountability and deliberation (rhetoric); which (c) translates into participatory elements such as public comments periods, regional stakeholder consultations or expert deliberations (process). Yet, as the following discussion illustrates, espoused principles of multi-stakeholder standard-setting do not necessarily translate into practice.

Multi-stakeholder standard-setting builds essentially on the idea that actors from diverse societal spheres are brought together into one policy-making process to combine their competences and to assemble their competing interests (Tamm Hallström & Boström 2009, 2010). The problem is that stakeholder groups can differ significantly in their ability to manage their internal diversity and to be perceived as a united group in multi-stakeholder standard work. In ISO corporate social responsibility standard-setting (ISO 26000), for instance, the heterogeneous NGO stakeholder group lacked the ability to accommodate its various interests and did not resonate well in setting the standards. Industry, by contrast, managed to present itself as a united group and benefited from “meta-organizing” (Ahrne & Brunsson 2008) in other forums like the International Chamber of Commerce or the International Organization of Employers.

That categorization of stakeholder groups makes a big difference in standard-setting becomes also apparent in the comparison between the standard-setting of the FSC and the industry-led Program for the Endorsement of Forest Certification (PEFC). Multi-stakeholder standard-setting can be rather restrictive in the range of ‘good’ or ‘appropriate’ stakeholders, while “it is not always clear that [the standards] are truly multi-stakeholder in their operations” (Fransen & Kolk 2007: 678).<sup>1</sup> That “corporatism goes global” is therefore a recurrent criticism on multi-stakeholder standard-setting and challenges proponents of private

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<sup>1</sup> Fransen & Kolk (2007) further analyzed monitoring of CSR standards. Their study shows that monitoring systems in which the different stakeholders can participate to perform the role of watchdog jointly are the minority of the 22 standards for responsible business behavior. In three out of four cases firms prefer to hire professional audit companies rather than engage critics of business behavior among NGOs and/or trade unions to co-perform the role of watchdog.

governance to preserve the status quo in a globalizing economy rather than actually solve labor or environmental problems (Ottaway 2001; O'Rourke 2006).

The notion of purely private forms of governance has been criticized as of only limited empirical and conceptual relevance (Falkner 2003). The range of channels through which 'commands' flow, in the sense of standards for appropriate behavior, have also diversified inside international organizations. The World Commission on Dams (WCD) is a vivid and well-studied example (e.g. Conca 2006; Dingwerth 2005; Dubash 2009). It was initiated by the World Bank in a stakeholder workshop in Switzerland (1997) with the help of the International Union for the Conservation of Nature (IUCN). In the face of fierce criticism on large dam building, the idea was to promote a constructive dialogue between proponents and opponents of large dams. After a detailed survey of 125 dams, in-depth case studies, country-level reviews and regional hearings, a final report was published at the World Summit for Sustainable Development (WSSD) in 2002 in Johannesburg which contains good practice standards for dam building. The work of the 12 WCD Commissioners and their staff is continued in the Dams and Development Project of the UN Environmental Program (UNEP). Like the WCD, it is set up as a multi-stakeholder body with a steering committee, a stakeholder forum and a secretariat.

The WCD's multi-stakeholder set-up and operation has been heralded as a blueprint on which future decision-making processes in global governance can be modeled and an example of a "larger upsurge of global activity by non-state actors as a potent new force on the global political scene" (Dubash 2009: 219; Dingwerth 2005). But looking behind the scenes of this grand rhetoric shows that the WCD was elite-driven, using stakeholder consultations to propagate norms rather than as an opportunity to get feedback, and that it lacked formal accountability mechanisms. Despite these shortcomings, the promise of transnationally backed norm generation, however slim, continues to attract much attention in studies on the WCD and beyond.

Multi-stakeholder standard-setting is permeated by a view of democracy that emphasizes dialogue and deliberation (e.g., Dingwerth 2005; Djelic & Sahlin-Andersson 2006; Dubash 2009; Mörtz 2008). It is related to the widely perceived legitimacy crisis of intergovernmental organizations. Bartley (2007: 336), for instance, suggests that, "conflicts over the legitimacy of governmental and intergovernmental regulation created spaces for private systems to emerge and gave a wide range of actors a stake in these nascent institutional regimes." The FSC was initiated in response to the failing intergovernmental negotiations on a forest convention at the Rio Earth Summit (1992), for instance, whereas the Marine Stewardship Council developed in a much denser institutional environment in which the European Commission is perceived as a competitor in policy-making for the conservation and management of living marine resources. Moreover, the international accounting standards by the International Accounting Standards Board (IASB) were initially developed by private actors to rival existing national accounting regulations but have become de-facto standards for financial reporting after the EU decided to make them mandatory from 2005 onwards.

Thus, for multi-stakeholder standards to become (and stay) authoritative, they have to be constructed as legitimate among a broad group of stakeholders, including state-based actors (Tamm Hallström & Boström 2010). That processes of institutional entrepreneurship are instrumental in constructing the legitimacy of multi-stakeholder governance is the focal point of this paper's analytical framing.

## ***Constructing legitimate institutions through institutional entrepreneurship***

Like many (public) organizations, the United Nations can be conceived as relatively robust against exogenously determined desires and capabilities (Brunsson 1989; Brunsson & Olsen 1993; March & Olsen 1998). It relies significantly on conventions, standard operating procedures and habits in international policy planning (Zürn & Young 2006). The new institutionalism of organization sociology has a strong record in attending to the ways in which organizational behavior reflects socially constructed, taken-for-granted aspects of appropriate conduct, i.e. to act legitimate (e.g. Meyer & Rowan 1977; March & Olsen 1989; Scott 2001). Over the last decade, this school of thought increasingly discovered that the appropriateness of organizational conduct is not carved into stone and developed an interest in the notion of “institutional entrepreneurs”, introduced by DiMaggio (1988): organized and calculative actors with sufficient resources who envision new institutions to realize their interests.

The idea behind institutional entrepreneurs is to reintroduce agency in sociological new institutionalism. Concern for agency can perhaps best be described in terms of Seo and Creed’s (2002) “paradox of embedded agency.” This paradox is based on the puzzle that actors become tempted to impose change upon institutions by which they are constrained. The premise is that institutions cannot be changed by will as actors and interests are themselves institutionally constituted. Greenwood & Suddaby (2006), for instance, highlight that consideration of institutional entrepreneurship calls for understanding how agency qualifies institutional determinism: “Actors become motivated and enabled to impose change upon institutions by which they are constrained” if they are “peripheral organizational players” (idem: 28, 29).

According to this view, the ‘new’ kinds of actors in global politics – stakeholders from civil society and the private sector – can be conceived as the fringe actors in the intergovernmental negotiations of UN global conferences. They may take the bottom-up road and operate through mimetic and normative pressure because they do not have the means to realize interests that they value highly through coercion and sanction from above (Djelic & Quack 2003). Moreover, experience of institutional contradictions like efforts to increase the democratic deficit of international organizations with an inclusive rhetoric that are decoupled from final decision-making can motivate peripheral actors to envision practical action for change. It moves them “from unreflective participation in institutional reproduction to imaginative critique of existing arrangements to practical action for change” (Seo & Creed 2002: 231).

**Hypothesis 1:** Opening up the door of global conferences for non-state actors facilitates institutional entrepreneurship. These actors are peripheral players in the multilateral negotiations of these conferences, motivated to bring about change.

Beyond properties and positions of individual actors in institutional entrepreneurship, the *process* itself is perhaps more important for understanding the rise of the stakeholder model of governance within the spatially dispersed and heterogeneous activities of the UN’s global conferences. Institutional entrepreneurship is about resource-full actors in a context of upheaval and change as it is about vested interests and power relations. The process of institutional entrepreneurship surfaces both, the proponents of change and their opponents who may engage in some form of counter-framing (Maguire & Hardy 2006). It highlights the

potential “messiness” of institutional entrepreneurship and accounts for the possibility that outcomes are likely which do not reflect the intentions of the actors involved, pointing “to the potentially unintended effects of behaviors in complex social processes and to the emergent qualities of institutional schemes” (Djelic & Quack 2003: 9). What is described by some as a “somber conclusion” – namely that multi-stakeholder initiatives have only very limited effect on regulation, implementation and participation deficits (Biermann et al. 2007: 256) – is evidence for this paper’s analytical framing that the origin of these schemes cannot be read backward of their espoused functions or features (Bartley 2007; Thelen 2003).

In UN global conferences, there are contests over legitimate participation among state and non-state actors, and representatives of international secretariats. These are not only about the framing of global problems that require governance beyond the nation-state but also about the form of arrangements that guide decision making about global norms and feasible strategies for problem solving (Dany 2008; Mueller et al. 2007). Emergence of the stakeholder model of governance may therefore rest on a micro-level interplay of interests, power, and cognition that trickles up to agency if, for instance, an agenda is set that others believe to be in their own interest, alliances are being built to allow for negotiating blocs, and incentive structures are devised to ensure commitment (Wijen & Ansari 2006).

Such contentious processes of reinterpretation, recombination and ‘bricolage’ are constituted by established rules and beliefs (Djelic & Quack 2007), and so rely on skills and resources that are themselves constituted by institutions (Lawrence & Suddaby 2006). This implies that emergence of the stakeholder model of governance and its institutionalization in the UN is likely to take shape as gradual but transformative change but cannot be traced to clearly identifiable single ruptures (Streeck & Thelen 2005; Thelen 2003). Conceptualizing processes of institutional entrepreneurship in terms of gradual but transformative change thus means that reinterpretation of established arrangements or extant practices, contestation of their purposes and sponsorship of amendments and additions is instrumental (Djelic & Quack 2007).

**Hypothesis 2:** Processes of institutional entrepreneurship in UN global conferences are contested among the variety of actors from governments, international secretariats, the private sector and civil society. They take shape in spatially dispersed and heterogeneous activities and are likely to effect gradual but transformative change.

#### *Analyzing processes of institutional entrepreneurship with forms of institutional work*

The two lead hypotheses as formulated above frame the empirical analysis of the emerging stakeholder model of governance in the history of UN global conferences. Going into depth about institutional entrepreneurship in the current case will be facilitated through use of different forms of “institutional work”, as identified by Lawrence and Suddaby (2006). This “broad category of purposive action aimed at creating, maintaining and disrupting institution” (idem: 216) brings out the paradox of embedded agency that is pertinent to processes of institutional entrepreneurship. Institutional entrepreneurship may end up in the creation of institutions, but it goes also hand in hand with a delegitimation of taken-for-granted prescriptions of conduct. For the end of this study, a selected number of creative forms of institutional work are brought together with those that maintain or reproduce sets of extant practices (see the table below). Institutional work that is associated with the disruption of institutions, however, is not considered relevant for the present case. The ‘new’ actors in UN

global conferences have presumably neither the means nor an interest in undermining the established way of going about summitry.

<b>Forms of institutional work</b>		<b>Definition</b>
<b>Creation</b>	Advocacy	The mobilization of political and regulatory support through direct and deliberate techniques of social suasion (lobbying, promoting agendas, proposing or attacking legislation)
	Defining	The construction of rule systems that confer status or identity, define boundaries of membership or create hierarchies within a field
	Mimicry	Associating new practices with existing sets of taken-for-granted practices, technologies and rules in order to ease adoption
	Theorizing	The development and specification of abstract categories and the elaboration of chains of cause and effect
<b>Maintenance</b>	Enabling work	The creation of rules that facilitate, supplement and support institutions, such as the creation of authorizing agents or diverting resources
	Mythologizing	Preserving the normative underpinnings of an institution by creating and sustaining myths regarding its history
	Embedding and routinizing	Actively infusing the normative foundations of an institution into the participants' day to day routines and organizational practices

Table: Forms of institutional work in entrepreneurship processes (adapted from Lawrence & Suddaby, 2006: 221, 230)

“Advocacy” of interest associations and social movements, and “defining” through formalized standards and certification processes are political activities for the creation of institutions. The actors involved either influence the perception of institutional rules or create constitutive rules that enable institutional action. Compared to “mimicry” and “theorizing”, these activities have far greater potential to lead to novel constructions of institutions. The latter forms of institutional work do not aim at reconstruction of rules systems but rather lead to extension or elaboration of existing institutions – through new entrants in a field that associate new practices with established ways of doing and through naming of these new practices so that they can become part of the abstract meaning system. Creation of institutions is likely to be met with resistance among those actors who are served by existing sets of arrangements. Institutions are reproduced and established norms and belief systems maintained if rules are created that facilitate them (“enabling work”), the past becomes more important than the present through mythologizing history (“mythologizing”), or efforts are made to infuse the (new) participants’ experiences with the normative foundations of an institution. Together, these forms of institutional work maintain existing arrangements and effect persistence in the context of upheaval.



## ***Emergence of the stakeholder model of governance in the history of UN global conferences***

Studying the emergence of the stakeholder model in UN global conferences follows the temporal distinction that is often made in research on these events (e.g., Emmerij et al. 2001; Messner & Nuscheler 1996; Schechter 2005). Mapping the process of institutional entrepreneurship in UN conferences along these lines, a distinction is made between the early conferences of the 1970s and 1980s, those that were organized after the end of the Cold War, and the WSIS to exemplify the recent conferences of the beginning Millennium. The participatory arrangements for non-state actor involvement in the UN over the last four decades are at the centre of the empirical analysis. The basis for participation of non-state actors in the UN is Article 71 of its Charter which states that ECOSOC “may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence.” Although not sufficient in its own right, Article 71 has led to a range of incentives and opportunity structures towards pluralization of international dialogue and the proliferation of inclusive arrangements (Emmerij et al. 2001).

The analysis is based on secondary sources.<sup>2</sup> Its aim is, first of all, to look at the emergence of conventions and practices that have become relatively self-reproducing and understand how the field of UN global conferences has solidified; secondly, to shed light on the participatory arrangements for non-state actors and how they evolved over time; and finally, to analyze the ways in which the different forms of institutional work were instrumental in the overall process of entrepreneurship. The overall objective is to understand how UN global conferences have contributed to the normative appeal of the stakeholder model of governance. In this sense, their ability to generate global norms is underscored and related to the fact that UN conferences offer resources, opportunities and incentives for non-state actors to form around and become recognized stakeholders in global governance.

### *Early UN conferences: extant logics emerge and solidify*

The idea that actors other than governments could have a stake in world politics did not exist in the early years of the UN’s global conferences during the 1970s. At the first so-called mega conference on the environment in Stockholm (1972) or the World Food Conference in Rome (1974), involvement of non-state actors was the exception rather than the rule. With less than about 200 non-state actors as ‘unofficial participants’, involvement mainly took the form of lobbying and advocacy of governmental delegations. Until recently, non-state actor involvement has been playing out mainly in the preparatory stage of UN global conferences, which is one of the three stages that have become the typical pattern of these events (Rittberger 1983; Willets 1989):

- In conference *preparation*, a series of regional and global meetings take place to develop a framework for negotiation, provide a draft agenda, approve the rules of procedure, and often prepare first drafts of the final conference documents (declaration of principles, action plan). This stage is of utmost importance for the success or failure of global conference diplomacy, and it represents a major arena for non-state actor involvement.

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<sup>2</sup> These sources are biased toward research on an emerging global civil society and transnational advocacy networks. Studies that look at private actors in the UN are much more rare.

- *Decision making* is traditionally the exclusive province of governments. It takes shape in closed working groups with the plenary as the main formal element of conference decision making. Governments lay out their views and negotiating postures in plenary sessions but cannot deliberate at this level.
- Historically, *implementation* of conference documents has been more of a formal target than practical reality. Creation of the Commission on Sustainable Development after the UNCED and endorsement of multi-stakeholder partnerships at the WSSD changed this situation somewhat by bringing institutional capacity and resources to intergovernmental commitments.

At UN global conferences, Article 71 has originally been used to inform intergovernmental negotiations with views and perspectives of non-state actors in consultative status with ECOSOC.<sup>3</sup> This use *enabled* government leaders and international secretariats to go about UN summitry with the perception that these events are institutionalized efforts of global problem-solving (Rittberger 1983). An implication of this perception was that non-state actors could only access the conferences themselves if they were members of their governments' delegations or if consulted as experts by international organizations. Governments would involve them when they were electorally or politically significant, and to support their positions in negotiations (Taylor 1989).

At the World Food Conferences in Rome (1974), for instance, there were about 150 NGOs with an official status in the conference process (Weiss & Jordan 1976). A "Rome pattern" emerged with a "thorough mixing of NGO representatives with official delegates in lounges, corridors, bars and facilities" (ibid: 134). This kind of lobbying activity may have helped the NGOs involved to influence governmental positions and preferences, but there is "conspiracy of silence [regarding this situation] to maintain the fiction that 'sovereign' governments control their delegates and that secretariats and NGOs are 'non-political'" (Willets 1989: 47). Thus, in addition to use of Article 71 of the UN Charter for establishing the belief in global conferences as institutionalized efforts of problem-solving, *mythologizing* is also at work at the early conferences. It preserved the normative underpinning of the UN as an arena for governments to take decisions on global issues.

Perhaps in order to professionalize lobbying, non-state actors started *mimicking* the official process and met increasingly in so-called 'parallel events'. Many more attended these side events than as consulted experts of the conferences. Hopes were that non-state actors could influence the course of events if they took advantage of their opportunities and were organizing themselves accordingly. Detter de Lupis (1989), for instance, argues that a lot of important non-governmental activity was going on in parallel with the first mega conference on the environment in Stockholm (1972) which influenced attitudes and goal setting of state actors in the conference. To facilitate communication and networking among non-state actors,

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<sup>3</sup> NGOs are consulted by ECOSOC if they are non-profit, voluntary, formal, non-violent, non-political organizations whose objectives are the promotion of development and social goals. The consultative arrangements with NGOs differentiate between 'general' organizations that are concerned with most activities of the Council, 'special' organizations that have a particular competence in a distinctive field, and 'roster' organizations with no general or special consultative status but considered to make valuable contributions upon request of the Council or its subsidiary bodies. The notion of suitable access is ambiguous. In the early 1970s, when the UN started to organize global conferences, it meant that NGOs would not have equal status with governments in any UN forum but could assist the world organization on social and economic questions. Gaining consultative status with the UN requires a lengthy application process with the NGO Section of the UN Department of Economic and Social Affairs. Beyond a demonstrable interest in items on the UN agenda, a given NGO needs to have a democratic constitution, recognised standing, act independent of governments and show transparency of financial resources (Willets 1999).

daily conference newspapers were edited, produced and financed by NGOs. The Stockholm conference “pioneered a pattern for future conferences in that some NGOs were invited to participate as observers at the conference but many more attended simultaneous, parallel activities” (Emmerij et al. 2001: 89). Similarly, the experience of the World Food Conference was suggesting: non-state actors could influence the course of events if they took advantage of their opportunities and were organizing themselves accordingly (Weiss & Jordan 1976).

These hopes were disappointed. The emergent solidity of the official conference pattern and its clear distinction from the unofficial parallel events was rather a breeding ground for the legitimacy crisis of executive multilateralism. As Rittberger (1983) observed, there was “a sense of alienation among concerned non-governmental actors which may indicate a legitimation problem of global conference diplomacy” (idem: 176). In the face of structural conditions like the Cold War and ideological predilections between US and Soviet and/or Chinese delegates or the Arab-Israeli conflict during the 1980s, it became clear that the UN’s efforts to solve problems through convening of conferences “were by no means always positive in the sense that they reflected states’ determination to do something. Sometimes they were regarded as a way of avoiding action in the context of particular problems” (Taylor 1989: 9).

### ***UN conferences of the 1990s: turning non-state actors into stakeholders***

UN global conferences declined in the mid- to late-1980s, but then began again in earnest after the fall of the Berlin Wall as institutional responses to the need for governance in a globalized economy. A turning point in the history of non-state actor involvement at UN global conferences was the Rio Earth Summit, representing 178 national delegations. ECOSOC had relaxed the criteria for accreditation and 2,400 NGO representatives had official status as observers of the conference while about 17,000 people took part in parallel forums. At the Earth Summit, any substantive claim on the environment and development made non-state actors eligible for accreditation (*defining*) (Haas et al. 1992). This set a precedent for subsequent conferences: 30,000 individuals attended the parallel events at the fourth conference on women in Beijing (1995), and more than 5,000 were official participants of the conference itself; the second conference on human settlement in Istanbul (Habitat II, 1996) illustrates a similar pattern with 8,000 people attending the parallel forums and a large number of NGO representatives active in the conference itself.<sup>4</sup>

„Not only did the numbers of NGO participation increase dramatically over two decades, but so did the variety of ways in which they were allowed to participate. Governments at the earlier conferences could virtually ignore the presence of NGOs ... By the 1990s, this was no longer possible, especially as NGOs were allowed to freely observe and lobby many governmental sessions.” (Friedman et al. 2005: 159)

One of the great differences between the mega-environmental conferences in Stockholm and Rio is that the occasional, yet tacit involvement of non-state actors in the early 1970s changed into an arranged and explicit involvement of non-state actors as ‘major groups’ or

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<sup>4</sup> All numbers are taken from an overview of UN global conferences between 1972 and 2000 in Emmerij et al. (2001: 82-87).

stakeholders in the 1990s (*defining*).<sup>5</sup> The Earth Summit at Rio legitimized the role of stakeholders from business and society in global governance. Moreover, “it was at this time that governments abandoned efforts to regulate industry through internationally binding agreements,” with the UN’s conference secretariat’s entrepreneurial leadership style in the framing of issues and interest definitions probably playing a crucial role (Martens 2007: 13; Bernstein 2000). From 1998 on, the Commission on Sustainable Development has made the stakeholding principle a key element of its work (Bäckstrand 2006). Multi-stakeholder dialogues with the intention to inform intergovernmental negotiations have become an official component of the annual CSD conferences.

In the mean time, ECOSOC decided to reform the relations with stakeholders from business and society in 1996 to increase transparency and to enable the involvement of a greater variety of NGOs through the expansion of criteria for achieving consultative status with the Council (*defining*). New membership roles were created. The ECOSOC Resolution 1996/31 spelled out that non-state actors are consulted “to secure expert information or advice from organizations having special competence” and to “represent important elements of public opinion” (Res. 1996/31, Part IX). It followed the dramatic increase of accredited non-state actors at earlier conferences. After the reform, accredited stakeholders from business and society were granted the opportunity to make suggestions and comments in conference plenary.

Thus, after Rio the rigid rituals of international diplomacy that had dominated inter-state dialogue and interest accommodation in previous times were challenged. The presence of non-state actors in subsequent conferences made these rituals a subject of public scrutiny (Kreibich 1998; Martens 1998). Granted an official status in UN summitry, non-state actors increased their ability to do *advocacy* work through the expansion of “repertoires” (Clark et al. 1998: 13 ff.). Their acknowledgement as stakeholders in global governance went hand in hand with professionalizing the lobbying of the official conference proceedings and the engagement in networking with peers from NGOs, academia and transnational advocacy groups. They started building coalitions through a caucus system, participated early on in the conference process, sought contact with the media or became unofficial members of national delegations in meetings of governmental working groups.

At Habitat II, the stakeholders from the non-state sphere had moved some more centre stage. It “was the first UN world conference whose machinery included a platform for representatives of civil society” to directly communicate their views and play an official part in the formulation of the conference outcomes, obviously without a right to vote (Emmerij et al. 2001: 209). The so-called “committee 2” was introduced to organize deliberations between government delegates on the one hand and representatives from NGOs and local governments on the other (Siebold 1996). States, however, were eager to preserve the normative underpinnings of ‘their’ UN and responded to the upheavals of inventing participatory arrangements for stakeholders from business and society with behavior that least impose upon their sovereignty (*mythologizing*). A good example is the “fourth PrepCom phenomenon” that was found by Clark et al. (1998: 17) in their research on UN conferences of the 1990s. The preparatory process of the conferences, in which the wording of the final documents is usually the focus of intense politicking, is also the major arena of contention over inclusion of non-

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<sup>5</sup> The UN includes nine groups under this term: women, children and youth, indigenous people, NGOs, local authorities, workers and trade unions, business and industry, scientific and technological communities, farmers. With the exception of trade unions and private sector organization, research on new forms of governance beyond the nation-state tends to summarize the other major groups under the NGO label.

state actors. During the final stages of drafting the conference documents “grudging government inclusion of NGOs changed to exclusion.”

### *The millennium’s first decade: institutionalization of multi-stakeholder practice in UN global conferences*

The global UN conferences of the 1990s facilitated a sense of ownership of the policy process and the endorsement of global norms among multiple actors, with sustainable development and gender mainstreaming perhaps as the clearest examples. It was a typical feature of these conferences that stakeholders from business and society were continuously fighting to maintain and extend their right to participate. The wheel of participation appeared to be reinvented each time a conference was convened (Clark et al. 1998; Selian 2004). This has changed over the last decade. Arrangements for stakeholder participation entered the clout of taken-for-grantedness in UN summitry.

The 2002 Monterrey Conference on Financing for Development, the WSSD in Johannesburg (2002), and the WSIS in Geneva and Tunis (2003, 2005) set precedents in the history of the UN that private sector and civil society actors were systematically included right from the start in global conference diplomacy (Martens 2007: 16). The WSIS case is especially pronounced. As indicated above, it received a lot of attention in scholarly debate and among transnational advocacy groups for its “unprecedented” multi-stakeholder design. The summit’s symbol of a flower with four petals around the dot, representing governments, international organizations, plus the stakeholders from business and society, reflects the official commitment to the multi-stakeholder approach in global governance. Beyond mere rhetoric, a lot happened in the WSIS and its follow-up, signaling the institutionalization of the multi-stakeholder approach in the UN. Characteristic of this dynamism is the rise and intersection of two processes: a bottom-up and a top-down way of going about stakeholding at the WSIS.

#### *The multi-stakeholder approach from bottom-up*

At the outset, organization of the WSIS followed the usual route in the sense that an agency within the UN system sets up a secretariat to manage and administer the overall conference process (*enabling*). In the current case, the relevant agency is the International Telecommunications Union (ITU). ITU had no experience with organizing such events and did not see an explicit role of societal actors in the conference (Raboy 2004). Its conference secretariat used a top-down civil society structure, which was recognized by the UN bureaucracy, and set up a “Civil Society Bureau” with in total 21 NGO-families. This top-down way of going about UN summitry did not meet the expectations of civil society stakeholders. They invented a bottom-up structure to flesh out the multi-stakeholder mandate of the WSIS and confer identity to their activities in the summit (*defining*). This structure and its processes provided them with authority vis-à-vis governments and was later also referred to as the “unwritten rules” of the summit or “WSIS practice” (Cammaerts & Carpentier 2005; Mueller et al. 2007).<sup>6</sup>

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<sup>6</sup> See also the report “The multi-stakeholder participation in WSIS and its written and unwritten rules” [<http://www.itu.int/wsis/basic/multistakeholder.html>] (accessed January 13, 2011)

WSIS practice emerged through the building up of two organs: the “Civil Society Plenary” and the “Content and Themes Group”. The Plenary was open to all societal stakeholders at WSIS and held the role of ultimate civil society authority in the overall process. It oversaw the deliberations of some 20 thematic working groups and caucuses like the patent, copyright and trademark working group, the Internet governance working group, the community media caucus, the gender caucus or the human rights caucus. The Content and Themes Group was more of an elitist group whose selection of members lacked transparency. It reported to the Civil Society Plenary and was tightly linked to the intergovernmental summit process. It worked to meet the deadlines imposed by the official timetable with common positions that could feed into the intergovernmental negotiations. Being able to do so is considered an accomplishment (Kleinwächter 2005).

The structural innovations of societal stakeholders at WSIS did not have a recognizable effect on the policy process, at least not in the short term. One of the bottom-up outputs, the “second conceptual strand” on the Information Society as activist Sean Ó Siocrú called it, was abandoned to the periphery of the summit (Ó Siocrú 2004). Governments instead relied on the ITU definition of the Information Society, which is essentially about the spread and infrastructure of information and communication technologies, pursued through a global process of liberalization and privatization in which governments create the suitable political and regulatory government (*embedding*). This view has little to do with the alternative perspective that the Information Society is about communication, and that issues as diverse as Internet surveillance, concentration of media ownership, commercial censorship, and intellectual property rights should be politicized (*theorizing*).

The narrow ITU definition of the Information Society prevailed in the Summit Declaration and was endorsed by the participating heads of state and government at the end of the first phase in Geneva (November 2003). At this stage, organized civil society announced its withdrawal from the official process and launched its own declaration on the “Information and Communication Societies.”<sup>7</sup> This, however, was not the end of WSIS practice. It continued throughout the summit and beyond because of deadlocked negotiations among governments.

### *The multi-stakeholder approach from top-down*

Different from WSIS practice, the written rules of the game are the rules of procedure, which governments decide on at the beginning of each UN-sponsored global conference. They *enable* the multi-party negotiations and deliberations of these events and define, among others, the representation of delegations and their credentials, the powers of the president and the other presiding officers or chairs, coordination through the secretariat, procedures for opening the summit, conduct of business and decision-making, and the rights of the ‘other’ participants and observers including international organizations, private sector and civil society actors. The latter entails criteria and principles for creating relationships with non-state actors, the accreditation process as a prerogative of member states and the opportunities for non-state actors to speak. Usually the regulatory frameworks of previous UN summits and conferences serve as a template for the rules of procedure. In the WSIS case, these were the

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<sup>7</sup> See “Civil Society Summit Declaration: Shaping Information Societies for Human Needs”, Geneva, December 12 2003, [<http://www.worldsummit2003.org/>] (accessed January 13, 2011)

rules of procedure of the WSSD and the Conference of Financing for Development (Dany 2008).<sup>8</sup>

The WSIS rules of procedure framed the top-down discussion on how to translate the vague multi-stakeholder mandate of the Summit into practice. This was more difficult than envisaged. According to one observer, the first preparatory conference “set the tone for a summit which would be over focused on process at the expense of substance” (Raboy 2004: 230; see also Hofmann 2007; Papenfuß 2003). In the face of significant differences in views among states about the role and involvement of stakeholders from business and civil society, eventual agreement was achieved with a UN standard (*embedding*). The WSIS rules of procedure codified that participants in consultative status with ECOSOC had the right to observe public meetings and make statements on questions in which they had special competence upon invitation of the presiding officer of the body concerned.

Reference to the UN standard did not, however, resolve the tricky question how to cope with the possibility that stakeholders would produce own positions and negotiable language for the drafting of official documents, confronting national delegations with substantial intervention from participants with an observer status. Once decided upon, enacting the rules of procedure was therefore a vehicle for constant discussion and negotiation regarding the status of the different actors in the overall policy process. A result of these discussions is the introduction of the “5 minutes to 8 rule” at the WSIS (*defining*) (Hofmann 2003). According to this rule, stakeholders were allowed to contribute slightly before the beginning of the working groups after which they had to leave the room. At this level, conference text is hammered out and stakeholders from business and society are usually not allowed to participate. Over the years, however, some delegations (e.g., Canada, Germany, and Denmark) had invented the practice to incorporate stakeholders in their work. They were also among the first who sympathized with the discontent among the stakeholders to be excluded from the intergovernmental negotiations. Depending on the chair, the 5 minutes to 8 rule was respected in some groups but ignored in others.

Quite unsurprisingly, then, “state power, the time in the negotiation process and the character of the issues discussed seemed to outweigh a deliberative policy process” (Dany 2008: 68). There is, however, an important qualification that must be made to this overall evaluation. In the second part of the summit, the WSIS debate shifted towards concern for the reorganization of Internet governance. Governments had firmly entrenched and diametrically opposed positions of nation-state control over the network infrastructure. In the end of the second phase, they agreed to disagree and formed the Working Group on Internet Governance (WGIG) to *enable* conflict resolution. While the formation of a working group for the resolution of entrenched conflicts among governments is nothing unusual in UN summits and their follow-up, the way in which the WGIG was set up is.

The WGIG *defined* “the way for a new UN process, the Internet Governance Forum, which has in turn institutionalized MuSH [Multi-Stakeholder] Governance and kept alive many of the caucuses and thematic groups of WSIS civil society” (Mueller et al. 2007: 292). It was set up by the former UN Secretary-General Kofi Annan and continues its work under the current Secretary-General Ban Ki Moon. The original intention was to hold the US model for the administration of domain names and protocols accountable to a broader public; i.e. discussing the future of the California-based, semi-private Internet Corporation for Assigned Names and Numbers (ICANN). ICANN provides a global public good; without its service a smooth and

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<sup>8</sup> See also the report prepared by the Office of the President of the Millennium Assembly (2001) [<http://www.un.org/ga/president/55/speech/civilsociety1.htm>] (accessed March 25, 2009)

stable running of the Internet is not possible. The fact that it is under the control of the US Department of Commerce turned governance of the network infrastructure into the most contentious topic at the WSIS (see, e.g., Botzem & Hofmann 2010; Knill & Lehmkuhl 2002; Mueller 2010).

The WGIG was later transformed into the Internet Governance Forum (IGF). The IGF is a temporary body in the UN system, consisting of a Geneva-based secretariat and a multi-stakeholder advisory group in which representatives of governments, civil society, the private sector, academia and technical groups interact more or less equally to make recommendations on the future regulation of the Internet. Its advisory group is chaired by Nitin Desai who also served as an advisor to the Brundtland Commission and as the Secretary-General of the WSSD. The IGF mandate has been renewed in May 2010 for another five years.<sup>9</sup> A civil society member of the Forum describes it as an arena for a “regulative idea in flux”, going beyond domain names and Internet protocols to include intellectual property rights, consumer and data protection, and cyber crime as core issues of Internet governance (Hofmann 2007). Different from its early days, and perhaps partly due to its leadership, the IGF has emancipated itself from the ICANN division at the WSIS.

IGF’s impact as a facilitator of Internet policy is compared to the upsurge of a genuine environmental policy in the 1970s, among others through the Stockholm conference.<sup>10</sup> The multi-stakeholder set-up of the IGF, however, is markedly different from this state-centered form of global governance four decades ago. The combination of deliberation and stakeholder consultation on the one hand and embeddedness in the administrative hierarchy and intergovernmental politics of the UN system on the other provides the IGF with normative appeal. Chances are that it becomes a widely recognized multi-stakeholder body for transnational regulation of the Internet, whose administration, range of applications, copy right standards and content regulation have demonstrably exceeded the authority of any single government, ICANN, the ITU or any other international organization. Without doubt, however, these chances would not exist had stakeholding practices not become established in the UN since the Rio Earth Summit.

## *Conclusion*

Over the last two decades, private actors and NGOs have come to play a prominent role in governing the behavior of firms in the global economy. This development is distinctive because regulation of corporate conduct has been earlier considered the prerogative of nation states; more recently also of international or supranational organizations like the WTO or the EU. To signal a departure from earlier patterns, the term private transnational regulation was introduced. It is one of the characteristic features of transnational regulation that soft law is generated through multi-stakeholder arrangements. These arrangements have converged into a stakeholder model of governance (Pattberg & Dingwerth 2009). A lot of times, their purposes become their explanation, and much research seeks to understand how these arrangements contribute to the regulation gaps and participation and implementation deficits in global governance (Bartley 2007). Yet, an important outcome of this research is that the stakeholder

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<sup>9</sup> Note by the UN Secretary-General on the “Continuation of the Internet Governance Forum”, United Nations General Assembly and Economic and Social Forum, A/65/78-E/2010/68, 7 May 2010; see [<http://unpan1.un.org/intradoc/groups/public/documents/un/unpan039400.pdf>] (accessed August 18, 2010)

<sup>10</sup> See the Interview with Jeanette Hofmann at an IGF 2009 meeting [<http://www.youtube.com/watch?v=UGinGDiNKwc>] (accessed August 18, 2010)



model of governance promises more than it delivers. Oftentimes stakeholder inclusion is neither representative nor balanced, decision-making lacks transparency, and accountability mechanisms are absent. It is therefore puzzling that stakeholder governance is considered successful, having normative appeal in the face of the legitimacy crisis of intergovernmental politics and regimes.

The present paper seeks to address this puzzle with the view that multi-stakeholder governance is successful because its normative appeal has been constructed in the history of UN global conferences. These events are important arenas for the construction of global norms, including the “pro-NGO norm” which puts pressure on states and international organizations to include non-state actors in policy processes (Reimann 2006). Looking at the evolution of this norm and how it is playing out, a core finding of this paper is that dispersed activities for non-state actor inclusion and exclusion triggered the endorsement of the multi-stakeholder approach at global conferences of the new millennium. Looking in particular at the World Summit on the Information Society (2003, 2005) and its follow-up, the point is made that the Summit’s multi-stakeholder mandate is much less of a critical juncture in global conference diplomacy than assumed. Rhetorically, it is unprecedented but it is not unexpected as (a) the global conference pattern has undergone a legitimacy crisis during the 1980s, (b) non-state actors turned into legitimate stakeholders of global governance during the 1990s, and (c) stakeholding practices became increasingly common across issue areas from the late 1990s onwards.

Suggesting that dispersed activities of non-state actor participation at UN global conferences help explaining why the stakeholder model of governance has normative appeal reveals the paper’s analytical foundation in the institutional entrepreneurship discourse. This implies that neither state-actors alone nor any other ‘heroic’ agency is sufficient for explaining why multi-stakeholder arrangements are increasingly being chosen in global governance. Rather, legitimacy of these arrangements has been constructed over the years. The normative appeal of the stakeholder model of governance is the result of a historical aggregation of dispersed activities among various groups of actors in UN summitry in which the intersection of both creative and maintaining forms of institutional work is crucial. NGOs, international secretariats within the UN and ECOSOC bend towards creative forms of institutional work whereas governments seek to remain firmly embedded in a state-centric setting. But there are important exceptions to this trend. At a general level, opening up the door of global conferences diplomacy to non-state actors from the private sector and civil society went hand in hand, among others, with mimicking of the typical conference pattern, definition of rules that turned non-state actors into stakeholders, mythologizing of the UN’s conduct as the primary arena for intergovernmental negotiations, and absorption of multi-stakeholder practice in UN routines.

It is difficult and far from politically feasible to conceive of these distinct activities as the intentional redirection of the UN towards a transnational world order. Yet the fact that the UN served as an arena for the emergence of the stakeholder model of governance and contributed to its growth as an appropriate means to regulate the global economy requires further thought on the role of international organizations in transnational regulation. With Djelic and Quack (2007: 309), the UN can be understood as the “first and obvious scenario for institution-building in the transnational arena.” Beyond this paper, however, evidence is rare to support this assumption. Even if states are not the driving force behind transnational regulation through multi-stakeholder arrangements, ‘their’ international organizations may be. Bringing them into picture is a way to address the distinction that is often made between the proliferation of transnational multi-stakeholder arrangements and the system of intergovernmental politics.



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