

Greening of the TNC: Paying the Piper

Notes for remarks by

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Being realistic, I realize that in 5-10 minutes there is time to make only one point. But being an academic, I will undoubtedly give in to the temptation to try to work in about five sub-points.

My main point is that we are getting some greening of trans-national corporations (TNCs), and we badly need a lot more. We can continue to get more greening of the TNC--to the extent we are willing both to press for it and to pay for it.

So far as goals of sustainability are concerned, we have been and are

sending the wrong signals to corporations. We can fix that. But we have to recognize that corporations are institutions which transform matter according to our instructions; there is no great fountain there from which we can invent goods and services in violation of the laws of conservation of matter and energy. We need to get right both our institutions and the signals driving those institutions. We badly need to increase the pressure on corporations through better regulations and price signals, through more active scrutiny by owners and shareholders, and through much stronger consumer forces. Corporate managers will respond to the pressures we can create, and have a perfect right to create. But we have to recognize that the consequences will ultimately rest with us as citizens, consumers, and inhabitants of the Earth.

Now my extended version of the message.

International environmental law is evolving toward a world of soft law and covenants, of general framework conventions followed by more

precise protocols. These are being worked out in an organizational setting stretching well beyond traditional professional communities, extending to broader “epistemic communities” (Haas, 1992) and non-government organizations. More particularly, the world of international environmental agreements is moving toward new institutions centered around technical committees, monitoring systems and enhanced administrative capacity--and toward implementation of measures to achieve agreed targets through national rule-making carried into action under the scrutiny of this international machinery. (The 1985 Vienna Convention followed by the Montreal Protocol as amended and adjusted in Conferences of the Parties in London and Copenhagen and, as we speak, almost, in Vienna on the 10th Anniversary of the Convention, is a fine example of that evolution.) What is most interesting for the present discussion, however, is that all this new apparatus is also moving toward greater concern with self-regulating, compliance-friendly structures designed for actors (nation-states or others) presumed to have a strong motivation to comply with the agreements they have negotiated.

(Susskind, 1994, 1995)

In the literature of political science and public administration, the understanding of “implementation” also has evolved considerably in the last two decades. In place of one-time, straightforward administrative action to carry out a clear legislative mandate, we now see a continuous process of interaction, negotiation and accommodation out of which emerges a maze of individual actions intended to realize some central purpose in specific field settings (Majone-Wildavsky, Majone, Palumbo). While this latter interpretation reflects well the evolutionary character of the continuing feedback processes in complex administrative systems, it makes nonsense of the idea of measuring the “effectiveness” of implementation efforts, or assessing the size of the “enforcement deficit” in implementation. It suggests a notion of “compliance” no more specific than simply some pragmatic personal and organizational commitment to realization of an agreed goal to the extent practically permitted by varied and changing circumstances.

At the same time, we have also seen increasing intensity of rhetoric embracing the idea of a shift away from rigid “command and control” regulation in environmental matters toward more flexible, cost-effective aggregate measures such as “bubbles” or “offset” arrangements (...), and from there toward still more flexible economic instruments such as fiscal measures or tradeable permit schemes (...).

The ultimate economic instrument is the “green” consumer. The key market mechanism we need is the exercise of consumer preferences.

With much more aggressive labelling provisions to assure better-informed consumers, we can overcome inherent information asymmetries in markets, and let consumers express their preferences for products produced according to methods and ethical standards they consider appropriate. Of course trade policy experts will argue vociferously that we as a nation have no right to use tariffs or border measures to express our preferences about production or process methods or safety standards, in case these measures risk committing the ultimate unpardonable sin of

distorting trade. But not even the economists and trade experts--or at least not many--have argued that action to encourage more informed consumers to exercise their freedom of choice violates the sacred principles of the market. And one can expect the trans-national corporation to “green up” pretty smartly in response to those pressures. So information and price signals represent one economic instrument influencing corporations toward a brighter shade of green.

Another related instrument is scrutiny by the informed and concerned shareholder. Of course most of the “owners” from whom corporate managers ostensibly derive their mission and marching orders, and to whom they must account for management performance, may now be themselves professional managers of large pension or mutual funds, and concerned only about where the corporation’s financial reports for the next quarter will leave them in the quartile rankings of such funds (Reich?). Nevertheless the right of the individual shareholder at least to ask sceptically and insistently whether management is acting in the long

run interest of the firm and pursuing maximum shareholder value in some sense of sustained wealth remains an instrument of potentially some significance (even if such questions can, for now, be routinely shrugged off in many annual meetings). And other “stakeholders” also are finding channels to make their views heard on these issues.

Along with these direct economic pressures, citizens and owners can act through their governments to express views as to what constitute appropriate standards for emissions and process or production methods, and thus “force” technological development.

More generally, citizens and owners--and other “stakeholders”--can act through their governments to communicate their conclusions as to what constitutes an appropriate exercise of property rights, and what represent legitimate constraints on those rights, particularly so far as they relate to access to land and resources, which have always carried some connotations of stewardship and conditions of responsible use (Bromley).

Much of this can be accomplished by ecological tax reform (Costanza-Folke, 1994; Resource Futures International, 1995) and the exercise of “polluter pay” principles (OECD, 1973). But much also demands a fuller ethical framework reflecting current judgements about the interests of future generations and other species, and the demands of international and intergenerational equity. This framework probably has to find expression in regulatory measures rather than economic signals. As noted above, however, even these sorts of regulatory initiatives have been moved toward “softer”, more flexible, cost-effective form.

Even more dramatically, we have seen a move strongly away from either regulation or economic incentives to what have been called “voluntary agreements” or “bureaucratic covenants”. (Recall that when Canada confessed earlier this year that it would not achieve its targets under the Framework Convention on Climate Change, it also confessed at the same time an inability to achieve any agreement on either emission standards or carbon taxes as social initiatives to realize those targets: the best our

federal and provincial ministers and climate action consultative groups could achieve was agreement on a “voluntary challenge” program, with no assurance that it could at all do the job required.) And a further logical step in this process is Mr. Eggleton’s proposed Regulatory Efficiency Act, under which standard-setting would be replaced by agreements individually negotiated (in confidence?) with the individual firms concerned.

Of course, this development is not confined to Canada. Government in the Netherlands, for example, relies almost exclusively on negotiated agreements (although government of course does set the national targets).. In a recent issue of Environmental News from the Netherlands (1995, #1, p.9), it is noted that “Since the drafting of the first environmental policy plan, the government has offered to hold discussions with the various sectors to decide what contributions should be made by specific industries to meet the national environmental targets. The government is making centralized agreements (covenants) with almost every sector to cover the

whole of a particular industry.”

Nor is this tendency really new. In a report on a comparative international study undertaken in the early 1980's (see Downing and Hanf, 1982) it was noted that “A cooperative approach with a series of informal steps before formal action was found to be universal (p. 320)...The first common characteristic [of the complex process of implementation] we find is a preference for ‘voluntary compliance’, by which we mean control by a source without the imposition of penalties or fines” (p. 323). Of course, ‘voluntary’ compliance and ‘cooperation’ may have their limits. The excerpt from News from the Netherlands quoted above goes on to note that “If the companies abide by these agreements, they can count on a good relationship with the government. If they don’t, the government will re-impose its mandatory environmental licensing arrangements.”

There are two possible reactions to these developments in the field of

international environmental law and in the national actions undertaken to realize environmental commitments agreed internationally.

One is to welcome this evolution as a move toward sensible adaptation of agreed commitments in order to achieve technically optimal cost-effective compliance in a variety of circumstances, and thus to achieve the fullest possible realization of the underlying intent of national commitments.

This is the approach endorsed by BCSD, ICC and ISO14000.

The alternative is to see it simply as elite accommodation designed to thwart the purpose of solemn covenants internationally agreed upon in a democratic process responding to diverse ideas, values and targets. By taking the issues of compliance and enforcement out of the public domain, away from independent scrutiny and into a regime of cosy “government-industry partnership” dominated by the interests of business lobbies who can afford to be present every painful step of the way through the writing of regulations and protocols on monitoring,

inspection, compliance and enforcement, the underlying intent of the original covenant, resting on the moral pressures brought to bear by epistemic communities and social movements, can fairly readily be negated. These suspicions of the motives behind accommodation for cost-effectiveness are pretty widespread. A recent article suggests, for example, that “According to insiders, the federal Treasury Board soon will reintroduce Bill C-62, a proposed Regulatory Efficiency Act, permitting anyone to cut special--possibly secret--deals with the government to side-step regulations. Passage of this act would be a victory for the forces of private privilege and arbitrary rule...Bill C-62 is about special treatment for the few who enjoy access to the corridors of power. Ultimately it is about Ottawa’s loss of will to protect the ordinary Canadian.” (Brian Pannell, “Anti-Regulation Bill Will Lull Public’s Watchman to Sleep” Government Information in Canada, Vol 2, no1.2, summer 1995). Possible roles for NGOs in providing the probing scrutiny and eternal vigilance necessary to assure continuing compliance and enforcement in the absence of government authority is an interesting

question that cannot be pursued here (see Dobell, 1994, 1995 for brief reference to relevant literature).

Conclusion

The greening of the transnational corporation is proceeding though perhaps not nearly fast enough. It will continue so long as we continue to move toward

- a) stronger regulatory pressures to force technological progress and organizational innovation;
- b) stronger direction to managers from more activist and more demanding owners of the TNC's;
- c) aggressive ecological tax reform, and full-cost, life-cycle pricing with an active polluter-pay principle in action ; and

d) truly and fully informed “green” consumers, prepared to back their demands for ecological responsibility by consistent purchasing practices.

But as we have noted above, the pressures from ownership are not strong in current economic circumstances, and the pressures from regulation seem to be weakening. So we are left to rely on the influence of those who command leverage either as owners of the ecological resources used by the corporation or as the ultimate consumers of the products and services generated by the corporation.

Success ultimately will also demand greening of the corporation executive and workforce in another and more fundamental sense, however. It will demand that values emphasizing a “land ethic” (Leopold) and an explicit responsibility to future generations and other species be ingrained in the thinking of all the corporation’s workforce. Only in this way will the decisions which have to be taken continuously to adapt local actions to specific circumstances actually reflect the underlying spirit and

commitment of the social covenants expressed in international agreements. This goal obviously entails a continuing process of education and social learning.

But notice, then, finally, that most of all the greening of the TNC will depend specifically on you: on you as consumer, being willing to accept the consequences for design and for price and for life-style that flow from a commitment to goals of environmental justice and equity; on you as investor, being willing to accept possibly lower measured returns from corporations responsibly meeting their commitments to those same goals; and on you as citizen, willing to accept the individual economic consequences of social and environmental goals collectively espoused.

We are talking serious redistribution and reduced material standards here.

The greening of the TNC can only be part of the greening of commerce generally (cf Hawken), which means to say the greening of society (cf. von Weizsacker), which means reduced impact by all of us--particularly us in the North--on the resources and ecological systems of the planet.