INVESTIGATING TRANSNATIONAL BUSINESS POWER IN ENVIRONMENTAL REGIME FORMATION

Abstract:

It is increasingly difficult to understand contemporary international politics unless we account for the role of business. This is no less true for environmental politics, the shaping of which fundamentally affects some of the most powerful political actors the world has ever seen. Informed by international political economy, comparative politics and interest group theory, this paper outlines a new direction for research on the role of transnational business actors in global environmental governance. It argues that more emphasis needs to be put on the interplay between national and international factors and processes. In doing so, it suggests a two-dimensional analytical framework in order to derive and test hypotheses about what facilitates and hampers business influence in global environmental governance.

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Word count: 4,785

Paper prepared for presentation at the Berlin Conference on the Human Dimensions of Global Environmental Change, October 8 – 9, 2010 Comments are most welcome.

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INTRODUCTION

To what extent and under which circumstances can transnational business actors influence processes of international environmental regime formation? Critical voices are claiming mainstream International Relations (IR) theory fails to account for the influence of business[1] in global environmental governance. Doris Fuchs (2005: 771) argues that “business actors, especially transnational corporations, are the main beneficiaries of globalization and the ‘decline of the state’ as singular locus of political authority. And yet, mainstream IR theory is utterly deficient in assessing the political power of these actors”.

At the same time, the need to ask questions about business power and the consequences it has for the distribution of global costs and benefits has hardly been more imperative at any point in human history. The United Nations Conference on Trade and Development (UNCTAD) reports the existence of approximately 82,000 transnational corporations (TNCs) with 810,000 foreign affiliates (UNCTAD 2009). Moreover, TNCs command financial and human resources of a magnitude previously unknown. They currently employ about 78 million people – more than double the total labour force of a major industrialized country such as Germany. On top of that, lobbying – estimated by some to be a $3 billion industry in the United States alone (Kaiser 2009) – has become so ubiquitous in modern politics that to imagine players outside the political realm do not exert influence over national as well as international political agreements is a bit like imagining an elephant walking through a snowdrift without leaving footprints. As this paper demonstrates, the rise of business power presents puzzles to IR scholars to which we at present do not have good answers. Hence, the paper proposes that research on business influence in global environmental governance be informed not exclusively by traditional regime theory, but rather by the extensive literature dealing with interest groups and lobbyism. This will require transposing existing knowledge, which to an overwhelming degree applies to interest groups operating in national contexts, to the wider framework of global environmental governance. As complex a task as that is, I do believe it is time for IR to afford the same attention to transnational business actors as it has previously done to the

[1] In this paper, ‘transnational business actors’ is taken to mean both profit- and non-profit-oriented societal actors operating across borders. This includes transnational companies (TNCs), industry organizations, lobby firms and business and industry-organized NGOs (BINGOs).

workings of NGOs in the same settings. First, let us re-visit the literature concerning these actors in global environmental governance.

TRANSNATIONAL BUSINESS ACTORS IN GLOBAL ENVIRONMENTAL GOVERNANCE

Existing literature on transnational actors in global politics is rich in empirics and poor in theory. Risse (2002: 255) argues that "it is certainly true that transnational actors – from multinational corporations (MNCs) to International Non-Governmental Organizations (INGOs) – have left their mark on the international system and that we cannot even start theorizing about the contemporary world system without taking their influence into account". More specifically regarding the topic dealt with in this paper, Levy and Prakash (2003: 131) argue that "international regimes are a critical element of global governance…very few, however, have examined regimes from the perspective of multinational corporations (MNCs), despite their influence in the international political economy".

As far as international environmental regimes go, the climate regime is perhaps that with the potentially broadest and most immediate impact on business. Daniel Levy (2005: 73) argues that "the prospect of mandatory curbs on production and use of fossil fuels to halt potentially catastrophic changes in the Earth's biosphere poses a serious economic threat to corporate actors across a wide range of industries". One would be inclined to believe the industry's first reaction would be to fight such notions tooth and nail. However, as Newell and Paterson point out (1998), the picture is more complex than that; "U.S companies in the coal, oil, automobile, utility, and chemicals industries formed industry associations, lobbied politicians, challenged the science of climate change, and pointed to the high costs of reducing emissions. European industry, by contrast, was far less aggressive in responding to the issue, and displayed a greater readiness to invest in technologies that might reduce greenhouse gas emissions". A telling example of one side of Newell and Paterson's 'varied responses' could be the 1998 leak of an internal document from the American Petroleum Institute (API), which documented a multi-million dollar campaign to undermine public and political confidence in climate science. According to this document the API, which boasts members such as BP America, Chevron, Conoco Phillips, Exxon Mobil, Halliburton and Shell, devised a 'Global Climate Science Communications Action Plan' looking to ensure that "climate change becomes a non-issue meaning that the Kyoto proposal is defeated and there are no further initiatives to thwart the threat of climate change" (New York Times 1998). The plan consisted of three major projects, the first of which was to establish a National Media Relations Programme in the lead-up to COP4 in Buenos Aires, November 1998. The strategy was to "inform the media about uncertainties in climate science…and thereby educate and inform the public, stimulating them to raise questions with policymakers". The second element was the establishment of a 'Global Science Data Center', which among other things would be "coordinating a complete scientific critique of the IPCC research and its conclusions". Finally, the establishment of a National Direct Outreach and Education programme would enable decision makers to "raise such serious questions about the Kyoto treaty's scientific underpinnings that American policy-makers not only will refuse to endorse it, they will seek to prevent progress towards implementation at the Buenos Aires meeting in November…". The budget for this isolated action plan amounted to US$ 5,9 million (Greenpeace 1998), coming on top of the estimated US$21,6 million the oil and gas industry bestowed on various American political campaigns in the 1998 – 2000 election cycle alone (Center for Responsive Politics 2010).

On the other hand, there is little doubt that transnational business actors have also played a constructive role in the process of meeting anthropogenic climate change. Despite its continued membership in the API, British/Beyond Petroleum (BP) has generally been acknowledged as being ahead of the pack in this regard. In 1997 BP established a partnership with Environmental Defense to develop an internal carbon-trading scheme, and joined the Pew Center for Global Climate Change, which advocates for early action on the issue. In 1998 the company committed to reduce internal emissions by ten percent by 2010 relative to a 1990 baseline, and the company announced as early as January 2003 that it had met that goal. BP's acquisition of Amoco greatly increased its investments in solar energy, making BP-Solarex the largest photovoltaics firm in the world, with revenues expected to climb to US$ 1 billion within ten years (Levy 2005: 84).

As we have seen, transnational business actors are heavily involved in global environmental governance. The question remains, though; how successful are they at influencing environmental regime formation? Clapp (2005: 286) retells the story of the Basel Convention on Trade in Hazardous Wastes, in which "industry advocacy groups suddenly came on board in large number and attempted to lobby delegates at the conference of the parties (COP) meetings as openly as did NGOs, in an attempt to stem [the adoption of an amendment that would ban the trade in waste between rich and poor countries.]. They were, ultimately, unsuccessful in terms of stopping the Basel Ban Amendment from being adopted. But thus far they have been successful in convincing key governments not to ratify it".

At the other end of the influence spectrum, the negotiations leading up to the Montreal Protocol were to a large extent pushed forward by the major US producers of ozone depleting gases (CFCs), who "came to support an international agreement to reduce production. Dupont, the world's largest CFC producer, faced a stagnant domestic market due to unilateral regulation in the US and saw the substance becoming a low-margin commodity. Dupont had invested heavily in substitute chemicals prior to the treaty, anticipating that its dominant market position, extensive distribution channels, and expertise in chemical engineering would lead the company to gain a strong position on CFC substitutes. European producers, by contrast, opposed CFC controls because they enjoyed growing export markets, lacked domestic controls, and lagged in the development of CFC substitutes" (Levy and Prakash 2003: 137). In the end, the Montreal Protocol phased out all use of CFCs and stands to this day as perhaps the most successful environmental regime ever created. Whether this could have happened without Dupont's efforts remains an unanswered question, but what is certain is that the competitive advantage brought about by the regime allowed the company to gain both market shares and profits (Esty and Winston 2009).

These two examples bring several questions to the fore. First, how do we explain the varying success enjoyed by transnational business actors in influencing international environmental regime formation? Second, how do we explain why some business actors are more successful than others? These are puzzles to which we do not have good answers. The next part of this paper draws on interest group theory in order to suggest causal relationships between the conditions under which international environmental regimes are negotiated and the likelihood that transnational business actors succeed in influencing their outcome.

ANALYZING BUSINESS INFLUENCE – AN EMBRYONIC FRAMEWORK

This paper argues that investigating the role of business in global environmental governance requires a foundation not in classical regime theory, an approach widely criticised for its unrelenting state-centrism (Oberthür et al. 2002; Betsill 2006; Betsill and Corell 2008). Rather, it suggests that insights about the influence of business actors in regime formation must be looked for in the literature on interest groups and lobbying. Moreover, I argue that in order to fully understand international regime formation, a stronger emphasis needs to be put on the interplay between its domestic and international aspects. Robert Putnam (1988: 433) articulated this view over twenty years ago when he wrote "we need to move beyond the mere observation that domestic factors influence international affairs and vice versa, and beyond simple catalogs of instances of such influence, to seek theories that integrate both spheres, accounting for the areas of entanglement between them". Putnam's two-level game model has become highly influential in IR theory and has been applied to such diverse fields as negotiations between the EU and third parties (e.g. Collinson 1999; Meunier 2000; Frennhoff Larsén 2007), agricultural policy reform (Paarlberg 1997) and U.S. Cuba policy (LeoGrande 1998). The model, which constitutes a framework for the interaction between domestic and international negotiations, sees the national representative, or the negotiator, as the key person uniting the domestic and international arenas, as he or she is negotiating in both arenas alternately (Putnam 1988: 434). The main task of the negotiator at the international arena (Level I) is to compose a tentative agreement, which then has to be ratified at the domestic arena (Level II) (ibid: 436). At the domestic arena, the negotiator has to get the different domestic constituents to reach a unified view that can serve as terms of reference in the international negotiations. The different domestic groups at Level II are, however, involved all throughout the Level I negotiation process. As the discussions proceed and new issues appear, the negotiators need opinions and advice from their domestic constituents in order to make sure that the negotiated agreement will be accepted domestically (Frennhoff Larsén 2007). It seems reasonable to assume that policy brokers such as transnational business actors can play a pivotal role in shaping governmental preferences in order to bring about 'acceptable' international agreements.

However, this model has not been applied extensively to international environmental regime formation. In fact, there seems to be a reluctance on the part of environmental regime theorists to acknowledge the impact of non-state actors in such negotiations. One example among many, Miles et al. (2002: 201) in their seminal work on environmental regime effectiveness, allude to domestic factors influencing the formation and implementation of environmental regimes several times, such as when describing how "…domestic political and financial reasons was [sic] clearly important" to the effectiveness of the Convention on Long-Range Transboundary Air Pollution. They do not, however, investigate this, nor any other claims regarding the interconnection between domestic and international factors, further. It follows from this that a thorough and systematic comparative investigation into the relationship between domestic and international factors allowing or denying transnational business interests to influence environmental regime formation is needed.

Actor-Centred Explanations of Interest Group Influence

Ever since the earliest days of political science research on the legislative process, scholars have been aware of the close relationship between access and influence. David Truman (1951: 156) argues that "power of any kind cannot be reached by a political interest group, or its leaders, without access to one or more key points of decision in the government". However, as Ainsworth (1993: 42 – 43) points out, "access is no more than an 'intermediate objective'. Access merely facilitates the pressuring and structures success or failure of the lobbyist, all of which come after the access is achieved". Which, then, are the factors providing interest groups with access to power?

Money

The causal relationship between financial resources and influence in politics is intuitive but has never been clearly demonstrated. Gordon (2001: 260) finds that "there is significant anecdotal evidence that campaign contributions are related to legislative voting behaviour. However, the results of empirical studies on this point have been mixed at best". She argues against the popular notion of all-powerful interest groups, saying instead (ibid: 260) that "even if we believe that contributions affect votes, we should not expect a member to vote with a contributing group every time that group has a bill that comes before a committee". What remains clear, however, is that campaign contributions to budding or existing office holders may function as a powerful tool to gain access. The unanswered question is to what extent this access translates into influence. Putnam's argument about the interconnectedness of the national and international stages of negotiation adds another perspective to the importance of money. It is clear that in order to produce effective international environmental regimes, powerful national constituencies have to be appeased in order to ensure ratification of international agreements. Campaign contributions and other forms of financial support can be bestowed or taken away, leaving transnational business actors with a double fortification against international agreements they deem harmful to their interests. All these factors contrive to cast a powerful role for transnational business actors in global environmental politics.

Newell (2000: 100) argues that "the financial resources that the lobbies have at their disposal enable them to press their case more effective as they are able to employ the best lobbyists and operate in a more professional manner. This is especially important in countries with a history of interest group involvement such as the US". Such resources can be applied in a variety of ways, either to fund lobby efforts by professional PR firms or to organise 'bottom-up' campaigns aiming to influence or overturn policy initiatives. As an example, the American Petroleum Institute in 1993 paid the PR firm Burson-Marsteller $1.8 million for a 'grass-roots', computer-driven letter and phone-in campaign to sabotage the Clinton administration's attempt to impose a deficit-reducing energy tax and increased gasoline taxes of up to twenty-five cents a gallon. This effort very effectively undermined support for the initiative, and it was subsequently abandoned (Rampton and Stauber 1997). To put the amount of money into context, this is more than the combined amount spent by the Environmental Defence Fund, the Sierra Club Natural Resources Defence Fund, the Union of Concerned Scientists and the World Wildlife Fund on their climate campaigns (Newell 2000: 101). Furthermore, the deep corporate pockets dedicated to derailing the discussion surrounding climate change has spawned generous support for the work of climate-sceptical scientists such as Robert Balling, Fred Singer and Patrick Michaels, as well as the development of economic models that predict enormous costs in the event of 'premature' political action (ibid).

Information

The ability to command facts, figures and technical information in support of or opposition to policy positions may well be what translates new-found access to hard policy outcomes. Ornstein and Elder (1978: 75) point out that a group that can provide persuasive data to support its case has an important advantage. Ackerman (2007: 143) argues that interest groups can exert influence even when they are not actively involved in the policy process, simply by sending inconclusive signals to policymakers as to their view on an issue. In this way "the legislative process can be affected and distorted when lobbyists do not proactively outline their firms' positions". At the same time, Schlozman and Tierney (1982: 298) argue that legislators are well aware of the strategic incentives for interest groups to release or withhold information as they see fit. Appels (1985: 308) argues that "this need not imply outright lie or dishonest manipulation, although these cannot be excluded with certainty". Potters and van Winden (1992), however, raise the question why a legislator would choose to believe what he is being told by a lobby group if the basic assumption is that these will only release information favourable to their point of view. They conclude (ibid: 286, emphasis original) that "*more* letters or *more* personal visits produce a *more* favorable response by legislators. Repeated communication is more costly to the interest group and higher costs elicit a more favourable response".

In the context of international environmental negotiations, access to information plays a vital role in securing influence for transnational business actors. Governmental policy-makers depend on qualified predictions of the impact of proposed policies, and such predictions have a tendency of originating from the business world to the extent where there is talk of a 'rotating door' between the business and policy worlds (Newell 2000). The UK government task force on climate change was lead from 1998 to 2009 by Lord Marshall, former president of the CBI, an organisation lobbying against the government's energy tax plans (Cowe 1998). Likewise, Lord Simon of Highbury started his career with British Petroleum in 1961 and joined the BP Group Main Board in 1985 where he was Managing Director Finance and COO. He became Group Chief Executive in 1992 and was appointed Chairman in 1995. In 1997, Lord Simon was appointed to be Minister of State in the UK Treasury and the Department of Trade and Industry as Minister for Trade and Competitiveness in Europe. He retired from ministerial office and the Lords' Front Bench in 1999 to become Advisor to the Cabinet Office (CMI 2009). Paired with the privileged access enjoyed by many interest groups at both the national and international stages of regime formation and policy-making, this gives transnational business actors enormous leverage to influence international negotiations. Some of the organisations involved in lobbying on global warming, such as the Union of Industrial Employers'

Confederation (UNICE) in Europe, are "invariably consulted by the Commission almost as a matter of right" (Newell 2000: 102).

Political Support

George Stigler (1971) argues that legislators make policy so as to maximize political support. The most obvious way for this to happen is for interest groups to express their support for an official in exchange for policies that favour their interests. Such support may in turn influence the voting behaviour of an ignorant or misinformed electorate, producing the ironic result of voters rewarding actions on the part of elected officials that harm their personal or collective welfare (Dür 2008). Investigating corporate responses to attempts of establishing climate legislation in the US since it was first brought onto the political agenda in 1988, Levy and Egan (2003: 814 – 815) find that

> In the climate issue, some companies saw not just an economic threat but a broader ideological challenge to the legitimacy of private cars. As a former VP of Government Relations put it, 'there are people who have cast the automobile as a villain. It is a puritanical view, that we are having too much fun, that we have too much mobility and freedom, that suburban sprawl is bad. They think we should all live in beehives.' Automobile industry managers expressed fear that the climate issue touched emotional chords which could be exploited by activist environmental groups. On the organizational level, the climate issue could strengthen the position of environmental groups, regulatory agencies, as well as nascent companies pursuing low-emission technologies. Such coalitions could push government agencies to tighten regulations such as CAFE (Corporate Average Fuel Economy) standards for automobiles or efficiency standards for power plants. Moreover, the issue was already spurring the development of international institutions, under the auspices of the United Nations, to monitor and address global environmental problems.

Using the key word 'freedom', which certainly holds a special place in American political discourse (Kellner 2007), this particular interest group representative projected climate change legislation not solely as a threat to corporate bottom lines but as a threat to the American way of life, and through that a threat to the individual welfare of every American. Being associated with threatening the livelihood and happiness of voters is not a particularly promising position for any office- of policy-seeking politician to be in, and thus the incentive to fight such regulation grows. Levy and Egan (2003: 817) conclude that "th[e] coordinated strategy by the fossil fuel industry in the USA succeeded in securing powerful political allies in Congress. In the absence of significant public awareness on climate, the USA opposed mandatory international GHG emission controls until 1996, and entered the Kyoto negotiations in November 1997 advocating no more than a freeze on emissions at 1990 levels, while the European Union was pushing for 15 per cent reduction". As we remember, the US eventually withdrew from the Kyoto process entirely in 2001, and a legally binding global climate regime has still not been enacted.

The fact that states depend on business to a greater extent than on other actors in the debate provides industry with a further source of influence (Newell and Paterson 1998). Influence is exerted not only directly through formal channels of representation, but also structurally, "because of the crucial role boards and managers exercise over the production, investment and employment decision which shape the economic and political environment in which governments make policy" (Marsh and Locksley, quoted in Newell 2000: 99). Governments depend on keeping the people happy, and a significant part of that happiness stems from the availability of jobs and economic growth.

Institutional Explanations of Interest Group Influence

Different Types of Interest Group Systems in Capitalist Democracies

It is often assumed that it is easier for lobbyists to influence environmental policy through pressure on national governments, given that they are dealing with just one government, with which they are more likely to have established ties (Newell 2000). Moreover, national processes offer better possibilities for participation. As Christophe Bourillon (formerly) of the World Coal Institute notes, "most of the work has to be done on a national level before the negotiations, because governments go to New York or Geneva with a brief" (ibid: 102). The question, then, is whether some governments are more susceptible to business pressure than others, and what factors can be said to influence that susceptibility.

In his classic work *Patterns of Democracy*, Dutch political scientist Arend Lijphart (1999) split the world's capitalist democracies in two categories, majoritarian and consensus democracies. He identified ten traits that typify each type of democratic system, the fifth of which is interest group systems. After testing the relationship between environmental quality and institutional configuration, he concluded that consensus democracies are more environmental as they ensure a broader representation of minority and environmental interests in the policy-making process. The thought that different types of institutions offer different possibilities for special interests, in this case transnational business actors, to impose their agendas on policy-makers is hardly original in and of itself; many scholars believe aggregated preferences are funnelled through institutional configurations to arrive at macro-level outcomes; the institutional configuration may constrain what outcomes are possible (Coleman 1987; Scruggs 1999; Poloni-Staudinger 2008). The question is, then; could differences in positions brought to the negotiating table by national governments be accounted for by assuming some types of democracy are more susceptible to business influence than others?

Transnational Access to International Negotiations

The first international negotiations with access for NGOs were the 1972 Stockholm Conference. Representatives of more than 250 NGOs served as technical experts, helped develop rules for NGO participation, participated in plenary sessions and committee meetings and engaged in several parallel forums designed to strengthen their connections with one another. Since then, NGO participation in international negotiations has spiked, and more than 1,400 NGOs were accredited to the 1992 United Nations Conference on Environment and Development (Betsill and Corell 2008: 1).

Tallberg (2008) demonstrates that international institutions over the past two decades have increasingly opened up to transnational actor involvement. Still, there is great variation between different institutions. The negotiations for an international climate regime, for example, have been characterized by a free-for-all for most transnational actors, business actors included. Vormedal (2008: 38) finds that "together with scientists and environmental NGOs (ENGOs), business and industry NGOs (BINGOs) are considered to be among the most long-standing and active observer constituencies participating in the climate regime negotiations". On the other hand, Raustiala (1997: 724) observes that "exceptions still exist to expanded participation; within the International Maritime Organization, which handles several ocean regimes, observer status has been refused for Greenpeace and other NGOs with little explanation…in short, NGO access has been increasing, but has varied in degree and kind both across and within institutions". As we have seen above, the interest group literature holds that without access to the policy-making process, no hopes of influencing outcomes can be entertained. Could variation in transnational business influence at the international level of environmental regime formation be accounted for by the variation in transnational access to negotiations?

CONCLUSION

This paper has argued existing regime theory is unable to account for significant parts of the variation in transnational business influence on international environmental regime formation. As we have seen, existing literature paints a complex picture of the role played by such actors, describing them both as laggards seeking to derail international regulatory efforts but also as pushers looking to ensure comprehensive, universal codes of conduct in order to secure as level a playing field as possible. However, existing scholarship falls far short of providing or even suggesting causal mechanisms to account for variation in influence, as well as explaining why some transnational business actors are more influential than others. This paper has suggested to look for answers not in traditional regime theory but rather in the literature on interest groups and lobbying. In doing so, I have suggested to follow Putnam's argument about the importance of seeing domestic and international politics in concert by putting a stronger emphasis on how states arrive at the positions they subsequently bring to the negotiating table and the role of transnational business actors in influencing these decisions.

Although time and space do not allow any substantive elaborations on research design in this paper, one possible way to empirically investigate these propositions would be through a two-level comparative study of two international environmental regimes. By selecting two outlier cases following Lijphart's categorization, for example by focusing on the United States (majoritarian) and a Scandinavian country (consensus), applying process-tracing and counterfactual analysis to uncover the influence wielded by transnational business actors, one would be able to test the proposition that majoritarian democracies are more susceptible to transnational business influence as a consequence of their institutional configurations. Likewise, one could envision a comparative study of the international levels of the same regime formations, applying similar methods in order to test whether variations in transnational access to negotiations can account for variations in transnational business influence over policy outcomes. Furthermore, this would produce new knowledge about whether the national or international level is more important to transnational business actors when seeking to influence policy outcomes in global environmental governance. Previous research on business influence in environmental regime formation has suggested that these efforts are more prevalent and effective at the state level than at the international level (Vormedal 2008). Allegedly, business is "likely to prefer acting at the national level where it enjoys well-charted and predictable channels of influence" (Levy and Egan 1998: 1) and has enjoyed less success in lobbying delegates from other states at the international level. It is also assumed that international institutions are relatively insulated from business pressure (ibid: 15). However, systematic research into this proposition still leaves much to be desired. Betsill and Corell (2008: 178) demonstrated that "even where NGOs do not directly shape the final text, their influence is evident 'behind the scenes' in terms of issue-framing, agenda-setting, and/or shaping the positions of key states". I believe it is time for IR to afford the same attention to the role of business in environmental regime formation. This is a start.

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