

International regulation without international government: Improving IO performance through orchestration

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Abstract International organizations (IOs) have been widely criticized as ineffective. Yet scholars and practitioners assessing IO performance frequently focus on traditional modes of governance such as treaties and inter-state dispute-resolution mechanisms. When they observe poor performance, moreover, they often prescribe a strengthening of those same activities. We call this reliance on traditional state-based mechanisms “International Old Governance” (IOG). A better way to understand and improve IO performance is to consider the full range of ways in which IOs can and do operate—including, increasingly, by reaching out to private actors and institutions, collaborating with them, and supporting and shaping their activities. Such actions are helping to develop an intricate global network of public, private and mixed institutions and norms, partially orchestrated by IOs, that we call “Transnational New Governance” (TNG). With proper orchestration by IOs, TNG can ameliorate both “state failure”—the inadequacies of IOG—and “market failure”—the problems that result when the creation and evolution of norm-setting institutions is highly decentralized. Orchestration thus provides a significant way for IOs to improve their regulatory performance. Some IOs already engage actively with private actors and institutions—we provide a range of illustrations, highlighting the activities of the UN Environment Programme (UNEP). Yet there remains a significant “orchestration deficit” that provides real opportunities for IOs. We draw on the lessons of existing IO activities to suggest additional possibilities for improving IO performance.

Keywords Regulation · International organizations · New governance · Non-state actors · Transnational relations · Public-private partnerships · Standard setting · UNEP · Transnational new governance · Regulatory standard setting · Governance Triangle

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1 Introduction

Scholars and commentators assessing the performance of international organizations (IOs) frequently look at the actions of those organizations in isolation, and in addition focus their attention on traditional forms of international governance, such as treaty negotiations and dispute-resolution mechanisms. Such traditional tools of governance require state consent, apply to states, and rely on state implementation and compliance—even when they are ultimately intended to coordinate state regulation of private actors (e.g., ILO conventions addressing actions in the workplace), rather than state actions at the international level (e.g., national tariffs). When commentators observe poor IO performance, moreover, they often call for strengthening those same activities, through additional powers or resources. We call this reliance on traditional state-based mechanisms “International Old Governance” (IOG) (Abbott and Snidal 2009b). By this standard IO performance is frequently unsatisfactory.

There is another way to understand IO performance, however: by taking into account the full range of ways in which IOs can (and do) operate, especially through engagement with non-state actors and institutions. The best known forms of engagement run from private actors to IOs: most of the literature on the subject focuses on techniques by which private actors influence IOs (and states) (Keck and Sikkink 1998; Finnemore and Sikkink 1998; Risse et al. 1999; Risse 2002; Price 2003) and on arrangements under which they may participate in IO organs and activities (Charnovitz 1996–97; Otto 1996; Betsill and Corell 2001; Corell and Betsill 2001). Here we reverse that image to examine ways in which IOs (and states) enhance their own performance by reaching out to private actors and institutions, collaborating with them, and supporting and shaping their activities. These actions are helping to develop an intricate global network of public, private and mixed institutions and norms, partially orchestrated by IOs and states, that we call “Transnational New Governance” (TNG).¹ Although it is still emerging, orchestration of TNG provides a potentially important way to improve IO performance.

The core of the emerging TNG system is “regulatory standard setting” (RSS): the promulgation and implementation of non-legally-binding standards of behavior, applicable directly to private actors rather than to states, in settings that have traditionally called for mandatory regulation. We focus specifically on RSS for business firms in areas such as environmental protection, worker rights and human rights, where firms’ economic activities may create social and environmental externalities. Today, IOs promulgate their own RSS standards applicable directly to firms (e.g., OECD Guidelines for Multinational Enterprises), collaborate with firms and NGOs to create and govern RSS norms and institutions (e.g., UN Global Compact, Principles for Responsible Investment), and support private RSS schemes in multiple ways (e.g., UN Environment Programme (UNEP) support for the Global Reporting Initiative (GRI)). These initiatives “represent a new way of working for intergovernmental organisations, complementing formal intergovernmental decision-making and commitments with more flexible involvement of a broader range of stakeholders” (UNEP 2000). To fully assess the performance of IOs that engage in such activities, and to appreciate the under-performance of those that do

¹ “TNG” parallels domestic “New Governance” (NG); we draw on the growing NG literature in developing our arguments (Abbott and Snidal 2009a, b; Cashore et al. 2004; Salamon 2002; de Burca and Scott 2006; Trubek and Trubek 2007; Lobel 2004; Ayres and Braithwaite 1992).

not, one must understand both the specific RSS schemes in relevant issue areas and the entire RSS system.

In section 2, we introduce the many public, private and mixed schemes that adopt and implement RSS standards for business; we depict those schemes on a figure we call the Governance Triangle. Section 2 also traces the emergence of RSS over time. RSS has mainly developed spontaneously, from the bottom up, and has evolved through decentralized competition and collaboration. However, as we explore in section 3, IO collaboration with, support for, and steering of nonstate actors and RSS schemes—orchestration—have the potential to ameliorate many of the weaknesses of this highly decentralized system. Indeed, section 4 shows how IO initiatives, as well as varied forms of cooperation among RSS schemes themselves, have already begun to build a more organized RSS network, one that is evolving into a system of TNG.

In TNG, “the state” (often operating collectively through IOs in the international realm) orchestrates the creation and operation of public, private and mixed RSS schemes, in parallel to its traditional role as regulator. Orchestration entails mobilizing and working with private actors and institutions to achieve regulatory goals, for example, by catalyzing voluntary and collaborative programs; convening and facilitating private collaborations; persuading and inducing firms and industries to self-regulate; building private capacities; negotiating regulatory targets with firms; and providing incentives for attaining those targets (Freeman 1997–98). As is often the case, IOs are only one actor in these governance schemes and cannot determine outcomes on their own (Gutner and Thompson 2010). Nevertheless, effective orchestration can ameliorate both “state failure”—the inadequacies of IOG—and “market failure”—the governance problems that result from the spontaneous creation and decentralized evolution of RSS schemes. Orchestration thus provides a significant way for IOs to strengthen international regulation, improving their own performance.

TNG and IO orchestration are in their infancy, however, so we do not want to overstate our positive claims. First, TNG has been largely spontaneous, and thus far has emerged in only a few issue areas and economic sectors. The extent to which it can be generalized both within and across issues is still unknown, although New Governance theory provides some guidance as to the possibilities and difficulties. Second, RSS is often contentious and highly politicized. Actors such as advocacy NGOs, business firms and IO officials have conflicting views as to what standards should be implemented in an area, as well as over the exact form and composition of RSS governance. Third, as discussed further in section 3, RSS schemes interact with each other in ways that may strengthen or undermine individual schemes according to the nature of that interaction and its orchestration. Finally, many IOs are relatively weak institutions whose ability to be successful orchestrators will depend heavily on their ability to forge and maintain effective working relationships with other actors (states, firms and NGOs). Thus an analysis of orchestration is necessarily somewhat speculative and suggestive at this stage.

In section 5, we turn to more prescriptive analysis. We already see beginnings of TNG as a result of the RSS initiatives, partnerships and support of some IOs. Yet there remains a significant “orchestration deficit” in the RSS system that must be overcome to realize the full potential of TNG. We draw on the lessons of existing forms of orchestration to suggest additional possibilities for improving IO performance. This section also shows how TNG helps address several of the important issues pertinent to

gauging IO performance—the “eye of the beholder” problem, measurement problems, the “paradox of accountability” and the role of IOs as self-evaluators—that are raised by the Gutner-Thompson (2010) framework paper and other papers in this issue. The final section is a brief conclusion.

2 The Governance Triangle and the Evolution of RSS

2.1 Mapping RSS Schemes on the Governance Triangle

The number and extent of RSS schemes have expanded dramatically with the recent intensification of economic globalization.² Figure 1 depicts many of the most significant schemes in terms of the participation of three categories of actors—IOs/states, NGOs and firms—situated at the three vertices of the Governance Triangle.³ (Table 1 identifies each scheme; we sometimes refer to schemes by their acronyms as listed there.) The placement of a scheme is determined by each actor group’s “share” in scheme governance: the closer a scheme is to an actor group’s vertex, the greater the governance role of actors of that type. We divide the Triangle into seven Zones that represent the major combinations of actors in RSS schemes.⁴ In addition, the dashed horizontal lines in Fig. 1 divide the Triangle into three “tiers,” defined by the nature of IO/state involvement:

(i) The top, “State-led” tier includes Zone 1, in which states and IOs are dominant. This tier encompasses domestic regulation (and domestic New Governance),⁵ state-based IOG, and RSS schemes initiated and managed by IOs and states. For present purposes, however, we include only a single illustration of domestic regulation (IECA++) and of IOG (FOA++), with ++ indicating the many additional measures these examples represent. The remaining institutions shown in Zone 1 are IO-sponsored RSS schemes: for example, OECD represents the OECD Guidelines, BM the WHO Code of Marketing for Breast-Milk Substitutes.

(ii) The bottom, “Private-led” tier includes Zones 2, 3 and 6, in which private actors are dominant. This tier encompasses RSS schemes initiated and managed by firms (Zone 2, with ++ indicating the large number of individual firm schemes), NGOs (Zone 3) and firm-NGO combinations (Zone 6). For example, SAI is an

² Economic globalization was also strong in the pre-1914 period, yet on most measures the late 20th century surge in globalization reached or exceeded previous levels, especially as developing countries and the former Soviet bloc embraced more open economic policies. Information flows are significantly more globalized in the current period, supporting new methods of organizing global production, “whether integrated vertically in global factories or through looser cross-border production networks.” Combined with a reduction in the globalization and mobility of labor, these factors led to the appearance of numerous labor rights, human rights and environmental RSS schemes. Kahler and Lake (2003).

³ For a full discussion of the Governance Triangle, its nuances and its implicit assumptions, see Abbott and Snidal (2009a, b). Note that RSS schemes range widely in scope and scale. For example, Rugmark organizes the certification of child-labor-free rug production in South Asia, whereas UNGC promotes human rights, labor, environmental and corruption standards across many sectors on a global basis.

⁴ The vertex Zones (1, 2 and 3) are dominated by a single actor, the quadrilateral Zones (4, 5 and 6) involve two dominant actors, while Zone 7 involves significant involvement of all three actors.

⁵ For examples of domestic New Governance, see Freeman (1997–98); Trubek and Trubek (2007); Holzinger et al. (2006); Coglianese et al. (2003).

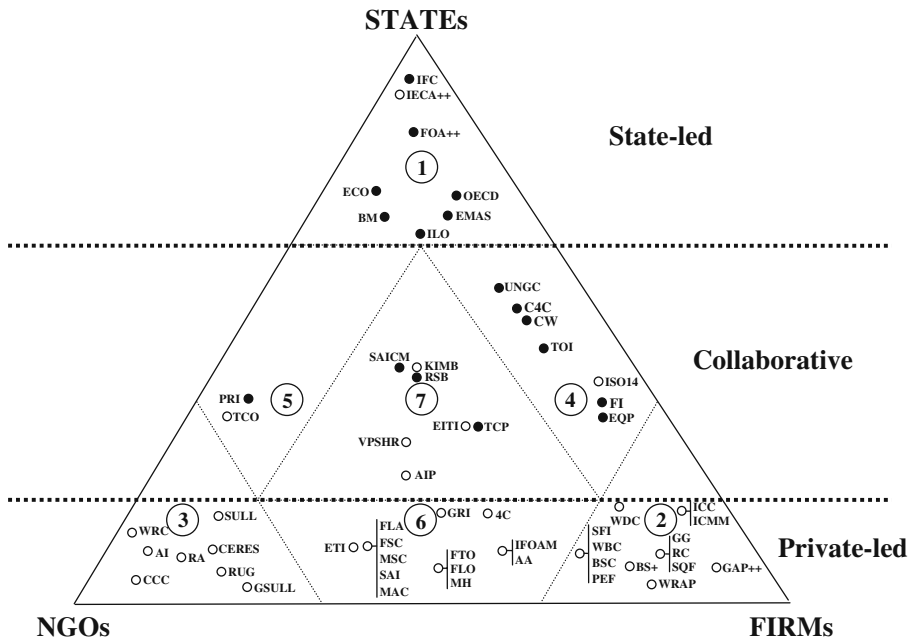


Fig. 1 The governance triangle. Filled circles (●) are RSS schemes with direct IO participation

NGO-initiated scheme, working to improve labor and social conditions through its SA8000 code, which incorporates firms as well as labor unions and other NGOs in its governance. IOs and states play little if any direct role in the governance of these schemes. However, as discussed below, IOs and states often create background conditions that facilitate (or in some cases impede) scheme operations, and provide varied forms of support, without exerting significant control. For example, SA8000 draws extensively on standards established under ILO and UN conventions. Schemes that benefit from such support are placed higher in the tier. These background and supporting roles may be easy to overlook; in assessing IO performance, however, it is essential not to ignore them.

(iii) The middle, “Collaborative” tier includes Zones 4, 5 and 7. This tier encompasses schemes in which IOs and/or states share governance with firms and/or NGOs, creating public-private partnerships. For example, UNGC in zone 4 represents the UN Global Compact, in which the Executive Office of the Secretary-General and other IOs collaborate with firms and, to a lesser extent, civil society. PRI in Zone 5 represents the Principles for Responsible Investment, created through negotiations with financial firms coordinated by UNEP and UNGC, with some civil society input. Bilateral and trilateral partnerships like these are developing into new forms of “international organization” that differ from traditional inter-governmental IOs in their informal, often networked structure (Meidinger 2007: 9–11), their inclusion of non-state actors in governance, and their targeting of norms and programs directly on firms, rather than on states.⁶

⁶ The tripartite structure of Zone 7 arrangements such as EITI is reminiscent of—but different from—the tripartite state-worker-employer structure of the ILO. Among other differences, a broader range of stakeholders typically participates in the new institutions, their governance arrangements are more fluid, and as in most RSS schemes, their norms are voluntary and address firms directly.

Table 1 RSS schemes shown on the governance triangle

Zone 1	<i>BM</i> WHO Code of Marketing for Breast-milk Substitutes 1981 <i>ECO</i> EU Flower Eco-label 1992 <i>EMAS</i> EU Eco-Management and Audit Scheme 1995 <i>FOA</i> ILO Freedom of Association and Right to Organize Convention, 1948 <i>IECA</i> The Employment of Children Act (India) 1938 <i>IFC</i> World Bank International Finance Corp. Safeguard Policies 1998 <i>ILO</i> International Labor Org. Declaration on Multinational Enterprises 1977 <i>OECD</i> OECD Guidelines for Multinational Enterprises 1976
Zone 2	<i>BS</i> The Body Shop's "Trade Not Aid" initiative 1991 <i>BSC</i> Business Social Compliance Initiative; labor rights standard and auditing process for suppliers of European firms, linked to SAI, 2004 <i>GAP</i> Gap, Inc. individual labor rights scheme of 1992 <i>GG</i> Global GAP agricultural practices standards 1997 (as EUREPGAP) <i>ICC</i> Int'l Chamber of Commerce Charter for Sustainable Development 1991 <i>ICMM</i> Int'l Council on Mining and Metals sustainable development principles, 2003 <i>PEF</i> Programme for the Endorsement of Forest Certification 1999 <i>RC</i> Responsible Care, chemical industry environmental scheme 1987 <i>SFI</i> Sustainable Forestry Initiative 1994 <i>SQF</i> SQF 1000, 2000, food safety, social, environmental standards 1994 <i>WBC</i> World Business Council for Sustainable Development, 1992 <i>WDC</i> World Diamond Council warranty system for conflict diamonds 2004 <i>WRAP</i> Worldwide Responsible Apparel Production, industry labor code 2000
Zone 3	<i>AI</i> Amnesty International Human Rights Guidelines for Companies 1997 <i>CCC</i> Clean Clothes Campaign Code of Labor Practices for apparel 1998 <i>CERES</i> CERES Principles on environmental practices and reporting 1989 <i>GSULL</i> Global Sullivan Principles on economic and social justice 1999 <i>RA</i> Rainforest Alliance/Sustainable Agriculture Network standard, 1993 <i>RUG</i> Rugmark labeling scheme to control child labor in carpets 1994 <i>SULL</i> Sullivan Principles 1977 <i>WRC</i> Worker Rights Consortium 2000
Zone 4	<i>C4C</i> Caring for Climate Network, 2007 <i>CW</i> CEO Water Mandate, 2007 <i>EQP</i> Equator Principles 2003 <i>ISO14</i> International Organization for Standardization 14001 environmental management standard 1996 <i>FI</i> UNEP Finance Initiative, 1992 <i>TOI</i> Tour Operators Initiative 2000 <i>UNGC</i> United Nations Global Compact 2000
Zone 5	<i>PRI</i> Principles for Responsible Investment, UN-sponsored investor scheme 2006 <i>TCO</i> TCO Development environmental and energy standards for computers
Zone 6	<i>4C</i> Common Code for the Coffee Community social, environmental, economic standards, 2006 <i>AA</i> AccountAbility; AA1000 framework for stakeholder accountability, ethical accounting, auditing and reporting, 1999 <i>ETI</i> Ethical Trading Initiative worker rights scheme 1998

Table 1 (continued)

	<i>FLA</i> Fair Labor Association; apparel industry scheme 1999
	<i>FLO</i> Fairtrade Labeling Organization “fair trade” umbrella scheme 1997
	<i>FSC</i> Forest Stewardship Council certification, labeling scheme 1993
	<i>FTO</i> World Fair Trade Organization; standard for fair trade organizations, 2004
	<i>GRI</i> Global Reporting Initiative; standards for social, environ. reports 1997
	<i>IFOAM</i> International Federation of Organic Agriculture Movements 1972
	<i>MAC</i> Marine Aquarium Council standards for ornamental fish suppliers, 2001
	<i>MH</i> Max Havelaar Fair Trade certification, labeling for coffee 1988
	<i>MSC</i> Marine Stewardship Council 1997
	<i>SAI</i> Social Accountability Int’l standard for supplier labor practices 1997
Zone 7	<i>AIP</i> Apparel Industry Partnership; Clinton Administration initiative convening firms, unions, NGOs, other industry stakeholders 1996–7
	<i>EITI</i> Extractive Industries Transparency Initiative; UK disclosure scheme for payments by firms, host government expenditures 2002–03
	<i>KIMB</i> Kimberley Process on conflict diamond trade 2003
	<i>RSB</i> Roundtable on Sustainable Biofuels, 2007
	<i>SAICM</i> Strategic Approach to International Chemicals Management, 2006
	<i>TCP</i> Global Sustainable Tourism Criteria Partnership, 2008
	<i>VPSHR</i> Voluntary Principles on Security and Human Rights 2000

2.2 Shifting Patterns of RSS

In addition to its overall expansion, the patterns of RSS have shifted dramatically over the past 30 years, as depicted in Fig. 2.⁷ Figure 2 divides the schemes on the Triangle into three time periods, based on the date of the schemes’ first forays into RSS. We determined this periodization inductively to provide clear empirical “snapshots” of the developing governance patterns.

Figure 2a shows the period up to 1985. The dark shading of Zone 1 reflects both extensive, although uneven, domestic regulation (IECA++) and longstanding efforts at the international level to develop IOG (FOA++) through IOs such as the ILO: these were the primary forms of regulation before the mid-1980s. IOs rarely attempted to regulate firms or other private actors directly before (or after) 1985. Notable exceptions were the OECD and ILO efforts to regulate multinational enterprises through voluntary codes; these have had limited success. Equally striking, in retrospect, is the absence of private RSS initiatives in this period—with the 1977 Sullivan Principles (SULL) a rare NGO effort and the 1972 IFOAM alliance on organic agriculture one of the few multi-stakeholder arrangements. All this changed dramatically, however, with the emergence of a variety of mainly private schemes after 1985.

Figure 2b shows the 1985–94 period, which witnessed the emergence in Zone 2 of pioneering self-regulatory “corporate social responsibility” (CSR) schemes adopted by individual firms (including GAP and BS) and by industry associations (including ICC

⁷ Adapted from Abbott and Snidal (2009a).

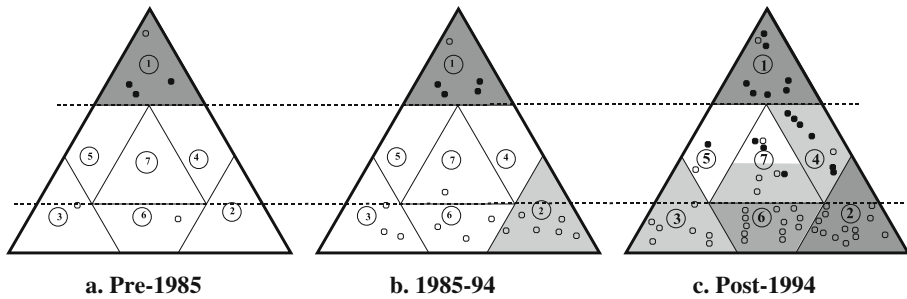


Fig. 2 a–c Evolution of the governance triangle. Shading indicates density of schemes in each zone

and RC) (Vogel 2005). The medium shading of Zone 2 reflects the rapid spread of self-regulatory codes. In parallel, a number of additional NGO schemes (including CERES and RUG) emerged in Zone 3, as did multi-stakeholder schemes involving both firms and NGOs in Zone 6—notably the 1988 MH Fair Trade certification program and the 1993 FSC. The developments in these different zones are not unrelated: all reflect early responses to the regulatory challenges posed by intensifying globalization of production, often crystallized by social and environmental “demonstration effects” such as the 1984 Bhopal disaster, which led to the formation of RC.⁸

Figure 2c shows the post-1994 period. In these years, individual firm schemes proliferated rapidly as increased regulatory and social pressures for socially responsible behavior made it standard practice for large firms to proclaim some form of CSR. While many CSR codes were sincere, a larger number were not implemented in effective ways and lacked independent monitoring (Bartley 2007: 297). There was also a significant expansion of industry schemes (such as WRAP, GG, ICMM and PEF), designed in part to increase the credibility of firm-based schemes, and in part to promote more business-friendly standards than those advanced by NGO and multi-stakeholder schemes. These changes are reflected in the dark shading of Zone 2. Additional NGO schemes were established then as well, sometimes in response to the perceived shortcomings of self-regulation without outside scrutiny.

More striking yet is the rapid expansion of collaborative schemes. Almost all the NGO-firm schemes in Zone 6 and the IO-firm schemes in Zone 4 were created post-1994; this period has also seen the first tripartite arrangements among firms, NGOs and IOs—or more frequently states—working together in Zone 7. These schemes are driven by the advantages of collaboration among actors with different competencies and resources; however, such schemes must contend with important internal differences, and even conflicts, over regulatory goals and strategies (Abbott and Snidal 2009a). The medium and light shading in Fig. 2c reflects the intensity of these developments. In sum, while important new treaties, IOs and other IOG efforts have been adopted over the past 30 years of globalization, the pace of innovation and growth in RSS reflects an important shift in international governance.

In addition to the shifting patterns of RSS as a whole, individual schemes may evolve over time.⁹ A dynamic of particular interest involves schemes that are initiated with

⁸ See Mattli and Woods (2009) on the importance of demonstration effects, and Abbott and Snidal (2005) for a discussion for demonstration effects significant to RSS.

⁹ Abbott and Snidal (2009a) discusses the difficulty of summarizing these changes, given that RSS schemes involve a range of activities, from the negotiation of standards through their enforcement.

substantial IO/state involvement, as in Tier II, but once established are governed primarily by private actors, and so move much lower on the Triangle, within Tier II or into Tier III. For example, UNEP was essentially a co-founder of GRI, along with CERES; however, GRI now operates as a Zone 6 firm-NGO scheme, with only limited direct participation and support by UNEP. Similarly, while UNEP and UNGC managed the negotiations that created PRI, that scheme is now governed primarily by its private members. In these situations, as discussed further below, IOs play a catalytic role.

The three snapshots of RSS in Fig. 2a-c provide an imperfect account of the development of individual RSS schemes and the RSS system over time. What they do show is that a diverse array of schemes has been created over a relatively short period, to address specific social and environmental problems. Over time, moreover, there has been a progression in the nature of RSS, from a predominance of single-actor schemes (public in Zone 1, then private in Zones 2 and 3), to private partnerships (Zone 6), and then to public-private partnerships (Zones 4–5) and tripartite schemes (Zone 7). Elsewhere we argue that this progression can be explained by competition, bargaining and cooperation among actors and schemes (Abbott and Snidal 2009a). As noted earlier, these interactions are highly political and contentious, since different actors often differ significantly as to what standards are appropriate in a given area. For present purposes, however, the important point is that this progression reflects the beginnings of a fundamental shift in the role of IOs and states in global governance, from traditional forms of regulation (IOG) in the State-led tier, to background and supporting roles in the Private-led tier, and finally to more direct roles as orchestrator and participant in the Collaborative tier. It is this shift that is enabling the emergence of TNG.

3 The Potential of IO Orchestration

What the snapshots in Fig. 2 do not show (except implicitly in the evolution of RSS) are the significant inadequacies of many individual RSS schemes and of the current system as a whole. Single-actor schemes—the most numerous on the Triangle—lack key elements required for successful regulation: Firm schemes lack the credibility that comes with outside scrutiny; NGO schemes lack the representativeness and legitimacy to set global standards and the operational capacity to ensure they are implemented.¹⁰ Firm-NGO collaborative schemes do a superior job of assembling the competencies needed for RSS, but still lack the legitimacy and resources that IOs and states can bring to regulatory problems. The result is that many, perhaps most, of the RSS schemes in existence are simply not competent to provide effective and legitimate RSS.

In addition, a central feature of the current RSS system is the existence of multiple schemes that often compete to regulate the same issue; this can have diverse consequences. On one hand, multiplicity and competition have significant benefits (Fung et al. 2000): they encourage experimentation, innovation and learning (Dorf and Sabel 1998), enable multi-faceted approaches to complex problems, allow for

¹⁰ For a fuller analysis of the “competencies” of different actors and RSS schemes, see Abbott and Snidal (2009a).

fine-tuning to specific situations (Prakash and Potoski 2006: 73–74), and reduce the risk of capture. On the other hand, multiplicity and competition are costly and may also reduce the individual and collective effectiveness of schemes. Multiplicity may unnecessarily burden firms seeking or being pressured to conform to the standards of different RSS schemes. Conversely, multiplicity allows firms to choose to participate only in those schemes which impose the least stringent requirements; this creates incentives for parallel schemes—such as FSC, PEF and SFI, or FLA, WRC and WRAP—to compete for business adherence by offering lower standards. Multiplicity also makes it difficult for outsiders (such as consumers) to distinguish good schemes from inadequate ones. There is thus no reason to believe that multiplicity and competition will lead to appropriate RSS standards; indeed, they may aggravate the bargaining problems faced by actors seeking to develop collaborative schemes that incorporate broader competencies.

However, the bilateral and tripartite partnerships in the Collaborative tier, and the many forms of public support and steering in the Private-led tier, suggest that IOs and states can help rectify these shortcomings. Instead of (or in addition to) regulating directly, as in IOG, however, IOs and states can work together with private actors and provide them with oversight and support. Such orchestration can ameliorate many of the problems of RSS just identified—such as the disproportionate number of schemes lacking essential competencies, and the burdens, incentives and information problems created by multiple competing schemes—thus leading to a more effective TNG system. At the same time, these forms of engagement can help IOs to overcome some of their own regulatory limitations.

To be successful orchestrators, however, IOs must have some degree of autonomy (or else a mandate from member states), an interest in orchestration, and the capacity to coordinate private actors and schemes. We consider each of these requirements in turn.

As to IO autonomy, while traditional realist and neoliberal institutionalist scholarship viewed IOs merely as doing “what states want” (Barnett and Finnemore 2004: 2), emerging theories of international politics now ascribe at least some circumscribed freedom of action to IO secretariats. For example, Barnett and Finnemore rely on Weber’s theory of bureaucracy to argue that IOs derive autonomy from the legitimacy of their rational-legal authority and their control of expertise. Recent works in principal-agent theory suggest that IOs derive a degree of autonomy from normal “agency slack,” the difficulty of monitoring and control by multiple principals, and the space created by incomplete contracts (Hawkins et al. 2006; Nielson and Tierney 2003; Vaubel 2006). And we suggest elsewhere that even state principals will often choose to endow IO agents with some degree of independence (Abbott and Snidal 1998; see also Haftel and Thompson 2006). As Elsig (2010) notes in this issue, secretariat autonomy is often an important ingredient of IO success.

As to IO interests, some theories suggest that IOs frequently pursue goals that differ from their ostensible substantive missions, so that orchestration in support of those missions will not be a preferred strategy. For example, principal-agent theories typically view IOs as narrowly self-interested, acting mainly to maximize the “bureaucratic interest of their organization” (Vaubel 2006: 137). And bureaucratic politics theories suggest that internal bargaining among self-interested organizational units frequently produces IO behavior at odds with the vigorous pursuit of regulatory missions (Barnett and Finnemore 2004: 37). In contrast, however, a recent study of the influence of

environmental IOs finds “international bureaucracies more often interested in resolving political problems than increasing their power as such” (Biermann and Siebenhüner 2009b: 8).¹¹

At the least, the nature of IO interests is an empirical question: IOs are likely to vary significantly in terms of their enthusiasm for orchestration, for reasons such as bureaucratic structure and culture. On one hand, for example, UNEP has actively engaged with private actors and RSS schemes, using orchestration to achieve substantive goals, as we review in section 4 below. On the other hand, a striking counter-example is the ILO, which—with its tripartite composition involving employers and workers as well as states—would seem ideally suited for TNG. Yet Baccaro and Mele (2010) document how the ILO has firmly rejected such approaches. Efforts by two successive Directors-General to develop TNG strategies, including social labels and other efforts to engage civil society, were rebuffed by the existing “social partners,” who did not want to see their privileged position undermined: “the involvement of civil society remains taboo” in the ILO.

As to IO capability, our critique of IOG may seem to suggest that IOs lack the capacity to engage in successful orchestration: if IOs cannot satisfactorily coordinate the actions of states, how can they hope to coordinate diverse private actors and schemes? But there are two broad reasons why this conclusion is inaccurate.

First, even in the absence of the hierarchical enforcement power associated with IOG, IOs can draw on a relatively “weak” set of coordination tools in their dealings with states; these tools are also available for orchestration. Based on their study of environmental IOs, Biermann et al. (2009: 47–49) and Biermann and Siebenhüner (2009c: 319–27) identify three channels of influence available to IOs when states are the targets.

- Organizations such as UNEP, the OECD and the World Bank have *cognitive* influence, shaping the information and beliefs of states. Cognitive influence can take different forms: for example, Barnett and Finnemore (2004) see IOs as exerting influence through expertise and the legitimacy ascribed to rational rule-making processes; Risse et al. (1999) see them as members of transnational networks that pressure states to observe international norms as part of a process of socialization.
- IOs such as UNEP and some treaty secretariats have *normative* influence, shaping and supporting inter-state rule-making throughout the “regulatory process” (Abbott and Snidal 2009a: 63–4), from agenda-setting through negotiation, implementation, monitoring, and responses to non-compliance. Both the centralization of this process in IOs and the contribution of partly autonomous secretariats enhance rule-making (Abbott and Snidal 1998).
- IOs such as the World Bank and UN Development Program have *executive* influence, assisting states to implement international norms and promoting national policy development. Here again, Barnett and Finnemore argue similarly that IOs act as “conveyor belts” for the diffusion of norms and models of good behavior.

¹¹ When IOs are motivated by policy aims, our analysis of orchestration can be viewed as a positive statement regarding what IOs will do (given the right information about policy alternatives); when IOs have alternative goals or do not understand the potential of orchestration, then our analysis is necessarily more normative, suggesting what IOs should do (if they had the “right” goals and information).

All three channels of influence are available and equally important in orchestration: by exercising cognitive, normative and executive influence, IOs can strengthen and steer the operations of private, public and collaborative RSS schemes, and can support such schemes in their relations with states and other IOs.

Second, orchestration of nonstate actors in TNG is less challenging than the coordination of states. While firms, NGOs and RSS schemes are protective of their independence, they do not suffer the “sovereignty costs” experienced by states in the face of supranational authority (Abbott and Snidal 2000). States are also the ultimate controllers of IOs, and resist orchestration by their own “agents.” Orchestration in TNG, in contrast, allows IOs to work through intermediaries that are often more willing—sometimes eager—to work with IOs than are states. NGOs often see IOs as allies, because they share common (though not always identical) goals. Firms may resist regulation in general, but often prefer coordinated regulation through IOs to uncoordinated regulation by multiple states combined with ad hoc pressures from NGOs. In addition, the information, legitimacy, resources, global reach and other assets that IOs can dispense are likely to be more highly valued by RSS schemes than by states, which dispose of similar assets themselves. Finally, the voluntary nature of RSS schemes makes IO orchestration more acceptable to their constituent actors, including states.

In sum, by working through private and collaborative RSS schemes, IOs can expand their influence with less political friction. In section 4 we examine current forms of IO orchestration to gain insight into these possibilities.

4 Current Forms of IO Orchestration

Some IOs already engage actively with private actors and RSS schemes. We present a number of examples in this section, highlighting the varied efforts of UNEP to illustrate the range of mechanisms available to an individual IO. We organize our presentation around the categories of IO involvement represented by the three tiers of the Governance Triangle, dominated by IOs/states, private actors and collaborative arrangements, respectively.

Our examples illustrate the potential of two general forms of IO orchestration. *Directive* orchestration is the more powerful but less common of the two; it involves setting voluntary mandates for business firms or other private actors that, once accepted, are legally binding or else backed by significant economic or political leverage. Directive orchestration appears mainly in the State-led tier, and even there only where IO programs and resources provide sufficient legal authority or influence. *Facilitative* orchestration involves softer mechanisms of support and steering; IO involvement with schemes in the Private-led tier typically takes this form. The partnership relations in the Collaborative tier encompass both directive and facilitative orchestration.

4.1 Directive Orchestration in the State-led Tier (Zone 1)

The IFC Performance Standards (IFC) illustrate a strong form of directive orchestration. In this form, an IO adopts regulatory standards for firms as part of an operational program (here the IFC’s lending and equity financing programs), uses economic (and/or political)

incentives to induce firms to participate voluntarily in that program, and applies its standards as binding mandates to those that do. The IFC Standards require firms that borrow from it to observe substantive rules on issues ranging from working conditions to biodiversity conservation. In addition, the Standards require client firms to conduct environmental and social impact assessments, adopt environmental management systems and issue public reports; through these procedural requirements they seek to influence firms' self-regulation and internal governance. The economic leverage provided by the IFC's financial services allows it to engage in directive orchestration, imposing both aspects of its Performance Standards as mandatory conditions (Hunter 2008).

Other IOs apply mandatory conditions under programs that offer potential market benefits, rather than direct program benefits, to firms. Under the EU EMAS program, for example, participating firms may display the EMAS logo to distinguish themselves in the marketplace; under recent proposals, national authorities would also provide direct incentives in the form of financial benefits, procurement opportunities and relaxations of environmental requirements. To qualify, however, firms must conduct environmental reviews, establish environmental management systems based on ISO 14001, carry out environmental audits, and issue public performance reports with a view to continuous improvement—all approved by accredited independent verifiers.¹² Similarly, under the EU eco-label program (ECO), firms whose products meet demanding ecological criteria applied by national authorities may display the "Flower" logo in marketing materials.¹³

Strong directive orchestration like that in IFC and EMAS requires substantial regulatory authority as well as powerful incentives, and hence is relatively rare.¹⁴ Where it does take place, it is politically feasible primarily because the underlying programs are voluntary: firms need not apply for IFC funding or an EU eco-label. Such programs therefore share many of the weaknesses and strengths of traditional "soft law" addressed to states (Abbott and Snidal 2000). Their voluntary character reduces their immediate regulatory impact even if they establish precise rules and delegate substantial authority to IOs. For this reason, though, member states may allow IOs to adopt such programs when they would reject mandatory regulation—partly because it is hard for firms to lobby against voluntary programs. In addition, New Governance theory suggests that soft regulation has independent benefits: it facilitates experimentation and adaptation to particular situations, promotes stakeholder engagement, and renders regulation less adversarial.¹⁵ Finally, soft regulation may have significant dynamic effects: programs like IFC and EMAS implant socially- and environmentally-oriented management systems and practices within firms, may lead firms to internalize program norms over time, may induce business associations to address the issue collectively (extending RSS norms across entire industries), provide important

¹² http://ec.europa.eu/environment/emas/about/summary_en.htm; http://ec.europa.eu/environment/emas/pdf/com_2008_402_draft.pdf

¹³ http://ec.europa.eu/environment/ecolabel/whats_eco/ov_concept_en.htm

¹⁴ For this reason, Arnold and Whitford (2006) suggests that states should mandate the types of internal management systems that IFC, EMAS and ECO call for, rather than leaving them to be imposed as conditions on voluntary programs.

¹⁵ Abbott and Snidal (2009b) applies New Governance theory to the international context.

examples that promote learning by other schemes and actors, increase pressure on nonparticipating firms, and lay the groundwork for harder regulation in the future.

4.2 Facilitative Orchestration in the Private-led Tier (Zones 2, 3, 6)

Private actors dominate the RSS schemes across the bottom tier of the Triangle. For many such schemes, public involvement is limited to a very indirect form of facilitative orchestration: creating general background conditions, such as national laws that enable formation of non-profit organizations or provide tax incentives for their operations. For other schemes, however, facilitative orchestration is more direct, consisting of various forms of support and steering. We consider a variety of examples, arranged roughly in order of increasing IO involvement.

The most common background role for IOs is the adoption of treaties, soft law and other international norms addressed to states, on which private RSS schemes frequently base their standards. For example, SAI administers its own “auditable certification standard” for private production facilities, but bases that standard on “International Labour Organisation (ILO) conventions, the Universal Declaration of Human Rights and the UN Convention on the Rights of the Child.”¹⁶ Similarly, GRI bases its reporting guidelines on “international human rights, environmental and labor treaties, standards and conventions.”¹⁷ Some NGO and business schemes (e.g., CCC, BSCI) likewise draw on treaties and other international norms.¹⁸

Treaty rules and other international norms provide focal points that lower the bargaining costs of standard-setting, thereby ameliorating one of the fundamental problems of decentralized RSS. In addition, international norms, and the actions IOs take to promote them, help shape the cognitive context of RSS by influencing the information, priorities and values of diverse public and private actors (Biermann et al. 2009: 47–48; Biermann and Siebenhüner 2009c: 319–24). Reliance on broadly consensual public norms such as the core ILO conventions and Universal Declaration also enhances the legitimacy of private RSS schemes, while ensuring that they act in harmony with established global public policy. Finally, convergence among RSS schemes on common international norms reduces the transactions costs of firms that have to adhere to multiple standards.

A reciprocal background role stems from the increasing willingness of IOs to allow RSS schemes to participate in their deliberations and programs, along with NGOs, firms and other “major groups.”¹⁹ For example, UNEP, FAO, UNCTAD, Codex Alimentarius Commission and ECOSOC all provide observer status or other accreditation to IFOAM; several collaborate extensively with it.²⁰ UNEP’s

¹⁶ <http://www.sa-intl.org/index.cfm?fuseaction=Page.viewPage&pageId=473>

¹⁷ <http://www.globalreporting.org/AboutGRI/WhoWeAre/>; Dingwerth 2007: 111

¹⁸ <http://www.cleanclothes.org/faq/485>; <http://www.bsci-eu.org/index.php?id=2020>

¹⁹ The 1992 UN Conference on Environment and Development, especially Agenda 21, called for engagement with “major groups” in society to achieve sustainable development; they include business, NGOs and labor unions.

²⁰ http://www.ifoam.org/about_ifoam/status/index.html

annual business dialogue includes GRI and several business associations that sponsor RSS schemes, such as the International Chamber of Commerce (ICC), International Council on Mining and Metals (ICMM) and International Council of Chemicals Associations, sponsor of RC.²¹ Participation by private schemes can educate IOs about RSS alternatives, increasing the likelihood that IOs will develop their own RSS schemes, engage in facilitative orchestration, or otherwise incorporate RSS into their regulatory strategies. At the same time, IO accreditation provides a modest form of endorsement for private schemes that meet minimum criteria and an opportunity for limited influence over their standards and operations.

Some IOs use their global status to catalyze private RSS as well as inter-state negotiations and national actions, thereby supplementing IOG rule-making and their own politically and financially constrained implementation programs. UNEP, for example, has a mandate to “catalyze and coordinate” environmental action in the international system, and has promoted a number of inter-governmental treaty negotiations (Bauer 2009). Beginning in the 1980s, it also began promoting company codes of conduct and environmental reporting.²² Since 1984, together with the social and environmental think-tank SustainAbility, UNEP has “benchmarked” corporate environmental reports to encourage continuous improvement. Its dialogues with business leaders, held regularly since 1984, encourage high-level commitment to environmental responsibility. UNEP has proposed to convene private environmental schemes and other actors in a global process to develop common standards for communicating information on the sustainability of commercial products.²³ UNEP also supports capacity-building for RSS in developing countries; current projects focus on eco-labeling, supply chain management and stakeholder collaboration.²⁴ The ILO-IFC Better Work program similarly builds capacity for implementing labor standards across supply chains.²⁵ Working through private actors is especially valuable for a relatively small organization like UNEP, whose “on-the-ground activities are severely constrained by the secretariat’s budgetary realities” (Bauer 2009: 183).

A unique example of IO catalysis is the work of the Special Representative of the Secretary-General on Business and Human Rights, authorized by the UN Human Rights Commission/Council. The Representative’s initial mandate was to develop a framework of standards and procedures to address the human rights responsibilities of business.²⁶ His 2008 framework declared that all firms

²¹ http://www.unep.fr/scp/business/dialogue/2008/Oct2008_list_participants.pdf. UNEP expanded its civil society and private sector engagement activities in 2002. See http://www.unep.org/civil_society/PDF_docs/Enhancing_Civil_Society_Engagement_In_UNEP.pdf.

²² <http://www.unep.fr/scp/business/vi/about.htm>. UNEP has also described its role in helping to create GRI as that of international catalyst (Dingwerth 2007: 110).

²³ <http://www.iisd.ca/mea-l/guestarticle95.html>

²⁴ <http://www.unep.fr/scp/gri/history.htm>; <http://www.unep.fr/scp/business/dialogue/>; <http://www.b4esummit.com/>; <http://www.unep.fr/scp/ecolabelling/>; <http://www.unep.fr/scp/unchaining/>. A notable capacity-building success was UNEP support for multi-stakeholder development of the East African Organic Products Standard.

²⁵ <http://www.betterwork.org/public/global>. The program grew out of the ILO’s role in monitoring labor standards in Cambodian apparel factories under a bilateral trade agreement with the US.

²⁶ Commission on Human Rights Resolution 2005/69, 20 April 2005.

are obliged to respect human rights in all situations, and called on firms to implement appropriate policies, management systems and procedures. The Representative's current mandate emphasizes developing concrete recommendations, options and best practices, and other activities to promote implementation of the framework.²⁷

IOs sometimes endorse selected private RSS schemes. For example, UNEP formally lent its name to the creation of GRI, recognized GRI as a Collaborating Center, and helped build government support for the organization. The UN provided its overarching imprimatur by hosting GRI's launch ceremony. The World Summit on Sustainable Development explicitly endorsed GRI in its Plan of Implementation; the 2007 G-8 Summit, addressing mining in developing countries, also endorsed it, along with UNGC and VPSHR.²⁸ The Global Compact, which is closely linked to a number of UN agencies, also calls on participating firms to use the GRI reporting guidelines in preparing UNGC progress reports. Such endorsements help build awareness, legitimacy, influence and global reach for private schemes (Dingwerth 2007, 104, 110–11).²⁹

IOs often grant direct (although usually modest) financial support to private schemes. For example, GRI counts among its contributors UNEP, the World Bank, IFC and the European Commission, as well as the Global Compact. GRI's connection to UNEP also made it eligible to receive contributions from the UN Foundation. Such support not only provides direct economic benefits, but also helps RSS schemes maintain independence by diversifying their funding sources and reducing their reliance on fees and contributions from firms. As with other donors, recent IO contributions to GRI have primarily been designated for specific projects.³⁰ Such targeted contributions focus IO resources on activities that further organizational goals. They also provide greater directive influence over targeted programs, because individual projects can be monitored more easily than general operations and contributions can more easily be withheld if specified performance criteria are not met.

Many of the IO activities discussed here can be understood as facilitative orchestration of the RSS system as a whole, not simply as support for specific schemes. IO efforts to catalyze private RSS are attempts to fill perceived gaps in the system, such as a dearth of environmental reporting. IO endorsements and financial support advantage the selected institutions in the implicit competition for regulatory influence among schemes on the Triangle. In the case of GRI, the extensive support of UNEP and

²⁷ "Protect, Respect and Remedy: A Framework for Business and Human Rights," 7 April 2008, <http://www.business-humanrights.org/SpecialRepPortal/Home/ReportstoUNHumanRightsCouncil/2008>; Human Rights Council Resolution 8/7, 18 June 2008.

²⁸ Summit Declaration: Growth and Responsibility in the World Economy, Para. 84, 7 June 2007, http://www.g-8.de/Content/EN/Artikel/_g8-summit/anlagen/2007-06-07-gipfeldokument-wirtschaft-eng,templateId=raw,property=publicationFile.pdf/2007-06-07-gipfeldokument-wirtschaft-eng.pdf.

²⁹ Endorsements cannot, of course, overcome capacity deficits or structural weaknesses in private schemes. For example, GRI largely limits its activities to promulgating reporting standards; it does not monitor, certify or enforce their use by firms and other actors.

³⁰ <http://www.globalreporting.org/AboutGRI/Funding/>; GRI Sustainability Report 2007-08 at 32, http://www.globalreporting.org/NR/rdonlyres/E8B6ED9E-1A29-4154-A6DA-F14E6F71A2C9/2877/SR_FINAL_09_06_with_links.pdf

the UN appears aimed at establishing the scheme as the unique global standard for sustainability reporting.

4.3 Facilitative and Directive Orchestration in the Collaborative Tier (Zones 4, 5, 7)

Through their participation in the Collaborative tier of the Triangle, IOs facilitate the formation and operation of collaborative schemes, and sometimes exercise directive influence over them. Where IOs act primarily as catalysts or convenors, public-private partnerships are frequently temporary: IO collaboration ends or is substantially reduced once schemes are operational. In other cases, however, IOs participate in collaborative schemes over a more extended period of time.

In the case of a temporary collaboration, as noted above, a scheme's placement on the Triangle may change over time: the initial relationship may appear in the heart of the Collaborative tier, while the final scheme is placed lower in that tier or in the Private-led tier, depending on the IO's continuing relationship. For example, GRI was co-founded by UNEP and CERES, which jointly selected and co-chaired its Steering Committee;³¹ at that time GRI would have appeared in Zone 7, and the influence of UNEP would have been at least partially directive. As GRI's Firm and NGO members assumed primary governance responsibility, however, the scheme became largely independent of UNEP, and UNEP's relationship became facilitative. Because UNEP is still represented on GRI's board and supports the scheme in multiple ways, we now place it high in Zone 6.

With PRI, UNEP and UNGC coordinated the negotiations that produced the scheme and its Principles. However, participating firms "accepted ownership of the Principles" and now govern the scheme, although UNEP and UNGC remain on its board.³² EQP (Zone 4) followed a similar path: the IFC convened leading banks and guided negotiation of the Principles, which largely follow its Performance Standards; participating banks now govern the scheme, but cooperate with IFC to maintain harmony between their standards (Heal 2008; Hardenbrook 2007; Marschinski and Behrle 2009: 112–14).

Among public-private schemes with continuing IO participation, the Global Compact is significant as "the largest corporate citizenship and sustainability initiative in the world—with over 5100 corporate participants and stakeholders from over 130 countries."³³ UNGC is IO-led: Secretary-General Annan proposed a voluntary UN scheme based on major international legal instruments, and his Executive Office created UNGC in cooperation with the UN agencies, including UNEP, that administer those instruments. The Office and agencies thus had directive influence during UNGC's formation, especially over the selection of substantive standards and modes of operation; the Global Compact Office still manages the scheme with support from the participating IOs. However, UNGC has been consciously structured as a public-private initiative. Firms and other stakeholders

³¹ <http://www.unep.fr/scp/gri/>; <http://www.globalreporting.org/AboutGRI/WhatWeDo/OurHistory>

³² <http://www.unpri.org/about/>

³³ <http://www.unglobalcompact.org/AboutTheGC/>; http://www.unglobalcompact.org/docs/about_the_gc/governance_update2008.pdf

participate in governance through the Board and Leaders' Summit, and collaborate on implementation and related projects through local networks. Equally important, UNGC operates in practice as a learning platform, helping firms to develop and implement sustainable practices, business models and management tools through engagement with other firms, external stakeholders and UN officials. Nevertheless, UNGC remains under the primary control of IOs.

UNEP and the Global Compact have launched related schemes for UNGC participants. Among others, the Caring for Climate initiative (C4C, Zone 4), co-sponsored by the World Business Council for Sustainable Development, commits participating firms to act on climate change, collaborate on joint standards and initiatives, and cooperate with IOs, governments and civil society to develop low-carbon policies.³⁴ Similarly, the CEO Water Mandate (CW, Zone 4) commits firms to adopt sustainable water management practices, promote those practices throughout their supply chains, and work with governments, IOs and civil society to develop sustainable water policies.³⁵

UNEP participates in other collaborative schemes independent of UNGC. For example, in preparation for the 1992 Earth Summit, UNEP and a group of major banks created the UNEP Finance Initiative (FI, Zone 4). The participants adopted a code of sustainable development principles and collaborate on sustainability projects and policy initiatives. Private insurers later joined FI, adopting their own code. UNEP sits on the Steering Committee along with representatives of participating firms; it worked through FI to coordinate formation of PRI and to develop GRI's financial "sector supplement."³⁶ In the area of tourism, UNEP, UNESCO and UNWTO worked with tourism firms, with some input from environmental NGOs, to establish the Tour Operators' Initiative for Sustainable Tourism Development (TOI, Zone 4). Participants commit to codes of conduct on sustainable operations and protection of children from travel-based sexual exploitation. The three IOs are full members of TOI with seats on its Board.³⁷ In parallel, UNEP, UNWTO and the Convention on Biological Diversity Secretariat collaborated with firms and NGOs to develop global criteria for sustainable tourism.³⁸ In a third area, UNEP is collaborating with governments, firms and NGOs in the Roundtable on Sustainable Biofuels to develop criteria and recommendations for biofuel production.³⁹

As these examples suggest, IOs frequently collaborate with private actors to address social and environmental issues through programmatic activities as well as through RSS. In a typology of public-private partnerships suggested by the UN Secretary-General, these activities include operational projects, policy development,

³⁴ http://www.unglobalcompact.org/Issues/Environment/Climate_Change/; http://www.unglobalcompact.org/docs/issues_doc/Environment/CLIMATESTATEMENT_revised_postsummit.pdf; http://www.unglobalcompact.org/docs/news_events/8.1/caring_for_climate.pdf

³⁵ http://www.unglobalcompact.org/Issues/Environment/CEO_Water_Mandate/; http://www.unglobalcompact.org/docs/news_events/8.1/Ceo_water_mandate.pdf

³⁶ <http://www.unepfi.org/index.html>; <http://www.unepfi.org/about/background/index.html>; http://www.unepfi.org/work_streams/index.html

³⁷ <http://www.toinitiative.org/index.php?id=41>; <http://www.toinitiative.org/index.php?id=11>

³⁸ <http://www.sustainabletourismcriteria.org/>

³⁹ <http://www.unep.fr/energy/activities/rsb/>; <http://www.unep.fr/energy/bioenergy/documents/pdf/VersionZero.pdf>

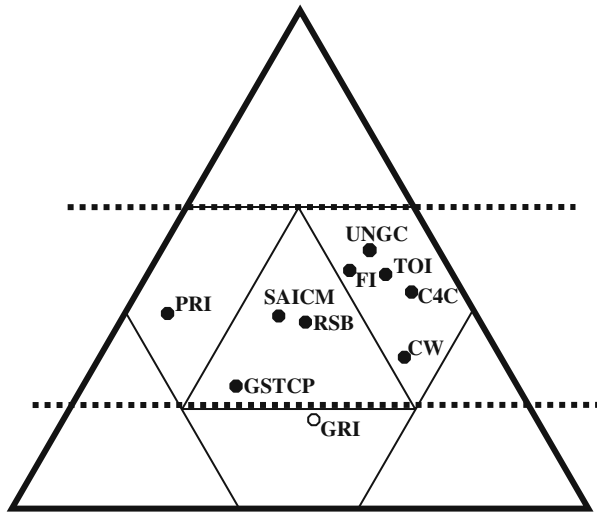


Fig. 3 Schemes with engagement by UNEP

information and learning, advocacy and fund-raising (United Nations 2001). Most of the “Type II” partnerships created at the 2002 World Summit on Sustainable Development focus on such activities—and nearly 2/3 of them include IOs (United Nations 2006). UNEP has initiated several sectoral programmatic collaborations; these include the Sustainable Buildings and Construction Initiative, Partnership for Clean Fuels and Vehicles and Global Mercury Partnership (UNEP 2009a).

4.4 UNEP as Orchestrator

We have emphasized the extensive RSS activities of UNEP in order to illustrate the diversity of orchestration techniques available to a single IO. Figure 3 brings together the cases we have discussed, showing only those schemes from Fig. 1 in which UNEP participates or which it supports. We can analyze UNEP’s activities in terms of the three tiers of the Governance Triangle.

First, significantly, in the State-led tier UNEP does not sponsor any Zone 1 standards scheme of its own, unlike, say, the OECD.⁴⁰ UNEP has, however, launched the Climate Neutral Network (CN Net), under which firms and other actors, including public authorities, may make individualized pledges to reduce greenhouse gas emissions, communicate strategies and share experiences.⁴¹ UNEP’s limited activity in this area may reflect member state resistance, lack of authority, economic leverage or resources, UNEP’s relatively recent creation, or simply a strategic choice. As a result, UNEP has limited capacity for directive orchestration of business activities.

Second, and even more striking, UNEP cooperates extensively with private actors in all three zones of the Collaborative tier. It convened and helped organize

⁴⁰ Of course, UNEP has played an active role in developing and implementing treaties and other instruments directed at states.

⁴¹ <http://www.unep.org/climateneutral/About/tabid/95/Default.aspx>.

collaborative schemes such as PRI, the Global Compact and its offshoots, FI and TOI to fill perceived gaps in the system. Especially noteworthy is UNEP's active engagement with business through multiple schemes in Zone 4. Even the creation of PRI in Zone 5 involved engagement with economic actors, as its other participants are fiduciary investors and investment managers; however, these act as NGOs with regard to target firms. UNEP has not merely acted as a catalyst, but participates in many of those schemes on an ongoing basis; by negotiating the terms of its continuing participation and support, it has been able to steer, if not to direct, their standards and structures.

Third, in the Private-led tier, UNEP's relationship with GRI is unique: it initially joined forces with CERES as a co-creator with directive influence, and later became an active facilitator, endorsing, promoting and supporting GRI while participating in its governance. In addition, beyond the cases of active participation and support shown in Fig. 3, UNEP has long promoted company codes, benchmarked corporate reports, and sponsored dialogues with firms and industry associations engaged in RSS. It also accredits and cooperates with IFOAM on projects related to organic agriculture. Finally, it is important to note that other private environmental schemes use treaties and norms that UNEP administers as a basis for their standards; for example, the Marine Aquarium Council (MAC) standard incorporates definitions and principles from the Convention on Biological Diversity; the ICMM sustainable development principles are based on the Rio Declaration.

Although these examples provide important illustrations, it is important to remember that UNEP is exceptional in the extent to which it has pioneered TNG approaches and orchestration. Other IOs have been less aggressive in seeking out such possibilities and in some cases, notably the ILO as discussed above, have even been surprisingly hostile.

5 Implications for IO Performance

5.1 Over-Reliance on IOG

Much of the scholarly and policy literature concerned with improving IO performance has until recently called for adding or strengthening IOG structures and authorities. In the environmental area, for example, proposals to establish some form of "world environment organization" (WEO) have created a "vivid policy controversy" for nearly three decades (Biermann and Siebenhüner 2009b: 3). Calls for a WEO proliferated around the 1972 Stockholm Conference on the Human Environment, the 1992 Rio Conference on Environment and Development, and the 2002 Johannesburg World Summit on Sustainable Development (Bauer and Biermann 2005).⁴² No fewer than 17 academic, policy and political proposals were advanced in the latter period (Lodefalk and Whalley 2002), driven by dissatisfaction with the authority of UNEP and by concern over the power of the World Trade Organization.

⁴² Bauer and Biermann cite many of the leading sources from these periods.

These proposals have taken three general forms. Geoffrey (1992) took the most hierarchical approach, proposing a UN environment council, parallel to the Security Council, which could take legally binding decisions, or alternatively a specialized agency modeled on the ILO, which could adopt binding regulations, verify state compliance and impose sanctions.⁴³ The two other leading approaches (each with numerous variations) are a specialized agency modeled on the WTO, which would have authority over other environmental IOs and treaties, and a more traditional specialized agency⁴⁴ (Biermann 2000; Bauer and Biermann 2005). Even some expressed opponents of a WEO favor upgrading UNEP to a specialized agency (Najam 2005), or support more modest IOG solutions, such as clustering environmental treaty bodies to enhance their efficiency and authority (von Moltke 2005).

To be sure, consistent with the growing interest in private authority and transnational governance (Cutler et al. 1999; Hall and Biersteker 2002; Ruggie 2004), scholars have in recent years devoted substantial attention to public-private and private-private partnerships and other TNG mechanisms, in environmental policy and more generally. Significant environmental examples include Andonova (2010); Andonova et al. (2009); Bäckstrand (2008); Biermann and Pattberg (2008); Börzel and Risse (2005); Dingwerth (2007); Pattberg (2007); and Pattberg and Stripple (2008). Many of these works discuss RSS schemes appearing in Fig. 1, as well as still-emerging schemes for transnational climate governance. While this literature has broadened the academic perspective, however, it has to date had little impact on official deliberations. In particular, the high-level debate on environmental governance pursued over the last decade remains focused on IOG.

Since the Malmö Declaration of 2000, the UNEP secretariat has organized open-ended government deliberations on reforming environmental governance known as the “Cartagena Process” (Bauer 2009: 176). Based on these discussions and on parallel consultations in the General Assembly (Berruga and Maurer 2006), UNEP in 2009 established a consultative group of ministers to develop concrete options, known as the “Belgrade process” (UNEP 2009b). This group presented its “Set of Options for Improving International Environmental Governance” in December 2009 (UNEP 2009c). Virtually all the options identified would make “incremental” changes to existing institutions and procedures. Moreover, apart from suggestions to enhance UNEP’s engagement and partnerships with civil society and business as well as participation by “major groups,” most options would strengthen inter-governmental bodies such as the Global Ministerial Environmental Forum, the UN Environment Management Group, and collaboration among treaty bodies.

Some ministerial participants suggested more far-reaching reforms, including creation of a specialized agency or WEO and a new umbrella organization for sustainable development. The group concluded, however, that it could not address such proposals without political guidance. Accordingly, in February 2010, UNEP established a new ministerial group to consider broader reforms (UNEP 2010a).⁴⁵ A Background Paper by

⁴³ Under the ILO model, firms and environmental NGOs would play significant roles in a WEO.

⁴⁴ Under some of these proposals, private actors would be allowed significant input into decision-making. See, e.g., Frank Biermann, “The Rationale for a World Environment Organization,” in Bauer and Biermann (2005).

⁴⁵ The same decision requested the Executive Director to identify incremental options that could be implemented immediately or in the next UNEP work program.

the Executive Director suggesting options the new group might consider (UNEP 2010b) focuses heavily on possible new inter-governmental bodies;⁴⁶ it suggests organizations to assess scientific information, set and coordinate the global environmental agenda, review treaty implementation, adopt non-treaty standards for states, coordinate treaty regimes, manage environmental funds, build national capacity, and so on. The Background Paper does mention public-private partnerships, like those increasingly common in global health, but views them exclusively as tools to encourage private financial contributions.

IOG proposals like these certainly have their place; indeed they may be essential for addressing over-arching issues like global climate change, which require large-scale state action. In most cases, however, states remain unwilling to grant IOs extensive authority, for a wide range of reasons including the difficulty of controlling delegation to agencies (Nielson and Tierney 2003), “sovereignty costs” (Abbott and Snidal 2000), the “pathologies” of international organizations (Barnett and Finnemore 2004), and concerns over the “democratic deficit” (Dahl 1999). Orchestration attenuates these concerns because it concentrates less power in IOs and typically entails competition across multiple RSS schemes. In addition, IOG proposals do not recognize the potential impact for a host of important issues of engagement by IOs such as UNEP with RSS schemes across the Governance Triangle. Where private behavior is the ultimate target of international policy, our analysis suggests that reformers should devote much greater attention to enhancing IO engagement with RSS, notably through orchestration, thereby helping to develop an effective TNG system.

5.2 Broadening and Deepening Orchestration

Orchestration offers potentially important benefits for IOs concerned with their policy performance. First, the possibility of orchestrating existing private and public-private schemes, as well as of catalyzing, developing and participating in new schemes, expands an IO’s repertoire of regulatory, promotional and operational techniques. Through RSS, IOs can better match their activities to their often limited resources, to specific issues and to specific global settings. Second, TNG creates regulatory parallelism: RSS schemes address problems in multiple, diverse ways, supplementing such traditional IO activities as promoting treaty negotiations and state implementation. Such multi-pronged approaches are more likely to achieve regulatory objectives than are IOG instruments alone. Third, in an era of constrained resources, TNG allows IOs to draw on the resources, capacities and competencies of private actors, reducing demands on their own capacities and incorporating capacities they may not possess. Fourth, TNG may provide IOs greater legitimacy by engaging a broad range of stakeholders.

At the same time, IO orchestration can address many of the problems of decentralized RSS identified in section 2. Effective orchestration can ameliorate the dominance of single-actor schemes that lack essential competencies by

⁴⁶ Another suggestion is a new treaty on sustainable development to set out general objectives, principles, rights and obligations, and establish its own implementing institutions, which would apply across multiple treaty regimes.

promoting more effective collaborative schemes, and by endorsing and supporting the best such schemes based on transparent criteria. Even more significant, as shown by successful examples of IO catalysis, orchestration can ameliorate the political difficulties that hamper public-private and private-private collaboration: it can reduce transactions costs and bargaining problems by identifying and convening appropriate participants and facilitating negotiations; overcome mistrust by operating as an honest broker in negotiations; and offset differential power by assisting weaker participants. Orchestration can also address excessive multiplicity by endorsing and supporting superior schemes, promoting common standards across schemes, and shaping inter-scheme competition and collaboration in line with global policy objectives.

IO orchestration has significant advantages over individual state action in achieving these goals. Most clearly, it avoids the chaotic multiplicity that would result if states championed their own individual schemes, each with different standards, coverage and approaches. The global or regional authority of IOs avoids potential conflicts resulting from assertions of extraterritorial jurisdiction by states. Finally, IOs bring competencies that individual states lack, particularly broad global representativeness and at least a limited degree of independence from the narrow national economic interests that often dominate state policies. Biermann and Siebenhüner (2009b, 3) recently observed that “often, [IO] policies support the interests of weaker actors against more powerful ones, as well as collective international interests ... as opposed to the particular interests of powerful states.” For this reason, IO involvement can help overcome concerns that strong countries are imposing standards on weaker states.

For all this, however, even IOs active in RSS orchestration are still taking essentially modest steps; as noted earlier, few IOs are as active in this field as UNEP. Broadening and deepening IO engagement in RSS would both strengthen IO performance and aid the development of TNG. *Broadening* IO engagement is straightforward: additional IOs should consider engaging in the types of activities identified in section 4: from catalyzing private RSS and endorsing high-quality schemes, to joining with firms and NGOs in collaborative schemes, to adopting their own schemes that offer economic or political benefits while imposing substantive and procedural conditions. *Deepening* IO engagement, in contrast, involves increasing the intensity of the RSS actions in which particular IOs engage. In the remainder of this section, we provide several illustrations of the potential for broadening and deepening engagement.

IOs Can Develop International Norms Suitable for Private RSS In the private-led tier, many RSS schemes base their standards on treaties and other public norms, with beneficial effects. For the most part, however, the role of IOs in this process is not only passive but unintended: many of the instruments relied upon (e.g., the major ILO conventions and Universal Declaration of Human Rights) were created well before RSS became widespread, and those instruments were drafted for application to states. IOs could orchestrate more effectively by promoting the use of existing public norms by private schemes; adopting and refining future public norms with a conscious view toward their adaptation and use by private schemes; and involving private actors and schemes in international norm creation to ensure that newly adopted norms meet the needs of the diverse actors involved in RSS.

IOs Can Catalyze Private RSS In addition to the catalyzing actions discussed earlier, most IOs have convening authority which they can deploy in more focused ways, as by identifying appropriate public and private actors and assembling them with the goal of creating RSS schemes, even schemes intended ultimately to be private. For example, in 2005 Secretary-General Annan invited large global investment funds and managers to develop standards for integrating environmental, social and corporate governance considerations into investment decisions. These meetings ultimately produced PRI.

IOs Can Promote Effective RSS Schemes Through Endorsements IOs sometimes endorse private schemes, as discussed above. Typically, however, endorsements are ad hoc. By adopting systematic evaluation criteria and issuing endorsements to RSS schemes that qualify, IOs can more effectively create and communicate legitimacy for the selected schemes, while better ensuring that those schemes respect public policies and governance norms. Yet some IOs have been reluctant to endorse particular schemes even after adopting evaluation criteria. For example, the World Bank worked with WWF to develop criteria for sustainable forestry certification bodies, but stops short of endorsing any specific scheme. Similarly, the FAO established Guidelines for Ecolabelling of Fish and Fishery Products, but provides no formal recognition to schemes such as MSC, the first to fully meet the Guidelines.⁴⁷ Explicit endorsements would help high-quality private schemes overcome two of their biggest challenges: their reliance on support from consumers and the public, and the difficulties consumers and the public face in distinguishing among competing schemes. Beyond endorsing RSS schemes as such, IOs might seek opportunities to recognize firms that participate in effective schemes, creating information that would help schemes, NGOs and the public to target laggard firms.

IOs Can Create Stronger Positive Incentives to Promote Effective RSS Schemes In the State-led tier, some IOs have adopted RSS schemes that offer no significant economic benefits; as a result, these programs must eschew meaningful orchestration. Perhaps most notably, two high-profile programs from the 1970s—the OECD Guidelines and ILO Declaration on Multinational Enterprises (ILO)—offer at most general reputational benefits: they provide no certification, logo or other device to distinguish complying firms in the marketplace.⁴⁸ The UNGC has moved slightly further, allowing participating firms to use its logo on certain publications and publicizing their “Communications of Progress” yet it still does not scrutinize firms intensively. Given the weakness of the benefits they currently offer, none of these schemes imposes any mandatory conditions or requires independent verification of performance. By enhancing the reputational or market benefits such programs offer, and by partnering with private actors to undertake strong outside evaluations, IOs could strengthen their regulatory impact.

⁴⁷ <http://www.fao.org/docrep/008/a0116t/a0116t01.htm#bm1.1>; <http://www.msc.org/newsroom/msc-news/archive-2006/leader-in-fishery-certification-and-eco-labelling>. FAO and MSC are even more deeply interrelated: the MSC standard was a partial model for the Guidelines, while MSC originally based its standard partially on the FAO Code of Conduct for Responsible Fisheries, a voluntary instrument that addresses both states and private fisheries stakeholders. See <http://www.fao.org/DOCREP/005/v9878e/v9878e00.htm>.

⁴⁸ These programs provide very modest reputational benefits by promoting their standards to labor organizations, NGOs and other stakeholders who can directly observe firm compliance.

Other IOs use their economic power to promote RSS schemes, but do so in such soft or indirect ways that they barely constitute facilitative orchestration, let alone directive. For example, the eighteen IOs that procure goods and services through the UN Global Marketplace spend over \$10 billion each year, providing significant economic leverage. The Marketplace uses that leverage to promote participation by suppliers in the Global Compact. However, instead of imposing mandatory conditions or creating meaningful incentives—as do the EU EMAS and eco-label programs—the Marketplace offers support that is indirect and doubly hortatory: it “invites UN Procurement Officers to encourage their suppliers to subscribe to the principles of the UN Global Compact.”⁴⁹ In addition, Marketplace support focuses on a single and very soft UN-sponsored scheme, excluding other schemes that might be equally or more effective; extending support to such schemes would amount to a significant endorsement, encouraging a beneficial “race to the top.” The World Bank’s (2004: 31–32) sustainable forest strategy is doubly indirect as well as hortatory: rather than directly addressing forestry firms, it speaks to government borrowers; rather than mandating certification by acceptable RSS schemes, it merely encourages governments to “engage independent third-party certification bodies in performance-based monitoring of forest ... operations.”

5.3 Improving the Evaluation of IO Performance

Because TNG is so new, it is premature to evaluate the performance of orchestration in practice; however, the Gutner-Thompson (2010) performance framework does help us to identify some additional advantages of TNG over IOG in terms of facilitating the evaluation of IO performance. While better evaluation does not guarantee better performance, it is a supporting if not a necessary condition for it.

An important problem Gutner and Thompson (2010) identify is that IO performance is often in the “eye of the beholder,” so that any evaluation depends on actors’ different views or objectives.⁵⁰ In many RSS settings, for example, firms prefer looser standards and less intrusive regulation, especially self-regulation, whereas NGOs prefer tighter standards and stronger regulation, with external verification. For their part, states vary in their views of regulation according to the positions and influence of domestic constituents and important characteristics such as their level of development. Michael Lipson (2010) points out that IOs are themselves terrains of contest for such differences, although IOs are also guided by their own normative values and organizational interests. But effectively-orchestrated TNG may mitigate the problems resulting from diverse interests and objectives by bringing the actors together in independent, collaborative RSS schemes. This allows the actors to work out compromises over interests and goals, and externalizes the problem (to some extent) from IOs, the locus of state and interest group contestation over proposals for IOG. Although orchestration is never neutral, it attenuates the incentives that actors have to capture IOs (as compared to IOG) relative to their incentives to address their

⁴⁹ <http://www.ungm.org/Info/About.aspx>; <http://www.ungm.org/Info/Guidelines.aspx>

⁵⁰ Michael Lipson (2010), in this volume, emphasizes the parallel problem of ambiguity, where actors disagree over how to interpret IO actions.

differences through negotiation within RSS schemes. Finally, closer agreement as to the goals of RSS helps establish clearer criteria by which to evaluate IO performance.

A closely related problem that TNG helps mitigate is the “measurement” of IO performance. In this volume, Manfred Elsig (2010) suggests this is a particular problem for the WTO—although in fact measurement is a problem for IOs and other public sector organizations in general. It is certainly a problem for many RSS schemes: even if certain outcomes are readily observable (e.g., adoption of codes by specific firms), other outcomes are very difficult to observe and verify (e.g., effective implementation of codes). Measurement of the impact of orchestration is thus doubly challenging, especially when elements of orchestration are “in the background” and inherently difficult to observe. However, the TNG system and the structure of individual RSS schemes both enhance the measurement of performance. Given its multiplicity and competitiveness, TNG as a system allows for comparisons across schemes that allow some to be identified as better performing. Moreover, the composite nature of collaborative RSS schemes empowers participating actors (especially NGOs) to provide their own evaluations of scheme performance, in addition to any evaluations by IOs.

This meshes nicely with the arguments regarding performance metrics advanced in Fig. 1 of Gutner and Thompson (2010), and their implication that we need a variety of measures to capture IO performance. In the context of orchestration and TNG more generally, contestation among actors provides improved information and multiple perspectives on the successes and failures of different schemes. This interaction also produces better information regarding processes and intermediate outputs that, as Gutner and Thompson argue, often tell us more than outcome-based metrics in this context. Consider UNEP, which has been fairly successful in coordinating the activities of various actors and setting standards, as described above, but which is far too constrained (politically and in terms of resources) to produce dramatic results through its own direct action. Evaluation of UNEP’s performance as an orchestrator also keeps the emphasis on what the organization can reasonably be expected to achieve, while highlighting the essential roles and performance of other actors—firms, NGOs and states—in achieving global governance goals.

A further advantage of TNG is that it strengthens the ability of IOs to serve as evaluators of performance. Catherine Weaver (2010) builds on the Gutner-Thompson framework to emphasize the “paradox of accountability,” whereby IOs’ evaluations of their own programs serve the contradictory purposes of promoting good performance and legitimizing IO operations. The tension is that IOs’ incentives to portray themselves as effective get in the way of constructively critical self-evaluations. Insofar as IOs are outside of individual RSS schemes, however, they are better positioned to provide accurate evaluations of scheme performance, and can focus on how performance can be improved without undermining their own legitimacy. When IOs participate in collaborative RSS schemes, the multiparty composition of those schemes means that other actors—firms, NGOs and states—are well-positioned to counteract any tendency by IOs to whitewash their own performance or that of the schemes. IOs are somewhat less well-positioned to provide independent evaluations of larger RSS systems that they themselves orchestrate, but these systems include a plethora of other actors willing to provide checks on IO performance claims.

6 Conclusion

IOs have been broadly criticized as ineffective. The traditional IOG approaches pursued by most IOs are especially ill-suited for addressing many issues raised by contemporary globalization—such as the social and environmental impacts of transnational corporations—which turn predominantly on the behavior of private actors. However, the emergence of a wide variety of RSS schemes—private, public and mixed—opens new possibilities for international governance and new potential roles for IOs, which are only beginning to be explored. While IO orchestration of the emerging TNG system offers no panacea, it does offer exciting new opportunities to improve IO performance.

Working with private partners allows IOs to expand their available capacities and resources; it also diversifies away from their reliance on states. At the same time, such interactions can stimulate IOs to learn and adapt, offsetting some of their bureaucratic pathologies. To take advantage of these opportunities, however, IOs must become more proactive in facilitative and directive orchestration. None of this is to downplay the difficulties IOs face. The scope of problems being addressed is immense, and IOs have relatively limited capacities; the orchestration deficit is real even if it is significantly smaller than the IOG deficit. Given these circumstances, IO orchestration offers a promising addition to the repertoire of IOs that may improve their performance over a large and growing area of international regulation.

IOs have a special place in TNG because of the nature of the underlying regulatory issues and the limitations of decentralized RSS. Individual RSS schemes sometimes work at cross-purposes, and satisfactory schemes have not emerged in all the areas where they could be beneficial. Only IOs have the global reach, representativeness and legitimacy to orchestrate a successful TNG system. A few IOs—such as UNEP and the UN Secretary-General's office—have pioneered such approaches, but many others have not yet risen to the challenge. There is enormous potential to broaden and deepen IO engagement. This is the challenge and the opportunity for IOs: to improve their performance through orchestration.

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