Minding their own business? Firms and activists in the making of private labour regulation

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Chapter Five. Choosing a code. Understanding business support for private labour regulation.

During a recent gathering on Corporate Social Responsibility (CSR) in London a speech is planned by the Social Compliance Manager of a British retail chain. The manager misses his flight back from South Asia, but he has sent his Powerpoint presentation in advance. The moderator of the debate, a representative of a trade union, is willing to go through the slides of the show for the audience. The presentation deals with some dilemmas the manager was facing in the management of labour standards in the production chain of his company. It proposes schemes to get workers involved in talks on wages, presses for trainings on labour standards and worker's rights in factories, and discusses cultural misunderstandings that might inhibit the formation of legitimate worker representation arrangements. As he closes the presentation after the last slide, the union representative smiled wryly, and said: 'You know what, I could have written this myself. Who would have thought that a decade ago?'

1. Introduction

Many European companies sourcing products from developing countries nowadays engage with private standards to regulate working conditions in their manufacturing supply chain. A range of different private regulatory organizations have been developed that provide different models for applying labour standards in these chains, adding up to different degrees of stringency. CSR managers of these companies show increasing knowledge of labour issues, but policy and academic discussion reveals that differences in approaches to the private regulation of labour standards have a distinct political value and may affect the success of private regulation in addressing workers' plight (CCC, 2005; O'Rourke, 2005). Patterns of business support for specific private regulatory approaches are therefore significant for the broader question of the potential of private regulation as an effective and legitimate tool for raising working conditions in export industries (compare Cashore et al, 2004; Espach, 2005). While research so far has addressed the background of firms' preference for private regulation in general (Wetterberg, 2007; Wright & Rwazimbanga, 2005), or their interest for one particular regulatory programme (Marx, 2008a), what is lacking is an analysis of firm preferences for private regulatory policies in a dynamic situation of competition between different regulatory organizations. This chapter will deal with this question, comparatively identifying drivers to strategic choices being made by Western European firms and discussing the overall political implications of these choices.

The amount of firms that support private regulatory organizations for improvement of labour conditions in clothing production is steadily rising in Western Europe up to 117 companies (both brand and retailer, from sporting goods, clothing and multi-product retail sectors).[87] Specific information on the actual spread of these policies over transnational production chains is missing. Keeping in mind the large companies involved in these organizations, including key players such as the sport brands Adidas and Puma and the retail giants Metro, Tesco, Karstadt Quelle, Carrefour and Migros, the scope of these policies should be estimated as considerable. The regulatory activities of these private organizations now extend to thousands of suppliers in Latin America, South and East Asia, North Africa and Eastern Europe.

In terms of firm membership and estimated reach in global supply chains, BSCI is the biggest player in the EU field, supported by about 60 firms, among which most of the retail giants. FWF is the smallest, with about 25 firm members, many of which are medium-sized and have only marginal international sales. The other organizations lie in between these two poles in terms of industry membership.

The chapter's analysis of the firms participating in private regulation is based on qualitative and quantitative analysis of a cross section of European companies that have developed CSR policies on labour standards, using results from interviews and questionnaires. The interviews included extensive discussion of a company's production and sales profile, its history and experience with CSR, and its relations with other firms and other actors. Based on theoretical expectation and the conclusions drawn from the in-depth interviews, a survey was developed and administered on more than 100 respondent firms' production characteristics, CSR activities and relations with other firms and activists.

The quantitative and qualitative analysis overlap very strongly, perhaps surprisingly, in the various descriptive and analytical conclusions they support. To explain the nature of CSR activity among firms choosing to join private regulatory organizations, this chapter will argue, first, that companies predominantly develop private regulatory policies as a response to external pressures. Activists are important in this respect since they raise the salience of the labour conditions issue and orchestrate societal pressure against companies. But activists have only moderate influence on what type of private regulation companies choose. Companies prefer their private regulation after choosing between multi-stakeholder or business governed regulation; pondering over the consequences of the nationality of the organization; and deciding on the type of policy, specifically the choice between taking responsibility for implementation of standards, or leaving this responsibility largely with the suppliers. A preference for multi-stakeholder or business regulation is explained by a lower or higher degree of sensitivity to societal critique. To a degree the agency of the corporate organization and CSR staff is also of significance here. The locality issue is of

[87] Own research, until July 2007. Data on the spread over the European industry are missing due to the absence of information on the EU level.

importance to companies that want to be involved with (stakeholder) groups politically most relevant to them, which are often locally based. And the type of policy with regard to responsibility for implementation is largely affected by the company's (or: management's) attitude towards the supply chain and its degree of involvement in the production process.

From these findings it is gathered that in order to understand the preference of firms regarding private regulation of labour standards, national and industrial institutional factors matter, with some room for mediation through corporate perception and managerial agency. Such consideration yields two paradoxes. First, although the private regulatory initiatives lie at the intersection of *globalization* of production and the *transnationalization* of social advocacy, firm choices of initiatives tend to be embedded in locality of politics among businesses and activists in Western European countries. Second, although the analysis considers the regulation of the social dimension to *outsourcing of production*, the company's residual *interventions in the production process* are significant for the understanding of policy preferences. The net industry result of choices made by European companies is a predominance of a business governed and outsourced responsibility type of compliance in clothing supply chains.

The next section will first reiterate the approach along the lines set out in Chapter Two. The sections after that will discuss the development of CSR policies within corporations, followed by the role that activist efforts play in this effort. After that, initial findings on patterns of business support based on qualitative data gathering are presented, which form propositions for a larger N-test. This test and its findings are then elaborated in subsequent sections, followed by conclusions.

2. Institutions, agency and company preferences for private regulation

Political science and management literature emphasizes the significance of institutional pressures for an understanding of company CSR strategy (Campbell, 2006; Cashore et al, 2004). In this chapter strategies of companies are explained in particular from a temporal-relational and a social-relational perspective in keeping with a sociological institutionalist approach to understanding the politics of private labour regulation (see Emirbayer & Mische, 1998).

This means, first, that corporate strategies are affected by their positioning in the specific historical development of the private regulatory field. Strategizing is conditioned by the available information, the evolving character of interactions between organizations and the existing private regulatory institutions. Some variation may therefore be found in early adopting and late adopting companies as they face different conditions of strategizing: more or less options to choose from, more or less experience with activist campaigning, more or less significant choices made by competitors or other strategically significant companies.

Second, private regulatory preferences are conditioned by sets of institutional pressures informing corporate identity, as it is embedded in different spheres of interaction (Leander, 2000). In line with institutional literature on CSR (Delmas & Toffel, 2004; Wright and Rwabizambuga, 2006), two most significant spheres in this respect are first, the embedding of the firm within the industry, and in particular, its positioning in the transnational production chain; second, the embedding of the firm in its home country political context.[88]

Both of these sets of institutional pressures inform what may be the key variable in explaining corporate strategy towards Corporate Social Responsibility policies: the sensitivity to societal pressure on the corporate organization with regard to ethical trade policies (compare Delmas & Toffel, 2004; Levy & Rothenberg, 2002).

The framework in this respect necessarily elaborates on situations of increased agentic possibilities for organizations and persons within organizations, under conditions of higher uncertainty. From a temporal-relational perspective, this agency is more significant in earlier than in later stages of private regulatory development. From a social-relational perspective, agency matters because of the peculiar (perhaps *business alien*) nature of CSR policies and the uncertain environment firms face in an age of globalization, multiple governance layers and state restructuring. This agency can either be identified on the level of the organization as an actor, where it is understood as *organizational commitment* (Zald *et al*, 2004), or on the level of specific *managers* if they control the process of strategy development for a company. This means that industrial and home country institutional pressures cannot account for all outcomes and agency is going to mediate residual outcomes specifically in cases where organizations, at the crossroads of multiple or conflicting institutional commitments, face ambiguity or ambivalence.

How this plays out will be elaborated in the remainder of this chapter. Given the above characteristics of production chain, industry and regulation, it identifies a range of hypotheses about the conditions under which firms will choose to pursue more or less stringent private regulatory approaches. Based on interviews and the interpretation of the secondary literature, these hypotheses fall into the following three categories: societal pressure; national institutional environment and industrial institutional environment. These factors will determine the preference for private regulatory stringency in indirect ways, as they influence preferences that inform the stringency of private regulation, regarding the governance, the nationality and the implementation policy of private regulatory organizations.

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[88] These variables are also identified as significant for business support patterns in research on competing private environmental governance programmes in the forestry sector (Cashore et al, 2004; Sasser, 2006). Some caution is warranted in translating these findings as hypotheses for labour conditions in the clothing production chain. Apart from the differences in the issue under regulation, many private environmental programmes also address local environmental circumstances in the firm's home country, creating a much more intimate fit between private governance and home country institutional frameworks than in the case of the outsourced labour circumstances for clothing.

3. Business: companies developing Corporate Social Responsibility policies

This section provides for a short descriptive analysis of what happens if companies are faced by societal demand for CSR policies, illuminating similarities in strategic pathways among interviewed representatives of firms.

Why do companies develop CSR policies? The literature suggests several explanations, which for the current purposes can be divided into three strands: the *positive incentive reasoning*, the *protective reasoning*, and the *normative reasoning* (see for instance Crane & Matten, 2005; Van Tulder & Van der Zwart, 2006).

a. Positive incentives: the benefit of CSR

Positive incentives are the economic benefits that companies may reap from the application of CSR policies. Since most of us expect companies to be self-interested organizations seeking to increase profits, shareholder value, market, for many observers this is intuitively the first source of explanations to the development of CSR. Firms may develop CSR policies because they find out that ethical trading and sourcing strategies are rewarded by ethically minded consumers. Furthermore, stock-listed firms may benefit from CSR because it creates interest from sustainable investors, funds and could mean inclusion in sustainability indexes such as FTSE4Good. In addition CSR measures on labour standards might improve overall supply chain management, because it stimulates the streamlining and deepening of supplier-buyer relations, while improving the performance by suppliers through enhanced management systems and increasing labour productivity (Acona, 2004; Maignan, 2003).

The empirical support for the existence of economic incentives for CSR policies on labour standards in supply chains is meagre. Studies on better supply chain management through CSR still work on the level of developing hypotheses. Positive consumer effects are sketchy too (Iwanow et al, 2005; Hiscox, 2006). Main reason is that the issue of labour standards in supply chains is a complex one to manage, so companies cannot easily communicate that they are doing the right thing in this matter. If they do so in order to attract consumers with an ethical conscience, they run the risk of being named and shamed as liars.[89] A few companies in the industry have benefited from sustainable investors, funds and indexes due to their CSR efforts, but adequate comparative data is lacking to suppose that this has made them perform better financially than they otherwise would have. Going back a few years, say the period between 1995 and 2000 when many companies made first steps in CSR territory, it becomes even harder to imagine that data would be available that could ground the position that CSR was profitable to the company.

[89] Chapter Six will discuss a recent attempt to circumvent this problem.

Second, the accounts of managers of firms and their peers in interviews confirm that many firm representatives have not had positive incentives on their minds when developing CSR. Representative for a larger group of managers is the observation by a respondent that

> I actually don't believe in the whole consumer pushing for CSR thing. The business case and such. Consumers in itself do not reward it. You should not be doing it for them.[90]

Predominantly, respondents point to other forces at play in the development of CSR policies. Nonetheless, the search for evidence to an economic benefit to CSR policies, the so-called *business case for CSR* goes on for many CSR managers in companies and consultants. Acquiring it, they believe, would truly make CSR mainstream, first in the sense that the majority of international firms would then start practicing it as a response, and second in the sense that the activities of CSR managers inside firms would easier become accepted as core practices of the organization, instead of a loose add-on. If worst comes to worst, the business case for CSR could save the jobs for many practitioners in the CSR field (Fransen, 2006).

b. Protective reasoning: uncertainty and risk

Protective reasoning is used when CSR is developed because it is believed to prevent future (or further) negative impacts on the position of the company. First, companies may start CSR policies because they want to dissuade other actors from pushing for public regulation of their activities (Kolk et al, 1999). Second, company representatives generally are concerned about the reputation of their firm (for examples see Van Tulder & Van der Zwart, 2006). The reputation of a firm (or its brand) affects customer satisfaction; attractiveness to prospective customers; investor positions; and employee satisfaction. CSR issues are normative, and the prospect that people would associate what they consider wrongdoings with the image of a company or a product worries firm representatives. Hard convincing proof of the damage that attacks on reputation might have are lacking. Anecdotal evidence points to short drops in share prices in times of societal pressure (with Nike and Adidas, see Van Tulder & Van der Zwart, 2006; Umbro in Merk & Fransen, 2008). Buycotts are rarely used in this field. The precise impact of damage to reputation because of CSR crises on the mentioned variables is therefore uncertain. It is undeniable however that the reputation of some corporations is forever linked to some wrongdoings. Many people think of pollution and human rights issues when they think of Shell. Others think of child labour when they hear the names of Ikea or Levi's. It can be argued that managers therefore do need to take into account the risk of reputation damage as a possible threat to their organization and this is why they could consider CSR measures as a part of their strategy.

[90] Interview F20.

Empirically, public regulation does not seem to have been the concern of the companies under study when they developed CSR on labour conditions in supply chains. Most of them are quite certain that public and binding rules for supply chain policies were not and are not pending. This does not mean that firms nowadays do not invest time to monitor and lobby the efforts at CSR regulation that develop at national and EU levels. Because companies generally prefer private rules to stay private rules so they take an effort in consistently putting that message out to the policymakers (compare Rieth, 2005).[91]

A much larger driver for companies to develop CSR has been the perceived reputation damage due to campaigns and public attention to wrongdoings in their supply chain. As noted, these did not lead to substantial economic damage in most cases. But negative public attention for the company did trigger worries that led to the development of CSR policies.

Marks and Spencer is a case in point. Criticized through a documentary on British TV covering child labour at a Moroccan supplier factory, the company started litigation because of dishonest portrayal of the account of the case that Marks and Spencer managers had given to the journalist.

> We did win [the lawsuit], but that news ended somewhere down on a backpage of the paper. And during the process at different times there was MS in the paper, in connection to all kinds of negative issues. So there was damage to the MS brand, for 2 years after the documentary(…) You know, it is hard to get rewarded for this thing, but if companies don't do anything, they will get damaged.[92]

Worries on Marks and Spencer's policies spread as social movements addressed their policies and customers wrote letters of concern. After litigation Marks and Spencer published its CSR code of conduct and started its systematic policies on it.

Not every company receives focused negative attention for its supply chain policies, but the pressure is on the clothing industry in general, and therefore companies fear that they might be next in line to be scrutinized. Many companies have therefore anticipated pressure and concede that they started CSR policies to pre-empt critique.[93]

Finally, some firm representatives express their motivation to start with the development of CSR policies not so much as a response to a threat to reputation or a pre-emption of threat to reputation. The protective reasoning they have to start with CSR policy development is that they see many of their competitors in the industry working on it, and do not want to be left out on an issue of concern to the others, because it could threaten their position in the future. One respondent for instances notes that '…[E]veryone in the industry, retailer or brand, is doing something now. So we

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91 Interview F7.
92 Interview F6.
93 Interview F7.

have to do something too, whether we want to or not.' [94]

c. Normative reasoning

A third strand that can be distinguished analytically is the situation in which companies do not move on positive economic incentives, nor on motivation to protect the firm, but are steered by particular ideas of the good life in their motivation to develop CSR, motivations that are relatively autonomous from societal pressure. Crane and Matten (2005) discuss the complexity of talking about morality in the actions of firms as organizations and conclude that it is possible to talk of morality and moral responsibilities through corporate cultures and internal decision making structures. This implies that morality for an organization can be influenced inside organizations by individuals or groups of individuals with ethical ambitions, whose impact logically increases when they exercise powerful positions in the decision making structure, such as CEOs, board members and owners (see also Heemskerk, 2007).

Research-wise, this category of reasoning leads to difficulties. It is hard to empirically distinguish between normative reasoning and the previous category of protective pre-emptive application of CSR anticipating societal pressure, especially when, next to the account of firm managers, little data from other sources is available for triangulation.[95] The most that can be said on this point is that some companies hold that they have protective inspirations to start CSR while a small group of companies holds that development of CSR is in line with their organizational ethics. These are two categories of discursive accounts then. Fine examples of accounts by firms of their normative drive to CSR development are for instance Martijn Vermin of Gsus, who holds that in his company…

> (…) there was a pretty strong philosophy from the start on the social responsibility of our business. These were pioneered by the two designers that started Gsus, they felt strongly about it. They think that every company should take its responsibility, and that is not something you should advertise on in particular, because it should be common sense to do it.[96]

Similarly, another respondent notes the normative agency of company owners led to the

[94] Interview F21.

[95] The distinction between both categories can in empirical research be endangered first by the potential for respondents to give desirable answers, emphasizing organizational ethics in discourse ('We are doing the right thing because we are a good company') over actions taken that were motivated by organizational risk ('We are doing this because we fear repercussions'). Second, the political science or political economy bias of the interviewer might lead him to be an organizational ethics sceptic, instead being oversensitive to every sign, no matter how small, of exogenous pressure and organizational interests as the possible key to understanding company actions. Deciding on these categories then becomes a question of assessing intentionality in human beings, which in this case is impossible to do in a social scientific way.

[96] Interview F15.

development of CSR, independent of risk assessments or economic reasoning.[97]

d. From CSR policy to support for private regulatory organizations

Chapter Three discussed policy experts and academics who hold that codes of conduct that are drafted as a private regulatory collaboration of a range of different parties are considered to be attractive, since they can first facilitate the pooling of resources and knowledge for firms. In fields of CSR activities, most firms in the beginning have to figure out which options they have for *effective* and possibly *credible* ways of action. Private regulatory organizations in principle can facilitate interaction, and as a consequence, these organizations can prevent firms *going it alone*, and industries ending up with hundreds of different individual firm standards and implementation programmes. A common approach seems specifically necessary in the light of the structure of transnational clothing production chains nowadays. With many buying companies only exerting little buying power over their suppliers, and many buyers sharing the same or similar suppliers, moving together creates more leverage (O'Rourke, 2003).

Companies that prefer private regulation over self-regulation appreciate the exchange of information and the possibility to exercise more pressure on suppliers. Respondents meanwhile hold that private regulation can also be interesting from a strategic perspective. Some companies may want to join private regulatory organizations because it gets them around the table or in the same boat with parties they want to affiliate with. If these parties are activist groups stimulating a form of private regulation, membership of private regulation can be helpful for companies that want to have direct interaction with their critics, perhaps to buy peace from them. If these parties are businesses, they can be attractive for companies because a united front on CSR is beneficial, or in the case of an alliance with a specific company with a good reputation.[98]

By contrast, representatives of firms *going it alone* emphasize that their method of checking labour standards is appropriate and they do not need the regulatory oversight, nor the discussion with or leverage of others to move forward.[99]

e. In the seat of the Corporate Responsibility manager

So what happens when companies adopt CSR as a policy? They recruit someone (or a few people) to become CSR staff. These people come from different backgrounds. Some of them are used to dealing with supply chain issues on the basis of quality or technology expertise, but have no experience yet with the CSR implications of supply chain policies.[100] Others are taken in with good

[97] Interview F20.
[98] Interviews F13; F17; F20.
[99] Interviews F1; F18.
[100] Interview F6.

communications and PR skills. A notable development is that in particular some companies with high brand visibility recruit their CSR staff from NGO circles, investing in both societal and strategic expertise.[101] These CSR managers have a dual task: on the one hand they need to develop activities to deal with issues. On the other hand they need to defend and promote the company line on CSR both internally and externally, through reports, presentations and contacts with journalists and critics. Many of them see it as a core task to create awareness on CSR among their staff.

Case study evidence shows that many CSR managers are in danger of doing their work in organizational isolation, due to the peculiar nature of their activities in comparison to the tasks of their colleagues in the firm (Crane, 2000; Mamic, 2004; Gjolberg & Ruud, 2005). It is hard to convince colleagues with hard-line bottom line attitudes to their jobs that what CSR staff does is actually worthwhile. Strategically, CSR managers need to invest in good relations with two segments of their business. First, with the powers that be in the organization, whether that is the CEO or the owner(s). Interviews show that the attitude towards CSR of those high up in the organizational ranks can make or break the career of the CSR staff.[102] Secondly, CSR staff if they are serious about alleviating labour conditions in their supply chains, need an entrance to the people at the buying department that are in power when it comes to the development of the supply chain. Many CSR managers try to sensitize buyers to take into account the CSR perspective when "shopping around" for new factories for their clothes.[103]

The consequence of the situation of relative isolation that many CSR managers are in, is that they also have relative autonomy in decision making on strategies, when it comes to the details of CSR policies. Their personal preferences, characteristics and professional or social background can come into play when it comes to issues such as attitudes towards press, NGOs, consumers and unions, forging links with colleagues in the company, reaching out to other companies in pursuit of common goals, and so on.

Meanwhile their practices are also shaped by the evolving professional field of CSR practitioners that they belong to. This field consists of their fellow CSR managers at other companies, CSR consultants, NGO and union representatives and academics. These people meet regularly in workshops, conference halls and seminars to discuss issues of importance to the profession. Amongst others private regulatory organizations, governments and international organizations stimulate the gathering of parties on different sites of the debate on private regulation.

Among each other they are at the same time agents and clients, critics and subjects of critique, allies and competitors. A host of different types of strategies therefore play out in the conference rooms and the corridors. But, fundamentally, grouped together, these people share the

[101] Interview F12
[102] Interview F18; F20.
[103] Interviews F2; P2.

identity of CSR professionals, which is what they commonly seek to advance inside their organizations and to the wider public. Doing that strengthens the position of all of them individually.

Some firm representatives would therefore easily concede that being targeted for a public campaign by activists, while from an organizational view a burden, for them personally is a blessing, since it creates a sense of urgency in the corporate organization that they can use to expand their agenda.[104] Some activists furthermore emphasize their continuous interaction and information exchange with certain persons working for corporate organizations, while remaining skeptic of the institutional affiliation or specific policies that these firms provide for (compare Bulut, 2008).[105]

4. Activism and societal pressure on companies

As in the previous chapter, activists are also significant actors when describing the politics of business support for private labour regulation. Activists function as orchestrators and/or mediators of societal pressure on firms and influence firm strategic trajectories towards preference for particular types of private regulation.

Empirically, this study identifies the most significant activist cluster of organizations in the field of pressuring the clothing industry, a cluster of groups that are in regular contact with each other and over the years arguably broadly have created a common agenda with respect to the pressuring of companies on labour conditions in their supply chains. This cluster consists of the labour activist networks in Europe and the US such as the Clean Clothes Campaign and Maquila Solidarity Network, the global union ITGLWF, several national union affiliates and the developmental network of Oxfam. Irrespective of their organizational and ideological differences these organizations in this particular field arguably present a reasonably coherent view on what to expect from a company, and discuss and organize common approaches to pressuring companies.

What do these groups want as policies for companies? First of all, they demand the application of ILO core conventions for labour standards inside the supply chains of companies. These include all the rights to freedom of association and collective bargaining, plus provisions on wages, health and safety, benefits and so on. In terms of private regulation of these norms they push for application of these standards through organizations that are multi-stakeholder governed and also include trade union representatives. Moreover, these groups prefer versions of regulatory

[104] Interview F20.
[105] Interview N4.

implementation that allow worker voices to be heard and societal groups can be involved in verification, complaints procedures and redeeming cases.[106]

The moment that all these groups most prominently marched together was when they coordinated the campaigns on the sporting goods industry during the Olympic Games in Athens and Beijing in 2004 and 2008 (Merk & Fransen, 2008).

A common denominator can be identified of frequently used approaches to pressuring companies by these activist groups: public campaigns, direct engagement between activists and company representatives, and private regulatory development. These will be discussed below, bearing in mind that these strategies are often used in parallel.

First, most visible are public campaigns on individual companies or sets of companies. These campaigns can emerge as part of longer term strategic planning, or develop *ad hoc.* In the first instance, a careful assessment is made about what companies to target, how to inform, involve or push other groups towards action at the company and when to perform what form of pressure. Most often the campaign is accompanied by a research report on current circumstances in production zones where targeted companies are sourcing from. These campaigns also bring with them a set of demands that mix claims for remediation with policy change at sets of companies, or a part of the industry in general. The Oxfam research report *Offside* for instance provided information on proceedings in labour conditions in Southeast Asian production facilities and connected it to a set of companies, including Puma and New Balance. The report also presented demands for policy change by companies, including support for unionized factories and unionization processes in general.

Ad hoc campaigns are the result of outside events or of the advocacy of interest groups at the point of production. Press events or news coverage on companies are opportunities for activists to make their voices heard on issues. The German Christian initiative Romero for example in the past has spoken at shareholder meetings of German companies like Adidas to talk about sweatshop conditions through an intermediate NGO that offers its speaking time to activists with ethical messages. Similarly, the Dutch Clean Clothes Campaign responds to economic news on companies it aims to target. In the case of the retailer HEMA for instance it linked the labour conditions issue to the rumours of a takeover of HEMA, threatening the company to raise enough money with consumers to buy it and force better labour standard policies that way.[107]

The Clean Clothes Campaign network is also well known for its urgent appeal system that can set into motion campaigns on companies that are through their buying activities connected to

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[106] These policy views are summarized on the basis of the interviews N1; N4; U1; U2; U3. It is easy to review them in policy documents by the mentioned organizations. Important to note is that ideas may diverge about which currently existing multi-stakeholder initiative best applies these implementation norms.
[107] See www.schonekleren.nl, accessed April 2007.

problems in factories such as mass lay-offs, anti-union scare tactics, and health and safety dangers. Pressure is put on companies on request of interest groups urging both for concrete action in the form of remediation plans, as well as general policy changes such as Multi-Stakeholder Initiative membership or dialogue with interest groups at the point of production. In these instances it is also an established tactic to facilitate as much as possible consumer pressure through pre-printed complaint letters, complaint e-mails, and postcards. In the recent past, the network has asked attention for several cases of violence and obstruction against garments unions in Turkey, Cambodia, Philippines and India, identifying brands and retailers sourcing from these factories.

A second category of activism consists of direct engagement with company representatives either through meetings or through interaction at public events. This interaction is furthered by governmental and intergovernmental institutions that facilitate and finance conferences and workshops encouraging debate and dialogue between "stakeholders", as mentioned in the previous section. In these situations, activists and managers meet and policy preferences can be exchanged, collaborations can be negotiated and pressing causes of advocacy, such as crises in factories, can be put on the corporate agenda. In discussion activists can implicitly or explicitly bring across the message to managers that dealing with activists in these settings and working with the issues that they bring forward is reducing the danger of being subject to public campaigns. The objective is for managers to respond to requests on research and action in specific cases of crises in factories, inform on the possibilities of joining private regulatory organizations and persuade towards specific forms of action in the production chain. Remarkable about the European circle of activists and firms working on clothing production chain issues is that, despite all the political disagreements between actors in the field, every member of the CSR community seems to be in contact or to have the opportunity to make contact with one another. Campaigners may for instance stand outside an office in Brussels to protest the meeting going on inside between European firms, and while inside harsh words are uttered on the activist stance, at some point some firm representatives may pop outside to chat and catch up with the activists on current affairs.[108]

The third category of leverage is development of private regulation that checks and tracks the steps of companies towards the development of their policies on labour standards, as elaborated in the previous chapter (compare Winston, 2002).

Coherent as they are on the general policy line, these activist groups can disagree about the appropriate strategies needed to accomplish these policies. The differences are in organization,

[108] Observation, EU BSCI Conference, Brussels, November 2005. Thanks to Jeroen Merk for pointing this out to me specifically at the time.

culture, advocacy goals, with even the possibility of some competition and rivalry resulting from it. These differences lead to diverging strategies in pushing companies, translating first in varying views on when to go out on a campaign against a company and when to engage in dialogue with its representatives. Second, the differences lead to different styles of public (and non-public) campaigns in terms of ranging from more to less confrontational. Third, there are differences in what issues to focus on when it comes to labour conditions. Some activists prefer to stress worker's rights to organize, while others may be tempted to focus on child labour or gender dimensions. Fourth, one can find differences on what to demand from a company in a campaign, ranging from small to big steps: immediate redeeming of the workers in a case of crisis, invitation to dialogue or pressing for overall change of policy. Fifth, there are differences in organizational resources of activists across countries, when it comes to orchestrating pressure. Large variation for instance exists in organizational capacity across different national nodes of specific transnational activist networks. The British section of Oxfam and the Dutch branch of CCC are sizable organizations, while their German counterparts have to make do with the activities of a couple of individuals.[109] Activists do of course organize campaigns across borders, but in practice multinational companies are most often subject to a transnational campaign specified to the local circumstances in their home country or core market, with the national affiliate of the transnational advocacy network as an opponent, making use of national language, media channels and local allies. In this respect, transnationally organized activism still has a distinct national (or local) dimension.[110]

Because of these differences, coordination between activist groups and networks can be a costly and risky affair. Outcomes of coordination have not gone into the direction of a division of labour among different activist groups as to the attempts at influencing different segments of industry. Instead, cooperative efforts tend to push limited numbers of companies (see however Merk & Fransen, 2008). The result of this situation is what can be called an uneven playing field of activist pressure on companies. First, some industrial players are considerably more addressed by societal groups on their supply chain policies than others. Campaigners of several organizations are quite frank on their strategies in this respect: the preference is on companies that are most visible in the value chains in the sense of being recognized by consumers and having leverage in the value chain.[111] A German NGO representative for instance notes:

[109] Interviews N1; N5.

[110] The Play Fair Olympics campaign for instance was organized by three essentially transnational bodies: the Oxfam network, the Clean Clothes Campaign network and the global union network. But a division of labour was made that allowed national groups to set national targets. Next to the national context affecting the influence of campaign activities, it is also possible to hypothesize about the differences in skills existing across different parts of the network as a determinant for the differences in political outcome. See also Merk & Fransen, 2008.

[111] A different story is if activists or unions respond to a bottom up call for action from a factory after a certain incident. In that case, the particular company or companies buying from this factory specifically need to be addressed , since they

> We target companies that are easily recognized by the public so that we get support for the campaign. These are often bigger companies that can also put pressure on their suppliers. This way we can accomplish improvements.[112]

It thus makes sense to expect more activist pressure on, first, all the dominant players (*market leaders*) within the different sectors engaging with the clothing production chain; and second, on companies investing in high public visibility and brand image (for activist reflection on this bias see Connor, 2005; for company reflection on this see Nike, 2004; Otto, 2004).

5. Qualitative findings and propositions on the development of private regulatory preference

This section will present patterns based on qualitative data gathering and analysis to give a preliminary answer to the question of whether firms, given available options, will prefer more or less stringent private regulatory approaches. Added with relevant secondary literature, these findings are used to construct propositions which will then be tested for a larger group of cases in the next section. Based on the choices made by firms in the initial interview sample, this study identifies a set of factors that influence corporate decision making, to be discussed in turn: societal pressure; national institutional environment and industrial institutional environment.

a. Societal pressure

Recent literature has shown that firms faced by public campaigns on their labour policies are more likely to support higher stringency private regulation, mostly because they seem to develop a preference for multi-stakeholder governed private regulatory organizations (Marx, 2008a; Wetterberg, 2007). This perspective is corroborated by the qualitative evidence of this study. Out of fear for their reputation, companies seek to confront activist demands.

Multi-Stakeholder Initiatives in the CSR field are believed to have the moral higher ground over business governed organizations. In the literature, they are also expected to lead to more positive results in the supply chain (Utting, 2001; Fransen & Kolk, 2007). For companies, being in an organization with possible adversaries may therefore have strategic benefits. In the sample for instance Puma holds that

> We wanted to join a multi-stakeholder programme only. Any other set-up would not have made much sense to us. We wanted to deal with these issues together with these groups, including our critics.[113]

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might be able to do something about the incident. For this routine equally goes that it does not specifically contribute to a spread of orchestration of societal pressure across the industry, due to its ad hoc character.

[112] Interview N10

[113] Interview F13.

It is therefore posed that

(H1) Public activist pressure on a company leads to support for multi-stakeholder governed private regulation and for higher stringency private regulation

Respondent answers also show that apart from public campaigns there are many more ways in which activists attempt to influence corporate preferences. The previous section showed a range of strategies available to activists in order to speak to firms on labour issues, both formal and informal, both publicly and privately. It can be hypothesized that variations in the degree to which firms have been in contact with activists and receiving pressure on their supply chain policies matters for private regulatory preference.[114] Therefore,

(H2) A higher frequency of contact with activists leads to support for multi-stakeholder governed private regulation and for higher stringency private regulation

Literature also proposes that pressure from consumers and negative attention in the media for firm policies could affect their CSR policies and stimulate more progressive action (Van Tulder & Van der Zwart, 2006; Wetterberg, 2007). Moreover, firms targeted in this way may see collaboration with activists in a multi-stakeholder setting as the way to manage future risks to reputation. It is therefore posed that

(H3) A higher amount of requests from consumers leads to support for multi-stakeholder governed private regulation and for more stringent regulation

(H4) Negative media attention for the company leads to support for multi-stakeholder governed private regulation and for more stringent private regulation

Among the respondents there is a variation in a company's attitude on interacting with activists on the labour conditions issue. Take for instance the following quote

> They always uncritically repeat what local groups in developing countries say, whether it is in line with the facts or not. It is a typical protest organization. They are not interested in the truth. I don't want to be in that initiative with them.[115]

And compare it to this account of a respondent talking about the exact same group:

[114] Interviews F8; N4; N5.
[115] Interview F17.

> They have a lot of expertise, good contacts, good insights. It is important to continue dialogue with them and work with them. Many of my colleagues at other companies do not understand that if you work with them, you have to accept one thing: campaigning is their business, and they have a right to campaign. I accept that.[116]

Some firm managers afford a more relaxed attitude to the strategic issue of stakeholder interaction in regulation, and their attitude becomes more means-ends focused:

> [W]e already got our share of stakeholder dialogue outside regulatory organizations. And it is much better to be able to speak freely. If you need to be aware all the time of what you say, and there is more quarreling than constructive dialogue, it does not work. Stakeholders should be involved in some way, yes, but we have no time to quarrel. So it is better to talk to stakeholders somewhere else.[117]

This quote illuminates that companies preferring business controlled private regulation do have contact with activists and that they may appreciate opportunities to interact with them to a certain extent.[118] When it however comes to actually being subject to regulation, doing things, reviewing actions and planning improvements, these companies prefer a business-only approach, excluding societal groups. If company representatives feel there is a reward to interacting with activist groups, they might be more interested in regulation with these groups.

Finally, one should look at what possible influence societal pressure has on particular regulatory policies of the different organizations. On the basis of the interviews it is possible to identify different opinions on the question whether firms should take Supply Chain Responsibility (SCR). The most important division here is between companies on the one hand that adopt *buying firm* certification schemes, and companies on the other hand that adopt *supplier* certification schemes. Formally speaking all private regulatory organizations focusing on clothing production have some degree of SCR, in the sense that they bring together companies that admit problems with labour conditions in their supply chains and commit to doing something about it. But companies involved in buying firm certification schemes like FLA and FWF are responsible for monitoring, monitoring costs and costs of reviewing progress through audits and\or verification by societal groups and have the responsibility to share results in the process with stakeholder groups in the initiative. Meanwhile companies involved in supplier certification schemes like SAI and BSCI organizations are not required to monitor suppliers. Instead they are asked to let audit firms monitor suppliers. These buying companies then leave the cost for external professional audits and

[116] Interview F8.
[117] Interview F3
[118] Many companies stating a preference for business governed regulation are or have been involved in stakeholder dialogue with activists on several issues. Interviews F3; F7; F11; N10; N11.

compliance programs with the suppliers themselves.[119] This means that in buying firm certification schemes, outsourcing clothing company members have more assigned formal and financial responsibilities. Stakeholder group members in these initiatives check this performance through their roles in implementation and information reviewing processes. Supplier certification schemes push the cost and responsibility for compliance to labour standards down the supply chain, assigning less formal roles on their outsourcing clothing company members, while keeping the control of implementation procedures and information flows in business hands, between accredited auditors, buying companies and supplier companies.

On the basis of the interview results there is reason to be agnostic about the possibility of societal pressure to lead to a preference for SCR. Therefore,

> *(H5) Public activist pressure, frequent activist contact, requests from customers and negative media attention do not lead to support for SCR*

Question is now what explains these differences in attitudes between companies being pressured by activists. For this explanations need to be added on top of the significance of activist pressure.

b. National institutional variation

Both interviews and existing literature hint at variation in business demand for particular types of private regulation across countries forming the core market for firms—in most cases their country of origin. It can be hypothesized that these countries form institutional environments that are more or less conducive to firms supporting stringent private regulation (compare Wetterberg, 2007). These environments may or may not enhance the efforts of transnational activist networks at pressuring companies as well as provide for particular pressures on firms towards adoption of more or less stringent forms of private regulation, or forms that may or may not include other interest groups.

Literature on CSR identifies differences in institutional environments on a systemic level: American society, European societies and Asian societies form different ensembles of formal and informal rules influencing corporate CSR strategy, comparable to the literature on *Varieties of Capitalism* (Matten & Moon, 2008; Van Tulder & Van der Zwart, 2006). More specific differences across national contexts can be identified with regard to the degree of consumer sensitivity (Hughes *et al*, 2007), different degrees to which government policies enhance CSR (Albareda *et al*, 2007) and national discourses on business and sustainability (Paul, 2008). Recent empirical and conceptual work on variation in CSR salience across Western-European economies establishes

[119] As in the previous chapter WRC falls outside this category. The WRC does not allow companies to be members.

forerunning (UK, Switzerland, the Netherlands, the Nordic region), following (the other continental Economy) and lagging (Mediterranean economies) regions (Albareda *et al*, 2007; compare Habisch *et al*, 2005; compare Gjolberg, 2009). Accordingly, it can be posed that

> *(H6) Firms from European countries with an institutional environment more supportive of CSR prefer CSR with multi-stakeholder governance and with higher stringency*

An issue closely related to national institutional variables is whether companies support private regulation based in the country where they have their core market or elsewhere. In particular businesses preferring multi-stakeholder organizations may have practical and strategic considerations here. One the one hand, most companies want to be involved in a regulatory organization that is close to their working ground, for obvious practical reasons. Strategically, companies also want to be a part of a multi-stakeholder organization in their home base because they can then interact with their most important (national) stakeholder groups, as well as some of their national competitors. A British clothing brand representative for instance notes on the possibility of joining an American regulatory organization:

> We gave it some thought but never seriously considered it. In the end it is American, and we are a British retailer, a British brand, so to go with an American one would not have made much sense, nobody in the US knows us, not consumers, not other groups.[120]

Similarly, a Dutch brand representative says

> …it is very practical to work in the Netherlands with an initiative. Real improvements should be made in developing countries of course, in the factories. But here it is just the easiest to do the checks, the deals and the feedback in your home country with the relevant groups. We never considered becoming part of a Multi-Stakeholder Initiative outside the Netherlands.[121]

It is therefore posed that

> *(H7) Firms preferring multi-stakeholder governed regulation prefer local multi-stakeholder organization*

If there is no local multi-stakeholder organization available, companies choose an organization abroad. Companies with international sales and stores across the globe like H&M, Adidas and Puma may then choose for the American organization FLA. Others stay in Europe and decide on the basis

[120] Interview F2
[121] Interview F15.

of policy preferences.[122]

Finally, regarding Supply Chain Responsibility it can also be asked what the consequences of national-institutional variables are for this policy preference. On the basis of the interviews one cannot state that national environments affect a preference for SCR policies. Therefore

(H8) National institutional environments do not affect preference for SCR

c. Industrial institutional variables

Differences in the way firms are positioned towards other economic actors may also affect the support for particular private regulatory approaches. Previous literature first poses as a relevant factor the question whether a firm is publicly or privately owned. Stock-listed firms are considered more sensitive to CSR demands, for fear of reputational damage through public campaigns (Wetterberg, 2007; Marx, 2008a). It is therefore posed that

(H9)Stock-listed firms prefer multi-stakeholder governed regulation and more stringent regulation

On the basis of interviews there is no reason to expect a relationship between firm ownership and the policy of Supply Chain Responsibility. Accordingly, it is posed that

(H10) Firm ownership does not affect preference for SCR

Second, market share may also affect sensitivity to societal pressure. Since larger firms may be more visible to an audience of critical consumers, they may also be more likely candidates for negative media attention and activist campaigns. From interview respondents a difference can be gathered between larger and smaller firms in their experience of societal demand for CSR policies.[123] Therefore

(H11) Firms with a larger market share prefer multi-stakeholder governed regulation; and *more stringent regulation*

[122] It only very rarely happens that companies bypass the possibility of a multi-stakeholder initiative in their home country to join a multi-stakeholder initiative abroad. Two known examples within the overall group of 120 European supporters for private regulation did so: WE International and Continental Clothing, resp. Dutch and English. WE went to the American SAI, Continental went to the Dutch FWF.

[123] Interviews F4; F20; P2.

The qualitative study does not find a relationship between policy preference for Supply Chain Responsibility and market share. It is therefore posed that

> *(H12) Market share does not affect firm preference for SCR*

Third, the likelihood of supporting more stringent private regulation may be influenced by the specific consumer market segment that a company caters to. Fashion-Oriented Companies, Specialty Chains, Mass Merchandisers and Discount Stores face different consumer audiences who may care more or less about sustainability issues. The general assumption is that the more a firm is competing on cost (as in the case of "low street profiled products") the less sensitive its consumer base will be for social messages regarding circumstances of production. An interviewee representing a mass merchandise firm supporting lower stringency regulation for instance confirms this by noting that

> We hardly receive questions about the sustainability of our clothing in our shops. It has to do with the audience we reach, I think. Our customers are mostly older ladies, with, how do I put that, a lower budget. They want as much quality they can get for the lowest price. No, that is not really an audience that asks about labour conditions and such.[124]

Therefore

> *(H13) Firms focusing on lower consumer market segments prefer lower stringency private regulation*

Because of less interest among consumers of these firms in CSR, firm's likelihood of wanting to work with activist groups in regulation may equally be affected, since these activists have less of a constituency among the firm's stakeholders. It is therefore posed that

> *(H14) Firms focusing on lower consumer market segments do not prefer multi-stakeholder governance*

Respondents note that firms with a lower consumer market segment also have a larger and more unstable supplier base, as their sourcing practices are heavily informed by cutting costs.[125] For this reason it can also be proposed with regard to policy preference for Supply Chain Responsibility that

[124] Interview F21.
[125] Interviews U2; P2.

(H15) Firms focusing on lower consumer market segments do not prefer SCR

The interviews also lead us to the inference that companies relying more on a retail strategy are less interested in stringent regulation. A representative of a retailing company for instance holds that

> The retailer perspective is different from brands, brings with it all kinds of different complications. We actually have common problems as retailers with different suppliers and products and the like. Also given the size of our supplier base and our distance to some of them.[126]

This is recognized by stringent private regulatory organizations and activists, who admit the challenge of pushing retailer firms.[127] Therefore,

(H16) Firms focusing on retail strategies prefer lower stringency private regulation

And, related, since many of the statements quoted above denouncing multi-stakeholder governance of regulation actually come from retailing focused firms, it can be posed that

(H17) Firms focusing on retail strategies do not prefer multi-stakeholder governance

Retail strategy may also affect the preference for particular regulatory policy, such as Supply Chain Responsibility. All companies involved in private regulatory organizations source their clothes predominantly from outside Western Europe. The strategic issue of *Make or Buy* in that sense has predominantly been answered. Yet there is an organizational distinction between companies that still have functions operative that qualify them more as *Makers*, and others that are predominantly *Buyers*. Fashion oriented and brand clothing companies like Expresso and Gsus and big brands such as Adidas design clothes, build brands and fashion lines, and are therefore involved in research, testing, quality control and production technology. This requires more contact with different parts of the supply chain and more frequent intervention in the productive process. Other companies like Tesco and Metro predominantly order particular sets of clothes or choose from available ranges to be offered in their stores, dealing mainly with full package suppliers from Asia or with trade agents. As an organization they are far more at a distance of the production process. Their interaction with suppliers often remains limited to contracts with mediating trade agents and overseas buying offices. A Dutch multi-product retailer for instances notes that

[126] Interview F20.
[127] Interviews N4; P2.

> We work with a set of suppliers, most of them through the agent Li & Fung. This agent also does audits for us in the factories on quality and safety (…) We have a couple of longer term suppliers, where it is necessary to spend more time and money on quality of the product. But how many suppliers we have that are routinely changing, I don't know.[128]

The argument here is that the *Makers* more easily adopt supply chain responsibility for labour conditions, because they are already taking some responsibility for the development of their product as it is. The *Buyers* on the other hand do not, and therefore prefer arm's length solutions for problems that are at more than an arm's length distance from them as it is.

The significance of this difference between these types of companies is passionately defended by a spokesperson of a clothing trade association, whose account pulls the contrast even into the sphere of culture:

> In this industry you have salesmen and producers, in this case producers at a distance. The main distinction is this: if there is a problem in the supply chain with a producer at a distance, he will analyze it, try to understand it and solve it. A salesman on the other hand, sees the problem, does not have time to solve it and will look for the shortcut past it. The salesman wants to sell, he wants happy customers and nice stores. He does not want to be involved with problems at the level of production. These need to be solved by his suppliers.[129]

As noted previously, precisely empirically distinguishing between these types of companies within the industry is difficult because a large amount of companies combine buying, designing and retailing functions in their business strategy. Nevertheless, it is possible to imagine a continuum where particular companies definitely are closer to the *Maker* ideal type, and others closer to the *Buyer* type, again drawing on the categorization of McCormick and Schmitz (2001).

It is possible that organizational self-perception is a factor here as well, specifically when it comes to company that in terms of policies are empirically in between these ideal types (in McCormick's terms these would be predominantly specialty retail chains and mass merchandisers). In other words, whether one sources directly from suppliers or not, or whether one has regular contact with supplier factory managers about production might not be the decisive factor. What matters is if one regards oneself organizationally as involved primarily in production or primarily involved in buying and selling. This perception may form a cognitive link to perceiving labour conditions as an issue to take responsibility for.[130]

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[128] Interview F11.
[129] Interview B1.
[130] A different take on the differences in company preferences for private regulation according to position in the value chain has been put forward on the basis of studying the forestry sector by Sasser et al (2006). They convincingly argue that firms more distant from consumer pressure in the chain are less likely to follow the preferences of activists exerting pressure.

It can therefore be posed that

(H18) Firms focusing more on sale of products than on manufacturing and design prefer private regulation without Supply Chain Responsibility

d. Choice trajectories

Two examples can illustrate how companies decide on support for a private regulatory organization, taking into account the factors identified in previous sections.

First, the British company Pentland produces sporting clothes with its own brand, mainly for the UK Market. It also owns the brands of Lacoste shoes and Speedo swimsuits that are also well known across Europe. As the pressure on sporting good companies rises from activist campaigns, Pentland decides to hire staff for CSR activities, recruiting a former NGO representative as head. The Pentland CSR staff seeks to deal with the labour conditions in cooperation with other companies to have more clout, but looks for activist participation as well, specifically from trade unions. Once the development of British multi-stakeholder ETI is finished, Pentland is one of the first to subscribe.[131]

Second, HEMA is a mass merchandise multi-product retailer, among the largest in the Netherlands, holding an excellent reputation among Dutch consumers as a provider of quality products for a bargain price. HEMA receives few questions about the sustainability of its clothing products. Nevertheless, the HEMA CSR team devises a sustainability report to inform stakeholders on its policies. HEMA is approached several times by activists on its policies regarding its sourcing of clothing, mostly in informal settings. Representatives of HEMA engage shortly in the discussion of the development of the high stringency multi-stakeholder governed FWF. Representatives opt out as they do not see a value added for their company. Instead, HEMA experiments with SAI requirements for its suppliers, without actual participation in SAI's programme. When the BSCI is developed, HEMA joins along with its fellow members in the Dutch *Vereniging Grootbedrijf Textiel* retail association. The HEMA representative emphasizes the similarities among retailers in dealing with this issue and the need to move on the issue in concert in order to develop improvements. HEMA shares most of its suppliers with the German retailer Karstadt and Karstadt's membership for BSCI is therefore also beneficial.[132]

[131] Interview F12.
[132] Interview F11.

e. Dynamic and intersubjective factors: Time, Agency and Buy vs Make

Before moving on to the testing of mentioned propositions for a larger group of cases, three categories of factors deserve some elaboration that seem significant based on the qualitative material but are harder to test in a quantitative format using survey material and are therefore not pursued further.

First category focuses on temporal institutional factors. The development of new private regulatory organizations goes on as companies choose to support private regulation. Accordingly, at later stages companies face more choices in private regulatory approaches than in earlier stages. Likewise, as time passes, general information about private regulation and labour standards becomes more readily available and is disseminated across the field of CSR professional practitioners, as early adopters share stories about their experience in implementing private labour regulation during conferences and workshops. For all these reasons, the character of decision making on business support for private regulation slowly changes over the years for companies and strategic action of companies should be judged from specific moments in time.

Reviewing the history of development of private regulatory organizations, it is notable that one thing is absent in the first phase of business support for private regulation, roughly between 1999 and 2003: a pan-European type of business governed private regulation. Data cannot show whether companies that started supporting a private regulatory organization before 2003 would have preferred business governed instead of multi-stakeholder governed regulation had they had that choice instead, since we cannot rely on *as if* reasoning. But undeniably the large increase in European business support for private regulatory organizations since 2004 can be attributed to the introduction of European business governed private regulation with BSCI, signifying the demand for such a type of regulation within the industry. One can assume that many companies have in fact been waiting for such a type of private regulation to come into existence in order for them to start supporting it, rather than engaging with another type of private regulation already in existence.[133] History is also significant in the ways that past experience informs present action for actors. Reluctance to join multi-stakeholder regulation may equally have been informed by past experience with activists outside regulatory settings. This may have caused some companies to await business regulation.

This temporal dimension mediates how certain industrial institutional pressures are going to play out. The outlook is different for companies that are among the first to join a regulatory organization, than for those firms that join later on, since the late adopters can make judgements on the basis of the choices of competitors, or other industrial players they have kinship with. Similarly,

[133] So far, three European companies have shifted their support for private regulation, from a multi-stakeholder to a business support model: Otto, Migros and WE.

strategic considerations based on vertical relations can shift. If brands strategically aim to align or dissociate with retailers (or the other way around), they first have to see what private regulation these organizations are willing to support. If that is clear, private regulatory preference will be easier to settle. If that is unclear, patterns of business support may turn out differently.

The strategic behaviour of small Dutch high street clothing brands such as Imps & Elfs and Bart's is a case in point. Until 2005, these companies are unaware of the preference of the dominant Dutch retailers in private labour regulation, because these retailers have not joined a private regulatory organization yet. This type of brands depends heavily on these retailers, as they themselves do not have venues to get their products to the Dutch end consumer. The most logical option in private regulation for these companies is the Fair Wear Foundation (FWF), since it is Dutch and multi-stakeholder governed. Moreover, the branding and high street position of many of these small firms is not incompatible with FWF's commitment to brand supplier responsibility. FWF indeed attracts a few players from this market segment, but not many, probably due also to the strained relation between the association representing Dutch large retail VGT and FWF. When Dutch large retailers start supporting the business governed Business Social Compliance Initiative (BSCI) in 2005, many small Dutch high streets brands move to support a system similar to BSCI, without supply chain responsibility requirements, thereby securing their business relations with retailers. Furthermore, one of the distinguishing character traits of the growing population of FWF business supporters, besides their focus on the high street consumer segment and government procurement market, is the absence of a relation of structural dependence on Dutch retail.[134]

As time goes by, the nature of strategic deliberation of business support may also change within companies and the industry. As was predicted above, some companies decide on private regulation based on behaviour of other industrial players. In line with the temporal dimension, in the sample, respondents who were early adopters generally did provide an account of strategic steps raised in decision making, with managers pondering on consequences of different governance arrangements and policies of regulatory organizations. By contrast, in the population of late adopters, there are a couple of company representatives delivering accounts on their strategic view of support for private regulation that resemble herd behaviour:

> I have heard that BSCI is joined by Migros and Otto. They are really frontrunners in the CSR field, I respect what they have done with sourcing in the last few years. An initiative with such retailers in it is always of interest for us (…) As a company we are more of a follower.[135]

Other companies noted that their membership of a private regulatory organization followed from

[134] Interview N4; U2.
[135] Interview F20.

the membership of an association of similar businesses. Interesting to note is that although the processes are different, both herd behaviour and intentional strategic preference setting yield similar results. This is because herd companies do not follow just any company, but a specific type of company they find to have similar characteristics as them. In other words, different strategically conscious CSR managers of companies have different ideas about what the right form of private regulation is. And CSR managers of companies that imagine themselves as *followers* have different ideas about what *forerunners* are, and different ideas therefore about whom to follow. For a company like Puma, Nike is a forerunner. But a mass merchandise clothing retailer representative does not see him\herself in the same boat with Nike. This company will tend to look at a company like C & A. Patterns of strategizing thus may increasingly conform to routines within an organizational field and isomorphism takes place with regard to business support for private regulation, in clusters of companies that regard each other as similar in other ways.

A second factor difficult to grasp in larger-N settings is the subject of agency. This study identifies institutional differences mediating the response of firms to societal pressure. But the interviews also leave room for a degree of agency on the part of either firms as corporate agents or on the part of the CSR managers that mainly decide private regulatory preference. Especially in comparing firms with very similar institutional environments there is some variation that seems attributable to the specific historical experience with activist pressure as well as managerial perceptions of societal pressure and the labour issue. These managerial perceptions may be influenced for instance by the personal background of the persons in charge, as reflected in the answer of a CSR representative, when asked during a workshop by another business representative whether his company did not dread cooperation with unions in projects to improve working conditions at their suppliers:

> What do you mean? I do not have a problem with unions at all. Some of my friends work in the trade union. My colleague used to work there as well. We do not have a negative attitude towards that and why should we.[136]

The interview results also lead us to hypothesize that it is more likely that this factor of individual agency contributes significantly more weight if the more 'exogenous' factors to this decision (such as industrial-institutional and national-institutional factors) paint a more ambiguous picture. In other words, in a national environment with neither high nor low institutional pressures regarding CSR policy development, and in a medium sized firm catering to a broad consumer market, Manager A of firm X might go for higher stringency regulation. But in a similar situation, Manager B could prefer lower stringency.

[136] Observation during the ETI 2009 Conference, October 15 in London.

Finally, regarding Supply Chain Responsibility, it was posited that involvement with the point of production was essential to understand policy preference. For a larger N-analysis, as a test for this, firms may be placed in a continuum regarding their reliance on sales or manufacturing and design of products using corporate information. But more specific operationalization of their buying policies, as the effective explanatory factor, is very difficult using the survey method. Of course, questions can be formulated looking at usage of trade agents, full package supplying, short or long term supplier contracts and so on. But these issues are soon too complicated to expect satisfactory and internally consistent answers from survey participants. Response rates drop once the degree of detail rises, severely limiting the degree of inference using quantitative methods. Moreover, the subjective element of responsibility and involvement with regard to production is easily missed in the survey method and would in effect require much smaller N-case research inside organizations.

6. A large-N exploration of institutional patterns of business support for private labour regulation

This section tests the propositions introduced in the previous sections as they relate to the more static institutional factors explaining corporate preferences for private regulatory approaches. It first elaborates on the design of the survey which is the basis for the larger-N exploration. Then it describes the operationalization of the dependent and independent variables used, followed by the application of specific models.

a. The survey

The survey was distributed as a link to an on-line questionnaire to 178 company representatives from 15 Western European countries. The questions covered aspects relevant for the answering of the second research question concerning the strategies of firms in supporting specific forms of private labour regulation. The received survey data were combined with further primary document data and interview data to create a database on the Western European clothing market. Analysis of the resulting database was conducted using 50 answer sheets by firms involved in a private regulatory organization. The respondents were all participating in one of the following six organizations: FLA, FWF, ETI, SAI, BSCI and ICS. WRC and WRAP did not emerge as private regulatory organizations, since WRC focuses solely on American universities and WRAP focuses on suppliers for the North American market. An additional control group of 10 surveys of firms not supporting private regulatory organizations was also collected. These were combined with public material of the remaining 67 firms adopting private regulation at the date of July 1st 2007. For a complete overview of the statistics summary, see the Methodology Appendix.

At the outset a possible bias can be identified regarding responses from particular countries, with higher response rates from the Netherlands and the Nordic countries and a lower response rate from Spain, Portugal, Italy, Austria, Belgium and Ireland. This might be indicative of the variation in first, a propensity to respond to surveys of these companies; second, a propensity to respond to information requests regarding CSR issues in general; third, a propensity to respond to requests from a Dutch academic institute; or, fourth, a propensity to respond to a request to a survey in the English language (since only the request to participation was put in the relevant national language and the survey questionnaire itself was in English). The consequences of such bias for the analysis are important to flag. Most obviously, they seriously complicate any analysis of why firms do or do not participate in private regulatory organizations, because the sample strongly selects for those most likely to care about and support private regulation. These provide further reasons not to focus on whether or not firms participate, though estimation of such has been considered using this survey's data.[137] From the present analysis, the bias is likely less severe but still in the direction of over-sampling those most committed to stringent private regulation. But the sample harbors substantial variation in the regulation chosen, including firms at the lowest and highest scores on various measures of stringency of regulation. Any sampling skew, further, should not clearly bias inferences about how societal pressure and other conditions affect preference for quality of regulation, except for national-level factors relevant to such firm choices – where the firms more likely to respond resided in higher-standard national settings. The selection bias, hence, might be relevant for estimates of such national CSR-conditions but not for the company-specific conditions where the variation is more substantial and less biased relevant to the universe of firms to which the present analysis is addressed.

b. Dependent variables: Stringency, Multi-stakeholder governance, Supply Chain responsibility

The survey data provide a range of questions that allow judgments about the nature of private regulatory participation, including features relevant to the nationality of private regulation to their stringency.[138] *Stringency* is operationalized for the specific private regulatory organizations, focusing on degree of labour standards, specificity of implementation and degree of control. For this analysis, the coding from Chapter Three is simplified by categorizing participation in a more or less stringent private regulatory organization of the six relevant organizations as an ordinal variable of

[137] The sample only includes ten surveyed companies not participating in private regulation, where most of the sampled non-participants (in CSR) came from the Netherlands and the UK. Still analysis of whether or not firms join one or another type of regulation, with a sample of roughly 100 firms, suggests that market share and private ownership have significantly negative effects on participation, while various measures of societal pressure (e.g. frequency of contact with activists) have positive but insignificant effects on participation. Results not shown but available from authors.

[138] Finally, statistics also confirm general firm preference for homegrown private regulatory organizations if available. A test for selection of national private regulation shows that for all companies having the option 76% chooses home based organizations.

ascending levels of private regulation. This has the advantage of not making strong assumptions about the very specific positioning on the nuanced scale in Chapter Three, but also taking into account most of the information in that scale rather than a still-simpler distinction between high and low stringency. The stringency measure, ranging, thus, from 1 to 6 (lowest to highest stringency), has a sample mean of 3.15 and a standard deviation of 1.55.[139] As robustness tests, in any event, two other specifications are considered: a more nuanced continuous measures (the same measure discussed in Chapter Three); and a dummy variable with 0=lower stringency and 1=higher stringency, coding the six organizations as having either low or high stringency. The analysis of stringency is checked for policy shifts in the approach for private regulatory organizations. The degree of stringency of an organization is used that matches with the time that the analyzed firms started to support these organizations, predominantly after 2001.

Two other dependent variables were constructed which were of strategic relevance for firms in the qualitative sample and indirectly contribute to more or less stringent regulation. One is a dummy variable for *multi-stakeholder governed* (=1) or business governed (=0) regulation. Chapter Three provided a definition for multi-stakeholder governance, based on inclusion of both business and societal interest groups in decision-making procedures and concluded that SAI, ETI, FLA and FWF were multi-stakeholder governed. 54 percent of the respondent firms participated in private regulatory organizations with multi-stakeholder governance.

Finally, two dummy-variable versions of *Supply Chain Responsibility* (SCR) were considered, the existence of a requirement for participating buying firms to handle the costs of monitoring, the preference for which also influences higher or lower stringency.[140] The first version included all firms supporting private regulatory organizations that explicitly leave out SCR (SAI and BSCI) as 0, with all firms supporting organizations including SCR (FLA, FWF, ICS) as 1. The second version of the dummy measured SCR as an explicit regulatory requirement which meant that firms supporting ETI, where there is no explicit commitment to SCR, also were included under score 0.

The analysis of the data treats each of the above characteristics – stringency, multi-stakeholder governance, and supply-chain responsibility – as related but distinct measures of the quality of private regulation chosen. But not surprisingly, these characteristics are strongly positively interrelated in the data as well as theory. In theory and interviews, it is clear that activist contact may follow from public campaigns, and a well known activist strategy is to stimulate consumers to ask questions to firms on supply chain policies. In the survey, for instance, firm representatives were asked to estimate the amount of consumer requests directly resulting from

[139] See Appendix Table A1 of this chapter for all summary statistics.
[140] As chapter Three as argued, the practical consequence of buying firms not adopting SCR is a business-controlled system of implementation.

activist campaign material, such as postcards and forwarded protest e-mails. More than 50 % of the respondents thought at least 25% of the requests or more were instigated directly by activists. More generally in the data, in any event, the correlation among stringency, multi-stakeholder governance and supply-chain responsibility is high. For instance, the three features have coefficients of correlation of between .82 (multi-stakeholder governance and supply-chain responsibility) and .92 (stringency and multi-stakeholder governance).[141]

c. Independent variables: Societal, National and Industrial Pressures

Independent variables were constructed for three categories: societal pressure, national-institutional pressures and industrial-institutional pressures. For societal pressure, following both literature and interview results, four distinct measures of various kinds of contact or pressure were considered. First *Target of attack* was considered: the amount of time a firm was targeted by public campaigns was operationalized in an ordinal variable ranging from 0 to 3 (0=never; 1=once; 2=2-3 times; 3=often). Second, *Frequency of contact* was measured: in an ordinal variable *the times a firm had been in contact with activists,* ranging from 1 to 4: (1=never; 2=once; 3=a few times; 4=more than five times). Third, *Negative attention* was considered: reception of negative media attention on labor conditions, ranging from 1 to 4: 1=never; 2=once; 3=a few times; 4=a lot. And fourth, *Consumer requests*: an ordinal measure of amount of consumer requests on CSR issues ranging from 1 to 8: 1=0-10; 2=10-20; 3=20-40; 4=40-60; 5=60-80; 6=80-100; 7= more than100; 8= more than 200.

As a national-institutional variable the work of Albareda et al (2007), distinguishing between Western-European countries on their CSR institutional environment, was used. Applying Albareda's indicators on degree and scope of government effort towards promoting CSR and the maturity of a national public sustainability debate, Switzerland was added on the basis of interviews in the sample and public material analysis. Then an ordinal variable was constructed called *Country CSR* of low to high CSR institutional environment based on the categories 'Low' (Mediterranean countries in the sample), 'Medium' (Continental economies minus the Netherlands and Switzerland) and 'High' (UK, the Nordic economies plus the Netherlands and Switzerland).

For industrial variables, the study distinguishes between consumer market segment, retail strategy, market share and ownership. For *consumer market segment* the previously mentioned categories of McCormick and Schmitz (2001) were followed. Their categorization of different consumer marketing types of course cannot be completely parsimonious since in practice many firms, while emphasizing a particular section of the market, target a broader consumer audience. Specifically the two most obvious and clear cut price-sensitive categories of consumer marketing

[141] See correlation matrix in Appendix Table A2 as an appendix to this chapter.

were separated: the discount stores and mass merchandisers as a dummy variable called *Discount market segment*. For retail strategy an ordinal variable, *Retail*, was used, based on corporate documentation separating in ascending levels the degree of importance of retail in corporate strategy from none to retail-only. For *market share* an ordinal variable was constructed, *Market share* based on categories, since corporate documentation regarding this variable was insufficient or imprecise. The order was constructed through a weighed comparison between firms in different sub-sections of the industry (using both sectoral and high-street low-street distinctions). Extra weight was then added for firms in ascending levels of market section size (such as the multi-product mass merchandise retail and branded sporting goods). Comparison within sections between firms was based on sales. For ownership a dummy variable *Public* was used, distinguishing between public (=1) and private (=0).

d. Control variables

Also a range of factors were considered that are plausibly relevant to private regulatory choice and the above explanatory factors – and hence worth considering as controls. For industrial variables an ordinal variable was added of *Internationalization,* internationalization strategy of a firm, using categories from UNCTAD studies on globalization of production and ranging from domestically-oriented (1) to global, inter-regional (5) (see Van Tulder *et al*, 1999). For timing effects and measuring differences between 'early bird' and 'late-comer' firms, an ordinal control variable *Party since* was added, marking the time at which a firm started participating in a private regulatory organization. Finally, where degrees of freedom allowed, for some estimations country dummies were considered, to control for any feature of a country in which a firm is headquartered that should capture unmeasured effects on private regulatory preference.

d. Estimation strategy

With these variables a range of models are fitted to estimate how societal pressure, industrial conditions and national conditions influenced *Stringency,* or *Multi-stakeholder governance,* or *Supply-chain responsibility.* The reported models of *stringency,* a categorical variable with values ranging from 1 to 6, are based on ordered probit analysis, while models for *Multi-stakeholder governance* and for *Supply-chain responsibility,* being both binary variables (0 or 1), are based on simple probit analysis.[142] To take account of possible heteroskedasticity in measures of qualities of regulation across firms in the sample, the models calculate robust standard errors.[143] This section reports models with the full complement of controls for all measures, though the results are very

[142] As robustness tests, however, ordered logit or logits were also considered, with no substantive change in results.
[143] As robustness tests, Huber-White robust cluster estimation of standard errors were also considered, assuming clustering by country or sub-sector, yielding very similar results to those reported.

similar with no or different controls. In any event, the study also reports for each dependent variable the results of estimating the effects of all economic conditions without inclusion of one or another of the societal pressure parameters (*Frequency of contact, Multi-stakeholder governance, Consumer requests,* or *Negative attention),* because these all substantially lower the sample available for estimation. And in measures of stringency, the degrees of freedom were sufficient to fit models where country dummies are included instead of the country-specific *Country CSR,* as a further test of the unmeasured effects of a firm's country of headquarters.

7. Results

Table 1 reviews the results of the model looking at the relationships between mentioned variables and the outcome of corporate preference for multi-stakeholder governance. Without societal pressure indicators, Model 1 shows that market share is positive and significant, but this significance disappears as soon as any of the societal pressure parameters are added (Models 2-5). This reduction in the correlation reflects the collinearity between market share and the societal pressure indicators, rather than the simple reduction in sample size caused by inclusion of the latter. For instance, frequency of contact and market share have a .46 coefficient of correlation. Such collinearity fits with the expectation from the interviews showing that activists tend to focus their pressure efforts on particular firms, amongst others based on size. In any event, net of societal pressure measures, market share does not seem to have any independent effect on multi-stakeholder governance.

Across virtually all of the models, there are significantly negative coefficients for *Retail* and, especially, *Discount market segment,* indicating that retailers and companies catering to lower ends of the consumer market tend not to choose regulation with multi-stakeholder governance. Firms supporting private regulatory organizations at a later date do not prefer multi-stakeholder governance, based on this sample. This result should not be surprising, as most retailers and discount and mass merchandise firms have joined private regulatory organizations at a later date, specifically with the introduction of business governed BSCI in 2004. Participation dates and retail as well as consumer market variables are thus correlated. In any event, internationalization strategy and firm ownership do not lead to significant results with regard to preference for multi-stakeholder governance. Finally, *Country CSR,* how much national environments are conducive to CSR experimentation, is positive and significant across most of the models (significant except for Model 5). Although this might be an artifact of sampling bias – oversampling, for instance, of firms based in the Netherlands (as discussed above) – it is also consistent with expectations that broad national conditions might well condition firm managers to follow particular kinds of CSR activity.

Table 1. Multi-stakeholder governance and Societal Pressure

Dependent variable: 1=multi-stakeholder; 0=business governance

	1	2	3	4	5
Frequency of contact		1.024***			
		(0.378)			
Target of attack			1.528***		
			(0.492)		
Consumer requests				0.537***	
				(0.164)	
Negative attention					0.522*
					(0.271)
Market share	0.371***	0.0827	-0.193	0.107	0.0484
	(0.138)	(0.154)	(0.270)	(0.214)	(0.198)
Retail	-0.545***	-0.504**	-0.338	-0.708***	-0.356*
	(0.134)	(0.225)	(0.226)	(0.219)	(0.182)
Discount market segment	-1.541***	-1.828***	-2.503***	-2.134***	-1.930***
	(0.356)	(0.542)	(0.655)	(0.716)	(0.508)
Internationalization	-0.128	0.239	0.0697	-0.0722	-0.0130
	(0.130)	(0.194)	(0.266)	(0.230)	(0.230)
Public	0.189	-0.519	-0.429	-0.228	-0.257
	(0.418)	(0.515)	(0.655)	(0.828)	(0.690)
Party since	-0.275***	-0.253**	-0.309**	-0.339***	-0.237**
	(0.0992)	(0.106)	(0.120)	(0.116)	(0.118)
Country CSR	1.237***	1.492***	1.300**	1.375**	0.814
	(0.457)	(0.520)	(0.573)	(0.563)	(0.526)
Constant	-0.388	-4.496**	-0.562	-0.969	0.0289
	(1.509)	(2.153)	(2.574)	(1.949)	(2.205)
Observations	100	64	48	48	48
Log pseudolikelihood	-35,333	-23,3773	-15,1214	-13,8222	-18,7281

Probit coefficients with robust standard errors in parentheses

*** $p<0.01$, ** $p<0.05$, * $p<0.1$

Models 2-5 show the results for the various measures of societal contact. And there the pattern is quite clear: all selected indicators of societal pressure (frequency of contact with activists, public campaigns, consumer requests, negative media attention) have coefficients that are positively signed and statistically significant. To give some sense of the substantive size of these effects, it is possible to counterfactually estimate what the increase might be in the probability of choosing for multi-stakeholder governance if one moves from a low (10^{th} percentile in the sample distribution) to a high value (90^{th} percentile in the sample distribution) of each of these measures of societal pressure or contact – while holding all other parameters at their mean or median. For example, such modelling based on Model 2 suggests that, all other things equal, firms with no contact with activists have only a 1.1 percent chance of joining multi-stakeholder organizations, while those with frequent contact with activists (score of 4) have a 78.9 percent chance (with the confidence interval ranging between a 59 and 98 percent chance of multi-stakeholder governance). Firms not being targeted for activist attack have a 11 percent chance of joining multi-stakeholder organizations, those that have been 2-to-3 times the target of activist attacks are almost certainly likely to have choose such organizations (mean chance of 96.5 percent, ranging from 87.3 and 100 percent chance). And having no or virtually no consumer CSR requests yields a 6.5 percent chance of multi-stakeholder governance, while quite extensive requests (more than 100 but less than 200) yields a chance of 95.6 percent chance (from 84 to a 100 percent range). Finally, *Negative media attention* has the weakest of the significant effects: firms having no negative attention have a 34.7 percent chance of multi-stakeholder regulatory organizations (from 13.9 to 55.4 percent), while those with “a few” incidents of negative attention have a 74 percent chance of multi-stakeholder governance (from 48.5 to 99 percent chance).

Moving on to the preference for Supply Chain Responsibility, Table 2 shows again that market share is significant without insertion of the campaign, consumer requests and media attention variable. This again might be indicative of the correlation between both variables. Lower consumer market segments are negatively and significantly related to support for SCR. A focus on retail strategy is also negative and significant in most versions of the model, although not in combination with the public campaign variable. Participation date is positive and significant in two runs of the model, combined with the public campaign and the negative media attention variable. Perhaps the first is again a sign of the interrelatedness between retail strategy and participation date. Firm ownership is significant for one of the ten runs, combined with negative media attention. Control for country effects again is not possible because of collinearity with national environment, which is not significantly related to either measure of SCR. Overall, most robust results come from combinations between retail strategy and consumer market segment on the one hand and both narrow and broad measurements of SCR. Retailers as well as discount and mass merchandise firms

Table 2. Supply Chain Responsibility and Societal Pressure

Dependent variable (models 1-4): 1=yes responsibility; 0=explicit statement of no responsibility
Dependent variable (models 5-8): 1=yes responsibility; 0=explicit statement of no responsibility; or no statement of either

	1	2	3	4	5	6	7	8	9	10
Frequency of contact		0.575					0.336			
		(0.420)					(0.309)			
Target of attack			1.310***					0.371		
			(0.468)					(0.271)		
Consumer requests				0.412**					0.127	
				(0.190)					(0.114)	
Negative attention					1.897*					0.0926
					(0.993)					(0.255)
Market share	0.554***	0.573**	0.332	0.568	0.603	0.524***	0.314*	0.136	0.212	0.277
	(0.200)	(0.237)	(0.396)	(0.435)	(0.372)	(0.170)	(0.190)	(0.212)	(0.206)	(0.209)
Retail	-0.483***	-0.458*	-0.385	-0.745**	-0.516**	-0.430***	-0.290*	-0.271	-0.362**	-0.327*
	(0.156)	(0.237)	(0.263)	(0.305)	(0.234)	(0.119)	(0.165)	(0.171)	(0.172)	(0.174)
Discount market segment	-1.65***	-1.97***	-2.49***	-2.03***	-3.26***	-1.263***	-1.281**	-1.230**	-1.228**	-1.249**
	(0.440)	(0.551)	(0.696)	(0.647)	(1.186)	(0.471)	(0.535)	(0.597)	(0.615)	(0.611)
Internationalization	-0.0906	-0.125	-0.227	-0.435	-0.391	-0.255	-0.0665	-0.179	-0.255	-0.272
	(0.196)	(0.312)	(0.411)	(0.470)	(0.372)	(0.156)	(0.241)	(0.257)	(0.249)	(0.258)
Public	-0.280	-0.670	-1.035	-0.437	-3.389*	-0.489	-0.614	-0.248	-0.139	-0.163
	(0.494)	(0.579)	(0.663)	(0.819)	(1.947)	(0.473)	(0.571)	(0.599)	(0.581)	(0.632)
Party since	-0.115	0.206	0.140	-0.0153	0.144	-0.0529	0.200	0.227*	0.167	0.220*
	(0.112)	(0.162)	(0.233)	(0.196)	(0.252)	(0.0930)	(0.123)	(0.129)	(0.113)	(0.128)
Country CSR	1.205	0.932	1.418	1.524	0.401	0.649	0.275	0.117	0.194	0.108
	(0.747)	(0.657)	(0.974)	(0.939)	(0.821)	(0.473)	(0.412)	(0.457)	(0.458)	(0.451)
Constant	-2.665	-5.518**	-4.408	-3.573	-2.830	-1.382	-3.334*	-1.550	-1.308	-1.244
	(2.218)	(2.541)	(3.267)	(2.775)	(2.867)	(1.575)	(1.960)	(2.053)	(1.990)	(1.977)
Observations	83	49	36	36	36	100	64	48	48	48
Pseudo R-squared	0.4850	0.4345	0.4643	0.4801	0.4714	0.3882	0.2971	0.2754	0.2735	0.2565
Log pseudolikelihood	-25,7052	-14,7567	-11,3955	-11,0589	-11,2445	-33,7174	-20,6413	-17,7988	-17,8453	-18,2625

Probit coefficients with robust standard errors in parentheses: *** $p<0.01$, ** $p<0.05$, * $p<0.1$

thus overall seem to prefer their private regulation without SCR. Societal pressure in the form of most specifically public campaigns contributes to firms preferring regulation with SCR, bearing in mind possible bias given activist preference for specific company targets.

In terms of societal pressure, estimates of *Supply Chain Responsibility* yield more mixed results. Frequency of activist contact is not significantly related, and campaigns, consumer requests and media attention are significantly positively related only in the narrower, conservative measurement of SCR (columns 1 to 5) but not in the definition that measures on the basis of availability of specific requirements for SCR in the private regulatory approach. From this it can be inferred that the societal pressure measures tend to have more modestly or less consistently positive influence on Supply Chain Responsibility than on multi-stakeholder governance.

This brings us to what is perhaps the most important measure, *Stringency,* the results for which are summarized in Table 3. The Table reports results from models with the national-level *Country CSR* parameter and, as a check, also with country dummies as a substitute for that parameter, providing a harder test for the role of the other factors. As far as the firm-specific industrial and national-level measures, in any event, several patterns do emerge that are familiar from Tables 1 and 2. Lower consumer market segments are negative and significantly related to degree of stringency and in 8 out of 10 runs of the model a strategy focused on retail also does not bode well for the level of stringency.[144] Market share and internationalization strategy are significant only without inclusion of societal pressure variables, again an indication of their relation to campaign strategies. And national environment contributes positively and significantly to higher stringency, as expected, though again the effects of selection bias cannot be ruled out here. Contrary to expectations, firm ownership does not relate significantly to higher degrees of stringency. It might be that in this case two opposite logics are at work. Stock-listed firms may be subject to greater concerns about reputation risks. But privately owned firms may be driven towards higher degrees of stringency in case individual or family owners identify strongly with their corporation and its ethical agenda, as indicated in section 2c of this chapter. In any event, in most of the estimates of *stringency,* those firms being earlier converts to private regulatory membership are more likely to have chosen more stringent regulation – significantly so in the case of some of the estimates including country dummies (models 6 and 8).

Most importantly, the results for societal pressure clearly fit the interview results and the patterns emerging from Tables 1 and 2. The measures of societal pressure tend to be positive and significantly related to *Stringency,* except for negative media attention where the effect is insignificant in both specifications. The effects of the other measures of societal pressure, however,

[144] The model was also attempted using sectoral differences between multi-product retail, sporting goods and clothing industry. There was high collinearity here with the degree of retail as a market strategy, as could be expected, but patterns were similar.

Table 3. Stringency and Societal Pressure

Dependent variable: stringency (1-6)

	1	2	3	4	5	6	7	8	9
Frequency of contact		0.364**				0.547**			
		(0.152)				(0.255)			
Target of attack			0.635***				0.580*		
			(0.237)				(0.296)		
Consumer requests				0.205**				0.459***	
				(0.0884)				(0.127)	
Negative attention					-0.0291				0.247
					(0.189)				(0.211)
Market share	0.241**	0.0504	-0.158	-0.0232	0.0831	0.213	0.0852	0.199	0.247
	(0.102)	(0.120)	(0.165)	(0.142)	(0.153)	(0.147)	(0.266)	(0.213)	(0.207)
Retail	-0.422***	-0.280***	-0.271**	-0.366***	-0.289**	-0.276**	-0.194	-0.431***	-0.233
	(0.0786)	(0.101)	(0.126)	(0.120)	(0.119)	(0.131)	(0.149)	(0.164)	(0.148)
Discount market segment	-1.279***	-1.357***	-1.674***	-1.632***	-1.552***	-1.099***	-1.557***	-1.664***	-1.425***
	(0.273)	(0.348)	(0.475)	(0.475)	(0.483)	(0.418)	(0.570)	(0.589)	(0.543)
Internationalization	-0.230**	-0.0473	-0.217	-0.288	-0.292	0.0850	-0.00671	-0.0695	-0.0591
	(0.0907)	(0.133)	(0.197)	(0.177)	(0.178)	(0.181)	(0.251)	(0.256)	(0.260)
Public	0.176	0.0854	0.352	0.360	0.541	-0.901	-0.756	-1.131	-0.848
	(0.313)	(0.391)	(0.454)	(0.477)	(0.447)	(0.739)	(0.835)	(0.967)	(0.922)
Party since	-0.0153	0.0806	0.123	0.0756	0.121	-0.222**	-0.191	-0.375***	-0.260
	(0.0727)	(0.0878)	(0.0853)	(0.0842)	(0.0907)	(0.111)	(0.140)	(0.124)	(0.160)
Country CSR	1.071***	0.971***	0.643*	0.705**	0.631*				
	(0.283)	(0.353)	(0.329)	(0.333)	(0.354)				
Country effects	No	No	No	No	No	Yes	Yes	Yes	Yes
Observations	100	64	48	48	48	64	48	48	48
Pseudo R-squared	0.2403	0.1744	0.2206	0.2170	0.1823	0.3565	0.3614	0.4189	0.3493
Log pseudolikelihood	-113, 857	-80.0665	-60,7536	-61,0339	-63,7359	-62,4098	-49,7773	--45,3	-50,7234

Ordered probit coefficients wiith robust standard errors in parentheses. Results for country dummies and cuts not shown.

*** p<0.01, ** p<0.05, * p<0.1

are substantial. Basing judgments on the models 2-4 (with the single national-level parameter instead of the country controls), it is possible to counterfactually estimate the predicted probabilities of supporting a high level of stringency (4-6, at or above the 75th percentile in the sample distribution of *stringency)* among firms at a low (10th percentile) versus firms at a high (90th percentile) level of either *frequency of contact, consumer requests, or target of attack.* Firms with a low frequency of contact, for instance, have a 26.4 percent chance (between 4.8 and 48 percent chance) of having relatively high stringency (4 or higher on the 1-6 scale of stringency).[145] Similarly, firms not having been targets of activist attack were only 6.3 percent (from 3.3 percent to 13.6 percent) likely to have relatively high stringency, while firms having been 2-3 times the target of activist attacks have a 43 percent chance (between 4 and 81 percent chance) of having a a high stringency score (between 4-6 on the 6-point scale). Finally, firms with little or no *Consumer requests* for CSR have only a 6.9 percent chance (from 3.4 to 13 percent) of high stringency, while those with between 100 and 200 requests have a 40 percent chance (between 5 and 76 percent chance) of high stringency. In short, for all the measures of quality of private regulation the measures of societal contact appear to stimulate those firms choosing to join one or another regulatory organization to choose for more stringent regulation, marked by multi-stakeholder governance and supply-chain-oversight. These effects are strongest and most consistently so in shaping firm choice of stringency and multi-stakeholder governance, but the broad pattern is consistent throughout. It is important that these patterns hold up to a range of sensitivity and robustness tests not shown in Table One through Three. The results are very much the same, for instance, with alternative measures of stringency – such as probits on binary measures of stringency, or Ordinary Least Squares (OLS) regression of the more nuanced measures of stringency. The results are also very similar with alternative mixes of controls (or to no controls), including for instance excluding market share or any other control from estimates of the role of the various societal contact parameters. It may therefore not be possible to know from this data what predicts whether or not a firm will support private regulatory organizations, but a lot more is revealed about what predicts the quality of that choice, including how stringent regulation is in actually monitoring and protecting labour standards. And it can be concluded that not only a range of economic and national conditions matter to that choice, but so do a range of societal pressures.

[145] For frequency of contact, respondents could also indicate on what basis interaction took place. In the tests all of the mentioned reasons for interaction in some degree were positive and significant for higher stringency. The exception was contacts on the basis of an urgent appeal at supplier factories. Arguably this is the type of contact between activists and firms least influenced by prior considerations of activists about the likelihood of positive impact, since it is 'bottom up' demand driven by its affiliates in producer countries.

8. Final reflections and the activist dilemma

This chapter has investigated firm's preference for more or less stringent private regulation using both qualitative and quantitative data material and methods, and pointing to both static and dynamic as well as micro- and macro-factors to corporate strategy. Focusing on macro-factors based on qualitative and quantitative material, this chapter argues that corporate preference for more or less stringent private regulation is explained by the interplay of societal pressure, a national environment supporting CSR policies and particular industrial characteristics. For societal pressure in particular, it is shown that activist efforts in promoting more stringent regulation are relevant beyond the actual exercise of the tool of public campaigning. Their influence is also attributable to the degree of contact with firm representatives in different settings. As far as industrial institutional pressures are concerned, the identified significant variables all relate to the firm's strategic relationship towards the point of consumption and the point of production. Firms catering to a price-sensitive consumer market segment prefer business-governed and less stringent private regulation. Firms relying on retail strategies prefer private regulation without Supply Chain Responsibility and less stringent regulation. Specific ownership type and type of internationalization strategy do not lead to significant effects on private regulatory preference. And a national environment stimulating CSR contributes to firms choosing for a higher degree of stringency, while firms in general show a preference for home based regulatory organizations.

With regard to dynamic factors and micro-level events, the qualitative material leads to the observation that one should not disregard the possibility of managerial agency as decisive in steering corporate preference in cases where institutional pressures are ambiguous. Furthermore, it is possible that, first, the evolution of the field of private regulation may turn certain institutional patterns around. Emergence of preference for private regulation from certain firms exercising power on others in the production chain, may lead dependent firms to review their preference. Second, as the field evolves patterns of isomorphism may predominate where herd behaviour instead of strategic deliberation determines private regulatory preference (compare Wetterberg, 2007).

It is thereby also important to note that there are limits to what activists can achieve in influencing the development of CSR policies by companies. This goes specifically for their ability to influence the decisions that companies make on what private regulation to support. The campaigners that devote most attention to pressuring companies on this subject, such as the Clean Clothes Campaign network, the Global Union and the Oxfam network, are all in favour of multi-stakeholder governed regulation for companies that take responsibility for compliance in the supply chain. But they are all too often faced with companies that have a mind of their own. Such is the situation in a field where regulation is private, and regulatory participation is voluntary.

The dilemma that activists are specifically faced with, given these results is that they now more often have to confront companies that are no longer *not* taking any responsibility, but are taking it in a way that is not in line with what activists consider effective or fair. Trying to address this through public campaigns is much more challenging than simple campaign messages about abuse in factories. More specific campaigns on policy details reach a smaller audience. This means less hope for putting societal pressure on companies in this respect. But obviously activists will go on and try anyway. Their attempt will be to pull the regulatory field up as a whole by introducing frames that shame the approaches of companies in *low road* regulatory organizations. Whether this attempt is successful will be considered in the next chapter, which addresses policy adjustments of private regulatory organizations in a review of private regulatory competition patterns and convergence efforts.