

# Taking responsive regulation transnational: Strategies for international organizations

Kenneth W. Abbott

College of Law, Arizona State University, Tempe, AZ, USA

Duncan Snidal

Nuffield College, University of Oxford, Oxford, UK

## Abstract

*Responsive Regulation* (RR) introduced important new ways of thinking about regulation. But RR was designed for domestic settings in which a single agency had clear jurisdiction, full regulatory capacity, and extensive information, and could (contingently) deploy stringent sanctions against well-defined targets. Under globalization, many regulatory problems have shifted to the transnational arena, characterized by multiple regulators, public and private, with limited capacities, authority, and information, and modest sanctioning ability; globalized production also renders the targets of regulation diffuse and difficult to identify. RR holds important lessons for transnational regulation, but it must be adapted to these challenging conditions. Some components of transnational RR are already emerging, including numerous private and public–private schemes that regulate business through voluntary norms: “transnational regulatory standard-setting” (TRSS). Alone, however, TRSS schemes face serious limitations. Intergovernmental organizations (IGOs) are best positioned to “take RR transnational” by supporting and working with the nascent TRSS system. Two regulatory strategies are particularly promising: collaboration and orchestration. In “regulatory collaboration,” IGOs promote business self-regulation, much as in RR; they can escalate in response to defection by deploying reputational and market sanctions. In “orchestration,” IGOs support and steer intermediaries, including TRSS schemes and NGOs, which use their material and ideational capacities to regulate target behavior. Orchestration cumulates regulatory competencies, creates avenues of escalation, and provides many benefits of RR “tripartism.”

**Keywords:** international organization, orchestration, private regulation, responsive regulation, voluntary regulation.

## 1. Adapting responsive regulation for transnational problems

*Responsive Regulation* is a landmark work that introduced important new ways of thinking about regulation (Ayres & Braithwaite 1992). Since its publication, however, the locus of many regulatory problems has shifted decisively from the domestic settings on which *Responsive Regulation* focused to the transnational realm. This shift presents a need and an opportunity to consider how the ideas behind responsive regulation (RR) can be applied transnationally. While RR holds important lessons for transnational regulation,

Correspondence: Kenneth W. Abbott, College of Law, Arizona State University, College of Law, PO Box 877906, Tempe, AZ 85287-7906, USA. Email: ken.abbott@asu.edu

Accepted for publication 26 July 2012.

we argue, its teachings must be adapted to the very different circumstances of international business and politics. Intergovernmental organizations (IGOs) are the most promising transnational “responsive regulators,” but they have significant weaknesses, and must modify their regulatory strategies to make transnational RR effective.

Ayres and Braithwaite explicitly presented RR as an approach for domestic regulatory agencies. They argued that traditional top-down regulation was inadequate for many regulatory problems, yet rejected the then-fashionable view (in Britain and America) that the answer was radical deregulation. Instead they argued for a “symbiosis between state regulation and self-regulation” (Ayres & Braithwaite 1992, p. 3), in which legally soft self-regulation by firms and industries would form a major part of the regulatory landscape. Ayres and Braithwaite further argued for expanding the regulatory system beyond this bilateral symbiosis by engaging public interest groups (PIGs) in the regulatory process, as parties to agency–target interactions and independent enforcers of agreed regulatory arrangements.

In spite of these innovations, RR was intended to operate within an “Old Governance” framework (Abbott & Snidal 2009b), in which agencies can deploy legally binding regulations enforceable by centralized sanctions. Ayres and Braithwaite urged agencies to reorient their regulatory activities around two “pyramids:” “a hierarchy of sanctions and a hierarchy of regulatory strategies of varying degrees of interventionism” (Ayres & Braithwaite 1992, p. 6). Agencies should convey to targets their willingness to move to lower, less intrusive interventions in response to effective self-regulation, and to move to higher, more intrusive interventions in response to firm or industry defections: either refusals to self-regulate or abuses of self-regulation. Agencies should engage PIGs in this interactive process to strengthen enforcement and counter regulatory capture. If agencies’ contingent strategies of escalation and de-escalation are credible, most regulatory action will take place near the bottom of the two pyramids, centered on self-regulation.

As regulatory issues become transnational, however, the capacity of national regulators to apply Old Governance techniques is challenged. Business is increasingly global, operating through affiliates in multiple countries, lengthy and opaque transnational supply chains, and other complicated structures that span regulatory boundaries. As a result, no national authority has direct access to all relevant regulatory targets, in terms of either jurisdiction or capacity. Targets may even strategically organize certain transboundary activities to inhibit regulatory access. Thus, even where a national agency has direct access, its authority may be hampered by credible threats of exit: firms facing a move up the regulatory pyramid may transfer their operations to more welcoming or less competent jurisdictions. Shifting regulatory jurisdiction upward to IGOs could, in theory, encompass global business structures and overcome the threat of exit, but states have denied virtually all IGOs direct access to private targets and strong regulatory authority. In short, hierarchical regulation – including the contingent regulation crucial to RR – is unavailable or inadequate for most transnational problems.

While the RR model cannot be “taken transnational” without significant modification, the dearth of viable alternatives makes the ideas behind RR even more valuable for transnational regulators than for domestic agencies. Braithwaite (2006) makes a similar point regarding the potential of RR for developing countries, which also lack the institutional infrastructure and capacity for command-and-control regulation; Drahos (2004) discusses how treaties might be designed to utilize RR. We build on those insights by exploring how RR can be adapted to overcome the transnational regulatory deficit. To

be clear, our claim is not that RR per se can be transposed to the transnational level, but that its insights can provide the basis for improving transnational regulation.

Some important components of transnational RR are already developing on a decentralized basis; we refer to these activities as “transnational regulatory standard-setting” (TRSS).<sup>1</sup> TRSS includes burgeoning self-regulation by firms (often extended to their supplier networks) and industry associations; new regulatory relationships between IGOs and business, including IGO codes of conduct and public–private partnerships; and active involvement by international PIGs (“iPIGs”) in TRSS schemes, including many that also involve business and some that are fully tripartite, in the spirit of RR (Ayres & Braithwaite 1992, p. 57).

These developments, however, have left the transnational arena with a multiplicity of actual and potential “regulators;” their efforts are largely uncoordinated and they sometimes operate at cross-purposes. In addition, because TRSS arrangements are largely private, they lack important regulatory authority and capacities. To be fully effective, TRSS schemes need support from national and international agencies, even if a full “symbiosis” with public authority is infeasible. In short, to approximate effective RR in the transnational context, we must adapt the insights of RR to focus on strengthening and working with the nascent TRSS system.

Above all, we need transnational responsive regulators in (roughly) the style of RR. IGOs are best positioned to play this role. IGOs have global scale, broad mandates, and neutrality and legitimacy stemming from multilateral state membership. Arguably, IGOs were initially intended to transfer the hierarchical Old Governance model to the international level. That approach has largely failed, however, because of states’ unwillingness to delegate sufficient authority and capacity for IGOs to function like domestic regulatory agencies. Because this reluctance will persist for the foreseeable future, IGOs must take distinct approaches to RR: they must adopt regulatory strategies that are compatible with their limited authority and sufficiently unobtrusive that states will accept them.

A few IGOs have developed appropriate strategies, working through TRSS rather than attempting to employ the stronger forms of contingent regulation contemplated by Ayres and Braithwaite. By combining evidence on these developments with the insights of RR, we can identify feasible RR-like approaches to transnational regulation. This is consistent with the original vision of RR as an “attitude” that enables the flowering of diverse regulatory approaches.

Two strategies are particularly promising. In “*regulatory collaboration*,” IGOs engage directly with target firms and industry groups, promoting and supporting self-regulation and steering self-regulation toward more effective and legitimate forms through ideational influences and material inducements. IGOs can also include iPIGs in supportive roles. While collaboration resembles the interactions near the bottom of the RR pyramids, there is a major difference: IGOs cannot easily escalate to more stringent forms of regulation if softer techniques fail. The principal tools of escalation are reputational and market sanctions (positive and negative), but these must be enhanced for regulatory collaboration to be effective. IGOs must tread carefully, however, because states remain jealous of their authority and wary of aggressive interventions into national jurisdiction. Thus transnational regulatory collaboration will necessarily be a weaker and more limited version of RR.

In “*orchestration*” – which moves well beyond the original formulation of RR – IGOs use their limited capacities to support and empower intermediaries to engage with target firms and industries; intermediaries use their own material and ideational capabilities to

promote and “enforce” self-regulation, multi-stakeholder regulation, and other forms of TRSS. Intermediaries may include iPIGs, private or public–private TRSS schemes, and other actors independent of the targets.

Formally, orchestration occurs when “*an IGO enlists and supports intermediary actors to address target actors in pursuit of IGO governance goals*” (Abbott *et al.* 2012, p. 2). Its key properties are that orchestration is: (i) “indirect,” because the orchestrator works through intermediaries to influence targets, and (ii) “soft,” because the orchestrator lacks authoritative control over intermediaries and targets.<sup>2</sup> Indirect governance is especially important transnationally, as IGOs often lack direct access to targets.

This conception of orchestration draws on the literature that sees efforts to “enroll” participants in regulatory projects as pervasive in “decentered” regulatory systems. In this view, regulators seek to enroll other actors, consciously or unconsciously, to enhance their own power (Latour 1986; Braithwaite & Drahos 2000) or to gain access to complementary capacities or resources. Public authorities enroll private actors, and vice versa; national authorities enroll international actors, and vice versa; and enrollment is frequently mutual (Black 2003). Orchestration is a specific strategy of enrollment.

Beyond its other benefits, orchestration provides IGOs an important, though still relatively weak, avenue of escalation for RR: IGOs can amplify reputational and market sanctions against defecting firms and industries by mobilizing and supporting intermediaries. In addition, by bringing iPIGs more deeply into the regulatory system, orchestration provides many of the benefits of tripartism identified by Ayres and Braithwaite, including offsetting business influence, monitoring IGOs, and disciplining “zealous (i)PIGs.”

Section 2 begins by summarizing the dramatic emergence of TRSS in the years since *Responsive Regulation* was published. Section 3 contrasts the assumptions of the RR model with the circumstances of transnational regulation, highlighting both analytic and empirical differences – particularly the lack of authoritative, focal transnational regulators possessing “benign big guns.” Section 4 examines the strategies of collaboration and orchestration, and considers how they can be used to realize the benefits of RR in transnational regulation. We illustrate these possibilities with examples of collaboration and orchestration by IGOs including the United Nations Environment Program (UNEP) and United Nations Global Compact (UNGC). We close by extending and reversing the flow of ideas: innovations in transnational regulation also suggest means by which IGOs can regulate states and by which states can improve domestic RR.

## 2. TRSS as nascent transnational RR

Since the appearance of *Responsive Regulation* in 1992, international regulation has been transformed. In earlier work (Abbott & Snidal 2009a), we document the emergence over these years of a variety of TRSS schemes that develop and implement rules for transnational production, on issues including worker rights, human rights, and environmental protection. We focus on the roles of public and private actors within these schemes in ways that are reminiscent of *Responsive Regulation*. We summarize our findings in a diagram that maps TRSS schemes onto a triangular simplex according to the relative “shares” in scheme governance exercised by three key actor groups: states/IGOs, firms, and NGOs/civil society organizations.<sup>3</sup> We document a wide diversity of schemes, including those created and governed by actors of a single type (e.g. business schemes, the

largest category), by actors of two types (e.g. collaborative NGO–business schemes), and by tripartite groups.

The patterns of transnational regulation have changed over time. The earliest efforts actually involved “international” regulation, based on the domestic model, with IGOs proposing legally binding rules or hortatory standards applicable to states, with the expectation (or hope) that national governments would adopt and implement them domestically vis-à-vis their ultimate private targets. International Labour Organization (ILO) treaties on workplace safety, union organization, and child labor are examples. Because IGOs lack strong regulatory capacities, they cannot implement and enforce such rules directly; they are limited to promotional activities, agreed procedures for review of state implementation, technical assistance, and similar techniques. National implementation varies widely, with numerous opportunities for “slippage.” Slippage is particularly severe on transnational issues, such as many areas of environmental protection, where the costs of regulation fall in one state but the benefits are realized more widely. In any case, we do not include such efforts within TRSS, because they address private targets only through states.

The rare early exceptions to this pattern include three IGO codes of conduct that directly address private firms: the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises (1976), the International Labour Organization (ILO) Declaration on Multinational Enterprises (1977), and the World Health Organization Code of Marketing for Breast-milk Substitutes (1981). All three grew out of early concerns over the impacts of globalization, centered on transnational corporations. The other major exceptions appear within the European Union – the IGO that comes closest to the regulatory capacity of states – which pioneered RR schemes, such as Eco-Management and Audit Scheme (EMAS).

This situation persisted with few exceptions (e.g. the 1977 Sullivan Principles on business in apartheid South Africa) until the mid-1980s. At that time both NGOs and business groups began to develop voluntary regulatory schemes. Early NGO examples include the Coalition for Environmentally Responsible Economies (CERES) Principles on environmental conduct (1989), responding to the Exxon Valdez oil spill, and the Rainforest Alliance sustainable agriculture standard (1993). On the business side, the global chemical industry responded to the Bhopal disaster by creating Responsible Care (1987). Other industry initiatives soon appeared, including the World Business Council for Sustainable Development (1992), established for the Rio Earth Summit. In addition, a few path-breaking firms, such as the Body Shop (1991), pioneered self-regulation, adopting codes of conduct for their own operations and for suppliers. Today, virtually all major firms have self-regulatory codes that include varied monitoring and implementation procedures, often extending to suppliers; many also issue public reports on social responsibility and sustainability. Like other forms of corporate self-regulation, however, many others exist more on paper than in practice.

Throughout the 1990s, multi-stakeholder TRSS schemes began to emerge. For example, the Forest Stewardship Council (1993) and Social Accountability International (1997) brought together diverse NGOs and business actors to promote sustainable forestry and advance workers rights, respectively. More recently, IGOs have again turned to voluntary schemes addressing, and often involving, private actors. The UN Global Compact (2000) and the Equator Principles (2003) are IGO–business collaborations. Less common are collaborations between IGOs and NGOs, although the Principles for

Responsible Investment (2006) – in which institutional investors, many non-profit or socially oriented, act as civil society organizations disciplining target firms – suggests the possibilities.

Finally, a few tripartite schemes involving all three key actor groups have been created, in spite of the obvious transactions costs and bargaining problems. Examples include the Voluntary Principles on Security and Human Rights (2000), the Kimberley Process on conflict diamonds (2003), and the Roundtable on Sustainable Biofuels (2007). These schemes echo RR's emphasis on tripartism.

Although TRSS has rapidly expanded, its regulatory success remains limited. Single actor group schemes are generally inadequate because each individual group lacks the full suite of competencies required for effective regulation: business lacks credibility as a (self-)regulator; NGOs often lack business expertise, resources, and access, and face their own legitimacy problems; and IGOs lack direct regulatory authority and enforcement capacity (Abbott & Snidal 2009a, b). Even collaborative schemes are typically deficient in important respects, and their coverage is spotty.

### 3. The RR model in the transnational context

With this brief survey of TRSS schemes, we can now compare the emerging transnational regulatory system with the domestic RR model. To be sure, although we present an RR “model,” RR is “not a clearly defined program . . . [but] is rather an attitude” that must be adapted to particular circumstances; it is not a simple formula and offers no universalistic solutions (Ayres & Braithwaite 1992, p. 5). Even if RR is not tightly defined, however, certain key elements, highlighted in our model, are essential to its effectiveness. These elements take significantly different and far weaker forms in the TRSS system.

RR begins with a state agency charged with some regulatory mandate vis-à-vis a target industry. In the ideal case, the agency has capacities that enable it to use a combination of persuasion and punishment to achieve its goals. The agency is recognized as the legitimate regulatory authority, with sole jurisdiction over the industry and subject matter. In addition, the agency possesses a wide range of tools, summarized in the regulatory strategy and enforcement pyramids. In well-functioning states, these regulatory strategies are ultimately backed by the possibility of hard enforcement, including stringent penalties such as criminal sanctions and operating license revocation. Contingent resort to such sanctions is a “benign big gun:” the agency deploys regulatory strategies with sensitivity to their impacts on business, and its potential sanctions are so powerful they need rarely be used. Finally, the targets of regulation are domestic and well defined. Thus the agency has direct access to the targets and (typically) extensive information about them. The agency may bring PIGs into the regulatory process, but does so to improve regulatory outcomes (e.g. to limit capture) (Ayres & Braithwaite 1992, pp. 54–56), to empower weaker social groups, to provide opportunities for participation (Ayres & Braithwaite 1992, pp. 17–18) or to stimulate public-regarding discourse (Ayres & Braithwaite 1992, p. 59), not because the agency lacks needed capacities.

Table 1 expands on this summary, highlighting major differences between the RR model and the circumstances of TRSS.

The greatest difference between RR and TRSS lies in the nature of the regulator. RR presumes a *focal state agency* with legitimate and exclusive authority over an issue area and an industry; the scope of its authority matches the (domestic) scale of the problem.



**Table 1** Responsive regulation versus transnational regulatory standard setting

	Responsive regulation	Transnational regulatory standard setting
Identity of regulator	Focal state agency Legitimate authority	Multiple regulators Limited legitimate authority
Capacity of regulator	Full regulatory capacities Benign big gun	Limited regulatory capacity No big gun
Relation to targets	Domestic, well-defined Direct access Extensive information	Transnational, diffuse Limited access Limited information

By contrast, in almost every area TRSS involves *multiple regulators*; many have questionable legitimacy and authority, and their authority may not encompass the (transnational) scale of the problem.

One group of transnational regulators consists of individual states. These have, at best, imperfect jurisdiction and questionable legitimacy to oversee foreign operations, affiliates, and suppliers. Extending their authority transnationally raises thorny issues of extra territorial jurisdiction; it also entails potential legal conflicts, as regulators from different states apply distinct national standards. With national jurisdiction restricted (e.g. by territory) to avoid legal conflicts, mobile transnational capital may force states into “race to the bottom” regulatory competition. Even when states do not directly compete, firms may evade stringent regulations by using corporate “flags of convenience” or relocating the legal site of their operations. Even if regulation is effective, moreover, multiple, inconsistent regulations impose unnecessary burdens. Reciprocal coordination arrangements, such as bilateral tax treaties, can alleviate many of these problems, but they require costly negotiations and often leave gaps and overlaps. Of course, IGOs were created precisely to resolve such problems of territorial jurisdiction, but have not been delegated sufficient authority to overcome them. As already noted, moreover, international legal rules traditionally address only states, not the private actors who are the ultimate targets of regulation.

TRSS is further complicated by the efforts of largely self-appointed private organizations to fill the transnational regulatory vacuum. As described above, a wide range of private schemes now act as voluntary regulators: some are self-regulatory, others are created and governed by civil society actors, others by multi-stakeholder groupings that include business, and still others by collaborations between IGOs or national governments and private actors. Most of these schemes are relatively small, in terms of resources and participation, compared to the scope of the problems they address.

TRSS regulation varies widely: some schemes adopt codes or principles with little regulatory infrastructure; others administer complex monitoring systems and are backed by strong market mechanisms (Bernstein & Cashore 2007). Few, however, have the legitimacy or authority to regulate effectively on their own. Many “non-state market-driven” schemes are particularly hampered by their dependence on often-fickle consumer or market demand to provide incentives for adherence to and compliance with voluntary norms. Firms can and do self-regulate, but their actions may not match the scope of the

problems; in any case self-interested self-regulation lacks credibility. Industry associations help address both issues, but their reliability in regulating in the public interest remains suspect.

The result is a patchwork of uncoordinated schemes competing vigorously for adherents, resources, legitimacy, and public notice. Fragmentation and competition may have salutary effects, including flexibility, innovation, and the ability to fine-tune regulation to specific circumstances. However, they can also lead to dysfunction or incomplete regulation. To bring this situation closer to the RR model, the greatest need is for focal agencies able to coordinate, support, and steer the universe of TRSS schemes within particular issue areas. IGOs remain best positioned to take the regulatory lead – although they must operate quite differently from the focal state agencies of RR because of their own circumstances and the challenges of international business and politics.

These divergences in the nature of the regulator are closely related to other differences between RR and TRSS, as shown in Table 1. The domestic agencies of RR have the *full range of regulatory capacities* summarized in the enforcement and regulatory pyramids, but transnational regulators (including national agencies operating transnationally, TRSS schemes, and IGOs) all possess more *limited capacities*. IGOs and private schemes, for example, often lack resources, business expertise, and operational capacities, such as monitoring ability; national agencies lack information on foreign activities. Thus, even if problems of authority and jurisdiction were resolved, transnational regulators might lack the capabilities to take on transnational firms. Most noteworthy is the lack of a *benign big gun*. IGOs and private schemes lack strong sanctioning powers; those of states are undercut by jurisdictional and capacity problems. As RR teaches us, the absence of a big gun does more than undercut “hard” regulation at the tops of the regulatory pyramids: “Lop off the tops . . . and there is less prospect of self-regulation, less prospect of persuasion as an alternative to punishment” (Ayres & Braithwaite 1992, p. 39).

A third key difference is the regulator’s *relation to its targets*. The nominal difference – RR addresses domestic targets, TRSS addresses transnational targets – leads to significant substantive differences. Targets in the RR model are by and large *well defined and readily identifiable*: they are the producers within the national industry. That is surely a simplification domestically,<sup>4</sup> but it is highly inapt at the transnational level, where targets are both *diffuse and difficult to identify*. Production is often spread among multiple states, involving affiliates and supply chains that sprawl across the globe.

A corollary is that, whereas domestic regulators in RR are assumed to have *direct access* to well-defined targets, aspiring transnational regulators have *limited access* to diffuse ones. Agencies of individual states face jurisdictional limitations, and private schemes must rely on voluntary cooperation from targets. Virtually all IGOs lack authority to directly regulate private firms.

Finally, domestic responsive regulators have *extensive information* about regulatory problems and targets, whereas transnational regulators often have very *limited information*. In the RR model, strong regulatory capacities coupled with direct access produce high levels of information about regulatory issues and targets. By contrast, most transnational regulators – including IGOs, private schemes, and even states – have relatively low informational capacities and lack direct access, while facing the daunting task of regulating global production. Even determining where a target firm is sourcing its inputs may be difficult, as that is sometimes a closely guarded trade secret.<sup>5</sup> In short, not only do TRSS regulators lack a big gun, they would not know where to aim it if they had one.



Taking these factors together, TRSS faces a substantially more challenging regulatory environment than that of the RR model. One could see this as a continuation of the long-standing “sovereignty at bay” (Vernon 1971) theme in international relations, which treats international firms as beyond the reach of state regulation. Yet it is important to recall Ayres and Braithwaite’s argument that the power of business to avoid or resist regulation is more constrained than it may seem. Even if the state withdraws from regulating the market (or faces structural barriers to doing so), power in modern societies is diffuse: the regulatory gap will be at least partially filled by communities (e.g. environmental and social movements) and associations (e.g. industry groups, corporate social responsibility organizations). Thus, Ayres and Braithwaite saw the then-current period as one not of absolute deregulation, but rather of regulatory flux.

The same is true, in different ways, of transnational regulation today. TRSS represents the emergence of diverse and sophisticated transnational associations (e.g. industry organizations, such as the World Business Council for Sustainable Development, and business–NGO schemes, such as the Forest Stewardship Council) that are moving to fill the international regulatory vacuum. And just as Ayres and Braithwaite argued for a “mixed institutional order,” in which state, market, communities, and associations constitute, support, and constrain one another, so too can we see the potential for a parallel mix at the transnational level.<sup>6</sup> In sum, the circumstances of transnational business and governance require an institutional response that is informed by RR, but modifies and adapts it to the demands of the transnational arena by incorporating the emerging associational system of TRSS.

#### 4. IGOs as responsive regulators

In this section we examine how IGOs can work with TRSS schemes – coordinating, supporting, and steering them – to construct a mixed transnational institutional order capable of engaging in RR. IGOs are the best available transnational responsive regulators: only they have the global scope, legitimacy, and focality to play this central role; IGOs also possess some (though not all) of the necessary capacities. We frame our discussion around the two strategies introduced above: regulatory collaboration and orchestration (Abbott & Snidal 2010; Abbott *et al.* 2012). The former resembles RR but requires adaptation; the latter is more innovative and is particularly well matched to IGOs’ (limited) capacities.

##### 4.1. Regulatory collaboration

In the RR model, the agency “delegates” regulatory functions to business targets – firms, industry groups, professional associations, technical standards bodies, and other groups – by (contingently) authorizing self-regulation (Ayres & Braithwaite 1992, p. 4). If targets refuse or abuse the privilege, the agency withdraws its delegation, exercises its authority, and escalates its response up the regulatory pyramids. Since IGOs typically possess limited authority over private targets, however, they have little to delegate. Moreover, IGOs have limited authority for mandatory action whatever the target: their regulatory pyramids are severely truncated. Therefore, the delegation approach is not readily transferable.

Yet IGOs can engage business targets and promote self-regulation in different ways. In regulatory collaboration, IGOs interact directly with regulatory targets, relying on relatively soft inducements to gain voluntary cooperation, promote self-regulation, and

steer it in desired directions. IGO inducements often resemble “persuasion” in RR, the lowest level of the regulatory pyramid; with few potential avenues of escalation, these have limited impact. When IGOs can provide sufficient incentives, however, collaboration can have more significant effects. In addition, collaboration helps IGOs overcome their deficiencies as responsive regulators, enhancing their focality and authority, improving their access to private actors, and providing information about business activities.

Some IGOs adopt voluntary codes of conduct and persuade firms to accept them. The OECD Guidelines for Multinational Enterprises are one of the earliest examples, although they do not require specific acceptance by targets. The EU’s EMAS program requires participating firms to adopt ISO 14001-compliant environmental management systems. The UN Global Compact (UNGC) urges participating firms to implement ten principles drawn from widely adopted international agreements. UNGC goes beyond one-time persuasion by embedding firms in dialogue and collaboration with other participants, UN agencies, and iPIGs. This approach strongly resembles the “web of dialogue” strategy that Braithwaite and Drahos (2000, p. 32) found so influential in shaping business conduct; in addition, as *Responsive Regulation* suggests, it can have even broader social benefits by promoting public-oriented discourse (Ayres & Braithwaite 1992, p. 59). Other IGOs leave the precise form of self-regulation to targets, subject to modest steering. For years, UNEP has engaged firms in dialogue, encouraging them to adopt their own environmental codes; UNEP also has regularly “benchmarked” corporate environmental reports, encouraging continuous improvement, but allowing industry to take the lead in shaping the evolving standard.<sup>7</sup>

The OECD, UNGC, and UNEP rely primarily on ideational influences to gain cooperation. UNGC, for example, points to opportunities for learning and “securing a positive place for business in society;” it also suggests that participation helps firms manage “enterprise risks and opportunities,” enhancing long-term value.<sup>8</sup> But IGO inducements sometimes extend beyond pure persuasion. UNGC disseminates firms’ Communications on Progress to investors, enabling them to reward regulatory innovators and punish laggards. EMAS provides indirect material benefits, allowing participants to distinguish themselves in the market by displaying the EMAS logo; the EU eco-label relies on the same incentive. UNGC has recently moved in a similar direction, publicly singling out superior performers.<sup>9</sup> The International Finance Corporation (IFC), which provides direct financial assistance to firms, provides the strongest incentives: it conditions financing on acceptance of social and environmental norms, management systems, and reporting obligations.

Beyond the socialization effects of such programs, IGOs have two principal avenues of escalation in case of defection. The first is to withdraw any benefits they have conveyed: EMAS can withdraw authorization to use its logo; IFC can deny further funding. This avenue is only available, of course, if IGOs provide significant benefits in the first place. The second – consistent with Ayres and Braithwaite’s emphasis on the reputational concerns of individuals within firms (Ayres & Braithwaite 1992, pp. 19, 22–23) – is to move from positive to negative reputational sanctions. This approach is less demanding, as it does not require the provision of benefits, yet it remains underdeveloped: UNEP, OECD, and most other IGOs have no mechanisms for reputational sanctioning and resist publicizing company failings. UNGC long followed the same course, but it now publicly identifies companies that fail to submit timely Communications on Progress, as well as

those it has expelled for continued failure to disclose. Enhancing reputational sanctions – positive and negative – is the most feasible way to strengthen IGO programs.

One way to accomplish that end is to involve iPIGs – and national or local PIGs – in regulatory collaboration, as *Responsive Regulation* suggests. Many iPIGs are skilled in influencing reputations, and less constrained than IGOs in doing so. Again, UNGC provides an illustration. While some NGOs initially accused UNGC of “blue-washing,” it has increasingly encouraged business participants to engage with iPIGs and local PIGs in networks, projects, and other interactions. UNGC’s recent “differentiation program” explicitly encourages iPIGs to assess participants’ performance in implementing the principles and in reporting, so that UNGC can single out superior performers. UNGC has pledged to work with stakeholders to create “a meaningful vetting process.”<sup>10</sup>

The voluntary nature of regulatory cooperation is its major strength, because it facilitates engaging business, but also its major weakness, because the most important targets are least likely to participate. The lack of a big gun means that regulatory cooperation is likely to fail when business goals are significantly at odds with the public interest. One way forward, then, is to develop mechanisms for more effective use of reputational sanctions. Orchestration provides one such mechanism.

## 4.2. Orchestration

Orchestration involves iPIGs centrally in the regulatory process, including not only the promulgation of standards, but also crucial later stages, such as monitoring and enforcement. In orchestration, an IGO enlists intermediary organizations that share its regulatory goals and supports them in regulating firms or other targets through TRSS. Intermediaries may include iPIGs, civil society-based TRSS schemes, and collaborative schemes that include business<sup>11</sup> or public actors. Intermediaries frequently engage in TRSS independently before orchestration begins; this helps the IGO identify organizations whose goals are aligned and which possess needed capabilities. As orchestrator, an IGO can catalyze intermediary organizations, encouraging them to focus on particular issues or targets or to adopt desired strategies. In some cases, an orchestrator might even help create suitable intermediaries where they do not exist.<sup>12</sup> Once intermediaries are engaged, an IGO can provide ideational and material support, and deploy its support conditionally to steer intermediary activities.

UNEP’s involvement with the Global Reporting Initiative (GRI) is “one of the poster child examples of IGO orchestration” (Abbott & Snidal 2010; Dingwerth & van der Lugt 2012, p. 3). Observing a proliferation of environmental reporting standards and practices, UNEP joined forces with CERES and other civil society actors to found GRI, a multi-stakeholder organization including business and civil society representatives. UNEP helped establish the focality of GRI by endorsing it, encouraging governments to support it, and making modest financial contributions. UNEP support has led to recognition of GRI’s reporting guidelines as de facto international standards.

In addition, UNEP has, sometimes with other IGOs, convened, founded, and supported industry-specific schemes that operate as intermediaries in shaping business conduct within particular sectors. In finance, UNEP (through its Finance Initiative, itself a collaboration with private firms) and UNGC convened “socially responsible” and conventional investment firms to promote the application of environmental and social criteria in financial decisionmaking. Their efforts led to adoption of the Principles for Responsible Investment (PRI), which now has over 900 financial institution members

and an independent secretariat. UNEP, UNGC, and Secretary-General Annan promoted PRI to potential members, implicitly endorsed it, and arranged administrative and financial support (Dingwerth & van der Lugt 2012). In parallel, IFC convened major banks and steered them to adopt the Equator Principles, which modify IFC Performance Standards for application to private project finance transactions. Other industry-specific intermediaries orchestrated by UNEP and IGO partners include the Tour Operators Initiative for Sustainable Development, Global e-Sustainability Initiative, and Sustainable Buildings and Climate Initiative (Dingwerth & van der Lugt 2012). Finally, UNEP is one of the UN bodies that sponsor UNGC and related programs, such as the CEO Water Mandate.

Orchestration is an important addition to RR theory. It is a particularly valuable strategy for IGOs, as it helps them overcome their structural defects as responsive regulators. Intermediaries provide regulatory capabilities that IGOs lack. Private intermediaries – especially schemes that involve business, but also many that involve only civil society – have direct access to private targets and more extensive information about them. Intermediaries also contribute specialized expertise and operational capacities, for example, for monitoring company behavior. By orchestrating private organizations operating within an issue area, IGOs can enhance their own focality. By cooperating with well-regarded intermediaries, IGOs can enhance their own legitimacy and authority. In addition, states that might oppose direct IGO regulatory efforts are less sensitive to IGOs' indirect role as orchestrators. Indeed, the involvement of private intermediaries may provide domestic support for IGO action, increasing state support. Orchestration is also a feasible strategy for IGOs: while their regulatory assets are limited, those they do possess – including significant focality, legitimacy, convening power, and other ideational resources – are well-suited to orchestration.

Perhaps most significantly, orchestration allows IGOs to extend their regulatory capacities, although not to the levels possible for domestic agencies. Orchestration provides new avenues of escalation that IGOs can display in advance and deploy as needed in response to defection by business targets: IGOs can respond by initiating or intensifying orchestration, bringing the material and ideational influence of iPIGS, TRSS schemes, and other intermediaries to bear. As in other settings lacking strong state structures, intermediaries take on the state's traditional role in sanctioning violations.<sup>13</sup>

Many iPIGS and TRSS schemes specialize in reputational sanctions; they have established procedures for influencing reputation, more experience, and greater freedom of action than do IGOs. Some intermediaries also have additional enforcement capacities, most dramatically the ability to mobilize consumer boycotts or other economic pressures. Finally, many intermediaries involve private domestic actors that have greater influence on national governments than do IGOs; through political action they may persuade governments to take regulatory action against recalcitrant targets.

Orchestration also produces many of the benefits *Responsive Regulation* ascribes to involving PIGs in agency regulation. As with regulatory collaboration, if orchestrators involve civil society intermediaries in regulatory interactions with targets, the intermediaries can monitor and offset business influence, limiting opportunities for capture.<sup>14</sup> Involving multiple intermediaries increases protection against capture while also enhancing sanctioning power. Private intermediaries may be able to work closely with targets on an ongoing basis in “webs of dialogue,” enhancing socialization and learning. Including target firms in regulatory actions encourages “efficient capture” (Ayres & Braithwaite 1992, pp. 67–68, 71), leading IGOs to consider the costs of regulation to firms, as well as

its public benefits. Both effects can be realized through “tripartite” orchestration, in which IGOs work with intermediary schemes that involve both business and civil society.

Just as RR keeps punishment in the background (Ayres & Braithwaite 1992, p. 47), orchestration separates IGOs from punishment and threats of punishment; both come instead from intermediaries. Coupled with tripartism, orchestration thus helps IGOs retain business trust (Ayres & Braithwaite 1992, p. 86) while still providing opportunities for escalation. Of course, when IGOs orchestrate independent intermediaries they give up direct control over the response; catalyzing aggressive intermediaries willing to impose strong sanctions may enhance the regulatory threat, but may also decrease business trust (Baron 2003). Because IGOs remain weak regulators even with orchestration, however, they are likely to pursue strategies consistent with Ayres and Braithwaite’s “minimal sufficiency” principle: the more regulation relies on moral suasion rather than punishment, the more effective it will be, especially at inducing internalization and thus long-term compliance (Ayres & Braithwaite 1992, p. 49).

Many intermediaries already engage in TRSS, but IGO support can focus, strengthen, and coordinate their activities. Orchestration thus enhances RR in two ways. First, IGO support makes TRSS schemes more authoritative and effective responsive regulators in their own right,<sup>15</sup> able to deploy more powerful reputational and market sanctions; as a result, potential intermediaries may seek IGO support to strengthen their own activities. Second, orchestration makes IGOs more effective responsive regulators, able to activate intermediaries in response to target defection. In both senses, orchestration resembles the “boomerang strategy” of human rights NGOs (Risse *et al.* 1999): it creates transnational alliances among regulatory actors that individually are weak, but that possess complementary strengths, enabling them to take on challenging targets together.

### 4.3. Orchestrating the transnational regulatory system

*Responsive Regulation* assumes that an agency with clear, exclusive jurisdiction addresses a specific regulatory issue. In transnational settings, however, the regulatory system is more diffuse, weaker, and subject to varied organizational pathologies. The regulatory system itself requires management, and orchestration is a valuable tool.

Orchestration can provide the coordination that is largely absent from the decentralized TRSS system. IGOs can encourage TRSS schemes to cooperate in addressing regulatory gaps, or to adjust their operations – perhaps even merging – to limit costly and confusing regulatory overlaps. UNEP’s effort to establish GRI as focal illustrates another route to the same goal. IGOs can also promote better distribution of TRSS schemes by endorsing and supporting those with memberships, structures, and modes of operation most likely to gain legitimacy and act effectively. Many IGOs, unfortunately, resist such endorsements; for example, many UN agencies endorse only UNGC, even though it is not necessarily the most effective scheme.

Orchestration might also take the form of promoting and coordinating experimentation. Freedom to experiment with organizational structures and regulatory approaches is a significant advantage of decentralized governance systems. In such systems, however, experimentation is unsystematic, with no central procedures to initiate a range of experiments or to assess their results, extract lessons, and refine the system’s goals and approaches in response (Overdevest & Zeitlin 2012). Actors must instead, rely upon ad hoc learning across schemes and informal “benchmarking” (Overdevest 2010). Modest coordination could significantly improve experimentation. For example, IGOs could



encourage intermediaries to pursue diverse and innovative regulatory strategies, support them in doing so, organize periodic peer reviews or other procedures to assess the results, and disseminate the resulting lessons. This approach would help the entire system to develop and adopt better regulatory techniques.

Properly done, orchestration can promote “contestability” within and among iPIGs and TRSS schemes, helping to ensure that the specific organizations and individuals that participate in regulatory arrangements are qualified and representative, and using contestation among them to identify the “public interest” (Ayres & Braithwaite 1992, pp. 56–58). Rather than permanently allying with particular iPIGs or schemes, IGO orchestrators should engage a range of iPIGs and schemes, supporting the creation of new partners where appropriate ones do not exist. Orchestration can also steer TRSS schemes toward internal forms of governance that reflect democratic principles and promote internal contestability, increasing the representativeness, deliberativeness, and legitimacy of TRSS.

*Responsive Regulation* argues that empowering PIGs within regulatory processes will discipline “zealous” or overly aggressive PIGs, giving them a more productive long-term interest in the success of regulation. The same is true of iPIGs and TRSS schemes. It is important, however, that at least some civil society-based iPIGs and schemes maintain a “critical distance” from regulation, so that they can perform their essential advocacy functions (Dryzek & Stevenson 2011). Neither RR nor orchestration should become a tool for co-opting critical groups. This highlights an important advantage of the voluntary nature of orchestration: iPIGs and other groups can and do refuse to be orchestrated if they fear it may constrain their independence. Similarly, IGOs can work with business organizations that will contribute to “efficient capture,” even as the participation of iPIGs helps protect them from actual capture. Conversely, IGOs can exclude business groups that might undermine a regulatory arrangement (e.g. industry schemes designed to provide “cover,” rather than sincere self-regulation), thereby impeding certain types of regulatory evasion.

Orchestration can improve IGO performance even beyond enhancing regulatory capacities and avenues for escalation. Like all organizations, IGOs are subject to “pathologies” (Barnett & Finnemore 2004). Perhaps the most significant pathology stems from IGO incentives to pursue private organizational interests – such as expanding their responsibilities and budgets – rather than their public missions. When an IGO orchestrator brings iPIGs and TRSS schemes into the regulatory process, however, both groups can monitor the IGO’s performance. They can, moreover, discipline the IGO by imposing reputational sanctions if it pursues private aggrandizement, becomes too close to its targets, or fails to regulate appropriately. Orchestration “embeds IGOs in a social context of committed actors,” helping to keep them aligned with their public missions (Abbott 2012, p. 555). This social context also helps protect against capture: in addition to monitoring business, as discussed above, iPIGs and TRSS schemes can monitor the IGO, ensuring it does not unduly favor business. With diverse intermediaries, business and iPIGs can each monitor and discipline the IGO if it unduly favors the other; the adverse interests of the two groups make it unlikely that they will combine to capture the IGO.

Finally, although regulatory collaboration and, especially, orchestration can improve international regulation, these techniques still fall short of the RR ideal because of the circumstances of transnational regulation summarized in Table 1. Compared to domestic agencies, IGOs have limited regulatory capacities, lack big guns, and are granted only limited access to private targets. Regulatory collaboration, especially with iPIG involve-



ment, allows IGOs to gain the voluntary participation of targets whose interests are not too sharply opposed to the regulatory objective. Orchestration, by contrast, engages intermediaries that possess monitoring capacities and even small guns of their own to encourage a wider range of targets to participate.

Crucially, orchestration implicitly assumes that a single IGO will emerge in each issue area as a clearly identified orchestrator of TRSS schemes, much as RR assumes a focal state agency. While many issue areas do feature a focal IGO, international governance is increasingly fragmented, and regimes increasingly complex, so that often no IGO is uncontestedly focal (Raustiala & Victor 2004; Biermann *et al.* 2009). For example, World Health Organization focality has been significantly disrupted by the emergence in global health of private actors, such as the Gates Foundation (Hanrieder 2012). Similarly, the architecture of international environmental governance is incredibly and increasingly fragmented (Keohane & Victor 2011; Oberthür & Stokke 2011; Zelli 2011), with multiple IGOs and treaty bodies.

As with TRSS schemes, some competition may be healthy, but competition can also lead to dysfunctionality. Key problems include conflicting goals and, therefore, inconsistent regulatory efforts by orchestrators, and forum-shopping by targets seeking to take advantage of disorder. The resulting conundrum – “Who will orchestrate the orchestrators?” – constitutes one of the greatest potential weaknesses of orchestration. Nevertheless, this problem needs to be viewed in the context of the lack of hierarchical regulatory alternatives, and the even greater multiplicity of TRSS schemes. Coordinating IGO activities is both crucial and difficult, but it remains a second-order problem compared to the need to strengthen transnational regulation.

## 5. Conclusion

Regulatory collaboration and orchestration are essential strategies for transnational regulation. Yet they also expand the general regulatory toolkit, adding innovative strategies that may be applicable in other contexts. In closing, we point toward two areas in which orchestration, in particular, might make a valuable contribution to other regulatory domains.

First, we have thus far discussed the regulation of business, the subject of *Responsive Regulation*. Many of the same points, however, can be made about the regulation of states, the traditional focus of international law and governance. Here too, IGOs and treaty bodies have limited authority for regulation: they can almost never adopt rules that bind states without their consent through treaty ratification or opt-in/opt-out procedures for regulations. In addition, IGOs have modest authority to implement international rules: even formal implementation procedures rarely go beyond regulatory collaboration. Finally, IGOs have truncated regulatory pyramids, with little ability to escalate responses to recalcitrant states.

Through orchestration, IGOs can mobilize iPIGs and TRSS schemes to “manage” as well as “bypass” states (Abbott *et al.* 2012). For example, some IGOs actively engage iPIGs and other private actors to monitor state compliance with international commitments. Where international agreements provide no formal mechanisms for private actors to provide information or file complaints regarding state non-compliance, IGOs such as the European Commission and the Convention on International Trade in Endangered Species (CITES) Secretariat have created informal access procedures, promoted them to

affected communities, and collaborated with iPIGs to facilitate their use. Where existing formal access procedures are underutilized because actors possessing relevant information are unaware of the procedures or lack capacity to use them, IGOs such as the Office of the High Commissioner for Human Rights have assisted potential informants through education, training, and financial support (Tallberg 2012).

On occasion IGOs even enlist private actors to enhance enforcement of international commitments. A striking example is the UN Millennium Campaign, designed primarily to influence states to pursue the Millennium Development Goals (MDGs). The UN strategy for achieving the MDGs included collaborating with a range of “partners” (intermediaries) to foster a social movement that would galvanize public opinion in support of strong national actions. The UN would support the partners by providing information, coordinating strategies, facilitating networking, and linking disparate campaigns. iPIGs were seen as especially valuable intermediaries because they could generate “‘bottom-up’ demand for change” within states.<sup>16</sup> As with sanctions in RR, orchestration separated the UN from intermediaries’ demands.<sup>17</sup> To be sure, states will often constrain such efforts, but many IGOs retain modest leeway for orchestration.

Second, we have thus far discussed transnational regulation. But that vantage point also allows us to identify possibilities for domestic application not fully integrated into the original RR model. Orchestration is especially valuable in decentralized arenas with weak central regulators; it is thus a natural strategy for developing country regulators with limited capacities and institutional infrastructure. Yet even regulatory agencies in highly developed states can benefit from its advantages.

The notion that even established domestic agencies possess all essential regulatory capacities is a fiction; private intermediaries can provide information and expertise, monitor target behavior, apply unique forms of pressure, and interact with targets to promote socialization. In addition, indirect action through orchestration can bypass interest-based and ideological resistance to direct regulation. Escalation of responses through orchestration separates the agency from sanctions and provides a broader range of responses. Orchestration can promote regulatory experimentation and innovation. And by incorporating PIGs and other societal groups in the regulatory process, orchestration can help prevent capture.

*Responsive Regulation* pioneered a fresh way of thinking about domestic regulation that provides important lessons for the transnational arena. By encouraging many regulatory flowers to bloom, moreover, *Responsive Regulation* stimulates consideration of creative regulatory approaches, such as orchestration. In this fashion, lessons from transnational RR may also inform the more settled arenas of international and domestic regulation. In all these contexts, “if we accept that sound policy analysis is about understanding private regulation . . . and how it is interdependent with state regulation, then interesting possibilities open up to steer the mix of private and public regulation” (Ayres & Braithwaite 1992, p. 3).

## Notes

- 1 “Regulatory standard-setting” (RSS) is the promulgation and implementation of voluntary standards in circumstances entailing Pigovian externalities (the normal realm of regulation), rather than network externalities (primarily coordination problems). In TRSS, those standards apply across national boundaries. See Abbott & Snidal (2009a).

- 2 This formulation emphasizes indirectness more strongly than did our earlier use of the term (Abbott & Snidal 2009b, 2010). Our earlier work conflated regulatory collaboration and orchestration; in connection with collaboration we discussed “directive” techniques, which rarely appear transnationally. Here we emphasize what we formerly labeled “facilitative orchestration,” which is indirect and is the more distinctive and empirically relevant form transnationally.
- 3 Gunningham and Grabosky (1998) propose a three-dimensional figure that, in essence, brings together our actor group triangle with the regulatory and enforcement pyramids of RR (Grabosky 2013).
- 4 Indeed, *Responsive Regulation* assumes direct, personal relationships between agency representatives and targets (Ford 2013).
- 5 As this was written, Apple disclosed its global suppliers for the first time, responding to concerns over supplier labor practices (Wingfield & Duhigg 2012).
- 6 Mascini (2013) notes that New Governance and other theories addressing relationships between states and societal actors carry out *Responsive Regulation*’s commitment to civic republican approaches.
- 7 As these examples suggest, even voluntary transnational regulatory programs vary widely in the generality or target-specificity of their norms (Westerman 2013).
- 8 [http://www.unglobalcompact.org/HowToParticipate/Business\\_Participation/the\\_importance\\_of\\_voluntarism.html](http://www.unglobalcompact.org/HowToParticipate/Business_Participation/the_importance_of_voluntarism.html)
- 9 [http://www.unglobalcompact.org/COP/differentiation\\_programme.html](http://www.unglobalcompact.org/COP/differentiation_programme.html)
- 10 [http://www.unglobalcompact.org/COP/differentiation\\_programme.html](http://www.unglobalcompact.org/COP/differentiation_programme.html)
- 11 In such cases, orchestration blends with regulatory collaboration.
- 12 *Responsive Regulation* (Ayres & Braithwaite 1992, p. 59) generally assumes that appropriate PIGs are available, except in highly technical areas. Transnationally, however, forming and strengthening appropriate intermediaries is an important element of orchestration.
- 13 Braithwaite (2006) (developing countries); Börzel & Risse (2010) (areas of limited statehood); Drahos (2004, pp. 34–42) (international settings).
- 14 IGO member states can also monitor business influence; however, it is difficult for multiple principals to effectively oversee agents (Hawkins *et al.* 2006).
- 15 In essence, voluntary TRSS schemes engage in regulatory collaboration with targets.
- 16 The UN and the MDGs: A Core Strategy (2002), <http://www.undg.org/index.cfm?P=218>
- 17 The UN pursued the strategy with a light touch because of concern that some iPIGs would resist being orchestrated.

## References

- Abbott KW (2012) Engaging the Public and the Private in Global Sustainability Governance. *International Affairs* 88, 543–564.
- Abbott KW, Snidal D (2009a) The Governance Triangle: Regulatory Standards Institutions and the Shadow of the State. In: Mattli W, Woods N (eds) *The Politics of Global Regulation*, pp. 44–88. Princeton University Press, Princeton, NJ.
- Abbott KW, Snidal D (2009b) Strengthening International Regulation Through Transnational New Governance: Overcoming the Orchestration Deficit. *Vanderbilt Journal of Transnational Law* 42, 501–578.
- Abbott KW, Snidal D (2010) International Regulation without International Government: Improving IO Performance through Orchestration. *Review of International Organizations* 5, 315–344.
- Abbott K, Genschel P, Snidal D, Zangl B (2012) International Organizations as Orchestrators. Paper Presented at Conference on International Organizations as Orchestrators, Center for Advanced Studies, May 2012, Ludwig-Maximilians-Universität München.

- Ayres I, Braithwaite J (1992) *Responsive Regulation: Transcending the Deregulation Debate*. Oxford University Press, New York.
- Barnett M, Finnemore M (2004) *Rules for the World: International Organizations in Global Politics*. Cornell University Press, Ithaca, MJ.
- Baron DP (2003) Private Politics. *Journal of Economics & Management Strategy* 12, 31–66.
- Bernstein S, Cashore B (2007) Can Non-state Global Governance Be Legitimate? An Analytical Framework. *Regulation & Governance* 1, 347–371.
- Biermann F, Pattberg P, van Asselt H, Zelli F (2009) The Fragmentation of Global Governance Architectures: A Framework for Analysis. *Global Environmental Politics* 9(4), 14–40.
- Black J (2003) Enrolling Actors in Regulatory Systems: Examples from UK Financial Services Regulation. *Public Law* 2003, 63–91.
- Börzel TA, Risse T (2010) Governance without a State: Can It Work? *Regulation & Governance* 4, 113–134.
- Braithwaite J (2006) Responsive Regulation and Developing Economies. *World Development* 34, 884–898.
- Braithwaite J, Drahos P (2000) *Global Business Regulation*. Cambridge University Press, Cambridge, UK.
- Dingwerth K, van der Lugt C (2012) Governing Where Focality is Low: How UNEP Uses Orchestration to Expand its Regulatory Frontier. Paper Presented at Conference on International Organizations as Orchestrators, Center for Advanced Studies, May 2012, Ludwig-Maximilians-Universität, Munich.
- Drahos P (2004) Towards an International Framework for the Protection of Traditional Group Knowledge and Practice. UNCTAD-Commonwealth Secretariat Workshop on Elements of National Sui Generis Systems for the Preservation, Protection and Promotion of Traditional Knowledge, Innovations and Practices and Options for an International Framework, 4–6 February 2004, Geneva. [Last accessed 8 Sept 2012.] Available from URL: [https://www.anu.edu.au/fellows/pdrahos/reports/pdfs/2004Drahos\\_tkframeworkUNCTAD.pdf](https://www.anu.edu.au/fellows/pdrahos/reports/pdfs/2004Drahos_tkframeworkUNCTAD.pdf)
- Dryzek JS, Stevenson H (2011) Global Democracy and Earth System Governance. *Ecological Economics* 70, 1865–1874.
- Ford C (2013) Prospects for Scalability: Relationships and Uncertainty in Responsive Regulation. *Regulation & Governance* 7, 14–29.
- Grabosky P (2013) Beyond *Responsive Regulation*: The Expanding Role of Non-state Actors in the Regulatory Process. *Regulation & Governance* 7, 114–123.
- Gunningham N, Grabosky P (1998) *Smart Regulation: Designing Environmental Policy*. Clarendon Press, Oxford, UK.
- Hanrieder T (2012) After Monopoly: WHO's Challenged Focality in Global Health Governance. Paper Presented at Conference on International Organizations as Orchestrators, Center for Advanced Studies, May 2012, Ludwig-Maximilians-Universität, Munich.
- Hawkins DG, Lake DA, Nielson DL, Tierney MJ (eds) (2006) *Delegation and Agency in International Organizations*. Cambridge University Press, Cambridge, UK.
- Keohane RO, Victor DG (2011) The Regime Complex for Climate Change. *Perspectives on Politics* 9, 7–23.
- Latour B (1986) The Powers of Association. In: Law J (ed) *Power, Action and Belief: A New Sociology of Knowledge?* Sociological Review Monograph 32, pp. 264–280. Routledge & Kegan Paul, London.
- Mascini P (2013) Why was the Enforcement Pyramid So Influential? And What Price was Paid? *Regulation & Governance* 7, 48–60.
- Oberthür S, Stokke OS (eds) (2011) *Managing Institutional Complexity: Regime Interplay and Global Environmental Change*. The MIT Press, Cambridge, MA.

- Overdevest C (2010) Comparing Forest Certification Schemes: The Case of Ratcheting Standards in the Forest Sector. *Socio-economic Review* 8, 47–76.
- Overdevest C, Zeitlin J (2012) Assembling An Experimentalist Regime: Transnational Governance Interactions in the Forest Sector. *Regulation & Governance* (in press).
- Raustiala K, Victor DG (2004) The Regime Complex for Plant Genetic Resources. *International Organization* 58, 277–309.
- Risse T, Ropp SC, Sikkink K (eds) (1999) *The Power of Human Rights: International Norms and Domestic Change*. Cambridge University Press, Cambridge, UK.
- Tallberg J (2012) Orchestrating Private Enforcement: When, How and Why International Organizations Mobilize Transnational Compliance Constituencies. Paper Presented at Conference on International Organizations as Orchestrators, Center for Advanced Studies, Ludwig-Maximilians-Universität, May 2012, Munich.
- Vernon R (1971) *Sovereignty at Bay: The Multinational Spread of U.S. Enterprises*. Basic Books, New York.
- Westerman P (2013) Pyramids and the Value of Generality. *Regulation & Governance* 7, 80–94.
- Wingfield N, Duhigg C (2012) Apple Lists Its Suppliers for 1st Time. *New York Times* 13 Jan.
- Zelli F (2011) The Fragmentation of the Global Climate Governance Architecture. *WIREs Climate Change* 2, 255–270.