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**How domestic contexts shape international private governance:
the case of the European Accord and
American Alliance in Bangladesh**

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ABSTRACT

The international nature of supply chains has led to the rise of private authority in regulating the environmental and social impacts of production, which companies frequently address through CSR in the form of private governance. Despite its claim to establish “global” rules, private governance usually has national origins, and multiple efforts to address the same issue from different national perspectives frequently co-exist. Numerous studies have explored the impact of national business systems on companies’ domestic CSR practices, yet little is known about what factors shape CSR practices like private governance internationally. Therefore, this study seeks to understand how differing domestic contexts shape approaches to CSR in the form of private governance in host countries. I explore this empirically through the comparative case study of competing private governance initiatives in the post-Rana Plaza Bangladesh garment industry, uniquely conceived to govern companies’ practices rather than certify products. It combines empirical findings with the comparative CSR literature to hypothesize about ideal types of private governance organizing in U.S. and European contexts. It extends the analysis to also account for other influential factors, such as stakeholder pressure, thus demonstrating how institutional and agentic factors amalgamate to shape firms’ choices. By explicating linkages between international private governance and its domestic context, as well as between the comparative CSR and private governance literatures, this study extends our understanding of how and why international private governance practices and preferences vary for firms originating from different environments.

Keywords: Bangladesh; Comparative CSR; Global Supply Chains; National Business Systems; Private Governance

INTRODUCTION

Despite similar pressures and expectations thrust upon business operating in the same host environments, companies respond to and engage with corporate social responsibility (CSR) internationally in very different ways. One approach for understanding these differences has been the exploration of how CSR practices reflect, are shaped by, or align with the national contexts, business systems, and institutions in which companies operate (Campbell, 2007; Whitley, 1999). The overarching findings from this literature demonstrate significant differences in the domestic practices of CSR between European and American companies (Blindheim, 2015; Ioannou & Serafeim, 2012; Matten & Moon, 2008; Rasche, 2015). However, the primary focus of this literature has been on CSR practices in companies' home environments; less attention has been focused on understanding CSR behavior abroad (e.g. Brown & Knudsen, 2012; Jackson & Bartosch, 2016; Witt & Jackson, 2016).

Companies utilize a range of CSR activities to manage their supply chains, which increasingly include engagement in collaborative arrangements of various types, such as partnerships, multi-stakeholder initiatives (MSIs), or private governance (Cashore, 2002; de Bakker, Ponte, & Rasche, 2015; Quélin, Kivleniece, & Lazzarini, 2017). Collective approaches vary in any number of dimensions, be it by sector, membership composition, purpose and goals, perceived legitimacy, scope and more (Doh & Guay, 2006; Fernholz, Bowyer, Stai, Bratkovich, & Howe, 2011; Mena & Palazzo, 2012; Rasche, 2010). While the purposes of collaborative efforts may vary (Palazzo & Scherer, 2010), an increasing trend is on the provision of governance by corporations (Frynas & Stephens, 2015; Scherer, Palazzo, & Matten, 2014), turning them into "governance makers" (Rasche, Morsing, & Moon, 2017, p. 21). The term "private governance" (PG) is used here to

reflect voluntary, collective CSR initiatives with which companies engage to fulfill their social and/or environmental obligations (Cashore, 2002). PG is a dominant mode through which companies address their social and environmental responsibilities in their supply chains. Further, PG deployed in supply chains exemplifies the growing authority of private actors in governing global issues traditionally in the realm of public authorities.

Despite its claim to set global rules, PG usually has national origins. For example, the original standard in forestry – the Forest Stewardship Council (FSC) – was popularized in Europe, but soon was rivaled by a competing American standard, the Sustainable Forestry Initiative (SFI) (Sasser, Prakash, Cashore, & Auld, 2006). The varying national roots of divergent or competing initiatives suggest important differences and preferences by firms in “governance making”. Yet, notwithstanding their national roots, these governance bodies are utilized internationally, invoking calls in the field for further research on the internationalization of CSR (Pisani, Kourula, Kolk, & Meijer, 2017).

This paper takes on this inquiry empirically through the investigation of a comparative case study of competing European and American PG in the post-Rana Plaza Bangladesh garment industry. While most PG research to date has focused on standard-setting, the certification of products or producers, and consumer-facing labels – such as the FSC (Auld, 2014), Marine Stewardship Council (Ponte & Cheyns, 2013) and Fairtrade (Manning, Boons, von Hagen, & Reinecke, 2012) – this study investigates instances of PG which focused on enforcing existing public regulation and that did not result in certification or labelling. Thus, this case provides a unique opportunity to assess PG as a manifestation of CSR which is both international as well as non-market. To do

so, this study explores how differing home contexts as well as interactions between private and public actors shaped companies' design of and preferences for PG in the host country. Specifically, the study aims to answer the question: *how do domestic contexts shape international private governance?* The answer contributes to our understanding of which factors shape the organization of and preferences for different PG arrangements. It also helps to explain the proliferation of different – sometimes competing – PG approaches designed to address the same issue.

Overall, this paper makes three primary contributions in the areas of PG and comparative CSR. First, the comparative analysis between European and American PG approaches reveals how different domestic systems and institutions – manifest in different political economics, business systems and accompanying social norms and expectations – shape firm preferences for CSR abroad. These findings combine with the comparative CSR literature to inform the theorizing of ideal types of PG organizing for U.S. and European companies. Second, it also considers other factors and variables – stakeholder interactions – which shape firm behavior, thus eschewing a path-dependent or structuralist view of national business systems. Finally, it seeks to use its distinctive case to bridge the comparative CSR and PG literatures. In all, the study demonstrates how national contexts not only influence the design and form of PG, but also how these and other factors – such as activist pressure – amalgamate to influence firms' preferences for PG internationally.

The paper is structured as follows. First, it provides an overview of what we know about the variation in CSR practices in different national contexts, business systems and institutional

environments, and how this relates to PG research. The presentation of the case, methodology and findings follow, leading to the discussion of what such variations tell us about PG approaches and the practice of international CSR between companies from different political economies.

NATIONAL CONTEXTS, CSR AND PRIVATE GOVERNANCE

National context plays an important role in how companies view their responsibilities and practice CSR. There are a variety of approaches and perspectives on how differences between countries manifest and affect firms. One of the foundational perspectives which sought to explain the organization of economic activities is that of National Business Systems (NBSs), which are “distinctive patterns of economic organization that vary in their degree and mode of authoritative coordination of economic activities, and in the organization of, and interconnections between, owners, managers, experts and other employees” (Whitley, 1999, p. 33). While numerous institutions exist at a national level, Whitley highlighted the political, financial, labor and cultural systems as those crucial to guiding and constraining behaviors as these prescribe the legal system, labor rights and relations, and financial rules, among others (1999). These systems set the structures which firms must operate within, collectively constituting the country’s national *business* system.

Similarly, a varieties of capitalism (VoCs) perspective puts firms at the center, contending that any political economy is comprised of institutions which set the parameters (“opportunities”) for firms, so firms will gravitate towards strategies which complement these structures (Hall & Soskice, 2001, p. 15). The authors contend that economies broadly fall into either liberal market economies (LMEs) or coordinated market economies (CMEs) (though they do note some “mixed”

economies), and that these types are characterized primarily by the degree to which firms coordinate their activities. Therefore, there are systematic differences in corporate strategy between LMEs and CMEs, reflective of the overarching institutional structures of the political economy in which they are embedded (Hall & Soskice, 2001). The VoCs perspective has been noteworthy for its ability to explain “broad and persistent cross-national differences in institutions and policy outcomes” (Thelen, 2010, p. 48). Whilst not path dependent, the varieties of capitalism perspective holds that institutional structures shape corporate strategies.

Further work sought to also account for institutions outside of those comprising the traditional political economy. Institutions – defined here broadly as the socially constructed “rules of the game” – do not exist together randomly, but rather, form a set of complementary structures, with some institutions dominating others (Amable, 2005). This view eschewed a largely structuralist view in favor of a socially embedded one where “strategic agents” adopt similar practices due to the dominance of the same or similar institutions surrounding them (Amable, 2005, p. 59). For example, companies from the same country frequently adopt similar “stakeholder orientations” that align with prevailing social norms and expectations (Witt & Redding, 2012). This is also true in PG in forestry, where the emergency of different certifications has been shown to be highly influenced by governmental sentiment, civil society pressure, and the role of industry associations (Cashore, Auld, & Newsom, 2004). The heterogeneity of institutions which firms encounter should be better integrated into comparative analyses, as the breadth of these domains shape stakeholder interests and interactions (Aguilera & Jackson, 2003).

Such a view is perhaps even more important when widening the lens from focusing solely on the organization of economic activity to also considering the wider roles of firms in society as manifest in CSR and PG. Research on this point has found that NBSs in large part create the structure and constraints within which companies operate, and such national political-economic systems play a decisive role in how companies practice CSR (Gjølberg, 2009; Jackson & Apostolakou, 2010; Kang & Moon, 2012). This is why companies' CSR programs tend to reflect national public programs (Campbell, 2007). Findings from forestry show that when similar certifications emerge they are often tailored to the specific national or regional context and mimic governmental policy approaches (Auld, Gulbrandsen, & McDermott, 2008; McDermott, Noah, & Cashore, 2008), accounting for the dominance of the SFI certification in North America despite the FSC leading overall in the number of companies and acres certified (Auld, 2014; Fernholz et al., 2011). Thus, the case of forestry PG both demonstrates the nationally-rooted preferences for different CSR approaches and reflect the same trends found with CSR practices more broadly. Other work has even suggested that firm responses in PG should be path dependent so long as they experience the same changes in their external environments (Cashore & Vertinsky, 2000). Collectively, these factors represent key aspects of business systems, specifically the organization of economic activity and political dynamics between stakeholders.

Governments play a large role in shaping CSR practices through policies and/or practices which may facilitate, discourage, endorse, or otherwise establish the parameters and environment which influences companies' CSR (Gond, Kang, & Moon, 2011; Knudsen & Moon, 2017; Knudsen, Moon, & Slager, 2015). Other work has looked into broader institutions which influence firms' CSR, similarly finding a general congruence with prevailing institutions (Amable, 2005; Witt &

Redding, 2012). Indeed, public authorities have begun to take a much more active role in shaping the PG forms and choices of actors (Cashore et al., forthcoming; Marques & Eberlein, 2020; Ponte et al., 2020).

For comparative CSR purposes, distinctions are frequently made in the literature down VoC lines, differentiating between LMEs, such as the United States, and CMEs, which includes much of Western Europe (e.g. Blindheim, 2015; Jain, 2017; Kang & Moon, 2012; Matten & Moon, 2008; Walker, Zhang, & Ni, 2018). One of the dominant perspectives in the field is that of Matten and Moon (2008), who argue that CSR practices in LMEs – like the U.S. – are more “explicit” than the CSR practices of their CME (European) counterparts, which practice a more “implicit” approach to CSR. Explicit CSR describes largely voluntary activities that promote a general interest of society – such as philanthropy – and which is often motivated by perceived stakeholder expectations, while implicit CSR constitutes practices that demonstrate corporate responsibility vis-à-vis fulfillment of the rules or expectations set by the structures and expectations of society, such as paying one’s full tax bill (Matten & Moon, 2008). Blindheim builds upon this model, concluding that LME CSR practices embody individualism, liberalism, networks and discretion, while CME CSR practices are characterized by collectivity, obligation and interlocked actors (2015, pp. 64–65). Differences in the corporate social performance (CSP) of firms has been observed between countries, with the financial and labor systems found to be the most influential (Ioannou & Serafeim, 2012; Jackson & Apostolakou, 2010). Differences based on culture have also been observed (Halkos & Skouloudis, 2017). Taken together, these differences between CSR practices in different political economies suggest that companies from each may also approach PG differently; for example, European companies may be more predisposed to form partnerships

across sectors with prescriptive obligations and enforcement mechanisms while their American counterparts are more likely to govern via networks of business actors and preserve their individual discretion. Indeed, the breadth of differences observed between the CSR practices of companies originating from different political economies demonstrates the qualitatively different nature of their CSR practices, and hence the need to understand how these differences affect companies' fulfillment of their societal responsibilities.

This is not to say that there is agreement about how to treat the distinctions between companies originating from different environments, much less about what they mean for companies' CSR behaviors abroad. While structures and institutions may set the parameters, there is still a role for stakeholder influence and other factors to influence firms' navigation of diverse institutional environments (Fransen, 2013). But, overall, there is a general consensus that – on the whole – CSR looks different in the U.S. than it does in Europe. However, these findings largely represent only domestic CSR practices; international business brings its own dynamic elements to the practice of CSR through interaction with often differing institutions (Matten & Moon, 2008). Work looking at the differences in the management of labor standards in supply chains, one study observed major differences between IKEA (Sweden) and Walmart (U.S.), where the former reflected its domestic roots through its “Nordic ideology” which placed a premium on working with suppliers, NGOs and activists to address, monitor and raise labor standards while Walmart put cost at the center, pitting suppliers in fatal competition against each other while outsourcing monitoring of labor standards (Christopherson & Lillie, 2005). Other work exploring the role of governments in facilitating international CSR concluded that British companies were more likely to support MSIs and other union-inclusive activities as compared to their U.S. counterparts

(Knudsen, 2018). While appreciating that a neat-and-tidy distinction between LME and CME CSR practices is hardly absolute, the overarching differences in the NBSs and institutions which predominate in the U.S. and Europe do give rise to some general distinctions between the two. A summary of the differences between the various contexts and CSR practices can be found in Table 1.

Table 1 About Here

In essence, PG embodies a collective approach to CSR, which itself is shaped by dominant institutional structures and systems. Collectively, the breadth of studies can help inform what might be expected in the design and function of international PG emanating from national environments. They suggest that European-rooted PG is likely to be based on broad partnership and collaboration across companies and stakeholders, and prescribe explicit obligations and enforcement mechanisms. Conversely, we might expect PG emanating from the U.S. to be more voluntary and principled with self-policing mechanisms to monitor compliance, and for efforts to exclude stakeholders in favor of the retention of discretion and limitation of liabilities for individual, largely market-oriented firms. A summary of these differences can be found in Table 2.

Table 2 About Here

Yet, unlike much research on PG, this study is not one of certification, nor of the governance of products or commodities. Rather, what differentiates this case is that the PG were deployed as a

way to manage supply chain (un)sustainability. Indeed, it is neither possible nor the point to link the product produced with the PG in operation. Further, the PG programs did not set new technical standards, but rather helped suppliers meet established public regulations, thus eschewing a certification approach. Thus, this study takes its point of departure from the comparative CSR literature and links it to studies on PG certification, reflective of the utility of PG as a core CSR practice, and in effort to better bridge the two literatures.

Operating in an international environment exposes companies to a diverse array of institutions, stakeholders, expectations and regulations, which together create a highly diverse and dynamic environment from which to navigate and make choices about CSR and PG. Hence, this study asks, how do domestic institutions shape international PG?

METHODOLOGY

The phenomenon of two divergent PG initiatives which appeared at virtually the same time, in the same place, in response to the same pressures, and which shared the same broad goals serve as the locus of the study. The membership of the different PG initiatives divided starkly down country lines, with one being primarily American and the other overwhelmingly European. It is important to note how these empirical differences led to the formulation of this abductive, qualitative study which seeks to understand the interaction effects of home institutions and systems with the provision of PG internationally.

Case Presentation: the European Accord & American Alliance

The Rana Plaza disaster in Bangladesh in 2013 killed more than 1,135 garment workers and injured twice as many more after a confluence of governance deficiencies and poor management failed to protect workers from known structural problems in the building. It was far from the first deadly incident in the Bangladesh RMG industry, and the tragedy was emblematic of the perils which can result in the race-to-the-bottom sourcing world, where buyers seek to pay as little as possible and suppliers cut corners to remain competitive.

After the disaster, it was found that the factories within the complex produced almost exclusively for American and European brands. Among the tens of companies who sourced from Rana Plaza at the time of the collapse included Walmart (US), Primark (UK), Loblaw (Canada), and PWT (Denmark). While brands largely protested against accusations of their culpability, they were ultimately held responsible for ensuring such a disaster would not happen again. Unlike core labor issues – such as freedom of association, living wages or child labor – the focus on the structural safety issues had only recently begun. Indeed, a factory within the Rana Plaza complex had been audited and certified by the Business Social Compliance Initiative just days before its collapse because it didn't assess building safety. A prior agreement to address factory safety in Bangladesh had been underway for some time – being negotiated by Gap (US), PVH (US), H&M (Sweden) and Tchibo (Germany) – which sought to establish a new model of governance by affording equal power to brands and trade unions in an agreement to take on the task of ensuring the structural safety of factories. However, it could only secure two of the needed four signatures to come into force (PVH and Tchibo) so had been sitting idle for some time (Bair, Anner, & Blasi, 2017). However, the scale of the Rana Plaza disaster finally spurred corporate action, and this agreement

served as the basis for negotiations with brands post-Rana Plaza, which trade unions effectively utilized to create the Accord on Fire and Building Safety in Bangladesh (hereafter, “Accord”) (Reinecke & Donaghey, 2015). In essence, it created a multi-stakeholder initiative (MSI) that the terms of which – for the first time – could be enforced via binding arbitration. While 23 European brands and PVH signed on, all other American and Canadian brands walked away, leaving the Accord as essentially a European effort. Instead - and consistent with findings from other PG studies which have shown that the emergence of a standard can lead to the creation of others (Donaghey & Reinecke, 2018) – they created their own effort akin to the Accord, called the Alliance for Bangladesh Worker Safety (hereafter, the Alliance). Over the course of each organization’s five-year tenure, all the European companies which joined an initiative chose the Accord, while the vast majority of North American retailers chose the Alliance. Thus, the efforts came to be termed the “European Accord” and “American Alliance” in popular media (e.g. Bain, 2018; The Economist, 2013).

The case of the Accord and Alliance is empirically distinctive from many other PG studies in at least three primary ways. First, it did not result in the certification of products nor yielded consumer facing labels. This stands in contrast to most PG research which focuses on certifying products or commodities themselves, such as forestry products, coffee, palm oil, or fish, among others. As well, the factories themselves were not “certified” in the traditional sense, but instead “covered” by the Accord or Alliance (or both). So long as factories demonstrated progress toward the standard, they continued to be “covered”, even without meeting the set standards. Second, most PG establishes the technical standards for compliance, usually at a higher level than specified in national laws. Indeed, it is often the absence of adequate regulation which gives rise to PG.

Here, the Accord and Alliance principally relied upon Bangladesh National Building Code as their technical standard, which was “*fairly good*” but rarely enforced. Thus, this case provides a unique opportunity to analyze non-market PG as a manifestation of companies’ CSR practices. Third, while most PG focuses on changes the practices of suppliers, the Accord and Alliance regulated both suppliers and buyers. While the onus was on suppliers to remediate up to standard, buyers had to help finance the upgrades and change their sourcing practices. Therefore, the case of the Accord and Alliance lies closer the core business than do certification schemes, and thus can provide fresh insight into how and why companies prefer and utilize different CSR approaches – manifest through PG – internationally.

The Accord and Alliance provide a unique, self-styled case where two PG initiatives were created at the same time, in response to the same incident, and with the same broad goals, but with different actors, approaches, and arrangements, and membership split starkly down country lines. Given this, the case provides an opportunity where national context can function as the independent variable in the investigation of the design and preferences of PG arrangements as the dependent variable.

Data Collection

This study draws upon multiple data sources to explore the influence of NBSs and institutions on PG provision. First, it used membership agreements and other documents governing the organizations (e.g. by-laws and amendments) along with relevant information from their respective websites, public documents, and press releases. News articles, policy documents and other relevant sources were also searched.

Interviews were conducted with brands, Accord and Alliance staff, labor, public sector and expert NGO representatives. Overall, 41 interviews with 36 individuals representing 30 different organizations were conducted. Due to the sensitivity of some of the subject matter discussed, respondents have been anonymized. Interviews used a semi-structured interview format and abductive approach of adapting interview questions based upon learning from previous interviews. All interviews were recorded and transcribed, resulting in more than 43 hours of audio recordings and approximately 900 pages of single-spaced transcripts.

In addition to interviews, the author also conducted fieldwork in Bangladesh, which included interviews, factory visits and participation in several events related to sustainability issues in the Bangladesh garment industry. The author traveled to Bangladesh twice over the course of the study (2016 and 2018), which helped to ground and contextualize the research. Informal conversations during and after events and travels also contributed to the author's learning, which were documented in field memos along the way and used to inform the findings and consider their implications.

Data Analysis

The analysis of data employed a cross-case analysis approach and three rounds of abductive coding (Miles & Huberman, 1994). An abductive approach is theoretically inspired but data driven, seeking “the best explanation” by interpreting the data with a theoretical perspective in mind (Mantere & Ketokivi, 2013). Using NVivo software, the first round of coding identified “descriptive” codes for the data, labels which require little to no interpretation. In keeping with its abductive approach, the second round of coding moved into “interpretive” codes which sought to help group common themes found in the data, with a particular eye towards how the data might

fit into constructs found within the literature of the political economy of CSR and the organization of PG. An example here would be the first-order, descriptive code of “legally binding nature of Accord as bad” becoming part of the second-order, interpretive code of “Enforcement”. The final round of coding aimed to explain the data in light of the applicable theory and framework (abduction).

FINDINGS

The European Accord and American Alliance share similar ends but diverged in the means used to reach them. In exploring these PG organizations, the analysis considers developments and changes dynamically over time. It first looks specifically at the design and emergence of each effort, institution building. Here, the focal stakeholders are those brands and other stakeholders which actively helped design, negotiate and establish each organization. Second, the analysis considers the role and actions of public authorities in endorsing and further institutionalizing PG within that domestic context before also examining the influence of other stakeholders. Finally, it considers the rest of the firms which joined after the PG organizations were established as illustrative of firm preferences and emblematic of the institutionalization of PG in each domestic context.

Domestic Institutions Shape International PG

As outlined in the case description, the most noted points of difference between the two PG efforts were related to the Accord’s inclusion of labor and its binding enforcement mechanism. Thus, in keeping with this study’s abductive approach, the findings focus on the differences related to organizational form, stakeholder orientation (i.e. labor inclusion), and monitoring and enforcement. Collectively, these represent the *mode* of PG (Rasche, de Bakker, & Moon, 2013).

Organizational Form

Some of the most obvious and clear points of difference between the Accord and Alliance are with their organizational forms. Negotiations about the Accord were hosted by the German government, with Swedish H&M and German Tchibo both taking a leading role. The design and formation of the Alliance was led by Gap and Walmart, two of the U.S.'s largest apparel retailers. Significant variations between the two reveal different alignments with their predominate NBS.

The Accord was established as a five year agreement unprecedented not only in scope by putting brands in charge of structural, fire and electrical safety in the factories that they sourced from, but also in governance and enforceability. As the Accord formed, there was a strong focus on collaboration with the breadth of stakeholders, namely companies, labor, and activists. Therefore, oversight took the form of a steering committee and was constructed to have equal representation from labor and brands. The International Labour Organization (ILO) – seen as neutral intergovernmental body – was selected to serve as the chair. Also, in effort to involve other relevant stakeholders, major advocacy organizations like the Clean Clothes Campaign were invited to participate as “witness signatories”. While they lacked voting privileges, they were afforded great transparency into processes and decisions, as well as consulted on many matters. This inclusive governance structure demonstrates the Accord’s inclusion of a breadth of actors, as well as lends itself to classification as a MSI.

The Accord established its secretariat in Amsterdam and hired staff well-known for their work and affiliations with labor and activist organizations. It also hired them on as permanent, full-time staff. The Accord created a PG arrangement distinctive in its inclusive governance approach with

labor, legal enforceability, as well as specific provisions regarding companies' sourcing activities and financial liability for remediation. Of the Accord's original brand signatories, 23 out of 24 of them came from Europe, with the 24th being PVH, unsurprising since it had been leading the agreement which preceded the Accord. By the end of its five-year tenure, the Accord had more than 220 signatories, including all of the European brands which joined an effort. While some North American brands joined – comprising less than 10% of the Accord's total brand members and only a small fraction of Bangladesh's RMG import to the continent – the vast majority were small sportswear retailers, and will be addressed below.

Needing to respond to the disaster through an avenue other than the Accord, American powerhouse brands in formed their own competing organization akin to the Accord: the Alliance. Diverging from the Accord's substantive agreement, the Alliance opted for a more principled one that limited liabilities and enforceability in favor of preserving individual brands' discretion. Membership was comprised of around two dozen companies which included some of the largest American brands, like Walmart, Gap, Target and VF Corporation (parent company of Timberland, Vans, The North Face, and Jansport, among others), which collectively represented the vast majority of North America's apparel imports from Bangladesh. While the Alliance included both U.S. and Canadian brands, the former is the primary focus of the paper given their leadership and dominance of the Alliance.

The Alliance governed itself via a business-like structure with a Board of Directors comprised primarily of business representatives. This, combined with its lack of inclusion of other stakeholders, gives rise to its classification as a business-led initiative (BLI). It was originally

chaired by a former U.S. Senator with a pro-business track record, and subsequently by a former U.S. Ambassador. Senior officials in the Alliance reported directly to the chair of the board. While it never established a secretariat, it incorporated itself in the U.S. state of Delaware, infamous for its corporate protections and limitations of liability. It also relied upon American contractors and consultants to conduct its work – mostly from California – rather than hiring on permanent staff. Such a model fits well within the U.S.’s employment system where employers are responsible for health care costs, long-term absences due to illness, unemployment payments and other social benefits provided by the majority of European states. Staffing by contract reduces and stabilizes costs, demonstrative of how both the Accord’s and Alliance’s staffing models mirror their dominant political and economic systems. Overall, the organizational forms adopted by the Accord and Alliance mirror findings from other studies which similarly show that European companies tend to have an affinity for MSIs while American firms typically choose top-down, business-led approaches (Knudsen, 2018).

Stakeholder Orientation

When pressed on the differences between the initiatives, respondents frequently identified labor inclusion (or exclusion) as a key differentiator. As explained by one respondent, “*the main difference is that the Alliance is put together by the industry and the Accord is put together by trade unions.*” Each PG’s orientation towards stakeholders served as another primary differentiator between the two, and which also reflected the business systems from their respective environments.

It’s not just who’s at the table that matters, but also who has the authority to make decisions. For the Accord, the hierarchy of its internal governance structure was one of its defining features,

which afforded equal representation of and power between labor and business, something heralded by activists as a “breakthrough” (Clean Clothes Campaign, 2013; Hensler & Blasi, 2013; Khan & Wichterich, 2015). As one respondent close to the Accord reported, “*Does it become adversarial between the brands and trade unions? Absolutely. Yeah, all the time.*” Adversarial relations between its governors signaled its equality in power distribution as each advocated for their perspective. The Accord was explicitly organized to create a power balance between business and labor.

The role of labor proved a key factor in the creation of the Alliance as a BLI in the first place. A candid account by one respondent associated with the Accord summed up a common theme about why Alliance members chose to create a separate organization.

The brands that signed the Alliance don't want to be bound to an agreement that was negotiated with the unions, whom have equal say in how it's implemented, and have the right to file complaints that culminate in binding arbitration. They didn't want to be bound to [...] a binding agreement that labor could enforce.

A prominent figure from the Alliance reinforced this message, albeit in a more politically correct way. “*A lot of the brands didn't feel comfortable with the set-up of the board, and the imbalance of labor on the board...North American brands were not comfortable with that sort of set up.*” Labor-management relations are altogether a different dynamic in an American context than they a European one, which was mirrored in the PG approaches.

Prevailing labor and employment systems on both sides of the Atlantic played a key role in shaping the choices and behaviors of companies. Formal labor organization and trade unions are common, established, and ascribed important roles in the governance of industrial relations domestically in Europe. Post-war Germany, for example, instituted codetermination legislation which requires

managers to work with employees and trade unions. Denmark does not have a legal minimum wage because wages are negotiated through collective bargaining agreements. In the Netherlands, the vast majority of workers there are also covered by collective bargaining agreements. Such rules, structures and norms are translated into companies' CSR; negotiations between labor and management are not just common, they're often required. So, instituting a similar structure in PG simply replicates domestic approaches. Further, replication also signals an important distinction in the processes used for governance; partnerships, multi-stakeholder agreements, and deliberation are all part of the normal way of doing business in much of Europe. It is hardly surprising then that all of the European companies that signed up to a PG initiative chose the Accord, a MSI.

Labor relations and structures are wholly different in the U.S. Labor unions have been on the decline for decades, and relations between labor and management are virtually always adversarial. Walmart in particular is infamous for preventing and squelching any attempts at organizing labor, going so far as to close down stores rather than let a unionization vote go ahead (Picchi, 2015). Target has taken similar actions, and shows an persuasive anti-union video to all headquarters employees on their first day (Wang, 2014). Trade union power in the U.S. has been waning for some time, which culminated in 2018 when the Supreme Court ruled that public employees could no longer be required to pay union dues. Ergo, it is unsurprising that the American companies shunned the idea of working collaboratively with organized labor, much less allow them to monitor and enforce compliance actions upon them. Further, the findings align with other PG studies which have shown how European efforts insist on stakeholder participation whereas American efforts seek to limit it (Donaghey & Reinecke, 2018; Overdevest & Zeitlin, 2016).

Monitoring & Enforcement

The Accord was groundbreaking in its inclusion of multiple substantive provisions that required atypical activities amongst its company signatories. First, it required company signatories to ensure the financial feasibility of factory remediation, which represented the first time that Western buyers were bound to providing financial assistance for compliance with their terms (Accord, 2013, p. 6). While it allowed buyers the freedom to determine how to make financing available – and on commercial terms – it clearly stipulated that ultimate responsibility for adequate financial resourcing come from buyers. This requirement demonstrated the Accord’s approach to rules as specific and obligatory, decidedly European approaches.

Following, one of the most noted differences between the Accord and Alliance has been their divergent approaches on legal liability. The Accord included a unique enforcement clause allowing for internal disputes to ultimately be adjudicated in the International Court of Arbitration in the Hague, and any awards resulting thereof enforceable in brands’ home courts (Accord, 2013, see Article 5). As told by one labor representative, this stipulation was included *“to enforce the agreement. You wouldn’t have any negotiated agreement between labor and management in any country that did not have an arbitration clause [...] there has to be some mechanism to hold each side accountable.”* This effectively made the “soft” law of the Accord enforceable in “hard” law. As European CSR practices have been found to complement their highly regulated environments – implicit CSR – the enforcement structure of the Accord mirrored a European regulatory atmosphere (Matten & Moon, 2008). Labor members of the Accord were its designated enforcers to hold brands accountable. This arrangement also mirrors the labor system in many European countries where negotiation and contracts between labor and management are typical.

While the Accord was being formed, the major North American retailers protested its terms, and in particular, its enforcement mechanisms. The chorus from American retailers in particular in defending their decision not to join the Accord was that it subjected them to liabilities in the American legal system which were not present in Europe. At Gap's shareholder meeting in May, activist pressure arose to confront the company about why it refused to sign the Accord. Gap's chief executive responded by saying, "*If we were to sign onto something that had unlimited legal liability and risk, I think our shareholders should care about that*" (quoted in Denning, 2013). While the salience of this concern has been hotly contested – and is beyond the scope of this study – it remains that the Accord's enforcement mechanism stood as a principal reason that American brands refused to sign the Accord. Whilst such rationale often connected the issue of liability to shareholder interest, it was not just public companies which joined the Alliance; nearly half of the Alliance's members were privately-held companies.

The brands which established the Alliance specifically cited the differences in legal systems between Europe and North America. A Walmart executive who served as a legal advisor to the Alliance stated at the press conference announcing the Alliance in 2013 that:

The reason we [the brands which formed the Alliance] couldn't sign the Accord is Europe has a different legal environment than we do in the United States and Canada, and the Accord had some provisions that, in the way the U.S. and Canadian legal system work, would subject us to potential unlimited legal liability and litigation.

This point was reinforced throughout the study's interviews; Alliance representatives frequently pointed to differences in how the Accord may be interpreted differently in the in the European and North American legal systems, with the former emphasizing the spirit of the law and the latter on the letter of the law. Therefore, enforcement provisions within the Alliance structured monitoring and enforcement as a self-policing effort of members monitoring other members. This differential

between the Accord and Alliance stands as perhaps the most clear and prominent example of home NBSs shaping how companies designed and engaged with private governance.

While the Accord and Alliance both represent soft law, voluntary agreements, the Accord included a strict enforcement mechanism while the Alliance did not, reflective of the home environments of each initiative. From a sheer legal systems perspective, American companies seek to minimize legal liabilities and hard regulation, consistent with the base principles of a LME. This has bearing in at least two ways; it mirrors the legal enforceability approach – or lack thereof – adopted by the Alliance, as well as the approach to encourage rather than stipulate members' investments in factories. In contrast, most European nations have a strong role for the state as part of their CMEs, which creates an environment where the norm is for companies to support and operate within hard regulation. This is reflective of both the Accord's legal enforceability provision, as well as its mandate that brands themselves are ultimately responsible for the financial investments necessary to make factories safer.

In these ways, the form, stakeholder orientation, and compliance of the Accord and the Alliance were reflective of the national contexts in which their founding members operated. While the above reflects how firms from Europe and North America designed their PG differently, the many brand members which followed reinforced the division and institutionalization of each PG in its respective geography. European brands joined the Accord exclusively – not one joined the Alliance – while the Alliance continued to dominate in the North American market. An overview of the differences in organizational design between the Accord and Alliance is summarized in Table 3.

Table 3 About Here

Endorsement of Domestic Roots

Even whilst the Accord and Alliance emerged within their dominant domestic business systems, endorsement by and collaboration with governmental authorities furthered their institutionalization.

In one example, the Swedish government played an active role in getting companies to join the Accord. About six weeks after the Accord formed, the Swedish Ministry of Foreign Affairs hosted a meeting during which it sought to compel Swedish apparel brands to join the Accord. It was attended by 24 companies and the country's Dhaka office. During the meeting, the representative from H&M – who was a member of the Accord's Steering Committee – provided information and answered questions about the Accord and its operations. However, there continued to be uncertainty about the obligations and penalties under the Accord, so the Foreign Ministry convened a second meeting because *“Some Swedish companies have joined since then, but ambiguities about the agreement remain. At the same time there has been intense debate in the Swedish media about Swedish companies' participation. Therefore, the Ministry of Foreign Affairs will arrange a second meeting...”* The memo was sent out on 21 Oct 2013 – about five months after the Accord had formed – inviting textile companies from throughout Sweden. It read,

It is time to have a meeting now that we hope most of the answers to questions surrounding the Accord are ready. As the Accord's steering group will have a meeting in London on 12 November, we have chosen to have the next meeting in Stockholm on 13 November, 10.00-

12.00 in order to be able to draw on the knowledge of H&M's participation in the Accord's steering group.

There was clear coordination between H&M – both a Swedish company and an Accord Steering Committee member – and the Swedish government. Public authorities used the power of their office and embassies to bring Swedish companies together in effort to persuade them to join the Accord, reinforcing activist pressure. The covering email with the memo also promised “...to provide the latest information from our embassy in Dhaka...”, demonstrating the depths of its coordination between government offices. A similar account of governmental coordination and persuasion also occurred in Denmark. As stated previously, the German government hosted the original Accord negotiations. Clearly, there was powerful public endorsement of and even orchestration for the Accord.

It was not just national governments that advocated for the Accord; the European Union (EU) also played an active role. About six weeks after Rana Plaza, representatives from the Government of Bangladesh, the EU, and the ILO gathered in Geneva to negotiate and launch a sustainability compact on labor rights and factories in Bangladesh's RMG industry. They encouraged “*Responsible business conduct*”, praising the 70 brands which had signed on to the Accord at that point. “*In this context, they encourage other companies, including SMEs, to join the Accord expeditiously within their respective capacities. They recognize the need for appropriate involvement of all stakeholders for an effective implementation of the Accord.*” The EU's statement not only heartily endorses the Accord, it also further confirms the findings previously with regards to the Accord's stakeholder inclusivity. Public authorities purposefully and firmly facilitated and evangelized PG in the form of the Accord, further solidifying its European roots and institutionalizing it within its domestic context.

It was not just the Accord that was endorsed by European public actors; the Alliance similarly received governmental support from U.S. authorities. The Alliance was organized by the U.S. Bipartisan Policy Center with discussions convened and facilitated by a pair of former U.S. Senators. It appointed California Representative Ellen O’Kane Tauscher as its independent chair and installed former U.S. Ambassador Jim Moriarty as Executive Director. Clearly, the formation and implementation of the Alliance was carried out in close partnership with high-level and influential governmental authorities from both sides of the aisle.

The Alliance provided funding remediation via communal funding pools from brand members, as well as through low-cost loans. To finance the loans, the Alliance partnered with USAID which provided a guarantee of up to \$18 million in loans to factories producing for Alliance members. The Alliance also contributed to this fund, but only with \$1.5 million, less than 10% of the total fund’s guarantee. Further, loans made available by USAID were codified in the Alliance Member Agreement, 2.2.d. Clearly, there was great orchestration and support by the U.S. government for the Alliance. Together with the Accord, we see clear endorsement by public authorities – what Cashore et al (forthcoming) term *coordination* – for the PG stemming from their domestic contexts which fueled the institutionalization of PG in their respective environments. This finding is also consistent with other studies of international PG which found that public authorities play a hugely influential role in encouraging and shaping domestic PG (Bartley, 2003; Overdevest & Zeitlin, 2016). Overall, it also demonstrates how public authorities and private actors interact when designing and deploying PG; “private” governance is hardly confined to private actors.

Intervening Variable: Activist Pressure

While the vast majority of brands fell neatly down geographic lines, the “crossover” American brands can also tell us about the institutionalization of PG as well. While domestic business systems have been shown to shape both the design of and preference for PG approaches, these institutions may not always dominate. While only a handful of North American brands joined the Accord – 22 American and 2 Canadian by 2016 – constituting less than 10% of members, their presence suggests more than just random factors at play.

Shortly after the collapse of Rana Plaza, United Students Against Sweatshops (USAS) launched its “End Deathtraps” campaign in effort to compel companies to sign on to the Accord. USAS is a student-led organization active on more than 250 college campuses throughout North America which seeks to hold companies accountable for the conditions under which their goods are produced. Specifically, it targeted H&M, Abercrombie & Fitch, Walmart, Jansport and others by staging protests on retailers’ doorsteps demanding that they sign the Accord. Given the nature of the USAS organization, they had great reach and influence over the sales of goods in campus bookstores, and, more influentially, over official collegiate apparel. As news article explained, *“USAS is targeting companies that operate in Bangladesh and provide apparel to colleges and universities in the United States. Student activists will ask their schools to issue an ultimatum to these companies: sign the Accord or we will contract with someone else,”* (Dame, 2013). USAS effectively demanded that all providers of collegiate apparel and merchandise be members of the Accord. One respondent told of how their American company which was member of the Alliance was caught up in the USAS campaign.

We had one university who came to us and said, ‘If you don’t join the Accord, we’re going to stop doing business with you.’ ... The funny thing is [our brand], which we sell in

universities, they don't even make any products in Bangladesh! None. Zero. So they were kicking [our brand] out of the universities because [we] wouldn't join the Accord.

Yet, not all brands could stand for their products to be removed from college campuses and collegiate attire. Fruit of the Loom (U.S.) was the only brand to join both the Alliance and the Accord, which it did for this very reason. While it had originally joined the Alliance, it reluctantly joined the Accord later on for fear of commercial repercussions it's in collegiate market when activists made clear Alliance membership was not sufficient. Further, when reviewing which American companies signed on to the Accord, 19 of the 24 are specifically in the collegiate market, demonstrating a clear link between activist pressure and selection of the Accord by a specific subset of the broader apparel industry.

Most of the remaining crossover brands can be similarly explained by activist pressure. Abercrombie & Fitch was targeted by USAS and joined the Accord; but telling about its true preferences, however, was that it refused to join the renewed version of the Accord once its original tenure expired, and made inquiries into joining the Alliance instead. One of the brands – Joe Fresh (Canada) – had production at Rana Plaza, so also experienced direct activist pressure to join the Accord due to its proximity to the disaster. PVH has been dealt with previously as a principal Accord negotiator, leaving just one brand – Sean Jean Apparel – which cannot be easily explained. But, on the whole, these companies which otherwise appear as outliers demonstrate the importance and power of stakeholder pressure in intervening in companies' PG preferences. Ironically, perhaps, American companies responded to their American stakeholders by joining a European initiative. Clearly, activism played a crucial – and sometimes dominant role – in firms' choice of PG. Indeed, the findings here align well with other studies of PG emergence which found that

social movement campaigns influence how companies engage with certification schemes (Auld et al., 2008; Bartley, 2003; Bowler, Castka, & Balzarova, 2015).

DISCUSSION & CONCLUSION

The differences in the Accord and Alliance were stark, varying across form, stakeholder orientation and enforcement. The central finding is that, much like domestic CSR, the practice of PG internationally was largely shaped by dominant home systems and institutions. For this instance of international PG, these were principally the labor and legal (political) systems. Formal labor systems and prevailing social norms of stakeholder inclusiveness guided how PG from each national environment collaborated (or not) with external stakeholders. The Europeans crafted governance structures similar to familiar collective bargaining and co-determination approaches, while the Americans charged ahead with a business-led approach, consistent with their anti-unionist orientation. But it was their legal differences which made the headlines: the European initiative specified substantive obligations, clear monitoring processes and binding enforcement mechanisms while the American version opted for a strong limitation of liabilities and self-policing. The U.S. is a highly-litigious society where companies like Walmart and Gap face thousands of lawsuits each year, some of which result in huge financial liabilities; for example, in 2018 Walmart was ordered to pay \$65 million in damages after losing a class action lawsuit over its failure to provide chairs to its cashiers when needed (*Brown v. Wal-Mart Stores*). Thus, it is unsurprising that in international PG American companies wish to limit their obligations and liabilities as much as possible. Lawsuits are much less common in Europe and European courts are known for applying the “spirit” of the law, thereby creating a system in which companies needn’t fear undue liability. These insights demonstrate the importance and influence of domestic

labor and legal systems on the design and mode of international PG, the first step in institution building.

The domestic roots which shaped the mode of PG was further ingrained and institutionalized in its domestic context through endorsement by and collaboration with domestic governments. Action by public officials – be it lobbying companies, providing financial resources or explicit endorsement and encouragement - was highly influential in persuading both American and European companies to join their domestic PG effort and not the other. Not a single European company joined the American initiative while the overwhelming majority of American companies did. Interaction and collaboration with public authorities shaped the form of PG, which replicated the stakeholder orientations present in domestic labor systems and devised governance approaches complementary to local legal systems. Public authorities thus shaped the form and facilitated the institutionalization of the PG emanating from their own environment.

While firms typically prefer PG which aligns with their prevailing and familiar business systems, their geographic location is not path dependent; other important factors are also at play. This case demonstrated the power of activism in shaping companies' PG choices, just as it has on policy decision in the EU (Renckens, 2020). The role of outside influence and pressure can therefore be considered an intervening variable to consider when predicting firms' choices and proclivities for particular modes of PG.

The findings from this case, combined with what we know from the literature, suggests that even when the pressures thrust upon companies remain the same, companies from different institutional

environments – largely but not exclusively shaped by their political economies – are likely to respond differently. This enables us to theorize about what home contexts might mean for how and why PG is organized differently in the U.S. and in Europe. Using the learnings about how CSR practices differ between different political economies (Table 1) and combining it with the findings from the case study (Table 3) can aid in our development of ideal types of PG organizing. Ideal types of private governance organizing between the U.S. and Europe is found in Table 4.

Table 4 About Here

The results of this study also reflect and reinforce similar findings from research on PG used for certification, which has identified analogous preferences in the design of PG. This case – unique in its non-market positioning – demonstrates the empirical link and consistency of findings between these two areas. The results of this study which brings together, reinforces and builds upon both comparative CSR and PG research helps to build a bridge between these two literatures.

Overall, this paper contributes significant insight into the factors which shape international PG, particularly for that which focuses on practices rather than products or producers. First, while numerous studies have evaluated and theorized about the influence of NBSs on domestic CSR practices, little work has yet focused on what domestic NBSs mean for international CSR practices. PG emulates home country systems and approaches abroad, demonstrating the significance of home – rather than host – systems in shaping international CSR practices. In particular, it provides a detailed account of the national systems which proved most influential, legal and labor. This study contributes to the literature on comparative CSR (Blindheim, 2015; Jackson & Apostolakou,

2010; Kang & Moon, 2012; Matten & Moon, 2008) by theorizing about how domestic systems shape the form and mode of international PG. Situating PG within its dominant institutional environment and influences can reveal the connections, complementarities and causal mechanisms which can explain the differences in PG form and preference. Connecting the PG ideal types to their institutional contexts – political economies or otherwise – can help identify linkages between the two.

Yet, this study also eschewed an entirely structuralist perspective by considering and integrating other factors which also bear influence (Fransen, 2013). While domestic systems prevail, they alone cannot account for the organization of PG internationally; other factors like civil society activism and interaction with public authorities can prove even more influential., consistent with prior work on PG certifications (e.g. Cashore et al., 2004). Thus, it contributes to our understanding of why companies from different home environments may make choices which override their stated or predicted preferences, underscoring the complexity and difficulty in identifying and deploying universal solutions to address sustainability issues in supply chains. Considering the domestic roots and contextual influences together also helps to account for the great proliferation in and competition between PG efforts present in a variety of industries. Understanding the preferences of companies originating from different countries is of paramount importance both for the study of international CSR, as well as for practitioners and policy makers whom craft and facilitate PG internationally.

The findings here do not just explicate why two private governance approaches emerged, but also why the means differed between them. Not only did dominant institutions provide the frames of

reference which companies drew upon when deciding how to practice PG, but their underpinning forms and strategies were replicated by actors when designing and providing their own governance. Whilst dominant perspectives in the field thus far held that CSR practices mirrored the environments in which they *operate*, findings here rather suggest that CSR practice mirror the environments in which they *originate* (Jackson & Bartosch, 2016). Yet, while motivations and cognitions are shaped in large part by the institutional structures which dominate actors' environments, actors can still navigate within and between them, known as *institutional agency* or *embedded agency* (DiMaggio, 1988; Thornton, Ocasio, & Lounsbury, 2012). Dominant institutions – when viewed in this way – demonstrate their ability to shape and constrain behavior while still affording a role for actors to exercise agency within, such as in response to context-specific contextual factors (Leitheiser, 2019). Figure 1 depicts how prevailing structures and institutions shape firms' PG choices whilst still accounting for intervening variables and actors' agency.

Figure 1 About Here

Not only does this advance our understanding about the role of context in shaping CSR practices, it also elucidates *which* contexts and factors dominate.

In closing, I note four limitations of this research and avenues for subsequent exploration. First, this study looks at PG within a particular context, specifically apparel supply chains which rely on external purchasing, subcontracting, and long supply chains. Thus, the findings should be broadly generalizable to similar supply chains, but may differ for companies with a different business

model, such as the technology industry where buyers and suppliers often must partner closely and are highly dependent upon one another. Second, the focus of the investigation was PG in particular and not firms specifically. While firms are a cursory component of PG which helped demonstrate preferences through design and membership choices, these behaviors sought to generalize about firms preferences generally, rather than speak to any one company's motivation specifically. Third, the case used in this study is non-market, meaning it does not yield certifications, provide product labels or even govern the sustainability of the products themselves. So, companies may make different choices and have different preferences for consumer-facing PG. Finally, while this study aims to help bridge knowledge from comparative CSR and PG, further investigations of similar competitive PG could help to corroborate and extend the findings and generalizations about the influences of domestic context on international PG.

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