# BUSINESS AND GOVERNANCE IN SOUTH AFRICA

## Racing to the Top?

Edited by TANJA A. BÖRZEL and CHRISTIAN THAUER

GOVERNANCE AND LIMITED STATEHOOD

Business and Governance in South Africa

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# Preface and Acknowledgements

This book has had quite a history, with numerous persons and institutions involved. It started in the summer of 2004 on a terrace overlooking the hills of Tuscany. At a meeting of the EU-funded FP 7 project 'New Modes of Governance in Europe' Adrienne Héritier (European University Institute, EUI) put forward her idea of inquiring into the role of multinational corporations in fostering rather than undermining public regulation to Thomas Risse and Tanja Börzel (both Freie Universität Berlin). Thomas at the time was in the process of putting together a major research grant proposal with the German Research Foundation (DFG) for a collaborative research center 'Governance in Areas of Limited Statehood' (SFB 700) in Berlin. At the end of the evening, it was decided that Adrienne would be part of the collaborative research center with a project on multinational companies in areas of limited statehood. Since regulations at the DFG required her to partner with a professor of Freie Universität as the lead institution, Thomas volunteered to become her co-principal investigator.

A year later, however, and with the deadline for the submission of the research grant proposal only two months away, Thomas had to pull out of the project. Tanja became the natural substitute as she knew the project in detail already, had worked with Adrienne for years, and had just moved to Freie Universität Berlin. Together they drew up the project 'Fostering Regulation? Business and Governance in South Africa'. Work on the project began in early 2006 with four PhD students as research associates: Christian Thauer and Anna Müller-Debus at the European University Institute in Florence, and Jana Hönke and Nicole Kranz at Freie Universität Berlin.

Some people say you should not direct a project or co-edit a book with your academic supervisor. If so, we plead guilty to having made this mistake twice: Tanja led the project as co-principal investigator with her former supervisor, Adrienne, and Christian became the co-editor of the resulting book, together with project leader Tanja. The outcome of this project has clearly proven conventional wisdom wrong. Beside this book, 'Fostering Regulation' produced four PhD dissertations (Anna, Jana and Nicole at Freie Universität Berlin, and Christian at the EUI in Florence) as well as numerous journal articles and book chapters.

The project continues. Tanja, together with Jana as a post-doc, received support from the SFB and the DFG for a second project phase. Jana recently accepted a position as lecturer at the University of Edinburgh. Christian, now a post-doc at the Center for Transnational Relations, Foreign and Security Policy at the Freie Universität, and Nicole, who works as policy advisor in international water policy and infrastructure at German International Cooperation (GIZ), are still closely connected with the project. Anna decided to put her knowledge to use in the 'real' world. She is a consultant with Deloitte.

This book is the result of a truly collaborative endeavor. It summarizes the most important findings of more than seven years of research within and outside the SFB on business and governance in areas of limited statehood. We are, first and foremost, grateful to Thomas Risse and Adrienne Héritier, without whom this book and our project would never have taken off. It is their initial idea of firms in areas of limited statehood as governance providers which initiated the project. Thomas continued to be an important source of intellectual support and criticism over the course of the project. Adrienne served, together with Tanja, as principal investigator during the first four years. We therefore dedicate this book to her.

We also thank the SFB 700 community for continuous intellectual stimulus and lively debates, and the DFG as well as the EUI for generous funding and support. The Cape Town Business School – our main collaborating academic institution in South Africa – provided an institutional base and the opportunity to discuss our findings with researchers, policy makers, business representatives and the NGO community. Our special thanks go to Ralph Hamann who is not only a great expert on business and governance in South Africa but has become a real friend. Nicole Deitelhoff and Klaus Dieter Wolf at the Peace Research Institute Frankfurt have conducted similar projects on business in conflict zones and repeatedly commented on our work, pushing us to sharpen our argument. Aseem Prakash, University of Washington, and David Levi-Faur, Hebrew University, encouraged us to link our research on areas of limited statehood to the broader literature on business and governance at the global level.

Special thanks go to Andreas Corcoran (European University Institute) and Miriam Weihe (Freie Universität Berlin). Andreas did an outstanding job as a language corrector and provided many helpful and important comments. So did Miriam, who helped us in the formatting and editing of this book. We are also grateful to Lisa van Hoof, Ruben Kremers and

Klara Schwobe for the last minute assistance in getting the manuscript ready.

Finally, and most importantly, we would like to thank the many practitioners and activists in firms, NGOs, political institutions, government agencies, international organizations, unions and civil society for their willingness to participate in interviews for this book project. It is their time and effort – and, sometimes, the risks they took in revealing sensitive information to us – that make this book hopefully an insightful and interesting read.

*Tanja A. Börzel and Christian R. Thauer*

# Notes on Contributors

**Tanja A. Börzel** is Professor of Political Science and Chair of European integration at the Freie Universität Berlin, Germany. She co-directs the Research College 'The Transformative Power of Europe' with Thomas Risse and conducts several research projects on governance in areas of limited statehood.

**Jana Hönke** is a lecturer at the University of Edinburgh and an associated researcher with the SFB 700 'Governance in Areas of Limited Statehood' at the Freie Universität Berlin. She co-directs a project with Tanja A. Börzel on business and governance in sub-Saharan Africa. She completed her PhD on transnational knowledge and multinational companies' security practices in the nineteenth and twenty-first centuries.

**Nicole Kranz** is policy advisor in international water policy and infrastructure at German International Cooperation (GIZ). She completed her PhD in political science at the Collaborative Research Center 'Governance in Areas of Limited Statehood' at Freie Universität Berlin focusing on water management practices of mining companies in South Africa.

**Anna K. Müller-Debus** is a consultant with Deloitte. Prior to this she was a research associate at the European University Institute, Florence, and the Collaborative Research Center 'Governance in Areas of Limited Statehood' in Berlin. Her research interests include collective action and institutional theory.

**Christian R. Thauer** is a lecturer in International Relations at the Center for Transnational Relations, Foreign and Security Policy at Freie University Berlin. He holds a PhD from the European University Institute in Florence. In his thesis, he analyzed internal drivers for the social conduct of businesses. In the past four years, he has also worked at the collaborative Research Center 'Governance in Areas of Limited Statehood'.

# List of Abbreviations and Acronyms

| | |
|---|---|
| AGA | AngloGold Ashanti |
| AGOA | African Growth and Opportunity Act |
| ANC | African National Congress |
| ARV | antiretroviral |
| ARVT | antiretroviral therapy |
| BBBEE | Broad-Based Black Economic Empowerment |
| BKCC | Border Kai Chamber of Commerce |
| CBO | Community-based Organization |
| CCTC | Cape Clothing & Textile Cluster |
| CED | Community and Environment Department |
| CoM | Chamber of Mines |
| COSATU | Congress of South African Trade Unions |
| CSR | Corporate Social Responsibility |
| DED | Deutscher Entwicklungsdienst |
| DFG | German Research Foundation |
| DME | South African Department of Minerals and Energy |
| DRC | Democratic Republic of Congo |
| EAPA | Employee Assistance Professionals Association |
| EIA | environmental impact assessment |
| EUI | European University Institute |
| FARDC | Congolese army |
| F&B | food and beverage |
| FNI | Front of National Integration |
| GDP | gross domestic product |
| GHI | Global Health Initiative |
| GIZ | Gesellschaft für Internationale Zusammenarbeit |
| GLC | Greater Lonmin Community |

| | |
|---|---|
| GRI | Global Responsible Investment |
| ICMM | International Council of Mines and Metals |
| IDP | Integrated Development Plans |
| ILO | International Labor Organization |
| IRMA | Initiative for Responsible Mining Assurance |
| ISO | International Organization for Standardization |
| JPOI | Johannesburg Plan of Implementation |
| JSE | Johannesburg Stock Exchange |
| KZC CTC | KwaZulu-Natal Clothing and Textile Cluster |
| LAG | local action group |
| LOHAS | Lifestyles of Health and Sustainability |
| MIDP | Motor Industry Development Programme |
| MIG | Mining Interest Group |
| MNC | multinational corporation |
| MPRDA | Minerals and Petroleum Resources Development Act |
| NAACAM | National Association of Automotive Component & Allied Manufacturers of South Africa |
| NBI | National Business Initiative |
| NDoH | National Department of Health |
| NEMA | National Environmental Management Act |
| NUM | National Union of Mine Workers |
| OEM | Original Equipment Manufacturers |
| PERCCI | Port Elizabeth Regional Chamber of Commerce and Industry |
| SABCOHA | South African Business Coalition on HIV/AIDS |
| SACCAWU | South African Commercial, Catering and Allied Workers Union |
| SACP | South African Communist Party |
| SACTWU | South African Textiles and Clothing Workers Union |
| SAMB | South Africa Mining and Biodiversity Forum |
| SANAC | South African National Aids Council |
| SASA | South African Sugar Association |
| SDF | Sustainable Development Framework |

| | |
|---|---|
| SFU | Sustainable Futures Unit |
| SRI | Social Responsibility Index |
| UNAIDS | United Nations Programme on HIV/AIDS |
| UNEP | United Nations Environment Programme |
| VCT | voluntary counseling and testing |
| WAG | Wonderfonteinspruit Action Group |
| WWF | World Wildlife Fund |
| ZAR | South African Rand |

# Part I
# Introduction

# 1

# Business and Governance in Areas of Limited Statehood

*Tanja A. Börzel*

Conventional wisdom holds that economic globalization leads to a regulatory 'race to the bottom' among countries. Global competition allows firms to invest in areas of limited statehood where governments lack the capacities to set and enforce regulations and generally refrain from measures affecting the costs of production. Likewise, firms will press governments of highly regulating countries to lower regulatory standards in order to avoid competitive disadvantages. The competition of states for economic growth and foreign investments results in the degradation of natural resources and the compromising of social standards. From this perspective, firms are unlikely to provide governance in areas of limited statehood. Rather, they are presumed to drive states into a 'regulatory race to the bottom'. Yet this book finds a number of instances where business contributes to governance in South Africa. Mining firms adhere to strict environmental and social standards. Multinational car companies are among those leading the fight against HIV/AIDS in the country, and provide employees with comprehensive health care services on a level high above what hospitals, clinics and other health care institutions offer to the general public. In some cases, corporations even put pressure on governments to adopt stricter public regulations. The automotive industry, for example, lobbied a few years ago for higher emission standards for new cars.

The literature on governance in areas of consolidated statehood has identified the threat of state legislation as *the* key incentive for governance contributions by business. We define governance as the setting and enforcing of regulation aimed at the provision of collective goods and services and the direct delivery of collective goods and services (cf. Risse 2011). In 'areas of limited statehood' (ibid) such as South Africa, however, this so-called 'shadow of hierarchy' is not available.

The state lacks the capacities, and sometimes also the will, to make credible regulatory threats. How do we explain cases in which firms provide collective goods and services if the state lacks the capacity to do so? Why and when do multinational firms engage in a 'race to the top' fostering rather than undermining regulation in areas of limited statehood?

This book sets out to explain why firms are seeking higher rather than lower regulation in areas of limited statehood and why they are willing to engage in the delivery of collective goods and services. We argue that in the absence of a credible threat of state regulation ('shadow of hierarchy'), asset specificity and reputational concerns ('shadow of the market'), on the one hand, and the absence of any state governance ('shadow of anarchy'), on the other, are important incentives for firms to contribute to governance in areas of limited statehood. The 'shadow of anarchy' and the 'shadow of the market' hence provide a powerful alternative to the 'shadow of hierarchy' to induce governance contributions by business.

## Business as governance actors in areas of limited statehood

Non-state actors have gained prominence in research on global governance. While they initially focus on the role of civil society organizations, studies on the rise of 'private authority' (Cutler et al. 1999) that explore the opportunities and constraints of private self-regulation abound. Yet, the impact of companies on state regulation is still contested. In an increasingly globalized economy, companies are assumed to escape strict national regulation by relocating their production sites to areas of limited statehood where regulation is low and enforcement is weak. Countries with high levels of regulation will respond by lowering their standards; countries with weak regulatory capacities refrain from tightening regulation in order not to loose foreign direct investment ('regulatory freeze', cf. Madsen 2009: 1298). Thus, the behavior of firms drives states into a 'race to the bottom', leading to the degradation of natural resources and the compromising of social standards for the sake of potential economic growth or the attraction of short-term foreign investment.[1] On a more general level, transnational corporations are found to systematically undermine the regulatory capacities of states resulting in the 'retreat' (Strange 1996) or even the 'end' (Ohmae 1995) of the state as the main provider of governance functions (Ruggie 1998).

However, companies can also be 'drawn into playing public roles to compensate for governance gaps and governance failures at global and national levels' (Ruggie 1998: 13). Empirical evidence abounds

on companies that voluntarily commit themselves to social and environmental standards and adopt private self-regulatory regimes – even in the absence of a regulatory threat by the state (Mol 2001, Vogel and Kagan 2004). Studies show, for example, that foreign direct investments originating from a home country with high levels of self-regulation unleash norm-diffusion dynamics among competitor firms, which in turn lead to higher levels of business self-regulation in the weakly regulating host country; that is, where the investments are made (Prakash and Potoski 2007, Thauer 2010). Exporting to a highly regulating country also creates a surge for higher standards in low-regulating countries (Greenhill et al. 2009). Companies can, thus, contribute to the provision of collective goods and services and the regulation thereof. What remains to be explored is the conditions under which firms are willing to foster regulation rather than undermine it.

Why should companies doing business in areas of limited statehood engage in regulation or the direct provision of collective goods and services? Unlike states and civil society actors, firms are not committed to the public good but the pursuit of private interests. Their business is to maximize profits, not social welfare.[2] Nonetheless, we argue that under certain conditions business actors actively contribute to governance in areas of limited statehood by fostering regulation. The governance literature posits that the 'shadow of hierarchy' cast by the state is a main incentive in this respect (Halfteck 2008, Héritier and Lehmkuhl 2008, Mayntz and Scharpf 1995b). In order to avoid state regulation, firms may choose voluntarily to commit themselves to reaching a regulatory outcome closer to their preferences. Moreover, the possibility of state intervention reduces the incentive to renege on their voluntary commitment (cf. Börzel 2010).

In many parts of the world, the state's capacities to regulate business behavior are weak and a 'shadow of hierarchy' is therefore absent. Nevertheless, we do find corporate regulatory engagement in these areas of limited statehood, which we understand as areas in which the state lacks the capacity to set and enforce collectively binding decisions on the provision of collective goods and services or to directly provide them (cf. Risse 2011b). Multinational companies (MNCs) not only adopt global regulation to govern their worldwide business activities (Epstein and Roy 2007, Potoski and Prakash 2006, Prakash and Potoski 2007). They also voluntarily implement environmental protection standards, provide HIV/AIDS-related services and agree on using sustainable energy or policing local communities (Deitelhoff and Wolf 2010, Flohr et al. 2010, Hönke 2013, Thauer 2010). In some instances, they regulate their supply chains (Héritier et al. 2009) and seek to foster state regulation by pressing for

stricter legislation and helping to strengthen the enforcement capacity of state actors (Flanagan 2006, Mol 2001, Vogel and Kagan 2004). How can we explain such contributions to governance by business in the absence of a credible 'shadow of hierarchy'?

## Explaining business contributions to governance in areas of limited statehood

In order to solve this puzzle, we draw on the existing literature on business and governance. We develop a theoretical framework that helps us identify conditions under which firms contribute to the provision of collective goods and services. It starts from the assumption that firms are profit-oriented. Since regulation tends to increase production costs, firms targeting the same reference market should prefer no or weak regulation over strict regulation (Oates 1996). At the same time, they operate in an economic, political and social environment, which poses additional demands next to market forces. Companies need to take these into account when calculating the costs and benefits of their regulatory choices (Brousseau and Fares 2000, Wolf et al. 2007: 299–300). In the context of these demands, firms engage in strict self-regulation, lobby for stricter regulation, strengthen the regulatory capacities of the state and directly deliver collective goods and services. There is nothing altruistic about such governance contributions; they are a matter of self-interest, if fostering regulation generates economic advantages and helps avoid competitive disadvantages (Vogel 1995, Vogel and Kagan 2004). In what we call the 'shadow of the market' cast by international competition in globalized markets, stricter regulation can yield efficiency gains by enhancing the product quality and, as a consequence, the prospect of a more efficient marketing of the product (Anton et al. 2004, Parker 2002). Likewise, by incorporating environmental and social regulation into their management systems and business practices, companies have been able to secure and expand their market shares and reduce production and transaction costs (Barney 1997, Porter and Kramer 2002). Competitors may follow suit for fear of losing market shares or because they seek to emulate peers they consider innovative and successful, particularly in conditions of high uncertainty (Bansal and Roth 2000, Potoski and Prakash 2005, Prakash and Potoski 2006). We suggest that such 'California effects' (Vogel and Kagan 2004) are also at work in areas of limited statehood. High standards yield efficiency gains when firms have invested substantially and with long pay-off periods – that is, when their business model is based on 'asset specificity' (Thauer 2010, 2014). Originally developed

by Oliver Williamson (1975) to explain the 'make or buy' decision, asset specificity refers in the context of this book to two arguments. On the one hand, asset specificity describes substantial investments in a production unit with a long duration to pay off. Such long-term investments are particularly vulnerable to areas of limited statehood, where weak state capacities give rise to high uncertainty. In situations of such asset specificity, self-regulatory standards reduce the risk for uncertainty by providing an insurance of firms against potential changes in the environment, that is, they make the firm less dependent on its socio-political context (Thauer 2010, 2014). Hence, we argue that firms that make asset specific investments set high self-regulatory standards. On the other hand, asset specificity is about investments in employee skills. Such investments motivate firms to adopt high social and labor standards in order to keep staff turnover low and maximize productivity (Thauer 2010, 2014).

Second, another incentive for governance contributions generated by the 'shadow of the market' is the reputation of a company and the loyalty of its clients. These constitute a major corporate asset that may generate a strategic advantage over competitors (Spar and LaMure 2003). This is especially true if companies sell to the 'LOHAS' (Lifestyles of Health and Sustainability) market segment, that is consumers who value and demand sustainable products and the respect of social and environmental standards and are willing to pay a premium for this (Haufler 2001, Mol 2001: 97–100). While LOHAS consumers are only begining to emerge in areas of limited statehood, companies may export to countries where they constitute a substantial share of their markets (Bansal and Roth 2000). In particular, companies with a brand name and/or products highly visible to end-consumers (Deitelhoff and Wolf 2010) will gain a competitive advantage vis-à-vis competitors if they take the lead position in their industry with respect to strict self-regulatory standards (Auld et al. 2008, Epstein 2008, Smith 2008a). Conversely, a competitor in that segment that is found blatantly to neglect its corporate social responsibilities will lose customer loyalty and its reputation and, consequently, market share (Blanton and Blanton 2007, Haufler 2001, Mol 2001: 97–100). Moreover, obvious violations of social or environmental standards may provoke campaigns by transnational NGOs (Baron 2003, Flohr et al. 2010, Newell 2001) and local community-based organizations (Bowen et al. 2008, Eweje 2005, Lund-Thomson 2005), particularly if companies have signed up to transnational voluntary programs, such as the Global Reporting Initiative, ISO 14001 or the Voluntary Principles on Security and Human Rights (Schepers 2006). Such public shaming can result in consumer boycotts, loss of reputation and market

share, falling stock market prices and criticism by shareholders (Hendry 2006, Waygood 2006, Wheeler 2001). We expect that companies under attack will seek to pacify the critics through an adoption of high self-regulatory standards and an ostensive commitment to their social responsibilities (Halfteck 2008, Hoffman 2001, Schepers 2006, Trullen and Stevenson 2006). Pressure to engage in governance contributions, finally, can also emanate from peers who are concerned that 'one rotten egg spoils the entire cake', that is the reputation of an industry sector (Hönke 2013, Prakash 2005). Business associations and informal networks often act as transmitters of peer pressure (Kollman and Prakash 2001). A company's vulnerability to these various kinds of pressures is stronger if it has intra-firm investments in technology and human capital formation (Thauer 2010, 2014) or a brand name to protect, targets a high-end market or has an international (export) orientation, or if its product is highly visible to end-consumers. Highly visible MNCs operating in areas of limited statehood, such as those in the extractive industries for instance, are not only confronted with an alert public but also with a general suspicion that they are doing bad in these areas. Engaging in governance, even without having been targeted by a specific shaming campaign, is a way to signal good behavior to shareholders and the public (Hönke 2013). In sum, we expect companies which are concerned about their reputation to contribute to governance in areas of limited statehood by engaging in self-regulation.

Third, while companies operating in areas of limited statehood hardly face a credible 'shadow of hierarchy' cast by the host state, it may be precisely the absence of the threat of strict(er) regulation that creates an incentive for companies to contribute to governance. If government is not capable of adopting and enforcing collectively binding decisions, companies are not confronted with a situation in which they have to weigh the costs of cooperation and voluntary commitment against the possibility of a suboptimal hierarchically imposed policy. Rather, they face the danger of not having a common good at all. If the pursuit of their individual profit depends on the provision of certain common goods and collectively binding rules to produce them, respectively, and government is not capable or unwilling to provide them, the 'shadow of anarchy' (Mayntz and Scharpf 1995a) generates a major incentive for companies to step in and fill the governance gap (Ruggie 2004, Börzel 2010), in particular when they have made asset-specific investments and therefore depend in their future operations on the investment environment in which they are set. Yet, they still confront free rider problems. Hence, instead of voluntary self-regulation, we expect in such situations collective activities

in the context of business associations, which can mitigate the free rider problem through strict rules, information provision and the imposition of costs for non-compliance (Ronit and Schneider 2000).

Fourth, while the 'shadow of anarchy' substitutes for the 'shadow of hierarchy', the latter can also be generated externally. International organizations and foreign governments can commit companies to the common good. On the one hand, under international law, MNCs can be obliged to comply with standards of good governance in areas of limited statehood (Ladwig and Rudolf 2011). On the other hand, national governments of (consolidated and democratic) states, where MNCs have their headquarters, may also force them to contribute to governance in areas of limited statehood. In this particular case, home country laws are in place and enforceable which require non-state actors such as companies to comply with standards of good governance or other regulations (e.g. environmental laws) irrespective of where they invest or act. High-regulating countries are reluctant to regulate their companies outside their territory, the Alien Tort Claim Act of the United States being a rare exception (Deitelhoff and Wolf 2010: 213). Yet, we know that international firms tend to transport their regulatory standards abroad as these are interpreted as 'quality signals' (Potoski and Prakash 2006) by business partners and customers (Murphy 2004, Kolk et al. 2005). We expect such firms to apply them in areas of limited statehood, contributing to an increase in regulatory standards in the country of investment.

Fifth, governance by business may still rely to some extent on statehood (Börzel et al. 2012). The 'shadow of hierarchy' can be substituted by economic incentives generated by the 'shadow of the market'. However, firm activities that further the common good may need to be institutionally embedded in the state to be sustainable and in order to avoid unintended negative effects. In other words, their effective implementation might depend on a functioning state structure. This is particularly likely in the case of complex governance tasks that go beyond the curbing of negative externalities on public goods through (self-)regulation. Such tasks require the involvment of a number of actors and functional fields (Krasner and Risse 2012, Perrow 1972). Combatting HIV/AIDS is just such a complex, context-specific issue that characterizes the non-market operational environment of MNCs in many Sub-Saharan countries (Schäferhoff 2011). Workplace and community programs that combat the epidemic can be understood as a cross-functional governance contribution spanning the areas of human resources, health and development. HIV/AIDS workplace programs are hardly feasible if the state cannot offer the guarantee that

patients are being taken over by public health care institutions in case that a firm decides to let staff go. Similarly, environmental standards that are to curb negative externalities of companies on common pool resources that are part of the production base must reach beyond the purview of the firm to be effective. When securing water or energy supply, self-regulation is not sufficient but requires collective action with other 'users'. On the one hand, the absence of state regulation provides a major incentive for companies to engage in governance, in the first place ('shadow of anarchy'). On the other hand, they might find it difficult to overcome the collective action problem in making their suppliers or competitors to adhere to the standards if state agencies do not make them legally binding. We suggest that the provision of a basic legal and institutional infrastructure is important in helping firms' governance activities to emerge and be sustainable, particularly when dealing with complex governance tasks, which are tightly coupled or involve common pool resources.

In sum, we argue that firms are willing to contribute to governance even when the capacities of the state are too weak to cast a credible 'shadow of hierarchy'. The 'shadow of anarchy' changes the cost-benefit calculation of companies, which have to choose whether to regulate the collective provision of collective goods and services or provide them directly themselves or not have any governance at all. In the form of asset specificity and reputational concerns, the 'shadow of the market' generates important incentives for companies to engage in (collective) self-regulation, to exert pressure on governments to tighten regulation or to strengthen their regulatory capacity, and to directly provide collective goods and services. Like the 'shadow of hierarchy', the 'shadows of anarchy' and of the market are cast by the *economic, social and political environment* in which companies operate. The 'shadow of the market' interacts with *company characteristics*, such as brand name, asset specificity or market orientation, which may enhance or mitigate the reputational concerns of firms. In the case of asset specificity, however, it can also have an independent effect on the cost-benefit calculations of firms. While most characteristics relate to the incentives or willingness of companies to engage in governance, size, as a proxy for the financial, technical and informational resources of a firm necessary in particular to provide collective goods and services, is the key factor shaping the capacity to respond to governance failures of the state. Larger companies are not only more visible, they also have the financial, human and cognitive resources to engage in self-regulation as well as the political weight to push for more state regulation (Bansal and Roth 2000, Deitelhoff and Wolf 2010).

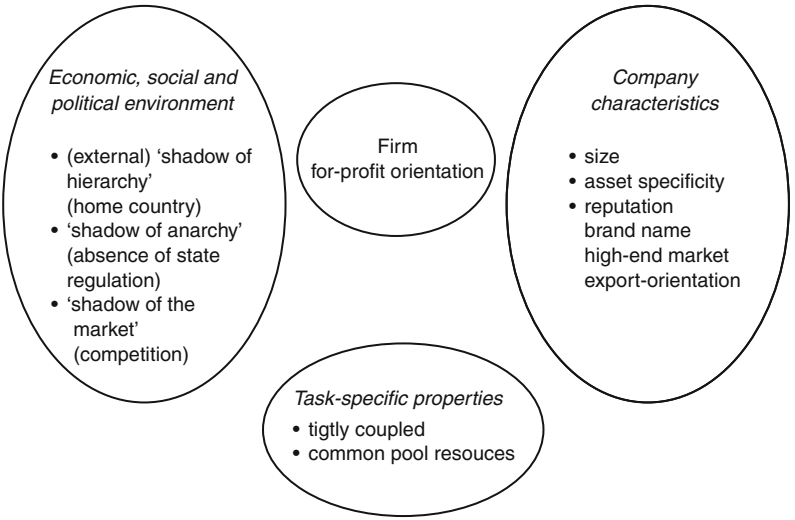


*Figure 1.1* Drivers of business contributions to governance

Finally, *task-specific properties* provide a third group of scope conditions for governance contributions by business in areas of limited statehood. The more complex they are, the more actors need to be involved to ensure their provision, and the greater is the incentive for companies to take action and the need for some state intervention. Figure 1.1 summarizes the theoretical framework that will guide our empirical analysis of business contributions to the fight against environmental pollution and HIV/AIDS in South Africa.

## Analyzing business contributions to governance

To assess the validity of our theoretical arguments about when and how firms contribute to governance and foster regulation in areas of limited statehood, we focus on the case of South Africa. South Africa is a newly industrializing country whose legal standards are fairly well developed in most policy areas, while its administrative capacity for implementing regulations and securing compliance is rather weak. While South Africa is not a failed or failing state, areas of limited statehood are widespread. The capacity of the state to cast a credible 'shadow of hierarchy' significantly varies both among the provinces and local communities and across policy fields.

If companies foster regulation and directly engage in the delivery of collective goods and services in South Africa, their impact should be even greater in developing countries whose regulatory capacities are much more limited. We analyze the governance contributions of several companies in the automotive, food and beverage, textile and mining sectors. These four sectors comprise a significant number of foreign and local companies, with or without brand name, which cater to different market segments within South Africa, differ in size and are exposed to varying pressure from NGOs and foreign competitors. Asset specificity varies across and within the four sectors.

Over the past years, South Africa has enacted comprehensive legislation on the protection of several environmental goods, including water, biodiversity, and recently also air. While legal requirements are demanding, details pertaining to the specific behavior of firms are often not set out. Moreover, overlapping responsibilities of several government departments persist, which lead to regulatory confusion, contradictions and implementation gaps. Most importantly, the implementation of regulations is in many cases deficient since local state agencies lack the capacity and willingness to monitor and sanction corporate malpractice effectively. Finally, compliance with environmental standards tends to entail significant costs, which many firms are reluctant to bear. The situation is very different with regard to the fight against HIV/AIDS. South Africa belongs to the countries with the highest HIV/AIDS infection rates in the world. With a rising prevalence of HIV/AIDS, firms experience an increase in employee turnover. Employees remain absent from work because they fall sick or because family members need to be looked after. The South African state has lacked both capacity and the political will to comprehensively fight the disease. In the absence of public health provisions, firms have a basic interest in contributing to overcoming this problem, particularly if they rely on high skilled labor.

We are not only interested in analyzing and explaining *what* companies contribute to fighting environmental pollution and HIV/AIDS but also *how* they contribute.

Business contributions to governance can range between public regulation and private self-regulation, as outlined in Table 1.1. For a start, the involvement of industry in public regulation takes place through regular and formalized stakeholder consultations at the national, regional and local levels. In such a framework companies may lobby for strict(er) state regulation. They can also take a more neutral stance providing their expertise, for example as regards technical procedures. At the stage of policy implementation, companies may foster public

*Table 1.1* Governance contributions of firms

| **Public regulation** | **Public-private co-regulation** | | | **Private self-regulation** | | | |
|---|---|---|---|---|---|---|---|
| Lobbying, consultation or capacity-building | Bi-partite | Tri-partite | Multi-stakeholder | Involvement of non-state stakeholders | Business associations | Supply chain | In-house regulation |

regulation by capacity-building, that is by providing public actors with additional information, expertise and money to apply and enforce state regulation. Public-private co-regulation refers to situations in which business is involved in the public policy making and implementation processes as an equal partner. Business is not only consulted by public actors but engages in negotiating policies in a formalized framework or engages in public-private partnerships. Three possible actor constellations of public-private co-regulation can be distinguished: bi-partite co-regulation involving public and industry actors, tripartite negotiation systems which involve public actors, industry and labor, and multi-stakeholder arrangements composed of public, industry and not-for profit actors (NGOs, Community-based Organizations [CBOs] and trade unions). Forms of collective regulation without public involvement are referred to as private self-regulation. Companies may cooperate with NGOs or CBOs (non-state stakeholder involvement), engage in horizontal self-regulation via a business association, seek to regulate other businesses vertically along the value or supply chain, or restrict their regulatory efforts to their own purview (in-house regulation).

This typology of business contributions to governance focuses on regulation targeting negative externalities in the production of private goods rather than the provision of collective goods and services itself. The distinction is important, although often overlooked in the literature. Providing collective goods and services (e.g. building and running an HIV/AIDS clinic) is often more complex than internalizing negative externalities (e.g. reducing environmental pollution). Companies increasingly accept the need to reduce the harmful effects of their economic activities; this is still part of optimizing business processes. Providing collective goods and services leads away from their core business and could give rise to unlimited social demands. Often, companies are at best willing to help state actors build the capacity to provide collective goods (Deitelhoff and Wolf 2010). Likewise, the privatization of the delivery of collective goods and services (e.g. in the provision of drinking water) is

often not considered legitimate by the public. Next to high costs, false expectations and low acceptance, the direct provision of collective goods and services also requires significant capacities, particularly if they are complex, which companies do not necessarily possess (cf. Börzel 2012).

The distinction between curbing negative externalities on collective goods, on the one hand, and directly providing collective goods and services, on the other, notwithstanding, our typology applies to both. We expect, however, that the delivery of collective goods and services tends to be more complex and, therefore, requires the involvement of multiple actors, which renders private self-regulation less likely.

## Plan of the Book

Chapter 2 introduces the regulatory context in South Africa, explains why its statehood is limited and which governance challenges the country has faced after the regime change in 1994. The chapter specifically addresses the legacies of the apartheid regime and argues that corporatist structures have failed to respond to some of South Africa's most pertinent governance challenges, HIV/AIDS and environmental pollution. Finally, it provides an overview of the political and economic system as well as the four industry sectors that are subject to our case studies.

The first empirical part of the book presents case studies of governance contributions by companies in four different industry sectors in the fight against HIV/AIDS, where the South African state has lacked both the capacity and the political will to formulate and implement government programs. Chapter 3 describes the approach the South African government reluctantly has developed toward the fight against HIV/AIDS. It argues that institutional fragmentation and the lack of adequate resources as well as a dismissive attitude among the South African political leadership have undermined an effective state response to the pandemic. Chapters 4–7 explore how firms in the four different industry sectors have dealt with the absence of effective state governance.

Chapter 4 argues that areas of limited statehood, such as South Africa, entail high levels of uncertainty for the automotive industry. Its long-term investments in skilled labor are put at risk by the incapacity of the South African government to contain the spread of HIV/AIDS. In the 'shadow of anarchy', it is the protection of these asset specific investments that renders car companies the most active governance providers among the four business sectors considered in this book. In particular large firms run sophisticated HIV/AIDS workplace programs, and they also motivate suppliers to do the same. Firms in the industry

furthermore partner up with local government agencies, development organizations and NGOs to improve HIV/AIDS-related services in the localities of their factories, and ask the government to show a more effective response to the disease.

The 'shadow of anarchy' is a context condition to all four sectors. In the mining sector, Chapter 5 shows that it is, however, reinforced by much higher prevalence rates among workers. Thus, mining companies have been as active governance providers as the automotive industry. With asset specificity being low, HIV/AIDS activities are largely driven by the high toll on the labor force, on the one hand, and attempts to protect and promote the public image, on the other. For the longest time, firm programs have mostly focused on the workforce. Only recently, the high levels of self-regulation have started to translate into active engagement with public authorities, which is largely related to a change in the political will to address the pandemic. At the same time, South African labor regulation has forced mining companies to broaden the access to treatment beyond their work force. While the 'shadow of anarchy' and reputational concerns induce mining companies to become active governance providers in the first place, the 'shadow of hierarchy' has rendered their governance contributions more inclusive.

Chapter 6 analyzes the rather mixed performance of the food and beverage sector in fighting HIV/AIDS. It is mostly the larger companies with a brand name or asset-specific investments to protect that have developed workplace initiatives aiming at less costly services, such as education, prevention, testing and counseling. Only a few also provide treatment. Reputational concerns are reinforced by concerns about a stable consumer base and the sector's special role and responsibility with regard to public health and related marketing claims.

Chapter 7 presents the opposite case of the spectrum with regard to the contribution of business to the fight against HIV/AIDS. Unlike in the automotive and mining sectors, textile firms have been reluctant to act upon the pandemic since asset specificity is low. It is mostly retailers targeting premium market segments or with a brand name to protect that have become active. Adequate treatment of employees infected with HIV/AIDS is part of the reputation they seek to promote. In the manufacturing sector, work programs have emerged through cooperation with the trade unions by which firms offer basic health services to their employees.

The second empirical part of the book mirrors the first looking at the fight against environmental pollution, where state regulation in South Africa is quite advanced but hardly enforced. Chapter 8 describes how the capacity of the South African state to put its ambitious and

comprehensive environmental legislation into practice is severely circumscribed by overlapping competencies between different agencies at different levels of government, on the one hand, and the lack of experienced staff and sufficient budgetary support, on the other. Chapters 9–12 analyze how companies in the automotive, mining, textile, and food and beverage sectors have responded to the implementation gap caused by limited statehood in South Africa.

Chapter 9 argues that the lax enforcement of environmental state regulation constitutes a burden on rather than advantage for car companies South Africa, which again makes them strong governance providers. In order to protect their long-term investments in conditions of legal uncertainty and to promote their corporate reputation, large MNCs targeting higher market segments have developed comprehensive in-house and supply-chain policies. In turn, companies producing for the mass market have lobbied the South African government for stricter emissions regulations for newly registered vehicles to keep competitors from lower-regulated countries, such as China and India, out of the South African market. While such a 'race to the top' has positive effects on the environment, there appears to be a trade-off with social mobility since cheap cars are kept out of the market, too.

Chapter 10 demonstrates how large- and medium-sized mining companies provide environmental governance. Their contributions largely focus on reducing the harmful effects of their business activities. They partner with state authorities, particularly at the local level, to strengthen their administrative capacities. At the same time, they use this cooperation to lobby against tighter regulation. In order to prevent damage to the reputation of the entire sector, large MNCs with a brand name also seek to integrate smaller firms into their governance initiatives. Besides reputational concerns and the 'shadow of hierarchy', environmental governance contributions by mining companies are driven by community pressure, to which they are more vulnerable than firms in other sectors, since they depend on the specific sites where minerals can be exploited. Local protest not only makes the threat of regulation more credible and reputational harm more likely; it also provides additional incentives for companies to reduce their environmental impact to avoid interruption of operations and damage to property.

Chapter 11 explores the modest environmental governance contributions of the food and beverage sector. It is predominantly large MNCs with a brand name to protect that have engaged in self- and supply-chain regulation. Their reputational concerns are reinforced by an external 'shadow of hierarchy' for those firms that export to

high-regulating countries. As in automotive sector, companies also seek to foster the regulatory capacities of state authorities where securing their production base becomes a complex task and existing state regulation, for example on clean water, is not effectively enforced.

Chapter 12 presents the textile sector as the opposite of the automotive industry. Textile production faces strong international competition, is labor-intensive and relies on short-term contracts with organizationally independent suppliers. Retailers, in particular, are more concerned about low prices than environmental standards. In the absence of asset specificity, textile companies tend to race to the bottom rather than foster regulation. Notable exceptions are large industrial textiles that make long-term investments in production technologies, are subject to supply-chain regulation by other sectors, have a brand name to protect or that target high-end market segments.

Chapter 13 summarizes the main findings of the book. The case studies show that the four sectors differ with respect to the degree to which they contribute to the governance of HIV/AIDS and the environment in South Africa. The automotive and mining industries are strong governance providers and even engage in a "race to the top", whereas the food and beverage sector and, more so, the textile industry do not contribute much. We also find stark variation within the sectors. Large and international firms, and those with a brand name to protect, are more actively fighting HIV/AIDS and environmental pollution than medium and small domestic businesses. This variation comes down to what we call the 'shadow of the market' – reputational concerns and asset specificity. The exception is the mining industry, in which the 'shadows of anarchy and hierarchy' also loom over firms. We discuss our findings in the light of various aspects of general collective goods and services provision in areas of limited statehood, and explore their potential for generalization. Firms unleash a 'race to the top' dynamic in areas of limited statehood if they are operating in a strong 'shadow of the market', and/or if they are particularly affected by the 'shadows of anarchy or hierarchy'.

## Notes

1. See, *inter alia*, Andonova et al. 2007, Brühl et al. 2001, Chan and Ross 2003, Kaufmann and Segura-Ubiergo 2001, Lofdahl 2002, Murphy 2004, Rudra 2002, Xing and Kolstad 2002.
2. Friedman, Milton (13 Sept 1970) 'The Social Responsibility of Business is to increase its Profits', *The New York Times Magazine*.

# 2

# Business, Governance and Government in South Africa: The Legacy of Apartheid

*Jana Hönke, Nicole Kranz, Anna Kristin Müller-Debus and Christian R. Thauer*

Business and government relations as well as industrial relations (such as between labor and capital) in general follow a corporatist pattern in South Africa (Adam 1998, Dunn and Donnelly 2006). Similarly to the experience in Europe (especially Germany), South African corporatism of today has its roots in past anti-liberal ideology and regime type (Murray 1982, Pretorius 2000, Streeck and Kenworthy 2003). Apartheid South Africa organized its economy based on the idea of autarchy and in a context of international isolation as a highly organized market economy (Barnes and Black 2003, Black 2001, Black and Mitchell 2002). A main organizing principle was that of racial segregation: the economy of the country depended on 'white' capital exploiting 'black' workers (Bramble and Barchiesi 2003, Lipton 1985, Murray 1982). The mining industry is illustrative in this respect. As Hönke points out in her chapter on HIV/AIDS governance, the industry was based on a racial model of migrant labor ever since the opening of the first mines in 1886 (Lipton 1985, Murray 1982). 'Black' Africans from all over Southern Africa were brought to the mines owned by 'white' settlers, as underpaid workers, separated from their families and exposed to dangerous and humiliating working conditions. The Chamber of Mines (CoM) played a key role in institutionalizing and maintaining this system. It was assisted by governments that backed this form of racial segregation in society and facilitated recruitment of labor from neighboring countries at extremely low costs for their mutual benefit.

Similar patterns of organization and exploitation were also in place in the automotive, textile, and food and beverage industries – with the notable difference that these sectors relied to a lesser extent on migrant labor as they made greater use of the South African 'black' population. Even multinational firms, such as, for example, international car

companies, practiced racial segregation in the workplace in South Africa and benefited from slack labor standards for 'black' workers – a fact that gave rise to a 'first wave' of public calls for 'corporate social responsibility' (CSR) in the 1960s (Carroll 1999, Frederick 2006, Vogel 2005). At that time, an alliance of NGOs, university students and religious activists in the United States began criticizing US firms for maintaining operations in countries that were deemed morally unacceptable. General Motors, Ford and other US American firms were attacked for doing business in and with apartheid South Africa. The activists reproached the firms with the claim that they contributed to a racist regime by voluntarily practicing racial segregation in the workplace and that they thus systematically infringed on international human rights norms (see Black 1999). Against this background, activists argued that firms have a CSR: they should apply international human rights norms, which in origin and nature were state-based. The public debate that was set off resulted in the formulation of the 'Sullivan Principles' and in the large-scale disinvestment of American firms, such as Ford and General Motors, from South Africa (Williams 2004). Sullivan was a priest who worked for General Motors. It was he who invented the principles to make basic international human rights norms applicable to firms in the context of apartheid South Africa. In the aftermath of these events, however, and in particular after the disinvestment of American firms, South Africa became increasingly isolated and based its economy on the principle of autarchy and hence import substitution (e.g. Feinstein 2005).

During the 1980s, however, strong and enduring resistance against apartheid seriously destabilized the ruling system and weakened its main institution, the National Party (e.g. Ross 1999). From the mid-1980s onward, township upheavals and armed resistance rendered large parts of South Africa ungovernable. The protests were, on the one hand, organized by the African National Congress (ANC) from outside South Africa and, on the other hand, from inside by the legal opposition, the United Democratic Front. The crisis of the old system was enhanced by a severe economic recession and international pressure and isolation. On the brink of civil war and in the midst of serious economic destabilization, negotiations started in the 1990s that effectively ended apartheid in South Africa. At first, in a period of transition between 1990 and 1994, the new ANC-led Mandela government ruled the country in cohabitation with the old National Party in a so-called 'government of national unity' and with civil servants inherited from the old racist regime. Since the first open elections in 1999, the ANC has effectively taken over the political rule of the country in close alliance with the South African Communist

Party (SACP) and the Congress of South African Trade Unions (COSATU) and gradually exchanged the old bureaucrats with new ones.

The negotiated transition from apartheid to democracy made use of previous corporatist industrial relations. While the shift to democracy effectively transferred political power from the 'white' minority to the majority of 'black' South African populations, Frederick de Clerck had struck a deal with Nelson Mandela: property rights would remain untouched during the transition and be protected under the new liberal constitution in the future (Adam 1998, Dunn and Donnelly 2006). In other words: the deal made sure that business power remained in 'white' hands where it predominantly still is today. The corporatist system, at the center of which is NEDLAC, the National Economic Development and Labour Council, reflects this power-sharing agreement. Within NEDLAC and other corporatist forums and councils, 'white' business negotiates wages and social policies devised by the ANC government with 'black' organized labor under the auspices of 'black' government. It is in this context that firms have policy-making power. While NEDLAC is the main corporatist forum at the national level, there are an array of corporatist, sectoral tripartite forums and institutions on the local level – such as the so-called 'bargaining councils' – which set local minimum wages and negotiate other aspects of industrial relations (Müller-Debus et al. 2009a, 2009b). ANC governments have actively tried to distribute the wealth more equally and to this end break 'white' predominance in the business world. The BBBEE program (Broad Based Black Economic Empowerment) is a government program that aims at increasing 'black' ownership, business activities and participation in the economy in general through various means (Iheduru 2008). In addition, the government pursued a rigorous market opening policy in order to attract foreign direct investment with the intended side effect of weakening the established old-boys networks among South African businessmen still in place since apartheid. While these programs aim at overcoming socio-economic racial segregation, they leave basic property rights untouched just as much as they do not put into question the corporatist organization of industrial relations in general. Quite to the contrary, the government often draws on corporatist institutions, in particular on those in which 'black' business interests (which have increased significantly over the past years on account of the BBBEE program) and international firms are represented, in order to counter-balance the radical left-wing branches of its own ANC party in drafting economic policies (Bramble and Barchiesi 2003).

It is in this context of (neo-)corporatist business–government relations that we locate our study of business contributions to governance

in South Africa. The corporatist business–government relations make South Africa particularly apt for an application of the governance concept given that this concept emerged from analyses of the policy process in European (neo-)corporatist systems, such as Germany (Mayntz 2004). Governance in South Africa, however, takes place under very different conditions of corporatism compared to those in Europe. European governance, and business self-regulation as a 'new mode' of governance (Héritier 2002), has been mainly driven by the 'shadow of hierarchy' (Héritier and Lehmkuhl 2008, Scharpf 1997). This means that state agencies bear down on industry and other private actors to engage in self-regulation by implicitly or explicitly threatening them with state regulation. As firms usually prefer self-regulation to state regulation they can be motivated by the legislative threat to effectively regulate themselves and thereby engage in governance. A prerequisite for corporate governance in the shadow of hierarchy is, however, the capacity of the state to impose binding rules collectively. Sufficient financial and material resources, personnel and expertise are thus a precondition (Börzel 2010). Outside of the European Union, the United States, Japan and other consolidated market economies, this capacity is, however, rather limited. Many governments are not capable and possibly not willing to set legislation or to enforce it at the domestic level (Börzel and Risse 2010, Risse 2011) and are in this sense areas of limited statehood.

South Africa is, in the policy fields of HIV/AIDS and environment, certainly such an area of limited statehood (see Chapter 3 by Anna Kristin Müller-Debus and Christian R. Thauer, and Chapter 8 by Nicole Kranz and Jana Hönke in this book). The reasons for this are manifold and often closely related to the legacy of apartheid. Firstly, South Africa, in order to overcome the inherited injustices of the apartheid times, is strained by addressing an array of problems all at once while its resources are limited (Thauer 2010). The country has to alleviate mass poverty, deal with ever-present ethnic conflicts, provide for mass education, reduce the overarching crime rates, organize equitable water and electricity supply as well as access to housing, and invest in the deficient public transportation systems and public infrastructure. In light of the sheer number of problems and the strong saliency of virtually all of them, it becomes clear that health, labor and environmental programs are not regarded as a top priority. Secondly, corruption, ignorance, lack of a competent bureaucracy – which is a direct result of the regime change – and lack of material resources and personnel make the programs that the government has put in place in the two policy fields highly ineffective (see Chapter 3 by Müller-Debus and

Thauer and Chapter 8 by Kranz and Hönke). In particular with regard to HIV/AIDS, the consequences of limited statehood are severe, and they actually worsen the problems mentioned above that government has to address. Poverty, social inequality and conflict are all closely related to the spread of the disease, and its deadly consequences.

South African (neo-)corporatism thus lacks teeth. This is at least true for the two policy fields this book considers. The influence of the state, namely the limited (neo-)corporatism of South Africa, varies across our industry sectors. The mining industry is generally a highly politically driven industry, heavily dependent on state licenses and the goodwill of politics. In the mining industry, therefore, (neo-)corporatist structures are still relatively strong and have an impact on the provision of governance by business. Chapters 5, by Hönke, and especially 10, by Hönke and Kranz, on the mining industry, illustrate this rather strong influence of the state. These chapters argue that the 'shadow of hierarchy' is, though much more limited than in European governance, important for the provision of governance by mining firms in South Africa. Automotive firms are also highly oriented toward government, though less dependent on it in South Africa. However, they are often confronted by the situation that the state institutions they look to for regulation do not work effectively. The chapters by Thauer alone (4 and 9) demonstrate that in those instances in which the state seems incapable of setting and enforcing rules, automotive firms – and in particular the big multinational car companies – engage in self-regulation. The food and beverage industry, by contrast, is highly fragmented. Kranz's individual contributions (Chapters 6 and 11) show, accordingly, that some sub-segments of this sector are under the spell of governmental influence, while others remain completely unaffected by government activities. The textile industry, finally, is the negative case for state-driven self-regulation by business. In this sector – even though corporatist structures such as bargaining councils exist – the state's influence is rather marginal across the board, as Müller-Debus points out in her chapters (7 and 12). Our book thus illustrates the complexity of limited statehood as, on the one hand, a context condition, and on the other, a variable of business governance.

Overall, corporatism plays only a marginal role for corporate governance contributions. Even in cases in which South African corporatism has some 'bite', as in the mining industry, it can only explain parts of the governance contributions we find – given that the state is rather weak in South Africa in the two policy fields at which we are looking. Functional equivalents, as laid out by Tanja A. Börzel in the introductory chapter of this book, are always important for explaining

governance contributions. And in many industry sectors, such as automotive, food and beverages, and textiles, these functional equivalents are more important than any state influence. In the remainder of this chapter, we will provide an overview of the political and the economic system as well as the four industry sectors we analyze in this book as background information.

## The political system

Soon after apartheid, South Africa was turned into a federalist system and a constitutional democracy. This new system is marked by elements characteristic for presidential and parliamentary democracies. The President is both head of state and head of government. The head of state is elected every five years and cannot be re-elected more than once. Together with the Deputy President and the Ministers, the South African President forms the National Executive. The Cabinet consists of the Deputy President, 25 Ministers and the President, who appoints the Deputy President and Ministers and assigns their functions. Nelson Mandela was president until 1999, succeeded by Thabo Mbeki, who became President of South Africa after having headed his party, the African National Congress for two years. Following Mbeki, Jacob Zuma took office when the African National Congress party won the general elections yet again in 2009.

The members of Cabinet are accountable to the Parliament, which holds the legislative authority. The Parliament is made up of the National Council of the Provinces and the National Assembly. The former represents regional interests. Each of the nine South African provinces has its own legislature elected via proportional representation and sends six permanent members and four special delegates to the National Council. In addition, local (municipal) government representatives may participate in the Council, but have no vote. The National Assembly consists of up to 400 members who are elected by popular vote using a system of party-list proportional representation. Fifty percent of the members of the National Assembly are elected from parties' provincial lists; the other 50 percent from national lists. The leader of the political party or of the coalition winning a majority in the National Assembly will be President. While the National Assembly scrutinizes the Executive and passes laws, the National Council of the Provinces considers and improves laws introduced by the Assembly and imposes non-financial laws affecting the provinces.

The independent judiciary constitutes the third pillar. The legal system is based on English common law and Roman-Dutch law. The

constitution's Bill of Rights was adopted in order to ensure that 'human dignity, the achievement of equality and the advancement of human rights and freedoms' guide Government action. With the objective to protect the Constitution, the Constitutional Court was set up in 1994 and began its work in 1995. It is independent of the Government and made up of 11 judges, each of whom serves one term of 12 years.

This system is accompanied by a structure that represents 'traditional' authorities. The constitution establishes six Provincial Houses of Traditional Leaders. These provincial bodies nominate three members to a National House of Traditional Leaders commissioned to advise the national Government on the rights of communities in areas where traditional customs still play a fundamental role.

**Some socio-economic facts**

With respect to gross domestic product (GDP) per capita, South Africa is an upper-middle income country. After two decades of stagnation with annual growth rates of not more than 2 percent, the country's economy grew by an average 3.3 percent per annum between 1995 and 2010.[1] Like many others, the South African economy was recently hit by the recurrent global financial crises. In terms of business, political and economic ratings, South Africa still ranks top among African countries and also does well when compared to other emerging economies, such as Brazil, China and India (Nayyar 2008). However, South Africa's economic growth has not been very inclusive so far. The country remains one of the most unequal countries of the world with a Gini coefficient of 0.67 in 2005. The poorest 20 percent of the population earn only 2.3 percent of the national income while the richest 20 percent about 70 percent (Bosch et al. 2010). Poverty is therefore widespread: the proportion of people below the poverty line of $2 a day only fell from 53 percent in 1995 to 48 percent in 2008 (ibid.), meaning that it remained on a very high level. These numbers also indicate social and economic exclusion of which millions of South Africans are affected. The legacy of the spatial and social division of apartheid becomes vivid here. As a consequence of the old racist regime's settlement policy, the poorest people either live in remote rural areas or within cities far from places of work and economic activity. In these areas, access to fresh water, sanitation, electricity and housing is problematic. The disadvantaged are again, as in apartheid times, predominantly 'black' (Christopher 1994; Terreblanche 2002).

Poor quality education and high levels of unemployment have been identified as two major factors driving poverty and inequality. Although

access and participation to education have expanded since 1994 and are now nearly universal, the quality of education is often poor, in particular in the socially disadvantaged 'black' areas. South Africa spends 5 percent of its GDP on education.[2] However, literacy and numeracy tests indicate a poor performance of the country's education system in relation to African and global standards (Bosch et al. 2010). Low literacy levels among parents, poor nutrition, violence and social fragmentation are additional factors that have been identified to explain the inadequate performance of children from poor communities relative to their wealthier peers.

Although unemployment fell from 31 percent in 2001 to 25.4 percent in 2010, it is still extremely high compared to other middle-income countries. A large proportion of out-of-school youths and adults are without work. The root causes for this can also be found in the country's history of colonial exploitation and apartheid, denying African people access to land and the rights to run businesses or own assets, to receive a good education and to live in well-located areas. The homeland system of apartheid banished millions of Africans to remote parts of the country with poor access to water and low-quality soil, rendering small-scale farming impossible (Christopher 1994, Terreblanche 2002).

Finally, South Africa's health system is in distress due to the massive disease burden of the country. The country has only 0.6 percent of the world's population. However, 17 percent of the world's HIV infections and 11 percent of tuberculosis cases are South African. Furthermore, infant and maternal mortality rates are extremely high compared to other middle-income countries. At the same time, so-called lifestyle diseases, that is, diseases that can be linked to relative affluence such as diabetes and heart diseases, are rising sharply. South Africa's health system has proven highly inadequate in confronting these challenges. Public clinics are understaffed and often run out of medicines. The collapse of the public health system has led 17 percent of the population to opt for private treatment instead – leaving the poor with no access to health care (Garbus 2003, Soest and Weinel 2006, Weinel 2005).

## The economic system

Before 1994, apartheid-South Africa pursued an economic policy that was directed toward self-sufficiency in order to maintain itself in a context of international pressure and trade sanctions (Black 2001, Goldstein 2000: 3, Lorentzen et al. 2004). Hence, South Africa actively sheltered domestic firms from the rigors of market forces through capital controls, external trade policies and domestic impediments to

competition. Moreover, the country implemented huge import substitution programs which resulted in massive state ownership. But this also caused a concentrated accumulation of financial wealth among five large-scale diversified economic conglomerates. The economy was thus politicized and governed by a closely intertwined, self-reproducing and exclusive 'white' economic and political elite (see Goldstein 2000: 3, Kaplinsky et al. 2002: 1169). In light of this, it does not come as a surprise that the economy suffered a recession during the 1980s; also, mass unemployment and poverty developed, especially among persons of African heritage (see Nattrass 2004: 148), despite an economic policy strategy which focused on labor-intensive industries and sectors such as the extraction industry, the basic raw material processing industry, the textile industry or the agricultural sector (see Gelb 2005: 386).

With the end of the apartheid regime in 1994 immediate and fundamental changes in the overall economic strategy took place, however. First, the 'self-sufficiency' policy was scrapped. Then, a policy program was introduced which effectively liberalized and re-integrated the country into the global economy. Trade barriers were reduced, laws discriminating persons on grounds of 'race' were abolished, domestic markets became contested and foreign investment was encouraged. As a consequence, South Africa successfully shed its economic isolation and its inward-looking industrialization strategy (see Buhlungu 2004: 193, Daniel 2006: 170, Gelb 2005: 387, OECD 2005: 417).

Today, South Africa's GDP is roughly $212,777 million, making the economy the 27th biggest economy in the world (see DTI 2006b). GDP per capita is around $12,000; in this respect, SA is number 78 in the world (see CIA 2006). Figure 2.1 illustrates the contribution to the GDP by sectors in 2005. It shows that services account for roughly 55–60 percent of the total GDP whereas the share of the combined industrial sectors is less than a third of the annual output and thus only half of what services contribute; the contribution of agriculture is less than 5 percent.

These sector contribution statistics differ from the economic figures of 15 years prior, when South Africa was predominantly an industrial society. At that time, the most important sectors in South Africa were the mining and manufacturing sectors. This situation has changed dramatically, since mining now only accounts for 7 percent of the annual GDP; during the 1980s its share was still double this, but it rapidly declined during the 1990s, especially after 1994 (Gelb 2005). A similar development took place in manufacturing. During the 1980s and until the end of the 1990s, manufacturing contributed roughly 30 percent to annual GDP and then shrunk within a couple of years to a share of only

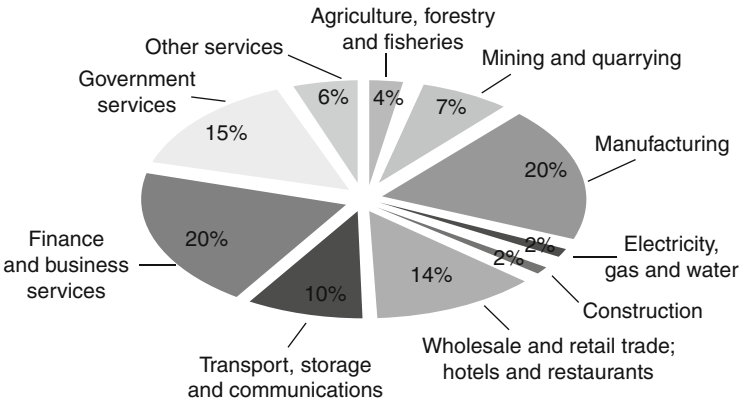


*Figure 2.1* Contribution to the GDP by sector, South Africa 2005
*Source*: OECD 2005: 415.

20 percent now. Generally, the combined industry sectors accounted for roughly 50 percent of GDP at the end of the apartheid era; also, the contribution of agriculture was higher (roughly a third higher than now). At the same time, combined services contributed only about a third to the annual GDP. Now services are on the rise, not only financial and business services, but also transportation and the communication-related industries. Given these developments, it seems fair to say that South Africa is on its way to becoming a service economy.

There has also been some progress in the attempt to drive the economy up the global value-added chain. Generally, South Africa is downsizing its labor-intensive, low-productivity and, concurrent with this, its low value-adding sectors, as the declines of the mining and textile industries show. The big question, however, is what will replace these industries. An asset in this respect is the automotive industry, which has had growth rates of more than 20 percent in the last years and whose contribution to the annual GDP has become higher than that of the mining industry. In addition, services can replace the decaying raw materials industries with a much higher value-adding capacity. The growing aviation, consulting and financial services sectors, for example, are cases in point in this respect.

However, South Africa pays a price for these economic transitions. This is the growth of the 'informal (or marginalized or second) economy', which makes South Africa effectively a 'dual economy'. The official definition of the 'informal economy' includes non-registration of enterprises in terms of national legislation, non-registration of employees of the

enterprise in terms of labor legislation and small size of the enterprise in terms of numbers of people employed (see Devey et al. 2006: 228). According to South Africa's former President Mbeki, the so defined 'second economy' is:

> [C]haracterized by underdevelopment, contributes little to the GDP, contains a big percentage of our population, incorporates the poorest of our rural and urban poor, is structurally disconnected from both first and the global economy and is incapable of self-generated growth and development.[3]

Whereas the 'first economy' is characterized by high contribution to the GDP, incorporating a relatively well-off, but rather small, middle class which is fully integrated into the global economy and generate growth and development.

## The automotive sector

Before the apartheid regime – and the trade-sanctions imposed on South Africa – ended in 1994, the South African automotive industry was a highly protected industry kept in isolation from the global automotive industry market (see Black 2001, Black and Mitchell 2002, Lorentzen et al. 2004, Meyn 2004). From their very start in the 1920s, car producers in South Africa were strongly protected by tariffs and trade barriers. At that time, this was not unusual. Countries generally kept their markets closed for the development of a national car industry. South Africa, however, still pursued this strategy when a full-fledged industry had long been established in the country and when other countries had already opened up their markets. The reasons for this prolonged protectionism were ideologically motivated: the isolated apartheid regime, on which trade sanctions were imposed, strove for self-sufficiency during the 1970s and 1980s. A result was a largely autonomous South African car industry – one that rested mainly in the hands of five large conglomerates that controlled more than 80 percent of all companies listed at the South African stock exchange in the early 1980s (see Kaplinsky et al. 2002: 1169, Meyn 2004: 8). The consequence was great inefficiencies, resulting in the highest consumer prices per car in the world (see Black and Mitchell 2002: 1, Lorentzen et al. 2004: 1274–80).

With political liberalization in the 1990s, the government changed its economic strategy fundamentally; indeed, one could say that it was turned upside down. The goal now was to integrate the domestic

automotive industry into the global market in order to rationalize, modernize and develop the overall economy, organize economic growth, attract foreign direct investment and create a competitive job market for a middle class (see Meyn 2004: 10). The strategy by which these goals were to be achieved was that of export maximization. In 1989, the first steps toward implementing this strategy were taken. Among other measures, trade barriers were relieved and the local content requirements were reduced to 50 percent (see Black and Mitchell 2002: 1279). Dissatisfaction with the results of this first implementation program (as well as the general political developments in 1994), however, led to a thorough revision of these measures, resulting in the introduction of the 'Motor Industry Development Programme' (MIDP). This program effectively liberalized the market; it has remained in place – with some major revisions – until at least 2012. Key features of it were/are:

- The immediate reduction of import tariffs from 115 to 65 percent (see Lorentzen and Barnes 2004: 473) and a phase-down of tariffs which is faster than required by WTO obligations;
- the gradual abolishment of all local content requirements;
- certain general duty free allowances;
- the invention of an import/export complementation scheme by which rebate credits can be earned on exports of vehicles and components; these can then be used for duty-free import of vehicles and components (for an overview see Black and Mitchell 2002: 1281, Meyn 2004: 11).

As intended, the result of the MIDP was that exports exploded: when the MIDP started in 1995, total exports of the automotive industry were worth less than 5 billion South African Rand (ZAR); in 2000 they already amounted to ZAR 14 billion. Another five years later total exports grew to ZAR 45 billion, and the data indicates that this growth in exports continues (see DTI 2006a). In terms of exported vehicles, total aggregated exports of Original Equipment Manufacturers (OEMs) (including cars, and light, medium and heavy commercial vehicles) grew from roughly 16,000 in 1995 to 241,000 in 2005; car exports grew from circa 9,000 in 1995 to 58,000 in 2000 to 114,000 in 2005 (see NAAMSA 2011).

Today, the automotive industry is the third largest economic sector (after mining and agriculture) and the largest of all manufacturing sectors in South Africa, accounting for approximately 28 percent of the country's manufacturing output (see United States Department of Commerce

2005: 1). In 2005, the industry contributed 7 percent to the GDP and 13.5 percent to the total exports; revenue generated by it was in excess of ZAR 195 billion, including sales of new cars estimated at ZAR 92 billion (see NAACAM 2006: 1–2). The aggregate industry (i.e. OEMs – Original Equipment Manufacturers, i.e., companies that end-consumers associate with branded products – like Volkswagen or General Motors) employed 36,000 persons, while the car producing industry in general (including suppliers of OEMs) employed 100,000 persons (see Lorentzen and Barnes 2004: 473, Meyn 2004: 13,). Total direct employment in the trade area – including vehicle sales and after-sales services like maintenance and replacement of parts – amounts to about 195,000 persons (see NAACAM 2006: 2) and if one also includes indirect employment (e.g. insurance agents which sell car insurances or consultants which focus on the car industry) 270,000–300,000 people hold jobs created by and depending on the automotive industry (see Meyn 2004: 12 fn 27). This means that the automotive sector contributes circa 1.5–2.0 percent to total employment – if one assumes that the number of persons employed in South Africa is roughly 12 million (this is the official number published by the 'Department of Trade and Industry', see DTI 2004: v).

In terms of sector structure, the automotive industry can be divided into two major subsectors (see Black and Mitchell 2002, Lorentzen 2006, Meyn 2004: 9). The most important subsector that drives the overall development of the industry manufactures fully built vehicles. Companies of this subsector – Original Equipment Manufacturers (OEM) – supply the end-consumer market. The OEM subsector is characterized by a high degree of concentration: there are seven OEM active in South Africa operating assembly plants and all of them are branches of huge multinational corporations: BMW, Daimler AG, Ford, General Motors, Nissan, Toyota, Volkswagen.

The second subsector within the automotive industry supplies OEMs with parts and components. It is highly dependent on the OEM sector but accounts for roughly two thirds of the whole industry's annual turnover. This subsector can be further dissected into first-tier, second-tier and third-tier suppliers (see Meyn 2004: 9, United States Department of Commerce 2005: 2). Within the first tier, companies supply OEM directly, often delivering technically complex components. Second-tier suppliers supply first-tier suppliers and third-tier suppliers deliver to second-tier suppliers. The supplier-sector is characterized by high fragmentation: there are 500 suppliers active on the SA automotive market. Roughly 200 of them are first-tier suppliers, 300 are second- and third-tier suppliers (see NAACAM 2006).

## The mining sector

South Africa was built on its mineral wealth. The country owns some of the world's richest reserves of diamonds, gold, coal, iron ore, platinum, chrome and other minerals. Mining requires heavy investments and has therefore always been an international industry. Foreign, especially British, capital built the South African mining complex, which initiated and dominated South Africa's economic development. The mining sector's relative importance to GDP was overturned by manufacturing only in the 1950s and has decreased steadily ever since. However, with a share of about 40 percent mining remains a major contributor to South Africa's export earnings (Malherbe 2000: 8). Among the major mining companies that operate in South Africa are De Beers, Anglo American, BHP Billiton, Goldfields and Anglogold Ashanti.

Looking at different commodities, two opposite trends are apparent in the minerals market. For three decades, gold mining has, with a brief exception in the early 1980s, displayed a downward trend in production on account of a falling world market price. In 1998, production was around half the historic peak of production in 1970. The decline was accompanied by a huge number of mine closures and job losses for approximately 300,000 people. However, gold mining still accounts for about 50 percent of the active mining workforce. How to deal with the decline of its formerly major industry is an important political issue for South Africa. By contrast, production of other minerals has increased since 1980. Coal production almost doubled between 1980 and 1998. Similarly, mining of platinum group metals has increased steadily and significantly since 1983, moving production levels up from less than 100 tons in 1982/83 to 200.1 tons in 1998. Increasing levels of production are also reported for iron ore and chrome. Finally, diamond production increased by one fifth over the period. The South African mining industry is still among the main suppliers of gold, platinum group metals, chrome and coal to the world market (Malherbe 2000: 6).

The mining industry is the oldest and the most important South African industry in that it played an essential role in the industrialization of the country as well as in how it structured South Africa's political and social history. With the discovery of gold and diamonds in the 1870s and 1880s, mining companies – mostly financed by British and US capital – became a major structuring force in South African history. For more than 130 years the South African mining sector has been dominated by seven mining houses, which integrated several mines into one

company. They have succeeded in raising the foreign capital necessary to bear the high entry costs of starting and operating deep mines. These seven houses, all founded in the last quarter of the nineteenth century, are the backbone of today's major multinational mining corporations operating in South Africa (Feinstein 2005).

The South African mining sector has a distinct history since it developed along with a racist political regime and workforce organization. The blueprints for the apartheid system were developed by the mining companies. The repressive nature of the political economy of mining and its negative social impact are well documented, especially in terms of the migrant labor system (Allen 2003, Moodie 1994). From 1960 to 1994 international sanctions were imposed that closed the country off from international markets. Until the beginning of the 1990s, the industry organization, management and workplace practices corresponded to colonial and apartheid structures, and therefore lagged behind international standards. The mining houses not only dominated the mining industry but soon also the South African economy as a whole. Due to the isolation of the apartheid regime, South Africa's industrial structure followed the model of an import substituting economy. The mining houses, instead of developing into global mining specialists, followed a strategy of diversification, becoming active in diverse sectors of the economy.

In contrast to the South African isolated industry, the global mining industry has been in a huge restructuring process since the 1980s because of a general, long-term downward trend in prices and a dramatic fall in the gold price. South African industries were cut off from these changes until the beginning of the 1990s; in 1990 the corporate and industry structure among the mining houses was virtually identical with that of 1946. Only with the end of the apartheid regime did the mining industry in South Africa undergo a comprehensive restructuring process (on business during apartheid see, for example, Lipton 1985). The low rates of return on investment prevailing in the mines were no longer competitive compared to the global market situation. The first and overall reaction was a general downsizing process that led to a large number of mine closures and dismissals, especially in the gold industry. The second effect of continuously declining profit margins was a concentration and unbundling process by the large conglomerates on their most profitable core activities where either economies of scales or specialization effects were expected. The mining houses divested from non-mining activities and split into distinct specialized companies. Holdings were established with full ownership of

the operating companies, which is reflected in the drop of listed mining companies at the JSE, from 45 in 1992 to 14 in 1999. Furthermore, more foreign capital came into the sector. It is noteworthy how South African mining companies have expanded into foreign markets since the 1990s. The major mining companies Anglo American Group and Billiton shifted their primary listings to the London stock exchange in 1999 and 1997 respectively (Chabane et al. 2006: 559, Handley 2005). In order to comply with the demands of shareholder capitalism and to gain legitimacy in the eyes of foreign shareholders, as well as in the eyes of the South African government and society, large companies embraced the agenda of corporate citizenship and CSR (Hamann and Bezuidenhout 2007, Hönke et al. 2008, Reichardt and Reichardt 2006).

## The food and beverage sector

The food and beverage sector in South Africa displays a considerable heterogeneity and variability in terms of firm size and type. The industry reflects the country's manifold agricultural activities and is typical for an emerging market economy since there exists a small 'First World' economy within a 'Third World' one.

South Africa's food processing sector is highly concentrated, with several large listed companies controlling both production capacity and sales in most food categories (Hill 2000, Fig 2004). While there are an estimated 1,800 companies in the industry there is a clear dominance by the top ten companies, which are responsible for 68 percent of the industry's turnover. Concentration is a consequence of both, apartheid agricultural marketing legislation and the technological barriers to entry into the food processing market (Mather 2005).

Four companies – Tiger Brands, Unilever, Nestlé and Danone – feature prominently among the major players and constitute about one third of production capacity and sales across the sector. Of the large players, many operate in several SIC categories and thus offer a wide range of different food products (and sometimes other products as well). This can be partly attributed to the high degree of vertical integration in the South African food processing sector, as large food producers have extensive backward links into primary production and forward links into retailing.

Food retailers, such as Woolworth, Pick 'n Pay and Checkers Shoprite, are important players in the downstream value chain of food production with considerable influence on upstream production processes.

In this regard, the food sector in South Africa is closely integrated (Pioneer Foods 2007).

In addition, extensive mergers have taken place over the past years due to rather lax merger laws. These have led to a concentration of various food products and brands with the major players (Theron et al. 2006). As a consequence, ownership structures among the major South African food companies are rather opaque, with several cross-linkages among the main players and complex share-holding arrangements making it rather difficult to discern distinct company structures.

The situation is particularly complicated in the beverage industry, where South African Breweries now controls more than 90 percent of the alcoholic beverages market. South African Breweries is a subsidiary of SAB Miller, a multinational company headquartered and FTSE-listed in London. Coca-Cola South Africa is part of the Coca-Cola Africa Group, whose headquarters were only recently moved to Johannesburg. Coca-Cola Africa Group in turn reports to Coca-Cola headquarters in Atlanta. Coca-Cola holds licenses for many beverage products in South Africa and is as a company mostly engaged in managing and marketing the Coca-Cola brand. Business activities such as bottling and distribution are sourced out to various actors in the complex value chain with a surrounding network of upstream and downstream businesses. Overall, the Coca-Cola business network spans agriculture to retail, from sugar production facilities to vendors. Almost all of the value-creating activities spanning from manufacturing to distribution are locally based. All these relationships substantiate an extensive beverage cluster forming an integral part of the South African economy. Strong supply chain relations in terms of internal standards are one of the main characteristics of this cluster. Finally, there is also a strong link between the two major players in the South African beverage industry: SAB Miller is a major shareholder of ABI, Coca-Cola's main bottler. Through this, but also through other connections, there is a common exchange about best practices and quality assurance between the two major players in the South African beverage sector.

The South African sugar industry is a good example for agriculture-based raw material production at the beginning of the food value chain, with sugar constituting an important ingredient in both foodstuffs and beverages. Illovo Sugar and Tongaat Hulett are the largest sugar companies in South Africa and cover the entire sugar value chain from growing (also partly relying on smallholder agriculture) to milling and further processing (Börzel et al. 2010).

The markets for companies in the South African Food and Beverages Sector depend on the product offered and the overall strategy followed by the company. International companies mostly cater to the South African market; in some cases they use South Africa as an access point for other African markets. These companies are, for the most part, subject to South African regulation. South African firms exporting to international markets are reportedly influenced by regulation abroad. While these regulations often only apply to selective products, companies were mostly trying to comply with such standards by way of an insular solution rather than striving for the introduction of a more encompassing standard. In most cases this was so for regulations in the area of food safety.

## The textile sector

The inward focus of the South African government before 1994 went hand in hand with the creation of inefficiencies in the textile sector and its failure to be internationally competitive. With the general trend toward liberalization the protection levels for the textile industry experienced a phase-down and forced the industry into adaptation. From the late 1990s onward the Rand depreciated, which, in combination with the export incentives of the Duty Credit Certificate Scheme, encouraged an increase in exports while allowing the industry to be competitive against imports (cf. Vlok 2006). This trend was considerably strengthened by the US and EU providing South Africa's textile products with preferential access to their markets. However, the substantial appreciation of the Rand in 2002 had a negative impact on export performance and triggered an import surge, resulting in the textile and clothing industry recently experiencing considerable difficulties.

Statistics South Africa (2006)[4] estimates that the textiles, clothing, leather and footwear industries contribute approximately 4.6 percent to the total value of manufacturing sales, with textiles amounting to 2.1 percent and clothing to 1.7 percent. In 2005, the textiles, clothing, leather and footwear sectors accounted for sales of approximately ZAR 38.7 billion, with clothing contributing ZAR 12.8 billion and textiles ZAR 18.9 billion (Statistics South Africa, Manufacturing 2006). Looking at figures from 1998 to 2004, total textile and clothing output did not expand but remain constant. At the same time, Statistics South Africa (2006[5] and Vlok 2006) shows that retail sales considerably increased. For example, sales of men's clothing rose by 55 percent and footwear by 38 percent from 1999 to 2003. This indicates that, although the local industry still

enjoys a degree of protection, clothing and textile manufacturers seem to have difficulties in competing with imports (see Gibbon 2002).

From 2000 to 2004, South Africa's total imports of clothing and textile measured in nominal Rand value rose (cf. TIPS 2005).[6] Particularly noteworthy is that in 2003/2004 apparel imports grew by 57 percent. Total imports of clothing and textiles accounted for ZAR 8.2 billion in 2003 and ZAR 10.1 billion in 2004. A large and dramatically increasing portion of total imports is coming from China (cf. TIPS 2005).[7] In addition, large amounts of illegal imports usually not taken into account by official data have had an impact on the sector. The import surge is dependent not only on liberalization and the Rand appreciation, but also on a general continued lack of capital investment and technological innovation of the South African textile industry, which reduces the attractiveness of the supplied products (cf. Vlok 2006).

The loss of market share at home has resulted in greater interest in exporting in order to become less dependent on the domestic market (cf. Roberts and Thoburn 2002). While the preparedness might have grown, the actual export performance recently declined. Textile exports increased by 60 percent between 1995 and 2002. With the appreciation of the Rand export sales fell by 35.6 percent in 2003/2004. Of total clothing and textile sales, only 9.4 percent of the former and 18.7 percent of the latter went abroad in 2004. This implies that the domestic market continues to generate the sales majority (cf. Vlok 2006).

It is difficult to determine how many clothing and textile companies operate within the sector. This is mainly due to the informal character of the apparel industry in particular. In a survey conducted by Statistics South Africa in 2001 more than 3,000 textile, clothing, footwear and leather manufacturers were covered while the Clothing, Textile, Footwear and Leather Sector Education and Training Authority lists roughly 2,000 companies of which 1,600 are textile and apparel enterprises (cf. Vlok 2006). Another source speaks of 1,300 apparel manufacturers operating in the formal sector (Research Report 2006).[8] Most of the clothing and textile enterprises employ only 20 to 200 mostly female operators and can thus be considered small or medium in size (cf. Vlok 2006).

The vertical production structure of the textile and clothing sector has its starting point at the various fibers' sources. Acrylic and viscose fibers as well as the chemicals needed for production are generally imported, whereas polyester, polypropylene, nylon, wool, mohair and cotton are locally produced. Looking at the international stage South Africa is the largest producer of mohair as well as the fifth largest of wool, and supplies as much as approximately 40,000 tons of cotton per year with

above world average lint, thus allowing the industry to become increasingly export-oriented (cf. SouthAfrica.info 2006).[9]

With the exception of non-woven materials, fibres move on via the spinning stage to weaving, knitting and so on, and are thus turned into fabrics and garments. This is followed by the finishing process (e.g. printing and dying). Weaving, spinning and finishing constitute the most capital-intensive and, in terms of employment, largest textiles subsector (cf. Roberts and Thoburn 2002). Spinning and weaving contribute to nearly half of the total textiles output. After the fabrics have passed through the finishing process they reach the final production structure stage. Here, the following different groupings of finished products can be distinguished: clothing (men's, women's and children's wear, sportswear, lingerie, etc.), households (bedlinen etc.), technical (automotive etc.) and others (e.g. footwear and furniture). Clothing manufacturers generate approximately one third of total textiles demand and predominantly sell their products on to retailers. The construction, mining and motor vehicle sectors also constitute important textiles buyers (cf. Roberts and Thoburn 2002).

Clothing and textile retailing in South Africa is to a large extent similar to retailing in the countries of the Northern Hemisphere. There are various kinds of retail operations, retailers often undertake non-retail-functions, and types of product as well as outlet offering are broadly distributed among market segments (cf. Gibbon 2002). However, there is a very high level of concentration. Seven retailers account for a market share of circa 70 percent: Edcon, Woolworths, Truworths, Pick 'n Pay, Mr Price, Pep Stores and Foschini. This is approximately double the concentration level of that in the UK (see Gibbon 2001). Moreover, most retailers have been able to take advantage of South African liberalization. Correspondingly, buying power is strong.

Representations of the retailers are dispersed in shopping centers all across South Africa. The retailers are characterized by extensive numbers of employees and large amounts of capital. For example Woolworths employs circa 21,374 full time staff. With 400 stores, Woolworths reached a turnover of ZAR 200,649 million in 2008. Edgars Consolidated Stores (Edcon) employs 21,158 permanent people and comprises 1,141 stores subsumed under 14 different retail chains. In 2008, Edcon's revenue amounted to ZAR 22,565 million.

We will now turn to the empirical analysis of the contributions to governance by firms in the four industry sectors we introduced in this chapter. As a first step, we will consider such contributions in the issue area of HIV/AIDS. We will then look at contributions to environmental governance.

## Notes

1. See data report of the World Bank: http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG [accessed 11 march 2013].
2. *The Economist* (14 January 2010) 'No one gets prizes: Blacks suffer most, as schools remain ill-equipped and children are ill-taught'. Available from: http://www.economist.com/node/15270976 [accessed 10 December 2012].
3. Mbeki, Thabo (2003). 'Address by President Thabo Mbeki to the National Council of Provinces. The second economy, what it is and what is needed to meet the growth and development challenges it presents'. Available from: http://www.sarpn.org.za/documents/d0000830/index.php [accessed 27 September 2006].
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7. Ibid.
8. Research Report (2006). *Research Report*. Region: South Africa, Industry: Textiles. Market: Men, Women, Children. Abstract. Infomat, Fashion Search Engine. Available from: http://www.infomat.com/research/infre0000281.html [accessed 2 August 2006].
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# Part II
# Fighting HIV/AIDS in South Africa

# 3
# HIV/AIDS in South Africa

*Anna Kristin Müller-Debus and Christian R. Thauer*

"In South Africa, the government is hugely constrained in its ability to deliver, for a whole host of reasons: corruption, incompetence, poor leadership, incapacity, legacy of apartheid and so on."[1]

The first HIV/AIDS cases in South Africa were diagnosed in the early 1980s. Since the beginning of the 1990s, the prevalence rate has increased rapidly. In 2004, it was believed to have passed 10 percent of the total population (cf. Soest and Weinel 2006). According to UNICEF, the estimated adult prevalence rate (aged 15–49) in 2007 was 18.1 percent.[2] This makes South Africa one of the countries most heavily affected by HIV/AIDS.

Government programs have been insufficient in both their formulation and implementation to address the HIV/AIDS problem. After the democratic elections in 1994, HIV/AIDS was declared a 'Presidential lead project' (Rosenbrock 1998). Yet the following years saw little action. In fact, the prevalence rate rose significantly. A fundamental problem of the government programs at the time was the general lack of financial as well as human resources. Moreover, those financial resources that were available were not being spent appropriately. This was due to the difficulties in coordinating actions and defining responsibilities among the vertical governmental spheres (Rosenbrock 1998). Overall the government's response is therefore best described as sluggish (cf. Whiteside and Sunter 2000).

By the end of the 1990s, the South African government revised its HIV/AIDS approach, creating the 'HIV/AIDS/STD Strategic Plan for South Africa 2000–5' (see Department of Health 2000). This plan sought to respond to two important international instruments: firstly, the 'Abuja Declaration on HIV, AIDS, Tuberculosis and Other Related Infectious Diseases', which was endorsed by African Heads of State in

April 2001; secondly, the 'UN Declaration of Commitment on HIV/AIDS', adopted by the UN Special General Assembly Session in June 2001 (cf. Hickey et al. 2003).

Because it focused on prevention, however, the plan lacked an explicit commitment to specific treatments such as antiretroviral therapy (ARVT)[3] (Hickey et al. 2003, Mbali 2004). In addition, it did not include measurable action programs for implementing the formulated policies, let alone the necessary budget. Nor did this plan address the limited involvement and capacities of local government to fight the disease (Hickey 2002). Finally, the particular vulnerability of women was not accounted for either (Hickey et al. 2003).

In an attempt to improve the implementation of HIV/AIDS policies, the government formed inter-departmental and inter-ministerial HIV/AIDS committees at the national and provincial level. It established the 'Partnership Against Aids' to foster the cooperation of government agencies with civil society, which subsequently changed into the more formal 'South African National Aids Council' in 2000. The 'South African Vaccine Initiative', nine treatment guidelines for the management of opportunistic diseases, and the 'Beyond Awareness Campaign', a multi-media communication campaign, were also launched (Garbus 2003, Weinel 2005).[4] In 2001, the 'Integrated Plan for Children and Youth Infected and Affected by HIV/AIDS' was developed. However, similar to the Strategic Plan, these initiatives did not show any commitment to the provision of treatment.

During this time, it was merely holders of private health insurance and individuals supported by NGOs who had access to treatment (Steward and Loveday 2005). In response to national as well as international critique the government was forced to place ARVT on the agenda more prominently. It consulted the 'Joint Health and Treasury Treatment Costing Task Team' and came up with the decision to roll out a large scale ARVT program in August 2003. Building on the 'Strategic Plan for South Africa', but explicitly including the provision of ARVT the 'Operational Plan for Comprehensive HIV and AIDS Care, Management and Treatment for South Africa' was formulated in Autumn 2003 (cf. Department of Health 2003). Its aim was to ensure universal, equitable and free access to antiretroviral medication. The main weakness of the plan was that the provinces were left in charge of its implementation. Most – and in particular the less developed poor provinces, where the disease is most prevalent – lacked the resources to fulfill this task. As a consequence, they continue to suffer a severe shortage of medication and skilled personnel at the local level.[5] Most people rely on public

health care and thus face delays in treatment and insufficient supply of medication – which, in turn, is often of poor quality.

For patients, public health care in the areas of HIV/AIDS is difficult to access, involves a number of complications and functions poorly. By 2005, drug coverage was a mere 23 percent. Due to the lack of medical personnel and clinics at the local level (which is where HIV/AIDS needs to be tackled), there are long waiting lists for those affected to enter the public programs. Once accepted, they often have to travel long distances and wait long hours in front of a clinic to receive medication. For many – and in particular for those suffering from AIDS – participating in the public programs is too much of a burden. Those who do participate do not get effective treatment. Each patient would need to be individually tested for the specific type of virus contracted and to be issued with a mix of anti-retroviral medication that specifically targets this virus – instead of the standardized mix patients receive from public health care institutions. Also, the physical deterioration patients have to go through before they become eligible for anti-retroviral medication is substantial. When compared to private health care, the level of sickness before patients can receive medication is much higher in public health care. Often, persons with AIDS are too weak to reach the clinics once they become eligible for medication – which is yet again an indication of the government's failure to tackle this disease in a sensible way.

The South African government has neither adopted a comprehensive approach to fight HIV/AIDS on a general level, nor developed regulation to specifically govern the disease in the workplace (Dickinson and Stevens 2005). The 'Code of Good Practice on Key Aspects of HIV/AIDS and Employment,' the constitution and numerous other legislative measures are supposed to ensure that individuals with HIV infection are not discriminated against in the workplace. While corporations have to comply with human rights legislation, which has been subject to a lot of attention in South Africa, there are few legal restrictions when it comes to their economic activities.

The South African government still lacks the capacities to fight HIV/AIDS. Next to problems connected to limited statehood, HIV/AIDS prevention is faced with a widespread and destructive attitude toward the disease. To date, many high-ranking politicians – among them the former President Thabo Mbeki and now deceased health minister Manto Tshabalala-Msimang – deny a relation between HIV and AIDS and refuse to take action based on scientific evidence. Hence, the case of HIV/AIDS in South Africa is a particularly complicated one for evaluating our hypotheses: weak state capacities are indicated not only by

a lack of policy formulation and implementation to address the problem, but also by an unwillingness among some members of the political elite to seek effective solutions and develop the capacities required to implement them.

## Notes

1. Interview with Brad Mears, Director of the South African Business Coalition on HIV/AIDS (SABCOHA), 2007, Johannesburg.
2. www.unicef.org/infobycountry/southafrica_statistics.html [Accessed 5 January 2011].
3. The HIV treatment works by suppressing viral replication, thus allowing immune system recovery.
4. The government also funded other initiatives, such as Khomanani, LoveLife and SoulCity.
5. See interviews with an automotive expert in Durban, October 2007.

# 4

# Coping with Uncertainty: The Automotive Industry and the Governance of HIV/AIDS in South Africa

*Christian R. Thauer*

## Introduction

When global car companies decide to make a country a hub, they invest substantially in production sites and technology, the skills of employees and the development of a supply chain. South Africa is illustrative in this respect.[1] The country has been chosen as a production site by many of the global car manufacturers – among them BMW, Ford, GM, Mercedes Benz, Nissan, Toyota and VW – since the end of the apartheid system and the beginning of the country's economic liberalization in the early 1990s.[2] The investments that have accompanied this development are substantial and often long-term in perspective. Revenues are to be generated in the future. Until then, the invested resources – financial, know-how and personnel – are bound by the initial investment decision. This means that these investments bear a risk given that the companies rely heavily on the South African investment environment (Thauer 2010, 2014). In economic terms the decision to make the country a production site for cars is thus associated with the creation of 'asset specificity' (Williamson 1975, 1996).

'Areas of limited statehood' (Risse 2011), such as South Africa, constitute an incomplete, ineffective and contradictory institutional environment for business activities. Such environments have certain advantages for investors: wages are lower in Africa than, for example, in Europe; in addition, South Africa allows automotive multinational corporations (MNCs) to escape what they often conceive of as over-regulation in the Triad markets of Europe, the United States or Japan. From the perspective of asset specificity – that is, risky investments with a high dependence on the investment environment for their revenue

generating potential – areas of limited statehood pose a number of challenging management problems, too, however (Thauer 2010, 2014). These problems are among the trade-offs MNCs accept when they decide to invest scarce resources in South Africa. One main trade-off is a high prevalence of HIV/AIDS in the country. The negative impact of the pandemic on the economy is already substantial today, and may increase in the future (Müller-Debus et al. 2009a, 2009b, Soest and Weinel 2006).[3] Thus, the development of the economy is uncertain, and so are the returns on investment that have been made by MNCs in the country. Automotive MNCs are subject to this uncertainty. Profits in this industry are created by productivity-increases and technological innovation. Accordingly, car companies rely heavily on skilled labor, and they invest substantially in human resources. Hence, automotive firms are particularly affected by and vulnerable to the negative effects of HIV/AIDS (Thauer 2010, 2014).

The main argument of this chapter is that car companies cope with this uncertainty in their investment environment by addressing the problem of HIV/AIDS as governance providers. In comparison to the other industry sectors considered in this book, the automotive industry is a particularly positive case with respect to the contribution of business to governance. This chapter will first lay out the various ways in which car companies attempt to contribute to governance in the field of HIV/AIDS, and then analyze the specific, often diverse motives that make individual firms do so.

## The Contribution of Car Companies to the Governance of HIV/AIDS in South Africa: Modes of Interaction

Assuming a high affectedness of the automotive industry by the HIV/AIDS pandemic, a general lack of public health care in the country and the inability and unwillingness of the government to address the problem of the disease adequately, this section asks:[4] How do firms in the automotive industry contribute to the governance of HIV/AIDS in South Africa?

There are distinct ways in which firms can contribute to governance. The automotive industry illustrates firm activities in most of them, as it is a particularly strong governance provider in the field of HIV/AIDS. Multinational corporations (MNCs) in the industry engage, firstly, in active consultation and lobbying vis-à-vis the government for stricter publicly funded programs in the public health sector to tackle the disease.[5] The large MNCs in particular – the so-called Original Equipment

Manufacturers (OEM) – make attempts to influence the South African government in this respect through direct, bilateral consultations on all levels and in different constellations. For example, there have been attempts to influence the South African government behind closed doors within the context of the President's 'International Investment Council'. This body was established to allow the president to draw on the advice and expertise of business leaders such as the former CEO of the Daimler AG, Jürgen Schrempp, with regard to foreign investment issues. In this Council, automotive industry leaders highlighted that the controversy over HIV/AIDS treatment in South Africa and the questionable stance displayed by the government on the issue could divert foreign investment from South Africa (Soest and Weinel 2006). Thus, business – more precisely, individual firms such as Daimler AG on behalf of Mercedes Benz South Africa – helped to bring about the government's decision of 2003 to provide antiretroviral (ARV) medication as set out by the Operational Plan of the South African government. This was a major policy measure undertaken by the national government to combat HIV/AIDS (see Chapter 3).

It should, however, be noted that while business has had some influence on this decision, the main thrust behind the Operational Plan came from the NGO Treatment Action Campaign. For years, the NGO organized campaigns and managed to put the government under pressure for its inactivity toward the HIV/AIDS pandemic. In addition, the general international pressure on the government to change its approach toward the disease, and to some extent also the activism of trade unions, factored heavily in the South African government's decision to adopt the Operational Plan. The lobbying activities of automotive MNCs were therefore among several pressure factors behind the Plan, though they were certainly important (Müller-Debus et al. 2009a, 2009b).

Car companies also actively participate in the cross-sector South African Business Coalition on HIV/AIDS (SABCOHA).[6] All of the major MNCs in the automotive sector are members of SABCOHA. SABCOHA tried to lobby the government to develop a better response to the spreading disease. Hence, the association facilitated the attempt to foster state regulatory capacities. In contrast to the lobbying attempts by individual companies, SABCOHA also engaged in building up public pressure on the government in this respect. In the end, however, the various lobbying attempts, unilaterally or through SABCOHA, were not very successful. To this day, the response of the South African government toward the disease is reactive at best. The country is still a far cry from providing comprehensive treatment by public health care

institutions in most provinces, and this is particularly true in the townships areas, where the impoverished are most affected by HIV/AIDS. Finally, I shall point out with regard to the car firms' lobbying attempts that while some automotive MNCs, such as Mercedes Benz, actively engage in direct consultations with government, others, such as for instance General Motors, do not. Hence, the behavior of car firms varies in this respect. Most importantly, however, the supplier association NAACAM (National Association of Automotive Component & Allied Manufacturers) as well as virtually all suppliers interviewed for this book said that they would never even have considered approaching the government on the HIV/AIDS issue.[7] The lobbying activities of the car industry are thus driven by some MNCs only, while the rest of the industry largely remains inactive.

Secondly, big multinational car companies often indirectly help build government capacity at the local level by running comprehensive HIV/AIDS workplace programs for their employees and their relatives. These programs consist of different components, which concern education and awareness raising, voluntary counseling and testing (VCT) and medication. Moreover, they provide services to employees and their relatives and assist suppliers, schools, local hospitals and clinics set up their own HIV/AIDS programs for employees and the general public (Müller-Debus et al. 2009a, 2009b). On the one hand, these workplace programs, by providing comprehensive health care services to employees and their relatives, reduce the number of persons in need of being treated by public institutions. On the other hand, MNCs actively support public institutions, including schools and clinics, to show an improved response to the disease (see below for more detail on public-private partnerships and multi-stakeholder initiatives).

Thirdly, the industry engages in co-provision of governance with state agencies and in multi-stakeholder initiatives. On the global level, automotive MNCs are active, for example, in the World Economic Forum's Global Health Initiative (GHI) or the Global Compact, which is the most well known public-private partnership and multi-stakeholder initiative for corporate social responsibility. MNCs use these forums to coordinate the industry's response to the disease and to find standards for HIV/AIDS workplace programs.[8] Such public-private partnerships and multi-stakeholder initiatives are widespread on the global level, but largely absent on the national level. Given the erratic stance of the South African central government toward the disease, this is no surprise. However, there exist many cooperative arrangements on the provincial and local levels, where local state agencies show a much more pragmatic, problem-solving oriented

approach toward HIV/AIDS. It is in such local initiatives that individual automotive firms contribute significantly to the provision of services in their regions and thereby foster the implementation capacities of local governments and state agencies and directly co-provide for services. BMW, for example, engages in a public-private partnership which runs a clinic for persons living with HIV in the outskirts of Pretoria.[9] It partners with the Gauteng provincial government and SEQUA, a German development agency.[10] In a similar case, Mercedes-Benz is involved in a public-private partnership in the Eastern Cape, where state capacities are particularly weak.[11] In cooperation with the National Ministry of Health, the local health agencies, the DED – another German development agency – the local SABCOHA chapter and the Border Kai Chamber of Commerce (BKCC),[12] Mercedes-Benz supports small and medium-sized business in their efforts to draft and implement HIV/AIDS workplace policies. In addition, the public–private partnership trains nurses and doctors in local clinics on HIV/AIDS issues. In Durban (which hosts an automotive cluster around the MNC Toyota) the local chamber of commerce has initiated a public private partnership with the Durban municipality for a Global Fund-sponsored project to tackle the disease.[13] The other partners in this project are local suppliers and Toyota itself. The project was to be rolled out first throughout the industry and then to the general public. However, it turned out unsuccessful. The national government stepped in and effectively made a project implementation impossible. The program was planned at a time in cooperation with the local government when the national government was still largely in denial of the problem of HIV/AIDS in the country. The national government saw the project as an attempt to undermine its authority, which is why it stepped in to take over control of it. While this project failed due to this intervention from central government, the example illustrates nonetheless that the automotive industry is an active provider of governance in the field of HIV/AIDS (Börzel et al. 2012).

In addition, all MNCs in the automotive industry partner up individually with local public schools, kindergartens and clinics in their fight against HIV/AIDS. This partnering includes awareness raising measures and education for school children as well as large-scale training of nurses and doctors on HIV/AIDS issues in clinics and hospitals (Müller-Debus et al. 2009a, 2009b). These trainings usually also involve the local and/or provincial Departments of Health as well as local NGOs and are probably much more relevant than the above-mentioned creation of clinics. Today, ARV medication has been available – at least since its roll out in 2003 – in many areas in South Africa. The problem is, however,

that there are too few AIDS clinics with trained personnel so that often the medication does not reach the patient. Hence, trainings are crucial to transform regular clinics (that are not licensed to distribute ARV medication) into AIDS-clinics (that can distribute ARV). In some cities such as East London (with Mercedes Benz), Port Elizabeth and Uitenhage (with VW, General Motors and Ford), the activities of automotive MNCs to upgrade local clinics and hospitals are much more effective and present than the activities of the provincial and local governments.

Therefore, on a local level, automotive MNCs close governance gaps and partly take over the functions of public authorities, while at the same time engaging in partnerships with those authorities in the hope that someday they will be able to fulfill these tasks themselves. The local chambers of commerce, such as the Port Elizabeth Regional Chamber of Commerce and Industry (PERCCI) or the Border Kai Chamber of Commerce, are usually the forums in which the activities of MNCs are coordinated. While these local partnerships for HIV/AIDS governance are ubiquitous, there are very few instances in which the trade unions get involved in fighting the disease in collaboration with the companies. This is particularly noteworthy, as HIV/AIDS workplace programs and the outreach of MNCs to assist local communities in the fight against the disease should be in the best interest of the unions. Hence, one would expect union pressure to be a main driver for these programs. The empirical observation is quite the opposite though: MNCs drive HIV/AIDS workplace programs (Thauer 2010).

Fourthly, I shall address the role of associations in the industry's fight against HIV/AIDS. The industry is highly organized.[14] What may seem surprising, however, is that the large MNCs do not coordinate much in the context of their association NAAMSA, the National Association for Automobile Manufacturers of South Africa, on issues related to HIV/AIDS (Müller-Debus et al. 2009a). NAAMSA has also not made any attempts to pursue public regulation in the HIV/AIDS area. Nonetheless, associations do play an important role in the industry's fight against the disease. The industry has pushed the issue of HIV/AIDS through the cross-sector association SABCOHA, the South African Business Association on HIV/AIDS, instead of pursuing its collective goals through NAAMSA. All large OEMs are members of SABCOHA. SABCOHA represents its members in both NEDLAC – the National Economic Development and Labor Council, which is the key corporatist forum on social and work related issues in the country – and the South African National Aids Council (SANAC), where advice is given and possible regulation is debated on a regular basis.[15]

In addition to these activities directed toward stronger state programs (which this chapter has already discussed), a variety of implementation measures are taken by SABCOHA. Drawing on a pool of employees and financial means coming from member contributions and donations, SABCOHA engages in self-regulation and service provision. For example, those firms that are particularly successful in developing and implementing HIV/AIDS policies receive an award at an annual event. Several projects for supply chain development have been initiated, too. An example is the BizAIDS micro-enterprise development program, established specifically to assist small and medium-sized businesses in the automotive supply chain delivering effective HIV/AIDS programs.[16] SABCOHA has also developed a tool kit for small to medium-sized companies to set up and run HIV/AIDS workplace programs. SABCOHA often cooperates in the projects run by big MNCs that aim at assisting suppliers to set up HIV/AIDS workplace programs (see below for more on supply chain activities).

Implementation measures are also taken by the National Association of Automotive Component & Allied Manufacturers of South Africa (NAACAM), which represents and organizes the supplier sub-sector of the automotive industry.[17] Locally, the association has four offices by which so-called Local Action Groups (LAG) are organized. There are all in all eleven LAGs in basically every place that has automotive production. These LAGs have a chairperson as well as their own administration and meet twice a month to address what are pressing issues from the industry's perspective. In the context of these LAGs, information sessions are organized to inform local suppliers about the problems HIV/AIDS may cause for firms and about the necessary steps for the development of a workplace program. The LAGs also refer firms to experienced consultants on HIV/AIDS workplace programs and have negotiated special prices with consultancies for their members. They contact local clinics to organize preferential treatment for employees working for firms that participate in the LAGs.[18] Hence, the industry as a collective is highly involved in the fight against HIV/AIDS. While the MNC sector engages in consultation processes through SABCOHA, the supplier sector is still in the process of getting HIV/AIDS workplace programs off the ground. They are thereby assisted by SABCOHA, NAACAM and the supply chain programs of MNCs.

Fifthly, most major MNCs are involved in business self-regulation along the supply chain, though to different degrees.[19] Through this, the MNCs cooperate closely with SABCOHA and have distributed the SABCOHA tool kit for HIV/AIDS workplace program development to many of their component suppliers. In the case that suppliers opt for

a workplace program development, SABCOHA makes itself available to smaller automotive firms to assist them in their workplace program implementation activities. In addition, many of the big car companies have founded supplier schools, benchmarking clubs, automotive clusters and engage in projects with local Chambers of Commerce or International Organizations as well as the South African state to upgrade suppliers. For example, VW has founded a supplier school in Uitenhaage that aims to train and upgrade local suppliers to Western efficiency and quality standards.[20] Once a week a selected number of suppliers of South African origin come to this school to learn what production on a global standards level requires from them. In Durban, Toyota engages in an automotive cluster, which is partly financed by the municipality.[21] Ford and BMW also operate supplier schools. Not all suppliers are member of such supplier schools. Among the first-tier suppliers of South African origin, the participation rate is high (60–70 percent), compared to the approximately 30–40 percent among second-tier suppliers originating from South Africa. The organizational structures of these supplier schools that link the suppliers to the OEMs may often not be as formally established as the ones of the horizontal associations NAAMSA and NAACAM. For example, supplier schools rarely have a CEO (the Durban cluster serves an exception to the rule) and an independent budget. However, all of these supplier initiatives by MNCs require the allocation of substantial resources in terms of personnel, know-how and finance. VW, for example, has a team of 10–15 middle managers to which the exclusive task of supplier development is assigned (Müller-Debus et al. 2009a). In the case of BMW, Ford, Daimler AG and Toyota the situation is similar.[22] The organizational structures that connect OEMs with the component sector have added the fight against HIV/AIDS to their agenda. Within the context of the supplier school of VW, for example, a project was launched in cooperation with the International Labor Organization (ILO) to implement HIV/AIDS workplace programs in the supply chain of VW. In the Toyota-related Durban automotive cluster, an HIV/AIDS workplace program section has also been included in the activities of the cluster. In East London, the Daimler Health Trust has engaged within the context of the supply chain development activities of Mercedes Benz South Africa with the German development agencies 'Gesellschaft für Internationale Zusammenarbeit' (GIZ) and 'Deutscher Entwicklungsdienst' (DED), as well as the Border Kai Chamber of Commerce and Industry in a project in which HIV/AIDS workplace projects are implemented in the supply chain.[23] Similar activities mark the supply chain initiatives of BMW. Variation persists with respect to which firms fight HIV/AIDS along the

supply chain. The activities of General Motors, for example, are more limited in this respect. Ford South Africa used to have a fully-fledged supplier outreach program. It has recently been circumscribed on account of the precarious financial situation of the Ford Motor Company, however. It becomes clear that many of these outreach programs along the supply chain are at least coorganized by development agencies and that suppliers are generally at the receiving end of the industry's governance attempts, with the MNCs clearly the driving force.

Finally, HIV/AIDS workplace programs run by MNCs in-house include education and awareness-raising and involve companies in addressing the problem of contracting HIV/AIDS on a social and behavioral level. These activities include, among others: free condom distribution, the proliferation of information material on safer sex practices, the installation of peer educators among the workforce, and the organization of action days on HIV/AIDS with industrial theater groups that address issues of safer sex practice, sexual violence and gender relations (Thauer 2010). They also extend invitations to sports teams and pop stars to talk about these issues. Voluntary counseling and testing campaigns usually run once or twice per year. They seek to motivate employees to get anonymously tested for HIV. Subsequently, employees can attend a counseling session with professional medical personnel, who inform them of the results and about the medical program the company can offer them should it be required. Adequate provision of medication preconditions the enrolment of employees in the firms' HIV/AIDS programs. These programs include the free distribution of immune boosters, nutrition supplements and counseling on a generally healthy lifestyle for patients who have contracted HIV to prevent them from falling sick with AIDS. They often also include ARV medication for persons who have fallen ill with AIDS. In the case of the MNCs, the medication is on a level as provided by private health care institutions. This means that patients gain access to the most advanced medication, which effectively makes HIV/AIDS a chronic disease rather than a death sentence (which it still is, unfortunately, for the average South African who has contracted the disease). Comprehensive HIV/AIDS workplace programs also offer employees treatment for the so-called secondary or opportunistic diseases, which comprise most of the negative effects HIV/AIDS has on affected persons.

In sum, the industry is an active governance provider in the field of HIV/AIDS. However, substantial variation persists as well. In particular the attempts of firms to fight the disease differ with respect to the effectiveness of their HIV/AIDS workplace programs, the degree to which such programs are rolled out to the general public, and the degree and

extent to which they are run within the supplier segment of the industry. With respect to the effectiveness of the programs, some MNCs, such as BMW, have particularly high participation rates in the VCT campaigns of more than 90 percent. This is the key for enrolling employees who have contracted the virus in the workplace programs.[24] Accordingly, the HIV/AIDS workplace manager says that before the program started, the company was losing people to the disease on a weekly basis and experienced productivity losses on account of absenteeism and lack of personal fitness. Since the roll out of the program, however, the company has not lost a single employee, she says, and productivity has increased ever since.[25] Other MNCs, by contrast, report recruitment problems with respect to their HIV/AIDS programs. The disease is associated with social stigma and isolation. Preventive measures challenge prevailing sexual identities.[26] Hence, making employees attend the programs proves to be a big challenge for automotive MNCs, which some seem to meet more successfully than others. Concerning the extension of the programs to local schools, clinics, hospitals and suppliers, variation persists with respect to the extent to which MNCs engage in such roll outs. Some firms have made the roll out a constitutive part of their HIV/AIDS programs and have thereby effectively become the main governance provider in the field of HIV/AIDS in the region, while other MNCs are more reluctant to address systematically the fight against the disease in the social environment in which they are set (see paragraph above on public-private partnerships and multi-stakeholder initiatives). Finally, variation within the industry concerns the supplier sub-sector. While MNCs are, as described, generally pro-actively addressing the problem of HIV/AIDS – the described variation notwithstanding – small- and medium-sized firms in the supplier sub-sector are generally engaging less forcefully in the fight against the disease. Most of the bigger firms and first-tier suppliers, which are firms that directly supply to the MNCs, operate a HIV/AIDS workplace program. However, these programs often vary with respect to the services that are offered (very often not including medical treatment), and suffer from particularly low participation rates. In addition, many smaller firms as well as second- and third-tier suppliers do not engage in the fight against the disease at all – or have a policy on HIV/AIDS which is not effectively implemented (Thauer 2010).

Table 4.1 summarizes the governance contributions by car companies in the field of HIV/AIDS. The table is structured according to the mode of interaction through which governance is provided and according to the two dominating sub-sectors of the industry, MNCs on the one hand and suppliers on the other.

*Table 4.1* Governance contributions of automotive firms

| **Governance contributions, modes of interaction** | | **MNCs (e.g. BMW, Ford, GM, Mercedes Benz, Nissan, Toyota, VW, Bosch, Johnson Controls)** | **Suppliers, SME** |
|---|---|---|---|
| **Fostering of public regulation and state capacities** | *Consultation and Lobbying* | 'Behind closed doors' lobbying of individual automotive MNCs in the context of Presidential Council; lobbying through public affairs and behind closed doors consultations through SABCOHA | No direct government contacts, no lobbying |
| | *Capacity-building* | Implementation of workplace programs, encouragement and support for suppliers, local schools, clinics and hospitals to engage in the fight against HIV/AIDS. However, these activities vary between MNCs in their intensity | No direct government contacts, no lobbying |
| **Public-private co-regulation** | *Bi-partite* | Transnational level: Global Health Initiative, Global Compact; local level: cooperation with schools, clinics, hospitals, Health Departments to respond collectively to the disease | No involvement in public-private partnerships or multi-stakeholder initiatives – or only at the 'receiving end' as those who benefit from these partnerships |
| | *Tri-partite* | Unions do not engage in the issue of HIV/AIDS in the workplace | Unions do not engage in the issue of HIV/AIDS in the workplace |
| | *Multi-stakeholder* | Durban Global Fund Project, ILO-VW-SABCOHA project in Uitenhaage, Daimler Health Trust project (with GIZ, DED, chamber of commerce, SABCOHA, NGO and suppliers) in East London, Toyota automotive cluster project in Durban, Outreach projects of GM in Port Elizabeth and Ford in Rosslyn | No involvement in public-private partnerships or multi-stakeholder initiatives – or only at the 'receiving end' as those who benefit from these partnerships |

(*continued*)

*Table 4.1* Continued

| Governance contributions, modes of interaction | | MNCs (e.g. BMW, Ford, GM, Mercedes Benz, Nissan, Toyota, VW, Bosch, Johnson Controls) | Suppliers, SME |
|---|---|---|---|
| **Private self-regulation** | *Involving non-state stakeholders* | NGOs are usually also involved in the projects listed in the cell above | No involvement in public-private partnerships or multi-stakeholder initiatives – or only at the 'receiving end' as those who benefit from these partnerships |
| | *Through business association* | Lobbying and supply chain development through cross-sector association SABCOHA | SABCOHA as well as the supplier association NAACAM in Local Action Groups assist suppliers in setting workplace programs through tool kit |
| | *Along the value chain* | Encouragement and support of suppliers to set up workplace programs – individually, supplier schools (which are often multi-stakeholder in character, involving IOs, development agencies, government agencies and chambers of commerce) or via SABCOHA | SME are at the receiving end of the supply chain activities of MNC. However, their willingness to cooperate is a precondition for the success of the governance attempts in the supply chain |
| | *In-house programs* | Implementation of workplace programs, encouragement and support for suppliers, local schools, clinics and hospitals to engage in the fight against HIV/AIDS. However, these activities vary between MNCs in their intensity | Workplace programs. However, these activities vary in intensity; still a lot of suppliers do not have a workplace program. No outreach programs of suppliers to local schools, clinics and so on |

## The Contribution of Car Companies to the Governance of HIV/AIDS in South Africa: Drivers

What explains the engagement of car companies in the governance of HIV/AIDS and the observed variation thereof? Most automotive firms' attempts to assert governance in the issue area of HIV/AIDS are driven by a combination of five factors. The first refers to the shadow of anarchy. In the absence of government activities and a comprehensive public health response to the spread of HIV/AIDS in South Africa, the problems the disease poses to business and society at large will in all likelihood persist or even become more severe. A healthy workforce and labor market – generally: public health – constitutes a precondition for most business activities. Hence, if companies do not attempt to provide for the common good public health, the chances are high that no one will – which would, in turn, damage the firms' profits. This partially explains why MNCs actively engage in consultation and lobbying on the issue of HIV/AIDS at the level of government, and why they are highly active governance providers. However, the shadow of anarchy, which HIV/AIDS is certain to cast over any firm doing business in South Africa, is a necessary (constant) condition for the described governance attempts by firms rather than an explanatory variable. The shadow of anarchy does not vary, across either industry sectors or firms. Hence, the argument does not explain why some firms are stronger governance providers than others, and why the automotive industry is much more active in the field of HIV/AIDS than, for example, the textile or food and beverage industries. Nor does the argument tell us why the governance provisions of car firms in the field of HIV/AIDS in general follow a more coordinative approach than in the field of the environment. While the in-house programs are strong in both policy fields, car firms participate more actively and extensively in partnerships with other actors – government agencies, other firms, NGOs – in the field of HIV/AIDS than in the field of the environment. How can these puzzles related to the contribution of governance by car companies be resolved?

An important second factor in this respect is asset specificity, which recalls what has been stated at the beginning of this chapter: automotive firms, with their high investments in skills and dependence on a productive workforce, are particularly vulnerable to the negative effects of HIV/AIDS. HIV/AIDS causes absenteeism, sickness leave, social conflict among workers and a general low productivity on account of which such investments in skills are in danger of being devalued. Firms engaging in HIV/AIDS workplace programs, however, can effectively mitigate

these problems (Thauer 2010, 2014). From this perspective, HIV/AIDS workplace programs, supplier programs, community outreach activities, and attempts to build capacity in state agencies and to influence the government's approach toward the disease through lobbying are means to safeguard these investments and mitigate associated risks.

Recent studies have systematically assessed the effects of asset specificity on the engagement of firms in the fight against HIV/AIDS. They find that the degree to which firms invest in high skills that are not easily attainable from the labor market is indeed reflected in their attempts to make contributions to HIV/AIDS governance (Thauer 2010, 2014). In contrast, firms in the car industry that have not made such investments show much weaker activities regarding the fight against the disease. Hence, asset specificity – investments in rare skills of employees – account for some of the observed variation among firms in the car industry with respect to their engagement in governance. The argument might also be insightful concerning the mentioned variance between the different industry sectors. With high investments in skills, the car industry may have stronger incentives to, for example, lobby government than other industry sectors that rely less on such investments, such as food and beverage or textiles.[27]

Apart from asset specificity, I shall consider the importance of some other factors for the engagement of car firms in HIV/AIDS governance. A third and rather obvious factor is firm size. Large firms have the capacities and resources to set up a health infrastructure necessary for tackling the problem of HIV/AIDS in the workplace. Small firms, by contrast, lack precisely this problem-solving capacity and thus need to rely on external support if they choose to address the problem in the first place (Müller-Debus et al. 2009a, 2009b). The same is true for public affairs management, consultations with government and lobbying. It is profitable for large firms to maintain the infrastructure for such engagement with government; this is not the case for small firms. This explains why the big companies in South Africa directly consult government. They meet regularly for consultations with government officials in any case, and it is at these occasions that they also voice their concerns regarding the government's HIV/AIDS policy. The supplier sub-sector, by contrast, is clearly marked by small- to medium-sized companies that do not have the capacities to engage in governance. They have not been able to develop in-house policies to address adequately the problem of HIV/AIDS in the workplace which, by contrast, large firms have. This inability to engage with the problem is caused by the non-existence of occupational health infrastructure. The companies in the supplier sub-sectors have no

public affairs infrastructure either. They are usually too small to have regular government contacts, and therefore cannot engage in lobbying or capacity building.

However, why is it, then, that large automotive MNCs directly consult with government on the issue of HIV/AIDS and also reach out to local government agencies to foster their capacities in the fight against the disease while large firms of other industry sectors do not? For example, large retailers in the textile and food and beverage industries do not usually interact with government on HIV/AIDS-related issues (see Chapters 6, 7, 11 and 12 in this book). Aside from the asset specificity argument, which certainly plays a role here, too,[28] a fourth factor should be taken into consideration. Unlike South African textile retailers for instance, automotive MNCs have an exit threat-option, which allows firms to exercise pressure on government. Given the way and extent to which the South African government decided to liberalize its market and integrate it into the global economy and the WTO/GATT system, it relies heavily on long-term foreign direct investment that transfers high-tech and know-how to the country. Foreign firms investing or intending to invest in South Africa can thus be expected to have a bearing on government. More specifically, the South African government depends on car companies investing in the country far more than the car companies depend on South Africa as a market and production site. Hence, they are in a position to make their regulatory demands heard and considered – unlike the mentioned South African retailers, who are in a much weaker position vis-à-vis the South African government.

These four factors account for much of the observed variation of car companies' contributions to HIV/AIDS governance. However, from a comparative policy perspective, a puzzle remains: the governance attempts by car companies in the field of HIV/AIDS, by and large, take on a more cooperative approach involving other actors (such as government agencies, NGOs and other businesses) than in the field of the environment. The explanation draws on a fifth factor, which is task complexity. The spread of HIV/AIDS has a strong social component. In-house workplace programs set up by individual firms may be able to cure the worst symptoms of a high prevalence rate among the workforce. However, employees contract the virus in their off time outside the factory gate. It is in the private sphere that stigmatization, and the fear of enrolling into company programs and of safer sex practices is reproduced. Hence, no containment of the disease can be effective in the absence of other actors' cooperation – schools, clinics, local Departments of Health. In other words, the fight against HIV/AIDS

is a complex task that cannot be carried out satisfactorily without coordination with other actors.

This explains why big car companies reach out on all levels to coordinate with government agencies and other actors to organize a collective response to the disease. Beyond that, coordination with other actors, and in particular with state agencies, is regarded as a necessity for the in-house programs of firms. HIV/AIDS workplace programs are, for example, often believed to be a mere impossibility if the state cannot guarantee that patients will be taken over by public health care institutions should that firm decide to lay off staff.[29] More precisely, the medical doctors refrain from issuing full ARV medication in the absence of a medical scheme that would cater to the potentially unemployed. They feel responsible for their patients' livelihood beyond their status of employment – which actually accords to the Hippocratic Oath. For these reasons, MNCs at times decide against rolling out their treatment programs to the their factories' neighboring communities, that is, to persons who are not their employees. If these neighbor citizens moved away from the area, they would be left without treatment, which bears the danger of developing resistancies toward ARV medication for persons who have contracted AIDS. The task-complexity factor also explains why car companies rely more on cooperative approaches in the field of HIV/AIDS than in the field of the environment. Most environmental problems that concern car companies can be solved through simple non-complex action; that is, by means of in-house and supply chain programs. Hence, in the field of the environment car firms perceive less of a need to reach out and cooperate with government, NGOs and other businesses.

Thus, while the state is necessary for the firms' contribution to the complex task of HIV/AIDS governance, I shall now consider how the involvement of the state can also have the reverse effect. This effect is the sixth factor determining governance attempts of car companies in the field of HIV/AIDS and is particularly relevant for the effectiveness – or indeed ineffectiveness – of such attempts. A case in point is an automotive MNC fighting the HIV/AIDS pandemic in the area of Durban in the 1990s and early 2000s. In partnership with the Global Fund, the local municipality and the local chamber of commerce, the MNC initiated a public–private partnership for HIV/AIDS prevention and comprehensive treatment that was to be rolled out throughout the local business world and beyond.[30] However, the central government, fearing agency loss and threat to its sovereignty, seized full control of the budget and content just before the project was launched. In light of the erratic stance of the national government at the time toward the pandemic and its obvious failure to respond to it effectively, its insistence on

controlling the partnership de facto terminated this project as it forced the partners to withdraw. This case illustrates that in emerging markets the state may be weak, unwilling or incompetent in some specific issue areas, but is often still strong enough to break up governance structures on the local level and maintain its control and authority over local governments and private actors. In politically salient and contested issue areas, local private and public–private governance initiatives are thus threatened by the state.

Apart from the overtly destructive role the state sometimes plays in the governance of contested issue areas, we also find examples of 'neopatrimonial collusion' (Hönke 2010). In fighting HIV/AIDS, MNCs in South Africa have to reach out to local governments. As described above, governing HIV/AIDS is a complex task. For example, medical treatment programs for employees presuppose an agreement with the local public health care institutions to take over employees who have been laid off by their employer. In exchange for this guarantee, MNCs usually offer to extend their HIV/AIDS workplace program to parts of the local community. In East London, however, the government insisted on a highly exclusive deal: in exchange for the guarantee to take over former employees of the MNC, the health department demanded to have its own employees enrolled in the MNC's workplace program.[31] This is certainly a case where the attempt of a MNC to contribute to a common good was transformed by the government's neopatrimonial habits into an exclusive club good. In this respect, one has to bear in mind that the MNC offered to welcome relatively poor persons from the neighboring township who otherwise would have no access to health care to their program. This undoubtedly would have had a positive impact on the local public health situation. Instead, it is now government officials that are benefiting from the program of the MNC; they are relatively well off and could afford private insurance.

Before I conclude, one more finding is worth mentioning. The unions are, as in the field of the environment, not a factor for the engagement of firms in HIV/AIDS governance. This is surprising because employee wellness and health is a core interest that unions are meant to fight for. The automotive industry is highly unionized. In addition, South Africa is a country where unions generally enjoy strong influence. Hence, one would expect the unions to be much more prominently addressed in the analysis in this chapter. However, unions are not a major driver of HIV/AIDS policies in the car industry. On account of their high levels of asset specificity, car companies have a sufficient intrinsic motivation to fight HIV/AIDS, meaning that the unions never saw a need to put pressure on them in this respect. Table 4.2 summarizes the findings. It is structured according to governance contributions and the drivers that bring them about.

*Table 4.2* Drivers of governance contributions

| Governance contributions | | Driver |
|---|---|---|
| **Fostering of public regulation and state capacities** | *Consultation and Lobbying*<br>MNCs: 'Behind closed doors' lobbying of individual automotive MNCs in the context of Presidential Council; lobbying through public affairs and behind closed doors consultations through SABCOHA<br>Suppliers: No direct government contacts, no lobbying | Shadow of anarchy (constant context condition), asset specificity, firm size, exit option |
| | *Capacity-building*<br>MNCs: Implementation of workplace programs, encouragement and support for suppliers, local schools, clinics and hospitals to engage in the fight against HIV/AIDS. However, these activities vary between MNCs in their intensity<br>Suppliers: Workplace programs. However, these activities vary in intensity; still a lot of suppliers do not have a workplace program. No outreach programs of suppliers to local schools, clinics, etc | Shadow of anarchy (constant context condition), task complexity, asset specificity, firm size |
| **Public-private co-regulation** | *Bi-partite*<br>MNCs: Transnational level: Global Health Initiative, Global Compact; local level: cooperation with schools, clinics, hospitals, Health Departments to collectively respond to the disease<br>Suppliers: No involvement in public–private partnerships or multi-stakeholder initiatives – or only at the 'receiving end' as those who benefit from these partnerships | Shadow of anarchy (constant context condition), task complexity, asset specificity, firm size |
| | *Tripartite*<br>Unions do not engage in the issue of HIV/AIDS at the workplace | Asset specificity gives firms sufficient incentives for strong health programs; unions therefore never saw a need to press for better health services |

| | | |
|---|---|---|
| | *Multi-stakeholder*<br>MNCs: Durban Global Fund Project, ILO-VW-SABCOHA project in Uitenhaage, Daimler Health Trust project (with GIZ, DED, chamber of commerce, SABCOHA, NGO and suppliers) in East London, Toyota automotive cluster project in Durban, outreach projects of GM in Port Elizabeth and Ford in Rosslyn | Shadow of anarchy (constant context condition), task complexity, asset specificity, firm size |
| | Suppliers: No involvement in public-private partnerships or multi-stakeholder initiatives – or only at the 'receiving end' as those who benefit from these partnerships | Effectiveness often undermined by state acting as a predator, and by neopatrimonial collusion |
| **Private self-regulation** | *Involving non-state stakeholders*<br>NGOs are also usually involved in the projects listed in the cell above | See above |
| | *Through business association*<br>MNCs: Lobbying and supply chain development through cross-sector association SABCOHA<br>Suppliers: SABCOHA as well as the supplier association NAACAM in Local Action Groups assist suppliers to set up workplace programs through tool kit | Shadow of anarchy (constant context condition), task complexity, asset specificity, firm size |
| | *Along the supply chain*<br>Encouragement and support of suppliers to set up workplace programs – individually, supplier schools (which are often multi-stakeholder in character, involving IOs, development agencies, government agencies and chambers of commerce) or via SABCOHA<br>Suppliers: SMEs are at the receiving end of the supply chain activities of MNCs. However, their willingness to cooperate is a precondition for the success of the governance attempts in the supply chain | Shadow of anarchy (constant context condition), task complexity, asset specificity, firm size |
| | *In-house*<br>MNCs: Comprehensive workplace programs<br>Suppliers: Workplace programs; however, these activities vary in intensity; still a lot of suppliers do not have a workplace program | Shadow of anarchy (constant context condition), asset specificity, firm size |

## Conclusion

The automotive industry is a main governance-provider in the field of HIV/AIDS in South Africa. In particular the MNCs of this sector – BMW, Ford, General Motors, Mercedes-Benz, Nissan, Toyota and VW – actively fill governance gaps in the localities of their main production plants. The smaller firms in the industry (that is, suppliers) also engage in the fight against the disease, but are less active in this respect on account of a lack in resources. Beyond their role as an active provider of governance, automotive MNCs have, in effect, become the main actor concerning any activities relating to the fight against HIV/AIDS in their local communities. This strong engagement and role that MNCs are willing to assume corresponds to the high degrees of asset specificity in the industry – that is, investments in and dependence on rare skills (Thauer 2010, 2014). Asset specificity makes HIV/AIDS a threat to the business model of car firms in South Africa. Hence, these firms engage in all possible ways to mitigate the risks the disease poses. Thereby, they cooperate extensively with other actors, such as government agencies (schools, clinics, hospitals, health-related agencies), NGOs and other businesses – much more than, for example, in the field of the environment. Fighting HIV/AIDS is, however, a complex task. The problem of the disease cannot be effectively mitigated in the absence of cooperation with these other actors. The complexity of the task also points to the importance of state institutions to be actively engaged in the governance of HIV/AIDS. It would be their responsibility to rise to the challenge of complex governance and monitor the required social coordination. The analysis shows, however, that government institutions often refuse to play such a constructive role. Government agencies seem to act, at least sometimes, either in a predatory manner or according to neopatrimonial habits, in particular when complex governance is required – as in the case of HIV/AIDS. They thereby effectively undermine the efforts made by firms and other actors to provide governance services.

## Notes

1. Black 2001, Black and Mitchell 2002, Barnes and Black 2003, Lorentzen and Barnes 2004, Meyn 2004.
2. Today, the industry is considered to be 'the backbone of the South African economy' (Meyn 2004: 14). See NAAMSA (2006, 2011); Statistics South Africa: www.southafrica.info/business/economy/sectors/automotive-overview.htm [accessed 19 June 2009]; see also United States Department of Commerce (2005: 1).

3. See the chapter in this book on 'Business and the Fight Against HIV/AIDS in South Africa'.
4. Hickey 2002, Hickey et al. 2003, Weinel 2005, Soest and Weinel 2006, Müller-Debus et al. 2009a, Müller-Debus et al. 2009b. See Chapter 3 in this book.
5. Interview with the CEO of the national car association NAAMSA, 13 February 2007, Pretoria; interview with the CEO of SABCOHA, 19 March 2007, Johannesburg.
6. Interview with the CEO of SABCOHA, 19 March 2007, Johannesburg.
7. Interviews with the CEO of NAACAM, 29 September 2008, Johannesburg; interviews with various automotive component manufacturers, March and September 2007, Rosslyn, Brits and Bellville.
8. See webpage of the World Economic Forum Global Health Initiative http://www.weforum.org/issues/global-health [accessed 20 January 2012]. See interviews with the Occupational Health and Employee Wellness Managers of a US American MNC, 14 September 2007, Sylverton, a German MNC, 26 February 2007, East London, another German MNC, 14 February 2007, Midrand, and of a large German supplier, 19 September 2008, Brits.
9. Interview with the Occupational Health and HIV/AIDS Program Manager of BMW, 14 February 2007, Midrand, and 19 February 2008, Cape Town.
10. Interview with the Program Coordinator PPP of SEQUA, 13 April 2007, Bonn.
11. Interview with the Manager Corporate Health Services and HIV/AIDS Program, 26 February, East London.
12. Interview with a Manager PPP of the Border Kai Chamber of Commerce, 27 September 2008, East London.
13. Interview with the automotive expert and consultant Dr. Justin Barnes of B&M Analysts, 1 October 2007, Durban and the Managing Director of the Durban Chamber of Commerce and Industry, 25 September 2008, Durban.
14. 'I think this industry is very organized. NAAMSA represents the consensus view of all the motor vehicle manufacturers', says, for example, the CEO of the main association NAAMSA. Interview with CEO of NAAMSA, February 2007, Pretoria. Proof of this is also that NAAMSA has various sub-committees and working groups dealing with all issues of relevance for the industry, for example local content requirements, vehicle crime and safety legislation, industrial relations and export issues. NAAMSA website (http://www.naamsa.co.za); interview with the automotive expert and consultant Dr. Justin Barnes of B&M Analysts, 1 October 2007, Durban.
15. Brad Mears, head of SABCOHA, states: 'Since early 2000 business has contributed to a plethora of documents and policies. For example, in 2003 there was a draft agreement in NEDLAC on what business, government and labour would do in respect to responding to HIV. At that time, the parties actually walked away from that agreement and did not sign it. Now we're back at the table.' Interview with the CEO of SABCOHA, 19 March 2007, Johannesburg.
16. See http://www.sabcoha.org [accessed 15 November 2010].
17. NAACAM gathers around 200 of the 500 companies of this subsector and, thus, represents more than 40 percent of the industry. NAACAM has 3–6 full-time staff members, a central office nearby Johannesburg, an independent budget and a CEO who has some decision-making authority in certain issue areas. NAACAM also shows some functional differentiation as the

association installed some committees on selective issues. Interviews with the CEO of NAACAM, 29 September 2008, Johannesburg.

18. Interview with the CEO of NAACAM, 29 September 2008, Johannesburg.
19. See interviews with the Occupational Health and Employee Wellness Managers of a US American MNC, 14 September 2007, a German MNC, Sylverton, 14 February 2007, Midrand, another German MNC, 26 February 2007, East London, and of a large German supplier, 19 September 2008.
20. Interview with the Manager Employee Wellness, Occupational Health and HIV/AIDS, 25 September 2007, Uitenhage.
21. Interview with the automotive expert and consultant Dr. Justin Barnes of B&M Analysts, 1 October 2007, Durban, and the Managing Director of the Durban Chamber of Commerce and Industry, 25 September 2008, Durban.
22. See interviews with the Occupational Health and Employee Wellness Managers of these firms, 14 September 2007, Sylverton, 14 February 2007, Midrand, 26 February 2007, East London.
23. Interview with a Manager PPP of the Border Kai Chamber of Commerce, 27 September 2008, East London; interview with the Manager Corporate Health Services and HIV/AIDS Program of Mercedes-Benz, 26 February 2007, East London.
24. Interview with the Occupational Health and HIV/AIDS Program Manager of BMW, 14 February 2007, Midrand and 19 February 2008, Cape Town.
25. Ibid. Similarly also the Manager Corporate Health Services and HIV/AIDS Program of Mercedes-Benz, 26 February 2007, East London.
26. Interviews with the Occupational Health Managers of US American and Japanese MNC, 14 September 2007, Sylverton, 13 February 2007, Struvendale, 14 February 2007, Rosslyn.
27. According to a Human Resources Manager, the automotive industry spends, depending on the specific firm, between 3 and 7 percent of their payroll on trainings. In comparison, it is less than 1 percent in the textile industry. Interview with the Human Resources Manager of the supplier Monviso, 16 September 2008, Cape Town.
28. The skills level required in the car industry is on average significantly higher than in the retail industry.
29. Interview with the Health Expert of the Border Kai Chamber of Commerce and Daimler Trust, East London, 27 September 2008; interview with the Manager Corporate Health Services and HIV/AIDS Program of Mercedes-Benz, 26 February 2007, East London.
30. Interview with the automotive expert and consultant Dr. Justin Barnes of B&M Analysts, 1 October 2007, Durban and the Managing Director of the Durban Chamber of Commerce and Industry, 25 September 2008, Durban.
31. Interview with the Occupational Health and Corporate Social Responsibility Manager of the MNC, 26 February 2007, East London.

# 5

# Between Cause and Cure: The Mining Industry and HIV/AIDS Governance in South Africa

*Jana Hönke*

## Introduction

The story of HIV/AIDS and the mining industry in South Africa is complex. It is also more controversial than that of other sectors discussed in this book. Two interrelated factors account for the particularity of the case. Firstly, mining companies have contributed significantly to the spread of HIV/AIDS through the use of their 120-year-old model of migrant labor. At the 2010 HIV/AIDS conference in Durban, the South African gold mining sector came under heavy criticism from medical practitioners, ex-miners, advocacy groups and the South African Minister of Health for its part in the tuberculosis crisis that affects the industry and its workforce. Tuberculosis is a so-called opportunistic disease of HIV/AIDS. An activist with the Aids and Rights Alliance for Southern Africa referred to the industry as 'TB factory'.[1] The health minister, Mr. Motsoaledi, stated that '[if] TB/HIV is a snake in Southern Africa, we know that its head is in South Africa in the mines. We are exporting TB and HIV throughout the region'.[2] Secondly, the mining industry was early in identifying HIV/AIDS as a key risk to its operations. Already in the mid-1980s initial responses were developed. However, the overall exclusionary nature of these first approaches laid the ground for some of the difficulties in the implementation of comprehensive prevention and treatment policies later on. The analysis of the mining sector provides important insights into the specific political and normative conditions under which companies have historically addressed a problem such as HIV/AIDS in a way that contributes to improved provision of collective goods.

Apart from the transport sector (30 percent), the mining industry has the highest prevalence rate of HIV/AIDS among its workforce

(23–28 percent) (Vass 2003, automotive only 4–9 percent). In addition, the mining industry has seen a rise in opportunistic diseases such as TB and malaria. This high prevalence rate can be attributed to the labor-intensive model of mining in South Africa based on cheap, unskilled migrant labor. Moreover, the mining industry was a central actor in the process of institutionalizing racist segregation in South Africa. Since the opening of the first mines in 1886 the industry was based on a racial model of migrant labor (Lipton 1985, Murray 1982). Africans from all over Southern Africa were brought to the mines and housed in single-sex hostels while their families had to stay in their home regions. The Chamber of Mines (CoM) played a key role in introducing and maintaining the migrant and compound system. It benefited from governments that backed racial segregation in society and facilitated recruitment of labor from neighboring countries at extremely low costs (Terreblanche 2002: 65–78). This system became an important facilitator for the spread of HIV/AIDS among mine workers. Thus, contrary to other sectors discussed in this book, HIV/AIDS is not only a context factor with which South African mining companies – with their labor intensity and heavy dependence on migrant labor – have to deal with. The exceptionally high prevalence rate of HIV/AIDS among mine workers is a negative externality of the South African mining industry.

The mining industry in South Africa was the first to become aware of and act upon the risk of HIV/AIDS, perceiving it as a threat to productivity and profitability as early as the mid-1980s. In 1986–7, the Chamber of Mines conducted a survey among 60,000 mine workers. The survey revealed that 0.3–4 percent of mine workers had contracted HIV/AIDS, with the highest rate among Malawian migrant workers (Dickinson 2004, Rajak 2010: 554). The response taken by companies was, however, very restrictive. Constructing HIV/AIDS as an external and extraneous problem, companies sought to insulate themselves from the threat. For this purpose, the firms introduced pre-employment testing despite harsh critique from the unions (Crew 1992, Dickinson 2004). The Chamber of Mines stated that '[N]o known carriers will be engaged […] and all recruits from high-risk areas will be tested at source' (Brink and Clausen 1987: 15). A medical practitioner working with Anglo American explains that: '[b]efore the advent of the ART [antiretroviral therapy] roll-out … they [the companies] were only interested in the negative ones and how to keep them negative, and if you were positive you were stuffed'.[3]

This position changed, however. The National Union of Mine Workers (NUM) continued to criticize harshly and fight against the companies' policy to send HIV-positive workers home. While mining companies

had initially supported the insulation and repatriation approach of the National Party government,[4] the changed political climate after 1989 and the new value given to human rights seemed to change the industry's stance toward the pandemic. It recognized that the spread of the disease was caused by social and economic factors for which the mining industry bore responsibility (Fourie 2006: 81–4).[5] Consequently, NUM and the Chamber of Mines negotiated comprehensive workplace HIV/AIDS policies (Hermanus 1993).

Although the stage was set for a radical policy shift toward a groundbreaking and comprehensive strategy against the pandemic, the initial response to HIV/AIDS developed very slowly both within government and in much of the private sector (Ellis and Terwin 2004, Nattrass 2007: 39, and see Chapter 3 in this book). This changed in 2002. During the 1990s the number and impact of HIV/AIDS infections rose dramatically. The mining industry increasingly felt the impact of the pandemic. Prevalence rates in the mining sector currently range from 16.5 percent up to 30 percent.[6] At the same time, the implementation of the government's HIV/AIDS policy was slow and ineffective. The government under Thabo Mbeki, who took office in 1999, lacked the willingness to engage in a comprehensive HIV/AIDS policy including antriretroviral therapy (ARVT). Since 1995 (the Labour Relations Act) and 1998 (the Employment Equity Act and Medical Schemes Act) respectively, labor regulation in the new South Africa has prohibited firms from dismissing HIV/AIDS positive workers or reducing the benefits for infected workers after early retirement. These regulations caused a sharp rise in the companies' HIV-related expenditures. Thus, in 2002, the largest private sector employer in South Africa, Anglo American, decided to take action and extended its HIV/AIDS program to include treatment as well. Other large mining firms, such as De Beers, AngloGold Ashanti or BHP, followed suit.

In the next sections, I analyze the activities of mining companies in South Africa to combat HIV/AIDS post-2003 and will discuss the quality and inclusiveness of corporate governance contributions in this field. This is followed by a discussion of the factors behind mining companies' more or less inclusive contributions to the collective governance of HIV/AIDS.

## From exclusion to treatment. Mining companies' responses to HIV/AIDS (2003–today)

Mining companies in South Africa were not only the first business actors to become aware of HIV/AIDS and act upon it. The scope of

their engagement has also been unmatched. With the exception of the automotive industry, companies in other business sectors tend to focus less on the development of HIV/AIDS policies, and their overall performance in the fight against the disease is comparatively weak (for the textile and food and beverage industries see Chapters 6 and 7 in this book). Medical practitioners and health personnel employed in the mining sector have also been far ahead of the government in devising and implementing appropriate policies to tackle HIV/AIDS.[7] However, the reach of such private treatment programs is contested. Two aspects are important with respect to this debate. The first one concerns coverage: Are the HIV/AIDS workplace programs of mining firms restricted to regular employees or do they also include contract workers, partners, extended families and community members in the labor sending areas? The second concern is the variation in the engagement of small versus large firms: in 2003 it was mostly large-scale and medium-sized companies that had developed HIV/AIDS policies (Ellis and Terwin 2004).

Larger mining companies have engaged at various levels and with various actors in combating HIV/AIDS. Firstly, most of these activities are situated at the workplace and reach beyond the workforce only to a limited degree. The important role of the trade union NUM is remarkable, as is the degree to which the workplace programs within the sector are coordinated through the Chamber of Mines. With the evolution of corporate HIV/AIDS policies, mining companies have increasingly contracted and partnered with (I)NGOs in order to implement newly developed policies at the local level. Furthermore, mining companies have linked up with IOs, INGOs, global business associations and initiatives, as well as research institutions to develop policies and implement projects. Relations with the Mbeki government have been difficult, however. Therefore, secondly, not much exchange, capacity-building or partnerships had taken place between companies and government at the national level until 2006/7, despite the lack of health service provision in the affected areas. In the platinum mining area of Rustenburg, in which HIV prevalence rates among mine workers are among the highest in the country (28 percent), it was not until the end of 2005 that each district had its own hospital (Thornton 2008: 186). Although they refrained from cooperating with national government, companies informally engaged with local governments. This changed, however, in 2006 when AIDS denialism within the national government had become less acceptable and leadership in the ministry of health changed. National government started to call upon mining companies to help with their expertise and capacities in the fight against HIV/AIDS. Firms have also

entered into more and more formal partnerships with governments from the municipal to the provincial level in order to coordinate public and private HIV/AIDS programs and to extend coverage. Thirdly, mining companies have not been very active – at least not explicitly – in influencing the government's policy agenda or capacity building to improve the implementation of state programs.

## Companies' in-house policies

As outlined above, the workforce in the mining industry is by far the most heavily affected from the HIV/AIDS pandemic compared to other industry sectors discussed in this book. The widespread prevalence of HIV/AIDS among mine workers is historically rooted in the mode of labor recruitment and in the industry's labor relations more generally. Mining companies in South Africa address HIV/AIDS mostly at the local level of the workplace and in the areas from which they source their workforce.[8] Agreements between organized mine labor, most importantly between the largest South African trade union, the National Union of Mine Workers and the Chamber of Mines, helped to facilitate the formulation and implementation of such policies. A first agreement between the Chamber and NUM was reached in 1991 when the fundamental principles of HIV/AIDS workplace programs in the new South Africa were defined. These principles prohibited mandatory testing, prescribed confidentiality of testing results and committed companies to train staff for peer education and to provide benefits for sick employees. A united effort against HIV/AIDS was called for.[9]

As Brian Brink, chief medical officer at Anglo American, recounts, by the year 2000 investors started to see the mining industry in South Africa as 'a business that's not going to survive' and asked '[s]hould we be looking elsewhere?'[10] Therefore, mining companies launched an offensive and turned to a more holistic approach – as long demanded by the trade unions. While education and awareness programs had been introduced as early as 1988/9, ARVT for workers was only rolled out by large-scale companies from 2002 onward. Individual companies signed agreements over comprehensive HIV/AIDS workplace policies (prevention and treatment) between 2002 and 2003, which since then have provided for internal HIV/AIDS policies and have been repeatedly updated and renegotiated.[11] By 2003, 77 percent of the mines had an HIV/AIDS policy in place (as opposed to only 50 percent of the manufacturers). However, only 21 percent contained ARVT (Ellis and Terwin 2004: 22–4). In 2005, Anglo American was described as the 'largest

single business customer for AIDS drugs in the world' (Knight 2005: 22). Today it has about 11,000 HIV-positive employees enrolled on its HIV disease-management program in South Africa.[12]

Workplace programs target workers and their families to various extents. Some of these programs reach beyond the workplace to surrounding and sourcing communities. Workplace programs include information and education, counseling and voluntary testing, and intend a general improvement of health care provisions. Since the 2000s, treatment has been increasingly included in workplace schemes, though to various degrees. Finally, company-provided home-based care services for sick or retired workers have progressively begun to engage with the consequences of HIV/AIDS. Workplace programs are run by the companies themselves or in cooperation with contractors, such as for profit service providers and NGOs. Anglo Platinum, for instance, works with the NGO Vision of the Nation and Tshupe Hospice, which run home-based care centers in local communities next to the firm's mining operations.[13] The independent disease management company Lifeworks trains peer educators for BHP. Peer educators are supposed to encourage workers to receive counseling and go for testing (BHP Billiton 2010, Knight 2005: 30). Home-based care programs in the communities from which employees originate are mostly run by the traditional, industry-owned service provider TEBA. Founded in 1902, TEBA is the labor recruitment and management agency of the South African mining industry. Between 2001 and 2002, members of the CoM signed agreements with TEBA to provide home-based care to mine workers who have returned sick to the rural areas within South Africa.[14]

There is variation in the inclusiveness and scope of these programs with regard to different time periods and different companies. In most cases only full employees were initially covered by workplace programs. Over time, more and more companies developed broader health care facilities for families and communities from which they source labor as well as for contract labor. Part of this engagement is required by the Mining Charter (2002) and is fixed in a 2003 agreement between the Chamber and NUM on health care arrangements for dependents.[15] However, when it comes to discussing the scope and inclusiveness of private health governance in the field of HIV, the most critical issue is access to treatment. Whereas most companies pursue a more exclusive approach, diamond mining company De Beers started the first treatment program that reached beyond the workplace in 2002. It covers workers and their families and is quite unique in terms of its inclusiveness as compared to other companies in the sector (Peterson and Shaw

2006, Rispel et al. 2010: 394). By contrast, BHP Billiton's workplace program is focused on the prevention of HIV among its workforce only, but does not provide ARVT. The company supports workers in accessing private medical schemes that include HIV/AIDS treatment (BHP Billiton 2008: 60, Knight 2005). However, unlike gold mining companies, BHP changed its recruitment practices from migrant labor to sourcing labor from local communities in order to address one of the root causes of the spread of HIV/AIDS.[16] In 2002, Goldfields provided treatment to employees only in exceptional cases such as for rape victims and to prevent mother-to-child transmission.[17] One of the big debates in the mining sector in recent years has been about the issue that the mining companies and the trade unions do not address the needs of extended family members and the broader communities that depend on mining.[18]

Companies rarely extend their contributions to combating HIV/AIDS to the district or provincial level. Where this is the case it is a fairly recent phenomenon, partly triggered by a change in the government position allowing for more public–private cooperation and therewith the extension of business efforts beyond a narrow focus on the workplace to the 'community belt' (Hönke 2012) and beyond. De Beers was the first company to extend HIV/AIDS services to host communities.[19] Others, such as Anglo American, followed suit.[20] Another problem mining companies hesitate to deal with is addressing the root causes of widespread HIV/AIDS prevalence in mining areas: the migrant labor system. Only BHP has changed its recruitment practices by privileging local over migrant labor. While all mining companies are required by the MPRDA and the Mining Charta to phase out single sex hostels and transform them into family units, BHP has been especially responsive and relocated mine hospitals to the neighboring communities (Knight 2005: 30–31).

At the global level, the South African Chamber of Mines and its prime stakeholders – large multinational companies including Anglo American, BHP, Anglogold Ashanti, Goldfields and De Beers – exchange best practices and develop voluntary best practice standards. Furthermore, they engage in corporate social investments in HIV/AIDS projects. Regarding the former, companies have supported the development of a Best Practice AIDS Standard through membership in the Global Coalition on HIV/AIDS. Concerning corporate philanthropy, companies contribute financially to various health care, VCT and treatment projects of the Global Coalition on HIV/AIDS. In addition, the mining industry has a sector-specific business association that specializes in corporate social responsibility (CSR) and sustainability issues and operates at the global

level. Through the International Chamber of Mines and Metals (ICMM), companies support trials for a new therapeutic vaccine for HIV/AIDS.[21]

## Precarious cooperation: collective goods provision with government

Cooperation between public authorities and companies in addressing HIV/AIDS has been scarce and limited to prevention and to implementation issues at the local level. Mining companies send medical practitioners to serve in public hospitals on an occasional basis, or at times the general public is allowed access to mining hospitals. Some hospitals are run as public–private partnerships, increasingly so since 2006.

As long as the government opposed ARVT, companies with ARVT programs had to act very carefully. While the government was careful not to endorse such programs officially, it allowed companies to pursue private ARVT initiatives. Before 2006, only some companies engaged in partnerships with local governments in order to prevent HIV/AIDS or provide related health services in selected localities. As long as president Mbeki and his health minister Tshabalala-Msimang opposed ARVT, cooperation in this area was difficult, risky and thus unlikely. Instead, companies contributed to awareness-raising campaigns, as for instance Harmony Gold in the Morobe district (Harmony Gold 2006: 46). Anglo Platinum initiated a comprehensive community care program with the title Circle of Hope in 2002. Circle of Hope seeks to minimize the impact of HIV/AIDS in Anglo Platinum's neighboring communities. Since the start of the program, the company has emphasized its aim of collaborating with local and district government, NGOs, health practitioners and traditional healers (Anglo American 2005: 89). While the program's initial focus was on care and peer education in a 50 km circle around its operations in the Rustenburg area, it was soon extended to provide home-based care for returned workers in the labor sending areas of the Eastern Cape (ibid.).

With changing power relations in 2006 and a subsequent shift in government toward a pro-ARVT stance, increased cooperation has become possible. Usually, cooperation still takes place at the level of the municipality or district. As a company manager explains

> [T]here is much more like meeting sessions and all that with the government than action. […] we rather target local government, you know. Because things tend to move faster in terms of action and implementation […] Anyways, the national government will at the end of the day do whatever they want to do.[22]

It was only in 2010 that Anglo extended its HIV policies beyond employees and dependents in a more comprehensive manner. Working with the Eastern Cape Department of Health, it supports the provincial administration in improving health service provision in four selected districts (Anglo American 2010: 21; see also the section on public private cooperation below).

Mining companies have increased their engagement in education and overall health care services (prevention/care) in neighboring communities and labor sending areas. However, the limited inclusiveness of the mining sector's contributions to local HIV/AIDS governance is particularly evident with regard to the companies' stance on informal settlements that are characteristic for the mining regions, such as the booming platinum mines in North-Western Province and Limpopo. Although many mine workers live in these settlements, the mines continue to refuse responsibility and ask local government to provide for services (Hamann 2008).

At the global level, the Chamber has participated in tripartite negotiation between labor and labor organizations, the labor ministries of governments and other employer organizations to develop the ILO Code of Practice on HIV/AIDS.[23]

## Impact on state policies and implementation

Confronted with excessive rates of infection among its workforce and a particularly strong trade union movement, the large mining companies have long exceeded government in terms of know-how, strategies and the provision of resources for the prevention and, in particular, the treatment of HIV/AIDS. Due to negative experiences with the national government, however, they have rarely approached the government to foster public policies. The mining industry claims to have been involved in the formulation of the first South African HIV/AIDS policy under the Mandela government in 1994 as well as in the development of a comprehensive national HIV/AIDS policy in 2003.[24] A tripartite forum on HIV/AIDS was established at NEDLAC in 2002/3, and together with government and labor, an HIV and AIDS Summit was held in 2003 at which the three parties signed a declaration. However, both strategies were slow and not successful in their implementation. Despite such formal interaction and involvement, it seems that HIV/AIDS was such an excessively politicized issue that national government opted to delay or block action. Relations between those companies that began contemplating treatment and the Mbeki government, which was against such treatment,

were strained in regard to HIV/AIDS policies. As a consequence, the HIV Council was blocked for several years. When asked about their interactions with government on HIV/AIDS issues, interviewees stated that they would not be opposed to sharing their knowledge with anybody who was interested in their expertise. However, these representatives of mining firms are skeptical about working with the national government in general.[25] While companies frequently exchange expertise and strategies on their HIV/AIDS policies in the context of the Chamber of Mines, private sector efforts to approach the problem in the workplace have rarely been communicated and coordinated with public policies. Instead of involving the state, a parallel system of providing health services at the company level, including the pooling of resources with others, has developed.

There are two main reasons why the high degree of self-regulation within the industry did not translate into an active engagement with public HIV/AIDS policies until recently. Firstly, a lack of political will within government prevented firms from collaborating with government in efforts against the pandemic. Slow and limited policy implementation in the 1990s and Mbeki's denial of AIDS during his presidency led to very limited government activity to address the problem of HIV/AIDS appropriately. It was (only!) in 2003 that the ANC government decided in favor of a national HIV/AIDS treatment strategy (see Chapter 3). At the same time, President Mbeki and Health Minister Tshabalala-Msimang warned against the 'poisonous' effects of ARVT and actively obstructed delivery of treatment – even after the launching of a public ARVT policy. Government reactions to Anglo American's new treatment program, launched in 2002, prove insightful. Rajak reports how Anglo American managers never got tired of describing the company's heroic 'coming out' with an HIV program against the health minister, describing how 'she was really pissed-off' and felt that the company was 'squeezing' her (Müller-Debus 2006: 18, Rajak 2010: 557, Von Soest and Weinel 2006). Anglo, at the same time, presented its action as a moral mission. However, there is little doubt that the new program was also a reaction to increased labor and health costs caused by the HIV pandemic (Rajak 2010, Von Soest and Weinel 2006). While Anglo took action early on, other companies refrained from publicly opposing the President's position. Formerly employed at the department of health, the health manager who developed BHP's HIV/AIDS policy in 2002/3 put strong emphasis on VCT, yet did not include ARVT in the company program.[26]

Secondly, the ANC government greets the mining industry with suspicion and mistrust. Since the mining industry is responsible for the

high HIV/AIDS prevalence among its workforce, it is expected to address the problem. The change in government policy has come about without significant business involvement. One may argue that the decision by Anglo American to engage in treatment in 2002 had significant political ramifications. However, informants disagree on the extent to which Anglo's decision directly catalyzed the national roll-out of ARVT to which the South African government committed in 2003. What can be said with certainty is that Anglo American's unilateral decision was not well received by the minister of health and triggered serious tensions between the government and the company, according to the accounts of several Anglo American executives (see above).

Two developments may result in changing patterns in HIV/AIDS policies, leading to increased cooperation between public and private actors. Firstly, the ANC government adopted a new position and came up with a strategic plan to combat HIV/AIDS 2007–11. As part of a change in leadership within the health ministry in 2006, the responsibility for HIV/AIDS policy was transferred from the health minister to the deputy president and the deputy health minister. The South African National Aids Council (SANAC) was restructured and conducted consultations between government, civil society and business about the new National HIV/AIDS policy. The mining industry became part of it in 2007 and CoM was involved in formulating the new National Strategic Plan on HIV and STIs 2007–11.[27] Moreover, president Zuma appointed Mr. Motsoaledi as the new health minister in 2009. Described as a respected medical practitioner and former provincial minister, he has fostered ties with leading HIV/AIDS activists and NGOs in order to change the way HIV/AIDS is treated by the government in South Africa.[28] Thanks to these developments, mining companies, local governments and public health practitioners increased partnership in running hospitals and combining company-internal ARVT programs that include easier access to the public roll-out of treatment through medical aid schemes.[29]

Secondly, the scope of the initial workplace-approach of many companies has proven too limited to tackle effectively a task as complex as the HIV/AIDS pandemic. It has become evident that effective treatment will only be achieved if the extended family of mine workers is involved in ARVT. The elimination of important veto players within government and, at the same time, the need for more broad-based and complex strategies to combat HIV/AIDS might lead to more pro-active cooperation between private and public actors. Mining companies have focused on providing a comprehensive HIV/AIDS policy as a club good – that is to workers, to dependents (to some degree) and in some cases

also to neighboring and sending communities. Regarding the latter, however, services are limited to education and prevention as well as support for improved general health services; but these services do not offer HIV/AIDS testing and treatment. Public contributions to combating HIV/AIDS have improved greatly but are still limited by a lack of resources and other capacities.[30]

## Mining companies against HIV/AIDS – when and how inclusive

Assessments of the role of mining companies in combating HIV/AIDS in South Africa are split into two camps: those who highlight the achievements of private efforts against the pandemic and see the companies' engagement as a reflection of their ethical stance; and those who criticize these efforts as insufficient and as a mere publicity tool as they point to the legacy and responsibility of the industry for the pandemic (Rajak 2010). Speaking to companies and reading their individual or business association reports, we have found more evidence to substantiate the former position. In difference to the automotive industry, however, the business case in the mining industry is not attributable to asset specificity – high investments in employees' rare skills (Thauer 2014). Compared to the automotive sector, the mining industry does not qualify as a high-skills industry. Instead, HIV bears heavily on the productivity and costs of mining operations on account of the sheer size of the problems caused by the disease. We must remember that the prevalence rates in this industry are much higher than in any of the other industry sectors analyzed in this book. At the same time, the public sector is unwilling or unable to combat the disease. The government's inactivity to render health services can be interpreted as a shadow of anarchy under which mining companies decided to address HIV/AIDS with their own means.

The companies' decision for this was also based on the calculation of the cost incurred by HIV/AIDS without a workplace policy: BHP estimates that for every dollar invested in training, education and medical programs, the return was fourfold in terms of benefits like retraining, absenteeism and productivity.[31] Goldfield claims it has lost about $5 per ounce of gold produced in South Africa as a result of HIV. The medical consultant with Anglo, Brian Brink, and Anglo's current chief medical officer, Jan Pienaar, report that without a treatment program HIV/AIDS would cost the company 5 percent of its payroll (Brink and Pienaar 2007: 79). In the later stages of the infection, workers lose up

to 15 workdays a month. When they leave work or die in the mines, companies have to pay sickness benefits or pensions to their families, as Brink explains.[32] Preventive HIV/AIDS policies and treatment are also financed by companies because this promises to be more cost-effective compared to the overall costs non-action would cause (see for instance Rosen et al. 2003).

Another aspect of the business case for HIV/AIDS are reputational concerns. HIV/AIDS programs are presented as a moral mission of companies which would fight the pandemic against all odds, such as irresponsible or weak government. It serves to increase the companies' reputation and improve their public image (see Rajak 2010: 552–3). Critical voices emphasize instead the exploitative practices of the industry, which are related to the labor recruitment model and a root cause of the exceptionally high HIV prevalence rates in the mining areas and in labor sending communities. From the critics' point of view, companies engage in corporate social spending more generally and specifically in HIV/AIDS policies out of reputational concerns. CSR activities, it is argued, are deployed to disguise structural inequalities as well as current and past exploitation and public bads caused by the very same industry (see Fig 2005, Marks 2006). Either way, reputational concerns and public pressure provide also incentives for mining companies to engage in HIV/AIDS governance.

It has so far been argued that mining companies' activities in the field of HIV/AIDS can be attributed to two factors. Firstly, an appropriate state response to HIV/AIDS is lacking. This imposes considerable costs on mining companies which are faced with extremely high prevalence rates (shadow of anarchy). Secondly, mining companies engage in the struggle against HIV/AIDS out of reputational concerns. However, these two factors cannot account for the variance in the inclusiveness of the responses of mining companies in South Africa to the HIV/AIDS pandemic. The degree of inclusiveness and exclusiveness of the companies' programs differs widely over time. In the following, I will argue that a shadow of hierarchy cast by the post-apartheid South African state and the post-apartheid normative context played important roles in turning the companies' response to HIV/AIDS from an exclusionary to a more inclusive approach.

The post-apartheid ANC responded slowly to the pandemic and subsequently opposed ARVT (see Nattrass 2007). In a meeting with the Mines Safety and Health section in the Department of Minerals and Energy in 2007, government representatives explained that they only started looking into the issue of HIV in 2006 and emphasized repeatedly

that they were *only starting to get active* now, still figuring out the relationship between occupational health and HIV/AIDS.[33]

The shadow of anarchy did not only result from a lack of state capacity, but also from a lack of willingness. More importantly, companies developed different responses to the challenge of HIV/AIDS at different moments in time under conditions of limited statehood in South Africa. We observe strategies of exclusion and insulation as well as the provision of HIV/AIDS health services. As far as the latter is concerned, the degree of inclusiveness can range from narrow club good to contributions to health as public good. In the 1980s, companies opted for an exclusionary approach, trying to insulate themselves from the pandemic instead of providing treatment. Through the use of pre-employment testing, companies tried to prevent HIV-positive workers from entering the company. Employees who were unable to continue their work due to an HIV/AIDS infection were simply dismissed. This was possible because the mining industry is based on low-skilled, mass labor. It thus becomes clear that the shadow of anarchy is not an incentive to engage in inclusive governance as such; instead, cost-effective solutions can be exclusionary and private-good oriented.

However, the changing normative context after the end of apartheid rendered such an approach more difficult. While the ANC government remained largely inactive in the area of HIV/AIDS, new norms became institutionalized in South African labor regulation. These effectively changed the cost calculation of firms in the field of health. Even though companies faced a lack of state action against HIV/AIDS, they did not operate under a complete shadow of regulatory anarchy in this field post-1990. Newly designed labor regulations now prohibit mandatory testing and automatic dismissal due to an HIV infection. This regulation effectively casts a shadow of hierarchy over companies. Furthermore, companies are bound to guarantee the same pension and home-based care benefits to early retired HIV-positive workers and dependents of deceased workers as to everybody else. The Prescribed Minimum Benefit Amendment of 2005 obliges companies to include HIV testing, care and treatment in their medical aid schemes (Mahajan et al. 2007: 3). Finally, the new Mining Charta commits companies to improve the living conditions of mine workers, to develop integrated rural development plans for labor-sending areas, and to improve the standard of housing, which includes upgrading hostels into single accommodation and family units.[34] All of these newly established labor regulations (shadow of hierarchy) have considerably increased the companies' costs in relation to the HIV/AIDS pandemic.

Changes in the normative context were not bound to post-apartheid South African law but extended to the international level throughout the 1990s, posing a clear threat to the reputation of mining companies. By the late 1980s and early 1990s, mining companies in South Africa understood the need to improve their negative image in order to reintegrate and prosper in a global economy and a new South Africa. Reintegrating themselves as good corporate citizens into the global economy became a new imperative and companies increasingly committed to global norms of CSR. Companies had a double incentive to do so. On the one hand, major mining companies such as Billiton and the Anglo American Group and Billiton shifted their primary listings to the London stock exchange in 1997 and 1999 respectively, subjecting themselves to new standards (Chabane et al. 2006: 559). On the other hand, the political position of mining companies in South Africa was vulnerable throughout the 1990s. Several companies were seen as having directly or indirectly supported the apartheid regime, a charge confirmed by the Truth and Reconciliation Commission (Nattrass 1999). In order to comply with the demands of shareholder capitalism and to gain legitimacy in the eyes of foreign shareholders, the South African government and society at large, major companies embraced the agenda of corporate citizenship and CSR (Hönke et al. 2008). They sought to change their image from collaborators and profiteers of racial segregation and oppression to the economic backbone of the developmental aspirations of the new South Africa and as socially responsible (Fig 2007, Hamann 2004).

Despite the importance of reputational concerns, pressure exerted by NGOs seems to have played only a minor role in motivating companies to take action against HIV/AIDS. NGOs such as the Treatment Action Campaign were among the most important actors to push the South African government and pharmaceutical companies to provide for comprehensive and affordable HIV/AIDS treatment. They were, however, less relevant in pushing mining companies into action. Nevertheless, the National Union of Mineworkers was instrumental in shaping how mining companies reacted to HIV/AIDS. NUM campaigned for non-discrimination in the workplace and convinced companies to drop exclusionary policies in exchange for a rights-based and inclusive HIV/AIDS-workplace policy. Tracy Peterson, who developed the first comprehensive HIV/AIDS policy for De Beers, recounts how the draft of the policy was blocked by NUM until De Beers, after rounds of negotiations, finally agreed to include treatment in the program. The policy was subsequently announced in 2002.[35] However, NUM's position on HIV/AIDS, largely shaped by the experience of workers who lost their

jobs or were expelled from the country, has sometimes become an obstacle to combating HIV/AIDS comprehensively. Protecting workers from having to expose their status (abolishment of mandatory testing) is commendable, but it becomes problematic when it helps to keep an aura of confidentiality and stigma around HIV (Dickinson 2009).[36]

What other factors explain the different degrees of inclusiveness and effectiveness of mining companies' contributions to combating HIV/AIDS? The size of a company plays a major role.[37] HIV/AIDS policies are expensive, in particular when it comes to treatment. Medium-sized South African gold miner Harmony Gold, for instance, only provides ARVT to employees and, in contrast to mining giants such as Anglo American or De Beers, is less engaged in mining communities.

The evidence from the mining sector suggests that the lacking capacity and willingness of the state may not only induce companies to address HIV/AIDS. Political leadership and resources effectively influence how inclusive and effective companies' HIV/AIDS policies turn out to be. Private HIV/AIDS governance contributions are more inclusive if companies cooperate with local governments, as envisaged in partnering programs with local governments since 2007. At the same time, however, state actors may also prevent private governance contributions. The anti-ARVT position of the Mbeki-government has clearly delayed, if not obstructed an earlier engagement of companies regarding treatment. This is reflected in the above mentioned negative reaction of the South African health minister to Anglo American's initiative to provide treatment. Furthermore, De Beers reported how its policy got delayed by the government while other companies refrained from certain policies entirely in order to avoid trouble with the government. Relations between the government and mining companies on the issue of HIV/AIDS have been strained. Not only did the government refrain from taking national leadership for a comprehensive HIV/AIDS policy for so long; it was in fact a stumbling block: officials interfered with and delayed private treatment initiatives.[38]

Finally, the effectiveness of the companies' governance contributions is limited by stigma. To talk about sex openly is still a problem in South Africa and prevents people from testing but also from seeking treatment at an early stage (Dickinson 2009). Company-run programs are particularly hampered by a lack of confidentiality and the fear of losing the job; this, in consequence, results in low rates of VCT or treatment uptake (see for instance Bhagwanjeel et al. 2008). In addition, public statements by leading politicians, not only by Mbeki and Tshabalala-Msimang, but also by the current president Jacob Zuma,

have contributed to a persistent denial of HIV and an acknowledgement of the causal nexus between certain sexual practices and the disease.

## Conclusion

The mining industry contributes considerably more to the governance of HIV/AIDS than most of the other industry sectors analyzed in this book. Comparable commitment can only be found in the automotive sector. It is on a much higher level than in the textile, food and beverage industries. Medical practitioners and health managers working with some of the large mining companies in South Africa have been at the forefront of developing appropriate strategies to address the epidemic. At the same time, mining companies contribute to the high HIV/AIDS prevalence rates in an important way. Thus, compared to other industry sectors, the normative or moral pressure on mining companies is higher since these companies are not only part of the cure but also part of the problem, namely the rapid spread of the pandemic in Southern Africa. Reduced profitability due to the costs caused by HIV/AIDS, and reputational costs on account of the companies' responsibility for the spread of the pandemic are two drivers of the strong engagement of mining companies against HIV/AIDS. Finally, the shift in the mining companies' response to HIV/AIDS – from an extremely exclusionary, insulating strategy in the 1980s to a treatment strategy after 2002 – highlights the role of effective state regulation in forming the decision-making of companies as to how inclusive or exclusive they will react to the shadow of anarchy.

I conclude this chapter by outlining three problems concerning mining companies' contributions to the governance of HIV/AIDS and what they teach us about the privatization of governance more generally. Firstly, Rajak has recently argued that – quite opposite to the late 1980s – company managers she interviewed presented the business case for HIV/AIDS as a moral mission and stressed that it was the responsibility of the companies to do something to improve the lives of all. Yet, these same managers externalized HIV as a social risk that comes from outside and threatens productivity and profit. As one of the managers Rajak spoke to put it there were 'things in the country happening […] such as […] HIV […] things which are not caused by the company […] but we are getting zapped by it' (cited in Rajak 2010: 557). This shows that there is still a tension between corporate social responsibility and externalization, between presenting the firm as providing a solution for a certain problem and acknowledging that they are also a cause of it.

Secondly, despite increased public engagement and inclusiveness of programs, the problem of exclusiveness remains. Companies contribute to the improvement of services that aim at the prevention and treatment of HIV/AIDS. However, due to the strong focus on workplace programs, inequalities in terms of access to care and treatment are deepened. Insulation and fragmentation seem to be problematic outcomes of privatized governance more generally (Hönke, with Thomas 2012: 11–16). At the same time, there are ethical problems attached to promoting firms as paternalist governance providers. Companies become highly involved in regulating the workers' private lives while, at the same time, they increase the workers' dependency on them.

Thirdly, there are also broader political consequences resulting from the pluralization of governance actors. The business and governance literature, and especially that on CSR, looks mainly at what Avant et al. (2010: 358) refer to as 'virtuous cycles' of better collective goods provision and regulation for the public good. Others, however, have argued that 'vicious cycles' toward overlapping and competing rules and non-governance, degrading accountability, fragmentation and exclusiveness of governance will prevail empirically. Non-state actors may thus eventually reduce the provision of collective goods because of the limited scope of their mandates and activities, and because of their negative effects on governance by states. There is significant variation in what we find empirically and there is evidence supporting both tendencies. Thus, more systematic attention needs to be paid to the different degrees of inclusiveness of business governance contributions and their broader and longer-term effect on public goods provision, justice and equality (see Hönke, with Thomas 2012).

## Notes

1. See http://www.aidsmap.com/South-African-gold-mines-a-TB-factory-activist-claims/page/1439030/ [accessed 23 August 2011].
2. Ibid.
3. Anglo American medical practitioner, cited in Rajak (2010: 55).
4. Fourie (2006: 82f) argues that the mining industry maintained a less radical position than the apartheid government. While the government promoted a policy of mandatory testing and the repatriation of any HIV positive 'foreigner', including those South Africans who were forced to live in semi-independent reservations, the companies allowed people to work until they were too ill to do so. They also embarked on comprehensive education programs about the disease as early as the 1980s. Yet, although the companies partially accepted workers' rights and, in addition, appealed to the government not to deny the acuteness of the epidemic, they did not put a stop

to the practice of migrant labor and hostel accommodation, nor did they engage in providing any form of treatment.

5. A report by Finance Week (6–12 April 1989, as cited in Fourie (2006: 84 fn 61) on these findings led to negotiations over HIV/AIDS workplace policies between mines and NUM.
6. 16.5 percent is the average HIV prevalence rate for Anglo American, see Anglo American (2010: 18–19). Thirty percent is reached at the Vaal River sites of Anglogold Ashanti (see AngloGold Ashanti 2008: 38).
7. Fourie (2006) Interview with Director of the Centre for Sustainability in Mining and Industry, 16 March 2007, Johannesburg, South Africa; interview with DME health and safety department, 27 March 2007, Pretoria; interview with CSR specialist, 19 March 2007, Johannesburg.
8. While recruitment from the local communities in which the mines are located has increased recently, traditionally most of the labor force migrates to the mines from poor rural areas within South Africa (in particular from ex-homeland areas in Eastern Cape and North-Western Province) or from outside South Africa (Malawi, Mosambique, Lesotho). It is these rural areas which depend most on mine wages (for an overview see Malherbe 2000: 31–8).
9. See http://www.bullion.org.za/Departments/Health/Downloads/HIV%20AIDS07.pdf, p. 2 [accessed 23 August 2011].
10. Parker, Faranaaz (2010) 'Sex Talk a Setback for Aids', *Mail and Guardian*, 7 May 2010. Available from: http://mg.co.za/article/2010-05-07-sex-talk-a-setback-for-aids [accessed 22 August 2011].
11. See for instance the agreements of De Beers 2003 HIV/Aids joint Workplace Policy, available from: http://allafrica.com/download/resource/main/main/idatcs/00010811:96d8cde46015f75a435da884ee12a415.pdf; Anglogold Ashanti 2002, available from: http://www.anglogold.co.za/subwebs/informationforinvestors/ReportToSociety03/pdf/AngloGold_NUM_agreement.pdf and Goldfields 2001, available from: https://members.weforum.org/pdf/Initiatives/GHI_HIV_Goldfields_AppendixA.pdf [all accessed 13 October 2011].
12. Smallhorne, Mandi (2011) 'Developing Proper Policies', *Mail and Guardian*, 11 July 2011. Available from: http://mg.co.za/article/2011-07-08-developing-proper-policies [accessed 23 August 2011].
13. Cf. Anglo Platinum (2010: 138ff); Anglo American Community Development. Available from: http://www.angloplatinum.com/safety/safety_sub/community.asp [accessed 24 August 2011].
14. See http://www.teba.co.za/. TEBA implements development projects for the Chamber of Mines in Eastern Cape and Lesotho. It runs home-based care programs for Anglogold Ashanti, Goldfields, Lonmin, Impala, BHP; Anglo Coal and Harmony among others. See http://www.teba.co.za/beta/tebadev/sponsors.asp [both accessed 23 August 2011].
15. See http://www.bullion.org.za/Departments/IRS/IR.htm [accessed 23 August 2011].
16. Ibid.; interview with Company Health Manager, November 2007, Johannesburg, South Africa.
17. Case Study Gold Fields, WEF Global Health Initiative, Private Sector Intervention Case example, 2002. Available from: https://members.weforum.org/pdf/Initiatives/GHI_TB_CaseStudy_Goldfields.pdf [accessed 20 August

2011]; interview with Senior Company Manager Health Care Services, 2 October 2007, Johannesburg.

18. Interview with Director of the Centre for Sustainability in Mining and Industry, 16 March 2007, Johannesburg, South Africa.
19. Interview with company CSR specialist, 19 March 2007, Johannesburg; see also De Beers (2010: 61).
20. See Anglo American (2010: 21).
21. See http://www.icmm.com/page/2412/member-companies-support-leading-research-for-hiv/aids-vaccine [accessed 20 August 2011].
22. Interview with company representatives, 2 October 2007, Randfontain.
23. See ILO (2001) 'An ILO Code of Practice on HIV/AIDS and the World of Work', Geneva, Available from: http://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@ilo_aids/documents/normativeinstrument/kd00015.pdf [accessed 23 August 2011].
24. See http://www.bullion.org.za/Departments/Health/Downloads/HIV%20AIDS07.pdf [accessed 20 August 2011].
25. Interview with company representatives, 2 October 2007, Randfontain; interview with company CSR specialist, 19 March 2007, Johannesburg; interview with representative for health, Chamber of Mines, 19 March 2007, Johannesburg.
26. Interview with former health manager of BHP, October 2007, South Africa. What the company did, however, was to offer financial support to workers so that they could privately access a public medical aid scheme including ART.
27. See http://www.sanac.org.za/page/27/History/ and http://www.bullion.org.za/Departments/Health/Downloads/HIV%20AIDS07.pdf [both accessed 20 August 2011].
28. See Govender (15 September 2009) 'SA Won't Meet ARV Roll-Out Target, says Motsoaledi', *Mail and Guardian*. Available from http://mg.co.za/article/2009-09-15-sa-wont-meet-arv-rollout-target-says-motsoaledi [accessed 20 August 2011].
29. Interview with DME health and safety department, March 2007, Pretoria; interviews with mining companies in Johannesburg, 2007 and 2008.
30. See for instance Govender (15 September 2009) 'SA Won't Meet ARV Roll-Out Target, says Motsoaledi', *Mail and Guardian*. Available from: http://mg.co.za/article/2009-09-15-sa-wont-meet-arv-rollout-target-says-motsoaledi [accessed 20 August 2011].
31. Stablum, Anna (11 July 2007) 'Is HIV a Time Bomb under the Mining Industry?', *Reuters*, Available from: http://www.reuters.com/article/2007/07/11/us-aids-mining-idUSL0263192420070711 [accessed 20 August 2011].
32. See http://mg.co.za/article/2010-05-07-sex-talk-a-setback-for-aids [accessed 5 February 2012].
33. Interview with DME health and safety department, 27 March 2007, Pretoria.
34. See Broad-Based Socio-Economic Empowerment Charter for the South African Mining, Industry, 2002, Available from: http://www.cidafund.co.za/charters/miningCharter.pdf [accessed 23 August 2011]. A new charter was launched in 2010.
35. Interview with company CSR specialist, 19 March 2007, Johannesburg.

36. Interview with Director of the Centre for Sustainability in Mining and Industry, 16 March 2007, Johannesburg, South Africa.
37. See for instance Smallhorne, Mandi (11 July 2011) 'Developing Proper Policies', *Mail and Guardian*. Available from: http://mg.co.za/article/2011-07-08-developing-proper-policies [accessed 23 August 2011].
38. Interview with company representative, 19 March 2007, Johannesburg; interview with Director of the Centre for Sustainability in Mining and Industry, 16 March 2007, Johannesburg, South Africa.

# 6

# Beyond Customer Care: Does HIV/AIDS Matter to the South African Food and Beverage Sector?

*Nicole Kranz*

## Introduction

Echoing the overall heterogeneity of the food and beverages (F&B) industry in South Africa, the sector confronts a number of diverse challenges with respect to HIV/AIDS and plays an ambiguous role in the governance of the disease.

On the one hand, the food industry is connected to the promotion of health and 'food security'. It supplies the poor, which is the greatest part of the South Africa population, with staple food[1] and thereby contributes to the reduction of malnutrition. This stable supply of food of good quality is an important, albeit indirect contribution to the governance of the HIV/AIDS pandemic. A main prerequisite for the treatment of HIV/AIDS is that patients are sufficiently fit for antiretroviral (ARV) medication (World Bank 2007), for which food supply and quality is essential. In addition, several food companies build brand images based on health-related messages, such as Nestlé's 'Good Food, Good Life' slogan. On the other hand, food companies receive much criticism for the negative impact their products may have on health. For example, producers of alcoholic beverages are often under scrutiny for health concerns resulting from alcohol consumption. Similar criticisms are aimed at firms for high sugar and fat contents, low nutritional values and other detrimental impacts.

All this is taking place in a highly dichotomous South African market environment. On the one hand, some companies vie for higher-end consumers who increasingly demand healthier food options and more responsible marketing. At the same time, studies show an increase in obesity among particular groups in the South African society (Fig 2007). On the other hand, the largest customer segments in South Africa cannot

even afford the most basic food supply and choices. Large parts of the country still struggle for access to sufficient food of acceptable quality. The F&B sector needs to position itself within this heterogenic market environment, choosing between responsible citizenship and profit-seeking. Given its crucial, yet ambivalent role regarding questions of health, the F&B sector's contribution to fighting HIV/AIDS in South Africa is of particular interest. This chapter analyzes the governance contributions, asking where this sector stands in terms of HIV/AIDS prevention beyond immediate market interests. The first section introduces the specific problems and setting of HIV/AIDS in the F&B sector in South Africa. Secondly, I discuss different modes of contributions of F&B businesses aimed at mitigating the HIV/AIDS pandemic. The third section is a brief assessment of the effectiveness of these contributions. It also identifies the most relevant drivers for firm behavior with respect to HIV/AIDS. I conclude with an overall account of this case study in the context of this book.

## HIV/AIDS in the South African F&B sector

Like other industry sectors in South Africa, the F&B industry is faced with the problem of HIV/AIDS among its workforce. Within the sector, the HIV prevalence rate was estimated at 16.1 percent in 2005, which is high compared to the overall national infection rate. About 48 percent of companies reported that the illness has negatively affected their productive output, with 42 percent having lost highly skilled workers. In addition, 58 percent have experienced decreased labor productivity due to increased sick leave (Lule et al. 2009: 13). The costs imposed on companies through HIV/AIDS vary according to the skill levels of the affected employees. In contrast to, for example, the automotive or chemical industries, the F&B sector relies considerably more on informal, unskilled or semi-skilled employment. In fact, the F&B sector is one of the least skills-intensive industries in South Africa, second only to the textile industry (Daniels 2007: 13). However, differences persist within the industry: the South African beverage industry consists of 43 percent informal employment, whereas it is only 7 percent in the food sector. Semi- and unskilled workers make up 35 percent in the beverages and 54 percent in the food sector respectively. Eighteen percent are skilled and 7 percent are highly-skilled in beverages, while in the food sector 32 percent are skilled and 7 percent highly skilled (FoodBev SETA 2011: 47).[2]

Beside its negative impact on the workforce, the HIV pandemic also impinges on the market environment of F&B firms. Market analysts anticipate a decline in household expenditure on food products,

including meat, fish and other agricultural products. Similarly, grain and bakery products are affected by this decline in purchasing power in the lower income groups, which are those most likely to fall victim to the pandemic. Also, households facing high medical expenses or a loss of income are expected to cut down on non-essentials, such as beverages and tobacco (Van Aardt 2004). The F&B sector is confronted with the consequences of the HIV/AIDS pandemic in two ways – its bearing on the workforce and on its very own customer base. Against this background the next section maps out current contributions by F&B firms that address the HIV pandemic.

## Firm contributions to fighting HIV/AIDS: same – same, but different

All larger F&B companies in South Africa have HIV-related workplace initiatives, which are in some cases also extended to the dependents of the employees or entire communities. Most firms engage in education, awareness-raising (often using peer educator programs), and prevention (e.g. through the distribution of condoms or voluntary counseling and testing (VCT)). Some F&B companies offer actual treatment of the disease by providing ARV medication and therapy. Such medical services are either offered in firm-owned on-site health clinics, by the (private) health insurances with which firms have taken out a policy for their employees, or in partnership with local clinics. However, there is great variation between large and smaller firms in the industry sector concerning these aspects of HIV/AIDS workplace programs. In general, the activities of smaller firms lag behind those of the larger players and are also not well documented.

In the following, I will discuss examples detailing the activities of a number of larger F&B firms in South Africa. The cases I present also display some differences in terms of scope and rigor. It is possible, for instance, to differentiate between large multinational and larger national firms in terms of their engagement in the fight against the disease. I will also provide some evidence on the contributions of medium-sized South African firms. These contributions are, however, generally on a lower level and occur less frequently.

## Firm contributions

Coca-Cola is a typical example of a multinational company with a strong presence in South Africa. It is one of about five multinationals

operating in the South African food and beverage sector and a dominating player in the South African beverages segment. With regard to HIV/AIDS, the company maintains a workplace initiative that involves an inclusive prevention and treatment program for Coca-Cola system associates; that is, those employed by Coca-Cola or any of their bottlers, and their spouses and children. The workplace program is managed by doctors and health professionals at the production sites and bottling facilities. The program combines prevention, awareness and treatment, including free condoms, confidential voluntary counseling and testing for the company's associates and their families. ARV drugs are provided at no cost wherever they are needed.

Mostly through its Coca-Cola Africa Foundation, the company also engages in a range of awareness-raising and prevention activities, which are not solely directed toward employees but clearly aim at a potential outreach to families and even the wider community. For example, the Foundation invests in community programs, such as the 'Dance4Life' project, which is designed to attract young people through the use of dance and music, encouraging them to learn more about HIV/AIDS and sexual and reproductive health and related rights. Similarly, the 'Schools 4 Life Program' specifically targets students as agents of change – for themselves as well as their families. Furthermore, Coca-Cola finances awareness programs in communities and promotes the 'Men as Partners' (MAP) program against gender-violence.[3] A further component of Coca-Cola's HIV-related activities concerns the support for networks and initiatives that take specific care of AIDS-orphans (Coca-Cola Company 2010, Coca-Cola Africa Foundation 2011).

Unilever South Africa, another large food multinational, engages in a very similar range of activities at the firm level. An example is the HIV/AIDS roadmap (aiming at prevention, status testing and treatment), which had positive effects in terms of awareness, ownership and transparency among Unilever employees. At the same time, Unilever sponsors broader activities, which comprise very substantial support for the so-called THOKOMALA Project to the benefit of HIV/AIDS orphans. Unilever supports about 15 homes across South Africa that offer a safe haven for orphaned children. The commitment consists not only of funding for the maintenance of these homes (most of them are located in settlements/townships in the vicinity of Unilever production sites), but also training for social workers tasked with broader community outreach and the acquisition of further funding. In addition, Unilever has embarked on the 'You, Me and HIV' campaign, which is designed to address teachers and students alike through broad-based health

education. This campaign benefits from material prepared by UNICEF and is a joint project of 15 South African businesses.[4]

A third example of a company that shows a comprehensive range of activities is SAB Miller, a brewery with South African roots, which is today part of an international brewing conglomerate. As part of its responsible citizen program, the company follows an integrative approach to the HIV pandemic. Employees and their families are encouraged to know their status through free counseling and testing. These services are either provided by firm-internal health units or by appointed external providers. In addition, they make sure that workers know about their rights and the benefits they may claim. The strategy also includes health care, such as access to ARV medication (Bureau for Economic Research 2008). Beyond the company fence, SAB Miller, similarly to Coca-Cola and Unilever, works with an NGO, the so-called Starfish Foundation, which trains caregivers and supports community organizations to help children orphaned by the HIV pandemic.[5]

Other firms, while still active, display a somewhat lower level of activity, focusing mainly on aspects related to their own operations. An example is the multinational convenience food producer Cadbury, which maintains a fully-fledged HIV/AIDS testing and treatment program for its employees and their families. The firm, however, does not engage in any broader outreach activities.[6]

Illovo Sugar, a South Africa-based raw sugar producer, also covers a wide range of HIV-related services for employees and their dependants, including a preventive awareness program, ARV medication as well as a so-called in-house 'Wellness Program' for HIV-infected employees. As a component of this program, formal facilitation partnerships have been established with local government hospitals designated as HIV-ARVT (antiretroviral therapy) centers in order to help employees and dependants to easily transfer into the government ARVT program if necessary.[7] Illovo's engagement does not, however, reach beyond these immediate impacts on their own employees.

Other larger South African firms, for example Tongaat Hulett and Pioneer Foods, offer employees workplace programs with varying intensities, in addition to various health services and benefits. Treatment is, however, not a component of these programs. It should be pointed out that there are also many firms in the F&B industry at the other end of the spectrum. These only run random HIV/AIDS workplace programs or none at all. The cause for this is not necessarily a lack of awareness of the problem. In most cases, smaller firms are strongly affected by the loss of employees as well as customers. However, small firms usually do

not have the financial means to engage with the problem in a meaningful way – especially when considering the massive extent of the pandemic.[8]

## Walking alone or walking together – modes of interaction

In the field of HIV/AIDS, firms in the F&B sector in South Africa mainly engage in corporate *self-regulation*; that is, addressing the pandemic on their own. While these workplace initiatives for employees and/or their families are mostly anchored or even managed in-house, firms often use external service providers to run them, especially in the case of medium-sized companies.

In addition, large companies activate their supply chains and distribution networks to distribute information (Bureau for Economic Research 2008), raise awareness and educate people about the disease. Through its Africa Foundation, Coca-Cola South Africa has developed guidelines that are directed at bottlers and other independent companies within its production cluster.[9] Furthermore, larger corporations often serve as a model for smaller ones, acting as industry leaders with regard to HIV/AIDS approaches.[10] Smaller firms, however, do not adopt the full range of activities undertaken by larger players. Due to their limited capacities, they rather piggy-back on some of the awareness-raising campaigns and model their smaller scale activities accordingly.[11]

Another type of interaction that features prominently is the cooperation of firms with a broad range of not-for-profit actors, mostly private foundations and NGOs. The programs of almost all larger firms rely on the services of NGOs in terms of outreach and awareness-raising activities, but also in the area of service provision, education campaigns and orphan programs.[12] For example, through its Africa Foundation, Heineken supports the King's Hope Development Foundation in improving access to health care for HIV patients in the Gauteng Province.[13]

As for the other industries discussed in this book, the private-led initiative South African Business Coalition on HIV & AIDS (SABCOHA) provides an industry-wide forum for joint actions aimed at fighting HIV/AIDS that also include the F&B sector. This fast-growing initiative is supported by larger firms in the sector, such as Coca-Cola and SAB Miller, as well as a few smaller firms. SABCOHA's mission is to coordinate a business sector response to the HIV/AIDS epidemic. Its strategic goal is to create a platform for high-level advocacy and leadership through its sub-committees. The initiative's steering committee and sub-committees intend to develop policies and programs based on good

practices that are applicable not only to the workplace but also beyond. SABCOHA particularly aims at creating partnerships and thus works on different levels with government and international organizations.[14]

While private or sector- and industry-wide activities feature the strongest, there is also some evidence for *public-private co-regulation* in the F&B sector. This is also realized through SABCOHA, which plays an important role in the South African National AIDS Council (SANAC) as representative of the business sector. SANAC is the coordinating body required by the Global Fund to fight AIDS, TB and Malaria with the aim of channeling the provided resources. It is thus an influential body for the South African HIV/AIDS policy. Apart from SABCOHA, SANAC consists of government and civil society representatives who decide jointly on the utilization of the funds provided.

Apart from such initiatives at the national level, large firms work with local communities and local governments to provide or facilitate health services with regard to HIV/AIDS. This can be observed in Illovo Sugar's 'Wellness Programme' or Coca-Cola's 'Dance4Life' project. Unilever's THOKOMALA activities are designed to foster community buy-in and support in order to ensure long-term sustainability. In the context of 'Project Promote', the National Department of Health (NDoH) works with SAB Miller,[15] SABCOHA and the Society for Family Health to extend condom distribution services to non-traditional outlets. In the context of this project, SAB Miller uses its consumer-oriented distribution channels to deliver government-provided condoms to taverns throughout South Africa.[16] Illovo Sugar, in order to complement its own in-house 'Wellness Programs', closely monitors government interventions with regard to the provision of ARVT. There is a clear emphasis on providing support for enhancing the capacity of government-run medical facilities, especially at the local level. This company program shows rare evidence of a strong focus on bipartite cooperation at the implementation level (Lule et al. 2009), which is targeted at ensuring long-term service provision by private and public actors. In many cases firms are still highly skeptical toward government intervention (as the quality might not live up to their standards) while the willingness to contribute to multi-stakeholder forums is clearly increasing.

Despite the intensive internal debate in the F&B sector on the deficiencies of government policies regarding the HIV pandemic, there is only limited evidence for strong activities on the part of F&B businesses to lobby for stricter government regulation. Activities taking place in the context of SABCOHA might be targeted at standard-setting, but they

focus mainly on fostering self-regulatory approaches in the respective industry sector.

Overall, firms in the F&B sector appear to rely on self-regulatory approaches and are thus at liberty to choose under which circumstances and to what extent they wish to become active in mitigating the HIV/AIDS pandemic among their workforce and/or beyond. There is, however, a growing tendency to cooperate with government as well as non-governmental actors in cases where individual firm action is not sufficient to address the problem at hand; it is in these instances where firms pursue an interest in building-up government capacity to deal with the pandemic.

## Effectiveness

As we have seen, firms' contributions to mitigating the HIV/AIDS pandemic vary significantly. Their overall effectiveness can be assessed by looking at the reach and inclusiveness of the measures in terms of individuals educated and/or treated as well as their beneficial effects for alleviating the overall burden of the disease. With regard to the number of people reached by the F&B industry's activities, given the limited share (5 percent) of the F&B sector with respect to the South African economy, the potential for a significant contribution to an effective solution of the country's severe HIV problem is limited from the outset. Furthermore, the high percentage of informal workers, especially in the beverage sector, limits the reach of employer-based programs since these workers usually do not benefit from them; even though they are in all likelihood the ones most affected by the disease. Given the complexity of the task of fighting HIV/AIDS, private initiatives cannot substitute for the need for strong public sector programs (Lule et al. 2009: 285).

Corporate prevention and awareness-raising programs are often suspected to be not very effective; the media and the education system may be better suited to fulfill such tasks (Lule et al. 2009: 287f). F&B companies often dispose of considerable marketing and public communication expertise. Yet they are often not sufficiently used for awareness-raising purposes. In cases where sufficient financial resources are available to provide private treatment facilities for HIV infected employees, such treatment programs are comparably effective (ibid.: 288). Yet most companies in the F&B sector prefer to engage in awareness and preventive activities instead of providing treatment single-handedly. In cases where they do, the services rarely expand beyond the provision of a club good. In almost all cases, only employees and their immediate families enjoy access to treatment.

## Why do some firms contribute?

Why do firms in the South African F&B sector contribute to the governance of HIV/AIDS? Similar to the other sectors discussed in this book, the main underlying motivation for firms in the F&B sector to engage actively in HIV/AIDS governance and service provision is the 'shadow of anarchy' – the failure of the South African state to deliver effective public governance and mitigate the problem of HIV/AIDS. This lack of service provision and high prevalence, in combination with the lack of public treatment, implies potentially high costs for firms (Lule et al. 2009: 267). In the case of skilled workers considerable costs occur when they fall sick or die (Thauer forthcoming). The replacement process (which includes the recruitment and training phase) for workers with skills is difficult, long and requires a substantial financial investment. The F&B sector, however, relies more on informal or unskilled workers than other industry sectors and therefore incurs costs deriving from HIV/AIDS at the lower end of the spectrum (Lule et al. 2009: 272). This generally lower level of asset specificity with respect to the skills of workers partly explains the overall lower level of activity in this sector when compared to the automotive industry. In this respect, the industry sector resembles the textile industry, which also shows low levels of asset specificity and, accordingly, rather weak efforts to fight the disease. The mining industry, by contrast, also relies on unskilled labor. Yet due to its exceptionally high prevalence rates, it confronts the 'shadow of anarchy' with such gravity that it engages substantially in the fight against HIV/AIDS, despite rather low levels of asset specificity.

With the adoption of technological innovations, the demand for highly skilled and trained workers has risen constantly in the South African F&B sector (FoodBev SETA 2011: 31). Since trained workers are an intra-firm investment (Thauer forthcoming) in human capital that would be lost in the case of an illness (or death) resulting from AIDS, and as the replacement process is timely and costly, firms may be particularly motivated to engage in HIV prevention and treatment. This mainly holds for more specialized and highly integrated companies, selling processed and packaged foods. Companies producing unprocessed agricultural goods or staple foods appear to be less responsive to this driver, as they rely considerably less on skilled labor.[17] Finally, labor productivity can be affected negatively through the illness or absence of infected workers. In economic terms, the death or absence of trained workers translates into a lost capital investment (Lule et al. 2009). Depending on the level of skills and HIV prevalence rate the costs range

from 0.5 to 6 percent of additional wage costs – which have also been called an 'AIDS tax' (Rosen et al. 2004: 321f). Moreover, the pandemic's broader impact on the economic development and stability of the communities in which the firms operate also have largely negative economic implications for the F&B sector.[18]

Corporations are aware of the link between a lack of public HIV/AIDS governance and negative implications for economic development that may lead to a reduced purchasing power in the long run. Food companies are affected most significantly by a declining customer base due to the HIV/AIDS pandemic. As the most severe effects occur in the lower income segments, food companies are more exposed than, for example, automotive companies which sell to higher income segments. The economic concern for their customers explains the F&B companies' activities in terms of awareness-raising at the community level. As a Coca-Cola representative for Southern Africa notes, 'we see that more as a business imperative than as corporate social investment.'[19] The Coca-Cola Africa Foundation's 2006 HIV/AIDS Report states likewise that 'HIV/AIDS workplace programs are much more than just a matter of corporate social responsibility. Without them our very existence as a thriving business in Africa would be threatened' (Coca-Cola Africa Foundation 2006: 13). This way of thinking is confirmed by other MNCs in the South African F&B sector.[20]

Depending on the firm's size and the skill levels of its employees, providing expensive on-site AIDS treatment may often outweigh the costs of workers being absent due to illness, or having to replace deceased workers, as well as the negative effects on the economic development of communities (Lule et al. 2009, Thauer forthcoming). Engaging in awareness-raising and prevention is often a relatively low-cost way of attempting to mitigate future impacts of the pandemic on businesses in the absence of satisfactory governmental activity. Offering in-house voluntary counseling and testing (VCT) is a means to create transparency, so that firms can better assess the potential scale and costs of the disease at their sites. Where benefits outweigh costs, firms may choose to extend the provision of HIV/AIDS services to the employees' families, the supply chain and the communities. This is often driven by the rationale that when a family member is affected, employees may have to stay at home to provide for care, which again shows that the fight of HIV/AIDS is a complex task. Employees contract the virus in their private lives and within their communities. Most of the problems associated with the disease – stigmatization, social conflict and family problems – occur outside the workplace, but may have a negative

impact on it. These aspects of HIV/AIDS call for a cooperative approach between different actors with a stake in fighting the disease. This creates task complexity and may explain the community programs of firms in the F&B and the other industry sectors discussed in this book. In particular, when compared to the governance contributions of firms in the field of environment, which is a somewhat simpler task, those programs that facilitate joint action with local communities are more widespread and extensive. Also, the respective tasks an employee performs for the firm may play a role. For instance, an illness or death of a farmer can directly affect the supply of raw materials that are required in the F&B sector. This might prompt the company to provide HIV/AIDS related services down the supply chain.[21]

Such economic considerations are to a considerable extent influenced by the factor of firm size. While a vast majority of companies engage in some sort of awareness campaigns, preventive measures or VCT, only the largest companies, among them many multinationals, can actually afford to provide on-site treatment in company clinics. MNCs have bigger, more professional human resources departments with more time and skills to implement HIV interventions (Lule et al. 2009: 274). Moreover, for large firms, the relative cost of HIV/AIDS response per employee will be smaller. Finally, only the larger companies in the F&B sector engage in an active dialogue with the government or work with other stakeholders. These firms are involved in partnerships or multi-stakeholder forums with national or international NGOs and donor organizations and to a lesser degree with the local or national government. The limited resources of smaller firms often allow for only limites engagement in both treatment and partnerships.[22]

Finally, economic considerations may be reinforced by reputational concerns. Many companies in the F&B sector, particularly those selling products under well-established brands, enjoy a high degree of visibility with the end-consumer. This high visibility, in combination with the overall image of the food industry, renders the sector highly vulnerable to criticism by consumers. Quite a few of the companies in the sector build their image around health issues (Kapstein 2008).[23] Activities grouped around the most severe health issue in South Africa, HIV/AIDS, thus contribute to boosting and complementing this health-related image. Non-action, in turn, would lead to a tarnished record in this regard. At the same time, companies that do less messaging around health and wellness pledges are also less active with regards to HIV/AIDS (Alexander et al. 2011). Other companies seek to mitigate an already vulnerable position in terms of their public perception. Generally, firms

become active because they fear a competitive disadvantage that might result from public shaming. In the F&B sector, brand name and reputation is a key corporate asset which has to be protected (ODI 2007).

Firm size matters in this regard, too. Large (in most cases international) brand name firms are most susceptible and vulnerable to campaigns by NGOs and media pressure. External pressure from NGOs and the media play a role for the monitoring of compliance with corporate regulatory standards with regard to HIV/AIDS for other sectors (Müller-Debus et al. 2009b: 39) as well as in enhancing potentially negative public opinion. The strong interest of firms to control 'naming and shaming' by NGOs has led to the emergence of the large number of partnerships that exist in this field. Through closely collaborating with NGOs, firms mitigate the reputational risks and at the same time obtain a chance to 'learn' from NGO approaches for the benefit of their own strategies.

While the shadow of anarchy and reputational concerns appear to be the main drivers for corporate engagement in fighting HIV/AIDS, other factors, such as the strictness of regulations of health and HIV/AIDS issues in a firm's country of origin, do not appear to be directly relevant in the F&B sector. High-regulating and developed countries do not necessarily promote expansive HIV standards for businesses as the pandemic does not reach the scale and urgency of the South African situation and is usually dealt with by the state (Müller-Debus et al. 2009b: 39). Rather, MNCs may be subject to internal company regulations and standards, for example with regard to employment conditions.

SAB Miller, for instance, adopted the worldwide standards for human rights and staff value issued by their headquarters in London.[24] This example also shows the impact of transnational norms on firm behavior. MNCs like Nestlé, SAB Miller, Coca-Cola or Unilever that are exposed to such norms usually refer to the Millennium Development Goals (MDG) as a point of reference for their local activities.[25] MDG 6 mandated that the spread of HIV/AIDS had to be stopped and that universal treatment had to be available by 2010 for those who need it.[26] Multinationals adopt these global norms, rather than national legislation, as guidance. For these firms, however, these norms and standards do not constitute the primary driving force but serve as an additional, supportive incentive. Coca-Cola adopted a Global HIV Policy in 2008 which outlines principles on confidentiality, non-discrimination, education, testing, treatment and reasonable accommodation. The policy is guided by international standards (ILO and UNAIDS) and is part of the firm's overall sustainability efforts.[27]

## Conclusion

Revisiting the question whether the South African F&B sector contributes to governance of HIV/AIDS, the results are rather mixed. Large firms in the sector provide HIV/AIDS-related services, mainly on their own or in cooperation with private foundations or NGOs, while smaller firms hardly ever engage at all. The range of activities reaches from mere awareness-raising over prevention and VCT, to the provision of ARVT among some of the larger firms. While workplace initiatives that aim at HIV/AIDS prevention and detection are quite common, only a few firms provide actual treatment. The majority concentrates on more affordable services, such as education, prevention, testing, and counseling.

As far as involvement is observable, it is likely to be driven by cost-benefit analyses in light of deficient public governance of the sector by the South African government. Given the relatively high percentage of informal, unskilled or low-skilled workers in the sector, asset specificity is low and varies significantly within the sector. The actual costs of HIV/AIDS may not be high enough to motivate the provision of treatment. However, concerns about a stable consumer base and the sector's special role and responsibility with regard to public health and related marketing claims add additional reputational costs. These, combined with costs incurred by the shadow of anarchy i.e. a lack of public governance, justify the provision of low-cost service, mainly in the form of preventive projects and VCT.

There is only limited evidence that companies actively seek to foster state regulation on HIV/AIDS in South Africa; rather, they focus on collaborative approaches as well as the joint provision of public goods. Companies try to mitigate the overall detrimental social situation and cost pressure deriving from the pandemic, which they experience in their immediate business. At the same time, they shy away from asking for additional regulation, since every other aspect in the industry – food quality standards, production methods and so on – is already perceived as overly regulated.[28] Thus, companies prefer to engage in their own activities to avoid further regulation (Whelan et al. 2008). At the same time, they are increasingly realizing that internal workplace programs are hardly feasible if the state cannot guarantee that patients are sufficiently cared for by the public health care institutions once they are no longer employed and the overall situation is deteriorating. As a result of the complex task of fighting HIV/AIDS, companies are faced with a dilemma: on the one hand, they generally opt for less regulation,

yet, at the same time, wish to see the state implement a minimum of services to maintain a certain standard of public health and, hence, a stable income base for their businesses.

In recent years, the government has begun to provide incentives to make the private provision of AIDS treatment cost-efficient for the business sector, especially for smaller firms. For example, offering free or reduced-cost drugs is a way for the South African government to provide partial subsidies, reducing the costs of ARVT for employers (Lule et al. 2009). Through such measures, the government incurs minimal costs yet ensures that services will be provided for parts of the employed population. Given the complexity of the task, these efforts, however, do not suffice to tackle the entire scope of the problem.

## Notes

1. According to the FAO, a staple food is one that is eaten regularly and in such quantities that it constitutes a dominant portion of a diet, and that supplies a high proportion of energy and nutrient needs.
2. Unskilled workers are for the most part historically disadvantaged individuals and form a high-risk group in terms of the HIV/Aids pandemic (Rosen et al. 2004: 323, FoodBev SETA 2011: 30); hence, the high prevalence rate in the industry.
3. See the Coca-Cola website: http://www.thecocacolacompany.com/citizenship/local_hivaids_initiatives.html [accessed 20 September 2011].
4. Interview with CSR Representative, Unilever, 5 November 2007, La Lucia.
5. http://www.sabmiller.com/index.asp?pageid=960&year=2008 [accessed 20 September 2011].
6. Compare interview with CSR Representatives, Cadbury-Schweppes 17 October 2007, Johannesburg.
7. Compare Illovo's Sustainability Report 2010: http://www.illovo.co.za/About_Us/Group_Governance_and_Sustainability/Sustainability_Report_2010.aspx# [accessed 18 September 2011].
8. Compare interview with CR Officer, Premier Foods, 19 March 2007, Johannesburg.
9. Interview with Corporate Communications Officer, Coca-Cola, Southern Africa Division, 26 March 2007, Johannesburg.
10. Interview with Corporate Sustainability Officer, SAB Miller, Sustainability Affairs, 16 March 2007, Johannesburg.
11. Compare interview with CR Officer, Premier Foods (2007), Johannesburg, 19 March.
12. Compare Coca-Cola website: http://www.thecocacolacompany.com/citizenship/local_hivaids_initiatives.html [accessed 18 September 2011].
13. Press release, Heineken Africa Foundation, 22 May 2011.
14. Compare SABCOHA website: http://www.sabcoha.org [accessed 26 March 2012].
15. SAB Ltd. is SAB Miller's subsidiary in South Africa.

16. Compare SAB website: http://www.sabmiller.com/index.asp?pageid=2055 [accessed 18 September 2011].
17. Compare interview with CR Officer, Premier Foods, 19 March 2007, Johannesburg.
18. Compare SAB website: http://www.sabmiller.com/index.asp?pageid=962 [accessed 20 September 2011].
19. Interview with Corporate Communications Officer, Coca-Cola, Southern Africa Division, 26 March 2007, Johannesburg.
20. Compare interview with CSR Representatives, Cadbury-Schweppes, 17 October 2007, Johannesburg.
21. Compare interview with Corporate Communications Officer, Nestlé, 23 March 2007, Randburg.
22. Compare interview with CR Officer, Premier Foods, 19 March 2007, Johannesburg.
23. Compare interview with Corporate Communications Officer, Nestlé, 23 March 2007, Randburg.
24. Interview with Corporate Sustainability Officer, SAB Miller, Sustainability Affairs, 16 March 2007, Johannesburg.
25. Interview with CSR Representative, Unilever, 5 November 2007, La Lucia.
26. Compare at http://www.un.org/millenniumgoals/ [accessed 12 March 2012].
27. Compare Coca-Cola website: http://www.thecoca-colacompany.com/citizenship/hiv_aids.html [accessed 18 September 2011].
28. Interview with CR Manager, Pioneer Foods, 3 April 2007, Paarl.

# 7

# Stuck in the Shadow of Anarchy: HIV/AIDS Governance and the Textile Sector in South Africa

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## Introduction

Textile firms in South Africa are particularly affected by the HIV/AIDS pandemic. Prevalence rates in the industry are higher than in, for example, the automotive or food and beverage industries – though not as high as in mining.[1] The costs for the South African textile industry incurred by the HIV/AIDS pandemic are substantial. 'Treatment costs, paid sick leaves, funeral costs, low productivity, disability expenses, costs of training and lost expertise, additional costs of incapacity as well as generally increased medical costs'[2] are among the challenges the industry confronts as a consequence of HIV/AIDS. Indeed, most companies find the disease difficult to tackle (Müller-Debus et al. 2009a, 2009b). The labor intensity of the industry, its volatility and generally low profit margins make it particularly difficult for textile firms to fight HIV/AIDS and its consequences effectively. Hence, it does not come as a surprise that the efforts of the sector to fight the disease are rather weak in comparison to other industry sectors such as automotive or mining. The textile industry in South Africa is not a part of 'race to the top' dynamics; it is stuck in the shadow of anarchy.

Nevertheless, there are some noteworthy governance initiatives by textile firms in South Africa. For example, some textile manufacturers engage in capacity building via tripartite bargaining councils. Under the auspices of government labor and employers negotiate the industrial relations of the industry sector at a decentralized level. As far as HIV/AIDS is concerned, the bargaining council parties contribute to a health care fund which provides preventive and rehabilitative services. Another example is the provision of support by large retailers such as Nike or Woolworths to their suppliers with regard to setting up and running HIV/AIDS workplace programs at the manufacturers' premises.

Why and under which conditions do some textile companies contribute to governance? Which types of initiatives do they choose to participate in, and how successful are these in actually combating the disease and preventing its further spread? This study first presents different forms of business participation in HIV/AIDS-related governance. This part will also evaluate the effectiveness, strengths and weaknesses of business attempts to fight the disease. The second section gives an explanation for observed company behavior providing an in-depth company study to illustrate the main arguments the chapter seeks to advance.

## Governance contributions

The South African textile sector is not a strong governance contributor in the field of HIV/AIDS. In fact, only a few textile retailers make an effort in this regard. The engagement of textile and clothing manufacturers is more widespread but weak in terms of what it can achieve. Generally, governance initiatives may vary in terms of the types of actors involved, the extent of institutionalization, the geographical reach and issues concerned with the quality of service provision. For example, government, trade unions and other actors might align with business, they may meet regularly or on an ad hoc basis, initiate local or national projects, and focus on information provision or include HIV/AIDS treatment in their repertoire. This section presents various forms of engagement and evaluates them. I will focus on the activities of retailers and manufacturers separately, beginning with the former.

## Large retailers, small contributions

The textile-retailing sector has enjoyed considerable economic success. Cheap imports from Asia have increased the profit margins of retailers such as Woolworths, Edcon, Mr Price, Foschini and others. Financial resources are therefore not scarce. Nevertheless, only a few textile retailers engage in governance initiatives, and if so, they do so rather limitedly, as the following example illustrates.

The department stores of retailers are usually located in malls or large shopping centers. A number of companies, such as Retailer S and Retailer I,[3] developed the idea to join forces and offer testing in these malls, and to this end sought the assistance of the shopping centers' managements.[4]

> We got together to look at what we could do to make it easier for staff in stores to test, because not only are they far away [from the

> headquarters], they also work long hours and it's difficult for them to leave the store. And so we decided that we were going to treat AIDS as something that we would collaborate on rather than compete against each other with.[5]

The initiative has a rather informal character: although every party makes a contribution to the project, there is no membership fee. Moreover, each of the retailers is free to join and opt out at any time. Retailer N, for example, the largest South African textile retailer, takes part only sporadically. 'They were on board with us and then they decided not to participate in this round that we have just done, but they are interested in possibly joining the program again at a later stage.'[6] The retailers collaborate with an HIV/AIDS specialist and an NGO. The HIV/AIDS specialist helps them to plan, implement and evaluate the project, using the 'ILO Code of Practice on HIV/AIDS and the World of Work' as a reference. Whereas 'the NGO's mandate is to do testing and to get access to overseas funding for that. In order to get funding, they need people to test. The retailers bring the people.'[7] However, preventive measures or treatment are not part of the project. Yet testing alone is problematic. In South Africa, where public health care services, in particular in the area of HIV/AIDS are weak or largely absent, this means that once people are informed about their status they are left to themselves to deal with the information and often without access to medical help. The contribution of retailers to fight HIV/AIDS is hence limited. Moreover, this initiative is mainly funded by the NGOs with which they cooperate. Most importantly, however, there are hundreds of shopping centers in the country and at the time of writing testing had taken place in a few centers in the Western Cape only.[8] Hence, while the retailers advertise this project, their activities to implement it and make it a success are rather limited.

Retailer N participates in the Employee Assistance Professionals Association (EAPA). This more formalized, international, cross-sector initiative represents the interests of professionals managing human resources, psychological health and general well-being. EAPA hosts conferences, organizes meetings and trainings for managers dealing with employee wellness and publishes the Journal of Employee Assistance. While the South African chapter deals with HIV/AIDS in the workplace, the epidemic does not constitute a major priority. The wellness manager of Retailer N explains:

> It is mainly a platform for sharing information and for benchmarking. It is good to go and get an idea of what, let's say, BMW or Mercedes

> Benz are doing for their staff. And they can compare and say: 'this is where we fall short as compared to Retailer N' and maybe we can implement this or they learn from us.[9]

To conclude, EAPA does not make a strong contribution to the governance of HIV/AIDS. The organization, if at all, facilitates information sharing among those (few) companies that participate. Systematic prevention activities, let alone treatment provision are not included in its dealings.

The South African Business Coalition on HIV/AIDS (SABCOHA) is a fully institutionalized, cross-sector initiative with an HIV/AIDS focus. It is the leading voice of business in the issue area. Eskom, the South African Broadcasting Corporation, Transnet, Unilever, Standard Bank and Old Mutual are its founding members. The textile retailers Retailer S and Retailer E have joined in the meantime. Thus, they support the organization's lobbying activities and knowledge generation on the subject. Moreover, Retailer S has drawn on SABCOHA's expertise when disseminating information among its suppliers on how to fight HIV/AIDS in the workplace.[10] However, these two retailers belong to the minority of retailers active in HIV/AIDS governance. Generally, textile retailers do not engage much in the fight against HIV/AIDS externally, let alone employ a systematic and comprehensive strategy of collaboration with public authorities, suppliers, trade unions or NGOs in order to combat the epidemic.[11] For example, the Retailer CE does not contribute to any of the above-mentioned initiatives.

A rare positive example is Retailer IS's Red for Life campaign, which offers HIV testing together with an independent testing service sponsored jointly by the South African and the US government. Six mobile voluntary counseling and testing units move around the country promoting and offering free HIV testing. Individuals can text-message their location and receive a response detailing the closest testing facilities to them.[12] Thus, the provision of the common good of free HIV testing for over 47,000 South Africans was facilitated. Still, treatment was not part of the project.

Similarly, HIV/AIDS governance of the supply chain occurs only to a limited degree. Again, Retailer E and Retailer S are exceptions. Retailer E recently started to source on a more regular basis from South Africa (rather than exclusively from abroad). One of the firm's (few) suppliers emphasizes the retailer's strict compliance policy, close monitoring and support. A Retailer E employee is based at the supplier's premises to

ensure thorough supervision with regard to production and labor issues. Specifically concerning the HIV/AIDS pandemic, Retailer E provides access to information material and expects the supplier to implement a policy and an HIV/AIDS awareness board.[13] Hence it is noteworthy that the firm does provide for governance in the industry. Given the limited number of suppliers the American sports wear brand has in South Africa, however, its overall contribution is limited. Retailer S collaborates with its suppliers as well. The textile retailer organizes workshops and encourages the implementation of the SABCOHA toolkit.[14] However, HIV/AIDS program enforcement is absent. Generally, the focus is placed on information provision.

Given the extensive impact the epidemic has on labor-intensive industries, many textile retailers view in-house programs as an indispensable aspect of human resource management. Retailer S has been internationally recognized for its in-house program. The 'UNAIDS/International Organization of Employers' Handbook on HIV/AIDS – A Guide for Action' published Retailer S's best practices in the workplace in 2002. As part of its HIV/AIDS policy Retailer S provides ARVs to all employees via the health care and clinical management program.[15]

Retailer N established an HIV/AIDS program in 2004. A contracted service provider ensures awareness raising, counseling and treatment. The Wellness Manager states:

> We do subsidize people on medical aid so there are some that are medically insured. Those who are insured would access their benefit on the Medical Aid. If employees are not on medical aid insurance the company pays for treatment in full.[16]

Another example is Retailer I's voluntary counseling and testing (VCT) program. This was introduced in 2007 and is available to all employees in South Africa. Moreover, the retailer arranges for free treatment to be provided, including ARVs. However, these services are no longer accessible once an employee has left the company – even if this may mean that the therapy is thus interrupted.[17]

## The manufacturers' engagement: widespread but weak

Textile manufacturers and the clothing industry are associated and organized via separate structures in South Africa. Therefore, they have

also organized their respective approach toward fighting HIV/AIDS separately. By deciding to make HIV/AIDS abatement part of its employee health pillar, the clothing bargaining council launched a system of HIV/AIDS service provision – a common good. Service provision is organized at the provincial level. For example, in KwaZulu-Natal and the Western Cape, the bargaining council parties contribute 50 percent to the health care fund, which provides preventive and rehabilitative services and medication such as long-term antibiotics to employees and their families. The bargaining council clinics usually work closely with public health care facilities. There are frequent referrals from the fund's clinics to the public sector, for example if people need antiretroviral therapy (ARVT). If HIV/AIDS positive people are stable or suffer from minor diseases they are referred back.[18]

In addition, the clinic management of the bargaining councils often cooperates with the provincial Departments of Health specifically with regard to medication. For example, in the Western Cape the partnership was established 12 years ago. The clinic buys different types of medication from government at subsidized prices. In exchange, they provide health services and thus disburden public facilities. Currently, there are negotiations taking place to extend this agreement to ARVT. The government seems to plan to use this public-private partnership model in other provinces as well in order to be better equipped to tackle HIV/AIDS. The clinic director highlights: 'There is no way the public sector in this country can provide all care all the time in the next 50 years. You've got to look at creative ways of doing it.'[19]

While the clothing industry predominantly organizes HIV/AIDS-related support via its bargaining councils, textile manufacturers have chosen to contribute directly to the national SACTWU AIDS Project, which is driven by the dominant union in the textile sector SACTWU (South African Textiles and Clothing Workers Union). The Project includes education, voluntary testing and counseling. In addition, it has piloted an ARV treatment program in order to provide a comprehensive approach. SACTWU has been able to secure funding for this project from the Solidarity Centre, a US non-profit organization, which assists workers around the world in building democratic and independent trade unions.[20] While many of the textile manufacturers have small clinics on-site, workers often do not avail themselves of them. The stigmatization associated with the disease as well as confidentiality issues make employees refrain from doing so. SACTWU negotiated with the employers to let their own nurses go to the factory instead of using the company nurses, whom the workers may not trust.

Dr. Feroza Mansoor, the national director of the SACTWU AIDS project, says in this regard:

> The agreement provides complete confidentiality for workers; testing is done in a private room, and the company does not ask us for statistics. The company saves time and money, because testing is done on site. And we have more workers coming to us, because they trust the union.[21]

Textile companies directly pay 30 ZAR cents per employee per week toward the SACTWU Project. Although service provision is carried out by the trade union only and is thus independent of the bargaining council, the agreement to contribute to the AIDS Project was negotiated within the bargaining council.[22]

Therefore, while SACTWU members working in the clothing industry can access bargaining council as well as the AIDS Project services, union members employed by textile manufacturers can only make use of the latter. The extent of service provision and the contribution of industry to combating the epidemic appear to be similar in textile and clothing.

It is surprising that an industry facing economic decline manages to voluntarily support the fight against HIV/AIDS. And indeed, although sector-wide in character, the governance initiative is limited as to what it can achieve. This refers to the provision of treatment in particular. The SACTWU AIDS Project has tested the provision of treatment at only one factory. Since treatment is expensive, the Project as well as the bargaining council clinics often collaborate closely with public health care facilities by referring patients to the public sector once immune boosters and antibiotics become insufficient and ARVT is required for a patient to remain stable.[23]

Public health care facilities are often over-burdened. Waiting time for access to treatment may be extensive. Moreover, the quality of public service provision has been limited due to a generally weak capacity of the provinces, as the managing director of a Durban-based textile manufacturer points out:

> I think the problem with ARVs is that they need to be specifically targeted at you as an individual and I don't know whether the State system can always cope with that degree of targeting. There is a general cocktail that you'll get, it may work for some but for others it may not work. I think that's probably a resource issue.[24]

By contrast, the automotive industry provides relief to public facilities through programs that include access to ARV treatment for their employees as well as their dependents. Often these programs extend to the targeting of employees of automotive component suppliers or even the general public. The same is true for the mining industry.

Furthermore, a significant proportion of companies operating in the South African clothing and textile industry are not registered with any bargaining council, and hence do not contribute to an industry-supported health care scheme. Thus, numerous Cut-Make-Trims operate in garages, private homes or remote areas. But many of the larger companies are also not members of these structures.[25] A typical example is a manufacturer in rural Gauteng. On the one hand, the company strongly feels the impact of the epidemic by losing staff because they would fall ill or would have to take care of family members with AIDS. On the other hand, the manufacturer is not prepared to invest in prevention, let alone in treatment. Representatives of the bargaining council health care fund have approached the company asking for its participation and support. 'They have come along each year for the last five years saying that we must contribute as a company to the HIV fund', the Managing Director explains.[26] Referring to his limited resources and to a lack of information as to where his financial contribution would actually be going, he has refused to contribute. He adds that:

> [W]e've had independent people who said can we come and talk to your workers and explain how condoms work and birth control and all this kind of thing and we've allowed that time and allowed that to happen. But that's as far as we've been going.[27]

Giving an explanation of this approach that is taken by many textile and clothing companies the CEO of SABOCHA argues: 'If you are in this industry – in South Africa it's a particularly cut-throat industry to be in – you can be open today and you can be closed in two weeks time. If you don't get an order in this week you close next week.'[28] On account of their weak economic position, most textile and clothing manufacturers provide advice to employees via their occupational health nurses. But they rarely have systematic HIV/AIDS programs in place.[29]

## Overall picture

The analysis shows that both, retailers and manufacturers engage in governance activities to fight HIV/AIDS. Textile companies have

collaborated with a number of different actors. They engage in public-private co-regulation and private self-regulation. More precisely, retailers participate in bipartite and private regulation in all its forms. Textile manufacturers are involved in tripartite and private regulation together with trade unions and in supply chain initiatives. Table 7.1 provides an overview of these initiatives based on retailer initiative.

The analysis reveals that the initiatives are either weak in terms of institutionalization and achievement or represent exceptional cases only. Engagement of textile and clothing manufacturers is spread relatively evenly across those companies, which also adhere to general bargaining agreements. Those manufacturers operating outside these structures usually do not participate in any (other) form of governance

*Table 7.1* The (absence of) HIV/AIDS governance contributions

| **Governance contributions, modes of interaction** | | **Retailers** | **Apparel and garment textile manufacturers** |
|---|---|---|---|
| **Fostering of public regulation and state capacities** | *Consultation and Lobbying* | No direct lobbying | No direct lobbying |
| | *Capacity-building* | No capacity building | No capacity building |
| **Public-private co-regulation** | *Bipartite* | Retailer IS Red for Life campaign | No engagement |
| | *Tripartite* | | Bargaining Council Partnerships |
| | *Multi-stakeholder* | No multi-stakeholder engagement | No engagement |
| **Private self-regulation** | *Involving non-state stakeholders* | Retailer's Initiative | Bargaining Council clinics, SACTWU AIDS Project |
| | *Through business association* | SABCOHA, EAPA | No engagement |
| | *Along the value chain* | Retailer S, Retailer E and so on with manufacturers | Retailer S, Retailer E and so on with manufacturers |
| | *In-house* | In-house programs are usually in place. | Rare engagement |

initiative. Textile retailers are rarely committed to collective governance activities, let alone sector-wide approaches. Only two or three companies appear to have chosen to make a contribution to HIV/AIDS-related governance. Generally, collective initiatives are not comprehensive since they usually do not include the provision of treatment.

## The driving factors of HIV/AIDS governance contributions

Asset specificity is a potential explanatory factor (Müller-Debus 2010, Thauer 2010, 2014). Although asset specificity may certainly vary within sectors, there are sectors which are generally characterized by a relatively high (e.g. the automotive sector, see Chapter 4 in this book) or by a comparatively low degree, as is the case for the textile sector. The sector is characterized by labor intensity, but usually does not require high skills. Workers do not need to have a specific education and can be trained quickly and, therefore, replaced easily. Thus, classic competitive forces are at work that tend to be reinforced by the current industrial decline. Therefore, the need to safeguard asset specific investments by implementing governance structures is low in the sector.

How can we explain these findings? Also, we can exclude the shadow of hierarchy as a driving factor: The South African government waited a long time before it started to combat the HIV/AIDS epidemic. As late as in 2003, the government drafted the first piece of legislation clearly formulating targets concerning the provision of treatment. In line with a generally sluggish approach (see Chapter 3 in this book), the government took long to come up with regulation specifically governing the handling of the disease in the workplace. Accordingly, the government did not show an interest in issuing a legislative threat. Correspondingly, textile companies highlighted the absence of government pressure to become active in the area of HIV/AIDS. Given the limited initiative of government to combat the pandemic, companies with the economic capacity to do so have gone down the route of developing basic in-house strategies and initiatives to fight the associated risks.

Textile retailers have experienced a strong impact of the epidemic among their employees. In 1997, Retailer S's estimates showed that the disease would have a significant impact on the retailer by 2010. It was expected that 5 percent of employees would be sick and the mortality would have risen by 5 percent for the age group of 30–44 year-olds. Retailer S's productivity drop was calculated to amount to 2–3 percent – the equivalent to closing down one of its large stores.[30] According to

a risk assessment commissioned by Retailer I in 2005, it was estimated that 7 percent of the company's employees would be HIV-positive in 2007. The estimated average cost to the group for 2007 associated with HIV infection was ZAR 11,054 per HIV-positive employee, equating to an annual total cost of ZAR 9.4 million.[31]

Hence, the absence of a strong sector-wide approach to the governance of HIV/AIDS is not surprising. The question remains why some companies choose to make a contribution nevertheless, even if a weak one, to the governance of HIV/AIDS. While institutional guidance was limited in South Africa, there have been various international organizations contributing to the dissemination of transnational norms concerning the HIV/AIDS issue. UNAIDS, the Global Fund and the International Labor Organization are important examples.[32] While these international and transnational norms and initiatives are a (constant) context condition of these activities, they point to reputational concerns as a factor on account of which the companies' responsiveness to this international normative context varies. Strong international and national brands, such as Retailer E, Retailer S or Retailer IS, are highly responsive to this normative context. They incorporate such norms and carry them to their countries of production. This is the case in the textile industry as it is, for example, in food and beverages. Moreover, NGOs have been monitoring the international textile sector's compliance with labor standards. For example, Retailer E was targeted in relation to the use of sweatshops. Since then, the company has carefully avoided negative publicity and proactively controls its entire supply chain to ensure social responsibility at all stages of production. This includes the appropriate treatment of employees with HIV/AIDS and is viewed as fundamental to ensure an unobjectionable reputation.[33] Retailer S places a strategic focus on its reputation. In contrast to retailers such as Retailer N, Retailer I and even more so Retailer CE, Retailer S focuses on high-end consumers with an interest in social responsibility, as a competitor of S confirms: 'Retailer S is positioning itself at the top end of the market and generally a lot of its standards are standards that are desired and sought after by the top end of the market.'[34] As shown above, Retailer N or Retailer I have got involved in comparatively few and weak initiatives. Retailer CE does not contribute to any governance activity.[35]

The unions play an important role for the governance contributions of the textile manufacturing segment of the sector. More specifically, those textile and clothing manufacturers that are members of a bargaining council contribute to HIV/AIDS-related governance

*Table 7.2* Drivers of HIV/AIDS governance contributions

| Governance contributions | | Driver |
|---|---|---|
| **Fostering of public regulation and state capacities** | *Consultation and Lobbying* | None |
| | *Capacity-building* | None |
| **Public-private co-regulation** | *Bipartite* | Reputational concerns |
| | *Tripartite* | Trade union activism |
| | *Multi-stakeholder* | None |
| **Private self-regulation** | *Involving non-state stakeholders* | Absence of national government initiative; trade union activism; reputational concerns |
| | *Through business association* | Reputational concerns |
| | *Along the value chain* | Reputational concerns |
| | *In-house* | Reputational concerns, absence of national government initiative |

initiatives. In the absence of the above explanatory factors, both the bargaining council clinics and the AIDS Project were pushed by the trade union SACTWU. Trade union membership in the textile and clothing industry is relatively high. SACTWU is therefore one of the influential trade unions in South Africa.[36] The union developed an early interest in HIV/AIDS because of the industry's labor intensity and corresponding sensitivity. Moreover, a large proportion of workers in the industry is female and women are particularly vulnerable as far as HIV/AIDS is concerned. Due to the existence of the bargaining councils, SACTWU was able to make use of institutionalized bargaining mechanisms – similarly to developments in the mining sector.[37] The activism of SACTWU stands in stark contrast to the behavior of the South African Commercial, Catering and Allied Workers Union (SACCAWU), the trade union in the retailing sector. Generally, the influence of SACCAWU has not been considerable. Specifically with regard to HIV/AIDS, this union has tended to remain inactive.[38]

## Behind the scenes: retailer S's move toward making a contribution

Why and how does a textile company choose to make governance contributions without being forced by external forces? This sub-section

highlights the relevance of a systematically established, socially responsible reputation and a specific corporate identity. Social challenges, such as the HIV/AIDS pandemic, may pose a threat to such a reputation as long as the company remains inactive. The company makes governance contributions in order to maintain its reputation.

An exceptional example in the area of corporate social responsibility in South Africa is the textile retailer Retailer S, which prides itself on having a long standing commitment to the highest quality of merchandise. While Retailer S is particularly known for its engagement in protecting the environment, the Corporate Social Investment Manager underlines: 'Environmental protection is very important in the company but it is not as important as social issues.'[39]

HIV/AIDS was first discussed within the company in 1996, but at that time it was not considered a serious threat. A year later estimates showed that the disease would have a significant impact on the retailer by 2010. It was expected that 5 percent of employees would be ill and the mortality would rise 5 percent for the age group of 30–44 year-olds. Retailer S's productivity drop was calculated to amount to '2–3 percent – the equivalent to closing down one of our large stores. Impacts on the pension fund, Group Life Assurance, and medical aid also showed that these group benefits would take significant knocks'. Similar findings emerged when a second analysis was conducted in 1999.[40]

Therefore, an HIV/AIDS peer education program was launched in 1997.[41] In 2001, the HIV/AIDS awareness-raising program was well established. Additionally, the occupational health team started to provide support to all employees affected. In 2002, Retailer S conducted its first general employee satisfaction survey. In the same spirit the retailer highlighted its general belief in 'broad communication on issues of importance to employees and the business to create and promote a culture of regular, honest and open internal communication.'[42]

In 2003, the retailer published its first official sustainability review. This review not only presented health services and training possibilities for employees but also provided a preliminary comprehensive formalization of Retailer S's general social responsibility policy. It showed the increasing attention the retailer had given to employee satisfaction and aimed at further intensification.

> Regular, bi-annual surveys are conducted with store staff to measure employee satisfaction and commitment. In general, each of the three surveys conducted to date, showed an increasingly positive trend on both indicators. The survey will be rolled out to the rest

> of the business, providing a better and more holistic understanding of employee satisfaction and commitment and indicating areas for improvement and development.[43]

More specifically, the report also re-emphasized Retailer S's internal procedures regarding HIV/AIDS. Furthermore, new activities were presented, including a steering committee that was set up to update Retailer S's HIV/AIDS strategy. To do so, the steering committee drew on the experiences provided by SABCOHA and its member companies. The retailer, however, did not become a member of the organization at that time. In 2004, Retailer S initiated its provision of ARV treatment for its employees.[44] Retailer S's Wellness Manager explains:

> We aspire to being the most trusted and respected modern South African retail brand. Tell me, who can *trust* and *respect* a company that is known not to care for its employees? … People come into contact with us every day, we're in their home, in their stomachs, we dress their kids… [We want to] be an actively responsible organization, focused on addressing issues unique to the environment in which we operate.

Indeed, the investments in internal procedures to enhance employee well-being were accompanied by corresponding campaigns since 'the brand is everything.'[45] Not only did the retailer present its investments in its new annual sustainability reviews. In the 2003 annual report, Retailer S also emphasized the 'UNAIDS/International Organization of Employers' Handbook on HIV/AIDS – A Guide for Action'. The handbook published the retailer's best practices in the workplace and thus made them available to other companies and the general public in 2002.[46] This was followed by the retailer's announcement of its contribution 'toward a tool being developed by the World Health Organization on effective communication strategies for Voluntary Counseling and Testing in 2004.'[47] Moreover, Retailer S pointed out that its 'HIV/AIDS prevention and management program includes a focus on contributing and influencing issues on how we address HIV/AIDS in the workplace at a national level.' Hence, the retailer decided to become a member of SABCOHA in 2005.[48] The SABCOHA CEO explains that Retailer S joined because it is a company whose culture requires it to be part of a nationally coordinated response.[49] Due to the challenge posed by the HIV/AIDS epidemic Retailer S could have been at risk of losing its credibility. Therefore, the textile retailer contributed to the governance of HIV/AIDS through a variety of initiatives (Table 7.2).

## Conclusions

The textile sector does not contribute much to the governance of HIV/AIDS in South Africa. There are governance initiatives, but they usually remain weak and are not very effective. While the engagement of manufacturers is relatively widespread among those companies which adhere to general bargaining agreements, large numbers of manufacturers outside these structures do not participate in the fight against HIV/AIDS. Similarly, textile retailers are rarely committed to governance activities, let alone sector-wide approaches. Only two or three companies appear to have chosen to make a contribution to HIV/AIDS-related governance. In general, initiatives are not comprehensive because they lack the provision of treatment.

In the absence of a legislative threat exerted by government it does not come as a surprise that engagement has been so little. Also, asset specificity is relatively weak in the textile sector so that there is little motivation for firms to provide for governance and combat the disease. The variation in the behavior of retailers and manufacturers can be explained mainly by the influence and activism of the respective trade union. Albeit in a limited fashion, trade union activism gave rise to some governance contributions by manufacturers via existing bargaining structures – while such impetus was missing in the retailing sector. Correspondingly, sector-wide tripartite governance has not emerged in the textile-retailing sector and only a few retailers are involved in fully institutionalized forms of collective self-regulation. The behavioral differences within the retailing-sector can be traced back to reputational concerns. Retailers like Retailer E or Retailer S are exceptions in that they pursue a strategy focused on reputation-building. Such companies are, in turn, also more susceptible to external criticism and the potential loss of credibility. It is important to note that the focus on building and maintaining a sound and socially-oriented reputation is grounded on the development of corresponding norms. A variety of international organizations and NGOs have contributed to the dissemination of such norms and consumers continue to reinforce this development with their product choice.

## Notes

1. Interviews with textile manufacturers and retailers, Western Cape and Gauteng, March 2007–October 2008; see also Chapters 4, 5 and 6 in this book.
2. Interview with HIV/AIDS Manager, Retailer I, Western Cape, South Africa, 16 September 2008; Retailer I Group Annual Report 2008.
3. For reasons of confidentiality, the names of the companies have not been disclosed.

4. Interview with Corporate Social Investment Officer and Occupational Health Nurse, Retailer S, Western Cape, South Africa, 21 September 2007; interview with Human Resources Manager, Retailer I, Western Cape, South Africa, 16 September 2008.
5. Interview with Human Resources Manager, Retailer I, Western Cape, South Africa, 16 September 2008.
6. Ibid.
7. Ibid.
8. Ibid.
9. Interview with Wellness Manager, Retailer N, Gauteng, South Africa, 18 March 2007.
10. Interview with CEO, SABCOHA, Gauteng, South Africa, 19 March 2007; information available from http://www.weforum.org/pdf/GHI/SouthAfrica.pdf [accessed June 2008]; Retailer S Annual Report 2006.
11. Interview with Quality Management Representative and colleagues, textile manufacturer, Western Cape, South Africa, 17 September 2008; interview with Human Resources Manager and Production Manager, Retailer KE, Western Cape, South Africa, 21 September 2007; interview with General Manager, textile manufacturer, Western Cape, South Africa, 20 September 2007.
12. Retailer IS press statement, 2007. Top Denim Brand Test Almost Fifty Thousand for HIV.
13. Interview with Supply Chain Manager, Retailer E SA, Gauteng, South Africa, 1 October 2008; interview with Human Resources Manager, Production Executive and Sales Executive, clothing manufacturer, Western Cape, South Africa, 16 September 2008.
14. Interview with Human Resources Manager, Production Executive and Sales Executive, clothing manufacturer, Western Cape, South Africa, 16 September 2008; interview with Corporate Social Investment Officer and Occupational Health Nurse, Retailer S, Western Cape, South Africa, 21 September 2007.
15. Interview with Social Investment Manager and Occupational Health Nurse, Retailer S, Western Cape, South Africa, 21 September 2007; data also taken from the Employers' Handbook on HIV/AIDS. A Guide for Action published by UNAIDS/International Organisation of Employers. Available from: http://data.unaids.org/Publications/IRC-pub02/JC767-EmployersHandbook_en.pdf [accessed June 2009].
16. Interview with Wellness Manager, Retailer N, Gauteng, South Africa, 18 March 2007.
17. Interview with HIV/AIDS Manager, Retailer I, Western Cape, South Africa, 16 September 2008; Retailer I Annual Report 2008.
18. Interviews with Head of Clothing Industry Bargaining Council Clinic, Western Cape, 27 March 2007, and with HR Manager of clothing manufacturer, KwaZulu-Natal, 25 September 2008.
19. Interview with Head of Clothing Industry Bargaining Council Clinic, Western Cape, 27 March 2007.
20. Information available from http://www.solidaritycenter.org.
21. Information available from http://www.solidaritycenter.org/content.asp?contentid=619. Interview with Managing Director, textile manufacturer, KwaZulu-Natal, 1 October 2007; interview with Head of Clothing Industry Bargaining Council Clinic, Western Cape, 27 March 2007.

22. Interview with Managing Director, textile manufacturer, KwaZulu-Natal, 1 October 2007.
23. Interview with Managing Director, textile manufacturer, KwaZulu-Natal, 1 October 2007; interview with Head of Clothing Industry Bargaining Council Clinic, Western Cape, 27 March 2007.
24. Interview with Managing Director, textile manufacturer, KwaZulu-Natal, South Africa, 1 October 2007.
25. Interview with DTI Western Cape, Western Cape, South Africa, 18 September 2008; interview with Head of CLOTRADE, Western Cape, South Africa, 27 March 2007.
26. Interview with Managing Director, textile manufacturer, Gauteng, South Africa, 13 September 2007.
27. Interview with Managing Director, textile manufacturer, Gauteng, South Africa, 13 September 2007.
28. Interview with CEO, SABCOHA, Gauteng, South Africa, 19 March 2007.
29. This was confirmed in most interviews conducted with textile and clothing manufacturers. For example, interview with Managing Director, textile manufacturer, KwaZulu-Natal, 1 October 2007; interview with General Manager, textile manufacturer, 20 September 2007, Western Cape, South Africa.
30. Interview with Social Investment Manager and Occupational Health Nurse, Retailer S, Western Cape, South Africa, 21 September 2007; data also taken from the Employers' Handbook on HIV/AIDS. A Guide for Action published by UNAIDS/International Organisation of Employers. Available from: http://data.unaids.org/Publications/IRC-pub02/JC767-EmployersHandbook_en.pdf [accessed June 2009].
31. Interview with HIV/AIDS Manager, Retailer I, Western Cape, South Africa, 16 September 2008; Retailer I Group Annual Report 2008.
32. See the ILO Code of Practice on HIV/AIDS and the World of Work. Information available from: http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/normativeinstrument/kd00015.pdf [accessed June 2009].
33. Interview with Wellness Manager, Retailer E, Gauteng, South Africa, 27 September 2008.
34. Interview with Public Affairs Manager, Retailer T, Gauteng, South Africa, 29 September 2008. Also interview with Quality Management Representative and colleagues, textile manufacturer, Western Cape, South Africa, 17 September 2008; interview with General Manager, textile manufacturer, Western Cape, South Africa, 20 September 2007.
35. Interview with Human Resources Manager, Retailer I, Western Cape, South Africa, 16 September 2008; interview with Logistics Executive, Retailer N, Gauteng, South Africa, 30 September 2008.
36. Information available from http://www.sactwu.org.za/union.
37. Interview with Head of Clothing Industry Bargaining Council Clinic, Western Cape, 27 March 2007; interview with textile manufacturer, KwaZulu-Natal, 1 October 2007.
38. Interview with Human Resources Manager, Retailer I, Western Cape, South Africa, 16 September 2008; interview with Corporate Social Investment Officer and Occupational Health Nurse, Retailer S, Western Cape, South Africa, 21 September 2007.

39. Interview with Corporate Social Investment Officer and Occupational Health Nurse, Retailer S, Western Cape, South Africa, 21 September 2007.
40. Interview with Social Investment Manager and Occupational Health Nurse, Retailer S, Western Cape, South Africa, 21 September 2007; data also taken from the Employers' Handbook on HIV/AIDS. A Guide for Action published by UNAIDS/International Organisation of Employers. Available from: http://data.unaids.org/Publications/IRC-pub02/JC767-EmployersHandbook_en.pdf [accessed June 2009].
41. Interview with Corporate Social Investment Officer and Occupational Health Nurse, Retailer S, Western Cape, South Africa, 21 September 2007.
42. Retailer S Annual Reports 2001, 2002.
43. Retailer S Annual Report 2003.
44. Retailer S Annual Reports 2003, 2004.
45. Interview with Corporate Social Investment Officer and Occupational Health Nurse, Retailer S, Western Cape, South Africa, 21 September 2007; interview with Good Business Journey Manager, Retailer S, Western Cape, South Africa, 17 September 2008.
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# Part III
# Fighting Environmental Pollution in South Africa

# 8

# Environmental Policy in South Africa

*Nicole Kranz and Jana Hönke*

The profit orientation of business and environmental concerns are often considered to be mutually incompatible. The environmental impact of a firm's operation is a classical field of contestation. It is subject to extensive regulation in the OECD world. Over the past 10 years environmental responsibility has in fact become one of the key aspects in the discourse on a corporate social responsibility that extends firms' environmental responsibilities beyond compliance with state regulation (Auld et al. 2008, Delmas 2002, Hoffman 2000, Hoffman 1997, Prakash 2000, Reinhardt et al. 2008).

In the so-called 'developing countries', the impact of business on the environment is an issue of particular controversy. Many examples point to corporate malpractice, the exploitation of natural resources, environmental degradation and environmental injustice compromising the development potential of local communities (Butler and Hallowes 2002, Eweje 2005, Hallowes and Butler 2004, Hayes 2006, Lund-Thomson 2005). Yet, the analysis of business responses to challenges in the environmental field has so far focused on the OECD world (Bansal and Roth 2000, Khanna and Anton 2002, Roome and Wijen 2006). We therefore look at companies in South Africa and analyze the conditions under which they contribute to environmental governance.

South Africa's post-apartheid governments have made substantial efforts to re-integrate the country into the international community (Hamann and O'Riordan 2001). South Africa has ratified and implemented an array of international treaties and regimes. Among the newly adopted international norms were also those governing the field of the environment. As a consequence, South Africa has today a developed, ambitious and far-reaching environmental legislation. The most fundamental legal provision in this respect is the Bill of Rights, which is

Chapter 2 of the Constitution of South Africa (No. 108 of 1996). The Bill of Rights proscribes a fair and sustainable management of South Africa's natural resources through the promotion of ownership and empowerment of the people. Furthermore, Section 24 of the Bill of Rights guarantees environmental rights to all people of South Africa. On the basis of these fundamental provisions, an encompassing and ambitious national environmental policy has been formulated, which also details strategies, action plans and implementation procedures in order to ensure compliance with international accords.

One central document in particular constitutes this national environmental policy: the National Environmental Management Act, also called NEMA.[1] NEMA provides for a cooperative framework of environmental governance. The Act establishes principles for environmental decision-making, defines the scope of actions of the institutions in environmental policy and advocates an integrated approach to environmental management. In addition, NEMA lays out compliance and enforcement mechanisms and provisions concerning the collection and public disclosure of environmental information. Other acts detail legislation in specific policy fields, such as air quality, water management, waste management and biodiversity. Of particular relevance for all industry sectors in this respect is any legislation on environmental impact assessments (EIA) and licensing for operations.

However, concerning the effective enforcement and implementation of NEMA and the overall national policy, South Africa is confronted with significant challenges – not unlike many other emerging market economies. While legislation is, as described, relatively well developed on an abstract, national level, it has had only limited impact on the ground (Hönke et al. 2008). Different levels of implementation between national and provincial levels persist. Legacies of the past have not been overcome: many black communities remain underprivileged and suffer from a disproportionately high exposure to pollution hazards as well as a lack of access to basic services and infrastructure, such as waste management and sanitary systems (Bond 2009, Lund-Thomson 2005). These implementation deficits are mainly attributed to two factors characteristic for limited statehood: vertical and horizontal fragmentation and limited administrative capacity (DEAT 2000).

*Vertical and horizontal fragmentation:* The arrangement of institutions at the national, provincial and local levels in the field of the environment as well as their distinct responsibilities and competences are unclear, confusing, over-complex and often contradictory. In consequence, implementation is a challenge and often highly deficient. The government

department in charge of the environment is generally too[2] weak to prevent other ministries from following different or contradictory strategies to its environmental decisions. Moreover, other ministries often effectively undermine the policy goals the environment department. For example, the ministry responsible for the industrialization of agriculture was also put in charge of regulating the use of pesticides, fertilizers and genetically modified organisms. However, fearing job losses and disinvestment, this ministry tends to trade off environmental protection for economic concerns. Similarly, the department in charge of the promotion of mining and cheaper energy is also supposed to mitigate and regulate the environmental impacts of this sector.[3] Also in this case economic aspects outweigh environmental concerns. In consequence, companies are often subject to a number of different pieces of legislation, which are administered by different governmental departments and prescribe very different, often contradictory behavior (Hönke et al. 2008).

*Limited administrative capacity:* Institutional capacity at the national level, but even more so at the provincial level, is severely hampered by the loss of experienced staff, lack of budgetary support and the absence of comprehensive procedures for a broader involvement of the public in environmental decision-making (Cloete 2002, Picard 2005). Consequently, policies that are devised at the national level cannot be effectively applied and enforced at lower governmental levels (Rampedi 2006). For example, in 2002 the environment department significantly reduced its budgetary allocation for pollution prevention and control, while the budget for tourism was increased. The resulting budget shortage is mirrored by institutions at lower levels (Picard 2005, Swilling 2007). Administrative procedures, such as the process leading up to an Environmental Impact Assessment (EIA) or the issuing of water licenses, are lengthy and complex, as they are the joint responsibility of national and provincial government institutions (Pegram and Schreiner 2010).[4] In order to respond effectively to the most pressing environmental digression, the South African government has instituted the so-called Green Scorpions, a special police unit, trained to detect the most severe cases of environmental pollution. Nonetheless, firms in South Africa can, by and large, act as they please on the local level with regard to the production of negative environmental externalities. The consequences are in many cases severe: South Africa is facing an increasing water shortage on account of high pollution levels and ground water over-appropriation; energy supply remains insecure, as the national (state-owned) energy provider ESKOM fails to pursue a convincing and effective national energy saving policy; underprivileged settlements – in particular illegal

settlements, townships and the former homelands – remain exposed to health-threatening industrial pollution; in addition, the industrial and household effluents released into the rivers and the sea threaten the existence of the country's unique biodiversity and natural heritages.

At the same time, this book finds positive responses to the lack of state intervention in the field of environment in the business sector. An important initiative is the Sustainable Futures Unit (SFU) of the National Business Initiative (NBI). One project of SFU is to mitigate the effects of climate change through energy-efficiency programs carried out in cooperation with large firms and industry representatives. The initiative is not very successful. However, it does represent a response of the industry to the lack of state governance in South Africa in the field of the environment. The Social Responsibility Index of the Johannesburg Stock Exchange (FTSE/JSE SRI) is another example of an industry-driven approach to environmental governance. The Index is modeled after sustainability indices managed by the New York and London stock exchanges (Dow Jones Sustainability Index, FTSE4Good) and comprised about 70 companies in 2011. About two thirds of those companies listed at the JSE meet the criteria that serve as qualifiers for the Responsibility Index. These criteria reflect reported company performance in areas related to the environment, society, governance and climate change. They strongly relate to work done by the so-called King Reports, a local South African corporate governance initiative, which began in 1992. Currently published in its third volume (King III, 2009), the King Report on Governance for South Africa looks at firm performance with regard to criteria constituting the triple-bottom line; that is, the environment, society, fairness, transparency and accountability (IOD 2009).

In addition, many South African businesses adhere to international standards and codes of conducts, such as the UN Global Compact or ISO 14001 (Bezuidenhout et al. 2007). While the Global Compact is a rather loose initiative in South Africa, ISO 14001 is a relatively strict standard sponsored by the International Organization for Standardization. On the basis of an environmental impact assessment, this standard requires firms to define and prescribe environmentally relevant work processes, and identify areas of improvement and escalation procedures. The standard is externally audited and certified according to strict procedures, and presupposes an externally verified legal compliance certificate – that is, proof that the certified firm is in compliance with environmental law. While varying considerably in terms of their direct effectiveness, the increasing diffusion of these standards and initiatives

demonstrates that environmental concerns have had some influence on the business community. The 2002 World Summit on Sustainable Development certainly helped to spur the debate on corporate environmental responsibility, particularly since national and international NGOs voiced their criticism of South African business practices at this event (Bezuidenhout et al. 2007).

The following chapters will analyze the initiatives, ways, drivers and effects of attempts by firms in the automotive, mining, food and beverage, and textiles sectors to contribute to environmental governance.

## Notes

1. Act 107 of 1998 amended by Act 56 of 2002, Act 46 of 2003, Act 8 of 2004.
2. The Department for Environmental Affairs and Tourism (DEAT) was transformed into the Department for Water and Environmental Affairs after national elections in 2009.
3. Although this collusion of different interests has been addressed by the 2009 reform of government departments, old patterns of allegiance have been reported to prevail.
4. See also Grönewald, Yolandi (14 March 2005) 'Shootout at the Coalface', *Mail and Guardian*, and *Mail and Guardian* (1 November 2007) 'DGs: Who's Hot and Who's Not?'.

# 9

# Upgrading the Periphery? The Contribution of Car Companies to Environmental Governance in South Africa

*Christian R. Thauer*

## Introduction

While the old triad of Europe, the United States and Japan is facing a time of economic stagnation, the emerging markets – such as the BRICS[1] states – have become the main engine of growth for the international car industry.[2] It is in the context of this development that the automotive industry has invested substantially in South Africa over the past one and a half decades. This investment has granted the industry access to the South African growth market, and preferential access to the US under the African Growth and Opportunity Act (AGOA),[3] and to Europe under similar preferential trade agreements.[4]

Producing in South Africa has additional advantages: labor costs are lower than in Europe, Japan or the United States, and firms are less restrained by environmental regulation, too. It should be noted, however, that the costs that labor and environmental standards impose on business do not determine the investment decisions of big car companies.[5] Rather, their overall market strategy is long-term oriented, aiming at market footage and an increase in market share. Success and failure in the industry are highly dependent on the realization of economies of scale and on technological innovation.[6] This makes car companies less prone to 'race to the bottom' dynamics as compared to, say, firms in the textile industry, which thrive on low labor costs and a general externalization of the costs of production (see Chapter 12 in this book).

Thus, the basic argument of this chapter is that weakly enforced regulation of South African law is often more of a burden than a relief for car companies. In fact, I present evidence in the policy field of the environment showing that many of the industry's members – for

reasons I also intend to spell out – make attempts to upgrade the level of environmental standards on which South African production operates. In what follows, I will first map out the different ways in which automotive companies make attempts to contribute to governance and then explore why and under which conditions these attempts can be observed.

## The contribution of car companies to environmental governance in South Africa: modes of interaction

In the context of the other industry sectors considered in this book, the environmental impact of the automotive industry is on a par with the textile and food and beverage industries. The car industry is, however, exploiting the environment on a much lower level than the mining industry. At least, this is true for the environmental impact of the production process. Critical areas of automotive production concern affluent waste, general waste management and recycling, industrial fallout, the handling of toxic or hazardous substances, and energy and water consumption (Thauer 2010). However, if the product – that is, cars, trucks, pick-ups and so on – is taken into account, too, the industry is one of the major sources of environmental pollution in South Africa. Automotive vehicles are main producers of $CO_2$. In addition, car emissions are a major factor undermining air quality. Given the impressive growth rates in car sales,[7] these latter, product-related aspects make the automotive industry a key industry for the future environmental performance of the country. How do firms in the automotive industry – in the areas of environmental impact of both the process of production and of the final product[8] – contribute to environmental governance in South Africa?

In general, differences in governance contributions persist, on the one hand, between big multinational corporations (MNCs) who spearhead the industry with their buying power and, on the other hand, small to medium sized companies.[9] The MNCs are usually Original Equipment Manufacturers (OEM) – big branded companies as, for example, BMW, Ford, General Motors, Mercedes Benz, Nissan, Toyota, VW, Robert Bosch and Johnson Controls. Their brand names are associated with the products' end-consumers' purchase. In manufacturing these end products, OEMs source many intermediate products from suppliers. In fact, much of production in the automotive industry is outsourced today. The supply chains of OEMs account for most of the value added in the automotive industry.[10]

There are distinct ways in which automotive firms can contribute to environmental governance. The industry is a particularly strong governance provider. MNCs in the industry engage, firstly, in active consultation and lobbying vis-à-vis the government for stricter environmental laws regarding the reduction of negative externalities of production processes and products (i.e. cars). Even in the area of emission regulation, car companies lobbied for the creation of stricter laws. Direct attempts to foster environmental regulation through consultation and lobbying include car companies giving inputs in hearings when the government – on the national or provincial level – drafts new laws and regulations or updates existing laws in line with international standards. For example, some of the big German companies attended the hearings for the renewal of the new clean air act of the South African national government.[11] Others tried to give input in order to make local and provincial government agencies set local effluent standards – which are often non-existing or weak.[12] MNCs can provide crucial information and know-how concerning standard setting and implementation. They tend to have a vast experience in applying international standards to different national, regional and local contexts. Via the National Association of Automotive Manufacturers of South Africa (NAAMSA) car companies have also lobbied the South African government to raise the level of emissions standards for new vehicles to the level required within the European Union. In light of the fierce resistance of the industry toward emissions regulations in Europe or the US, this is a highly surprising finding.

Secondly, big multinational car companies often help government agencies to build up (environmental) regulatory capacities on the local level. Environmental managers of big car companies foster the regulatory capacities of government agencies when they routinely monitor the general level of adherence to environmental standards in their local communities. For example, big car companies keep track of air and ground water quality in their development areas. In East London, for instance, the environmental manager of a big German car company monitors the air quality on his production site, even though the local government in South Africa has so far failed to impose any standards or limits for industrial emissions (i.e. emissions deriving from the production process) or for air quality.[13] The manager contacts the local government regularly to provide this data and connects this with a demand that air quality should be regulated and monitored by the local government agency in the future. Should the agency decide to set up air quality standards one day – which it is obliged to do in theory (by South African

law, that is) – it would be the data provided by this car company that would form the basis on which emission limits and air quality standards were defined. This same manager also controls the pollution level of the storm and ground water that comes from other production plants running through his production site, and reports instances of high pollution levels to the local government agency. Hence, the firm tries to assist the local environmental agency, which so far has not monitored the water quality, to spot infringements of environmental standards by neighboring companies.[14] These examples showing a firm's attempt to foster the regulatory capacities of government agencies are by no means the exception in the automotive industry. In fact, they represent the activities of all major automotive MNCs in their local contexts.[15]

Thirdly, automotive firms are frequently involved in multi-stakeholder initiatives and public-private partnerships that aim at a higher level of environmental standards and protection. On the transnational level many of the big OEMs of the industry participate in the Global Compact and other United Nations initiatives such as the UNEP Mobility Forum. These companies were also actively involved in the setting of ISO 14001 and ISO 9001 management systems in the context of the International Organization for Standardization (ISO) – partly as individual companies, partly represented by associations. However, such international initiatives and standards are usually not driven by the South African branches of automotive MNCs. Rather, it is the global headquarters of these companies that actively participate in the mentioned international environmental governance forums and initiatives.

On the local level, some of the South African branches of automotive MNCs also participate in forums and initiatives. The National Business Initiative (NBI) is a case in point. In the context of the National Business Initiative South Africa's largest corporations – and among them some of the automotive MNCs – address the issue of energy consumption and supply.[16] Another example of such an involvement on the local level can be found near Pretoria: the Rosslyn industry cluster, which includes car companies such as BMW, Nissan and Ford, founded a 'waste club' and a 'cleaner production club' in cooperation with the local government and a non-profit organization. The purpose of these clubs is to assist the administration of Pretoria – which is invited to participate in the clubs and granted membership – to draft and implement higher environmental regulatory standards. However, the local government has so far failed to make an appearance at any of the meetings of these multi-stakeholder initiatives, which is why they are failing in the attempt to raise the level of legal standards.[17] A similar type of club was also launched in the

Western Cape province by a supplier firm to the automotive industry. The Belville South Environmental Forum involves companies, NGOs, schools, universities, resident associations and local, provincial and national government. The aim of this association is to negotiate environmental pollution reduction on the side of the participating companies. The government has planned to use the Environmental Forum as a model in other provinces and communities.[18]

Fourthly, MNCs in the automotive industry cooperate with NGOs to provide governance. Ford South Africa, for example, runs natural conservation and biodiversity projects with the World Wildlife Fund (WWF) that aim at the protection of certain particularly valuable natural reserves. The automotive industry – more specifically the Fuel and Emissions Committee of NAAMSA – has also allied with several NGOs (such as the WWF and Friends of the Earth) in an attempt to put pressure on the government to issue stricter legislation with respect to emissions of new vehicles.[19]

Fifthly, the OEMs in particular coordinate vital industry interests in the field of the environment in the context of associations. Many of the lobbying and consultation attempts described, as well as the standard-setting activities associated with the International Organization for Standardization (ISO), are pursued via NAAMSA.[20] The Fuel and Emissions Committee of NAAMSA has, in addition, made attempts to force higher standards upon South African fuel providers.[21] The high emissions standards for which NAAMSA and individual companies were lobbying (see description above) require high technical standards of engine technology. This high technology, in turn, requires high quality fuel to realize its potential and effectively lower emissions. The South African fuel companies, however, were reluctant to make the necessary investments in their refineries in order to ensure the level of fuel quality required for the new environmentally friendly engine technology. NAAMSA therefore decided not only to lobby the government to put pressure on the fuel companies to provide for the required fuel levels, but also advertises positive and negative lists of gas stations to end-consumers.[22] The positive list contains those gas stations that provide high quality fuel. Consumers are advised to refill their cars exclusively at these stations. The negative list comprises stations that offer gas of a lower quality; consumers are advised to stay away from them. These measures are quite successful. The level of emissions standards is continuously raised, and the majority of gas stations now provide the high quality fuel necessary for the new environmental friendly technology.[23] This case is thus an instance of 'race to the top' dynamics unfolding in

South Africa on account of the collective activities of the automotive industry in the context of the national association NAAMSA.

Sixthly, MNCs in the automotive industry engage in extensive supply chain regulation in the field of the environment (Héritier et al. 2009). Industry-wide, most OEMs require from their main direct suppliers – the so-called first tier suppliers – ISO 14001 environmental management system certification as well as ISO 9001 management system certification, which is quality oriented but also comprises many elements directly relevant for environmental protection. In addition some firms require from their suppliers TS 16949 certification. This standard is a combined quality and environmental standard on a level above ISO 14001 and ISO 9001. Most importantly, this standard compels certified firms to ensure that their own suppliers have ISO 14001 certification as well. In effect, this pushes environmental management systems down the automotive supply chain to the second tier. Apart from that, some of the big OEMs regulate their suppliers in addition to the standardized management system against their own, company-specific environmental standards. These go beyond the mentioned systems and prescribe, for example, effluent standards on a level beyond the South African law or certain energy consumption reduction targets. In such cases, the OEMs also engage in the monitoring and enforcement of these standards through factory control visits and financial sanctions in case of non-compliance.[24]

Finally, MNCs run extensive in-house CSR-policies. The industry is a main driver of ISO 14001 environmental management systems, by which automotive MNCs subject themselves to the external auditing processes of private certification companies on their environmental management processes and performance (Prakash and Potoski 2006, 2007). In addition, many of the big car companies transfer high standards from Europe or other global headquarters to their South African operations (Thauer 2013). BMW, for example, adapts the refined and strict environmental regulation of the municipality of Munich, Germany, to its operations in Rosslyn, South Africa. By adhering to these programs, MNCs go far beyond legal requirements in South Africa – and also beyond what could be a foreseeable regulation in the future.[25]

While the industry is therefore in general – and in particular in comparison with the other industry sectors featured in this book – a positive case for the contribution to governance by business, substantial variation between individual firm cases and between MNCs and small to medium sized companies persist within the industry. In general, the big MNCs that dominate the industry in economic terms are also

driving the governance contributions in the field of the environment. The supplier segment of the sector, by contrast, which consists predominantly of small- to medium-sized firms of South African origin, does not pro-actively engage in environmental governance. Rather, suppliers react and contribute to environmental governance whenever they are forced to do so – either by the MNCs or by social pressure factors (see analysis below). In addition, stark variation exists in the extent, intensity and degree to which MNCs pro-actively pursue environmental governance in South Africa. For example, the (successful) attempt to lobby for stricter emissions standards through the Fuel and Emissions Committee of NAAMSA was driven by a distinct group of MNCs (among them Ford and VW), while others behaved as if indifferent toward the issue of emissions for new vehicles (e.g. BMW). Also, the degree to which OEMs push environmental management systems down their supply chains varies between different MNCs, as does the contribution to governance in the context of multi-stakeholder initiatives.

Finally, public–private partnerships and co-regulatory regimes involving government and car companies do not seem to play a significant role in the attempts made by South African firms in this industry sector to contribute to governance. Likewise, the unions and, accordingly, tripartite councils – which could be expected to play an important role in South Africa on account of its corporatist tradition and system (see Chapter 2 in this book) – do not seem to be important in the area of environmental governance.[26]

Table 9.1 summarizes the governance contributions by business and the variations that persist in the industry in this respect. The table is structured according to the mode of interaction through which governance is provided and according to the two dominating sub-sectors of the industry, MNCs on the one hand and the suppliers on the other.

## The contributions of car companies to environmental governance in South Africa: drivers

What explains the engagement of car companies in environmental governance and the observed variation thereof? I will begin by analyzing the described lobbying attempts by automotive companies. An insightful – and at first sight rather surprising – case is the lobbying attempt made by car companies through the Fuel and Emissions Committee of NAAMSA to raise the level of emission limitation standards for new vehicles. Why would car companies actively tilt against themselves a level playing field in this critical area of regulation? And what explains the asserted variation

*Table 9.1* Governance contributions of automotive firms in South Africa

| **Governance contributions, modes of interaction** | | **MNCs, OEMs (e.g. BMW, Ford, GM, Mercedes Benz, Nissan, Toyota, VW, Bosch, Johnson Controls)** | **Suppliers, SMEs** |
|---|---|---|---|
| **Fostering of public regulation and state capacities** | *Consultation and Lobbying* | Input to upcoming regulation on air and water quality, lobbying for stricter emission standards through national association NAAMSA. However, these activities vary between MNCs in their intensity | No direct government contacts, no lobbying |
| | *Capacity-building* | Attempts to assist local agencies in the monitoring of environmental laws. However, these activities vary in their intensity between MNCs | Diffusion of implementation of the South African law by the agency of ISO 14001 among the bigger suppliers |
| **Public-private co-regulation** | *Bipartite* | On transnational level: Engagement in UNEP Mobility Forum, Global Compact. However, these activities vary in their intensity between MNCs | No direct form of co-regulation |
| | *Tripartite* | Unions generally not engaged in environmental issues | Unions generally not engaged in environmental issues |
| | *Multi-stakeholder* | Waste Club organized in Rosslyn (cross-sector initiative) with government and not for profits to organize recycling. However, these activities vary in their intensity between MNCs | Belleville Environmental Forum involving large supplier of automotive industry |

(*continued*)

*Table 9.1* Continued

| **Governance contributions, modes of interaction** | | **MNCs, OEMs (e.g. BMW, Ford, GM, Mercedes Benz, Nissan, Toyota, VW, Bosch, Johnson Controls)** | **Suppliers, SMEs** |
|---|---|---|---|
| **Private self-regulation** | *Involving non-state stakeholders* | Some MNCs cooperate with WWF on conservation projects | No self-regulation involving other non-state actors |
| | *Through business association* | NAAMSA takes self-regulatory action vis-à-vis fuel providers to offer higher quality, environmentally friendlier fuel. However, these activities vary in their intensity between MNCs | NAACAM helps suppliers to attain ISO 14001 certification through training courses |
| | *Along the value chain* | MNCs regulate supply chain extensively by pushing ISO 14001 environmental management systems down the supply chain. However, there is variation between MNCs in the degree to which they push down regulation | SMEs are at the receiving end of this development; some bigger suppliers are forced (by MNCs) also to require environmental standards from their smaller suppliers |
| | *In-house* | Implementation of the South African law and standards that go beyond the South African law through in-house CSR policies (e.g. ISO 14001 and TS 16848) | ISO 14001 widely adopted |

between car companies in this respect, or, to be more precise, why do some MNCs actively lobby for higher standards in the context of NAAMSA while others remain inactive? I argue that these puzzles can be resolved by considering the argument that companies that are faced with a strong foreign competitor – who has to adhere to low regulatory standards[27] while seeking market entry[28] – will pressure their government to tighten regulation in order to keep this competitor out (Börzel et al. 2011).

With respect to this argument, the specific context in which automotive MNCs in South Africa operate has to be taken into account. The South African car sales market is dominated by the same large brands that also hold prominent positions on other OECD markets. As a result, South Africa is a high-price, high-quality car market, comparable to Europe, Japan and the United States. However, the distribution of income is far more disparate in South Africa than in those markets. In addition, high rates of unemployment, mass poverty and a relatively small middle class population result in a mismatch between demand and supply.[29] As a consequence, car manufacturers from low-regulating countries, such as China, India and South America that produce low-price cars are showing an increasing interest in entering the South African market to respond to the South African demand for cheap cars.[30] Chinese Chery and Brilliance, for example, signed contracts with South African car sales dealers to gain access to the South African market. While these foreign producers of cheap cars meet an obvious demand in the country, they pose a significant threat to the established South African mass producers that have their origins in the Triad markets, such as Ford, General Motors, Nissan-Renault and VW. Entry in to the market of cheap car producers from emerging markets would make it much more difficult for them to sell their relatively costly cars to the average South African consumer. The premium segment (BMW and Mercedes Benz) would not be affected since the new competitors do not target the same high-end market segment.[31]

Thus, my theoretical argument is the following. Those South African car producers that focus on the mass market lobby the government for stricter regulation in order to effectively raise the bar for market entry of car producers from emerging economies; this is, in effect, a strategy devised to keep the competitor of the low-regulating country out. By contrast, the premium segment producers refrain from such lobbying activities. Given that they target a different consumer segment, which will be unaffected by the market entry of the low-regulating firms, the premium producers should not feel economically threatened by the market entry attempt.

The cases illustrate this argument empirically. NAAMSA, as described above, actively lobbies the South African government to issue stricter emissions regulations for newly registered vehicles. These lobbying activities have been quite successful so far. In response to the pressure of NAAMSA, the South African government raised emissions standards to EURO 3 norm emissions control level.[32] In addition, it announced that it would raise the standard to EURO 4 level within the next two years. These stricter regulatory requirements have indeed kept the competitors from China, India and South America from entering the South African market[33] simply because their cars observe only lower emissions standards and cannot be easily up-graded.[34] These findings corroborate the argument that firms lobby for stricter regulation in order to keep foreign competitors out of the market. They also show that the argument can account for the observed variation with regard to the engagement of MNCs in lobbying activities: the mass-market producers insisted that the Fuel and Emissions Committee of NAAMSA is chaired by one of them – and not by a representative of the premium producers; also the vice chairs of this Committee are held by representatives of the mass producers.[35] In fact, the interviews with representatives of various firms, and also with government agencies, revealed that out of the four mass producers three were driving the lobbying activities and continue to do so presently. The premium producers and the fourth mass producer, by contrast, refrain from engaging in the issue.

In short, the evidence confirms that all firms confronted with the threat of market entry by a low-regulating producer, with the exception of one, participate in lobbying activities. The exception may arise from the fact that this producer sells a product line in South Africa that does not comply with the higher emissions norm to be imposed shortly. Hence, one of the product lines of this producer would thereby become illegal. The other South African car producers, by contrast, all comply with the highest international standards. This is not surprising since large parts of their production are exported to the high-regulating markets of the EU, Australia, New Zealand, Japan and the United States. They are therefore complying with emissions standards of these export markets, which are above the existing South African standards. As a result, their interest in stricter regulation is far more pronounced. In sum, the South African car industry corroborates 'California Effects' (Vogel 1995, Vogel and Kagan 2004) – competitive dynamics leading to higher standards (Flanagan 2006, Mol 2001) – with respect to emission standards and has effectively raised the level of regulation.[36]

While the California Effect is certainly beneficial to the South African environment, it negatively affects mobility, which is an essential social issue in the country. Lack of mobility is a main barrier to employment for people who live in remote townships distant to industrial centers. Hence, keeping cheap cars out of the market may be regarded as an obstacle not only to free trade, but also to the growth of mobility with its obvious bearings on the labor market. These considerations point to the fact that raising standards may involve trade-offs – as in this case between enhanced environmental protection on the one hand and enhanced mobility and free markets on the other.

Next I will consider in-house and supply chain policies of large MNCs. More specifically, I set out to explain the widespread adoption of environmental management systems such as ISO 14001 in the car industry. I wish to put forward two arguments in this respect. Firstly, it is the prospect of reputational gains through environmental standards that explains why automotive firms tend to engage extensively in environmental management systems and why there is nevertheless variation among them in this respect. Secondly, asset specificity (Williamson 1975) – which takes on the form of long-term investments in production (Thauer 2010, 2013 and 2014) – is an important driver for the engagement of car firms in environmental standards. To illustrate the first argument, I compare two car manufacturers, one of which targets the premium segment of the consumer market, while the other focuses on the mass market.

The difference in the target market between the former and the latter is reflected in the fact that the firms aiming for the premium market sell their products at higher average prices than the one firm targeting the mass market (Héritier et al. 2009, Kirmani et al. 1999, Thauer 2010). Managers of the two high-end market firms also stated that they rely less on economies of scale than other automotive firms targeting low-end markets. This is so because they are able to add mark-ups to end-prices on account of superior quality features.[37] The difference in the target market is further reflected in the importance of high consumer expectations. The latter plays a more important role in the case of the two premium brands, and a lesser one in the case of the mass-market firm. The two high-end market firms are faced with much higher consumer expectations regarding quality than the mass-market firm. Hence, they are more vulnerable in this respect. Moreover, the high-end market producers stated that they do not perceive themselves as competitors of the low-end market firm. According to their self-assessment they do not operate in the same consumer markets. Apart from these

differences in market orientation, however, the three cases are very similar to each other. For example, all three of them are branches of large German MNCs.

How do these differences in target markets affect the engagement of MNCs in ISO 14001? As expected by our theoretical argument on reputational concerns, the empirical analysis finds variation, albeit on a relatively high level. All three firms run in-house environmental management systems. However, while the mass-market producer is only ISO 14001 certified, the premium producers hold themselves accountable to TS 16949 – a stricter standard. Concurrent are differences with respect to the level of their respective supply chain regulations: all three firms engage in intensive supervision of their suppliers. However, in line with TS 16949 certification the two high-end market firms have, since the 1990s, commanded ISO 14001 certification from their direct suppliers. In comparison, the mass producer only 'encourages'[38] suppliers to achieve certification. As a result, more than 90 percent of the direct suppliers of the high-end market firms have ISO 14001 certification, while only a smaller proportion of the most important suppliers to the mass producer do. Moreover, it is remarkable that the two high-end firms demand TS 16949 certification from a majority of their direct suppliers. TS 16949 is an integrated quality and environmental standard that is tailor-made for the needs of the automotive industry and more demanding than ISO 14001 and ISO 9001. What is notable is that the standard TS 16949, in turn, requires the certified firms to hold their most important suppliers accountable to ISO 14001 and ISO 9001 certification. Thus, by demanding TS 16949 from suppliers, the two high-end market car manufacturers push quality and environmental management systems according to ISO 14001 and ISO 9001 down the automotive supply chain. Beyond these requirements, the two high-end market firms also engage in additional environmental auditing with their most important suppliers, exacting compliance with certain standards that go beyond ISO 14001certification. Such demands could not be identified in the case of the mass-market producer, which takes a more supportive and developmental approach toward its suppliers in contrast to a strict regulatory one like the high-end market firms. Furthermore, the mass-market supplier does not require TS 16949 from its suppliers.

In sum, the self-regulatory standards of the mass-market producer are less demanding than those of the premium producers. Variation in this respect does take place on a high level, however. The high-end market firms engage in strict auditing, while the mass-market producer

prescribes neither. The three cases thus show that the industry is fostering the capacities of state agencies on account of reputational concerns.

In addition to reputational concerns, other factors have an impact on the decision of automotive MNCs to implement environmental policies in-house and in the supply chain as well. In particular investments in production facilities that have a long duration before returns are generated – that is the creation of 'asset specificity' (Williamson 1975) – are a major incentive for automotive firms (both MNCs and suppliers) to engage in environmental programs in-house and in the supply chain (Thauer 2014). The case of a German manufacturer of luxury cars in South Africa illustrates the relation between such investments and environmental policies. Before 2005/6, the South African branch was mainly an assembly plant, putting together previously disassembled cars from Germany.[39] In 2005/6, however, the branch won an internal tender for the production of the next generation of the entry-level model.[40] The new contract was settled with central management in Germany. This triggered unprecedented investments for the South African branch (Thauer 2010, 2014). A new factory was built specifically for the production of the new generation model with 250 robots (the old plant had only 6 robots) and a renewed paint shop (the ovens that dry and harden the paint were technically upgraded). The branch has been transformed from an assembly plant with some manufacturing components into an original equipment manufacturer-site. This new site has not only become the object of substantial investments, it is also special in terms of the long duration before returns were generated. It took two whole years to finish the production site and another six months of production before the investment was accommodated. From the perspective of the German headquarters of the firm, this investment seemed somewhat risky. It insisted on implementing high environmental process standards in order to have control over the spending of the resources in South Africa, and to devise a plan to ensure the efficient use of resources (Thauer 2010, 2014). More precisely, the firm sent over about 20 production managers from Germany to implement strict European and German production process standards. Some of these included environmental standards, so that today the South African factory of the firm operates according to German environmental laws.

While this example points to the importance of 'asset specificity' for the intra-organizational rationale behind the adoption of standards, a similar argument can be made with regard to supply chain policies. More specifically, investments in suppliers with a long duration before they pay off – such as in equipment, production facilities, personnel

and know-how – are usually accompanied by high environmental standards and ISO 14001 management systems in order to mitigate the risks inherent in such close and mutually dependent buyer-supplier relationships (Héritier et al. 2009). For example, in the relation between one MNC and a supplier, which makes break systems for the MNC, substantial investments were made by the MNC in order to set up the supplier's production of a specific braking system that the MNC intended for a new model. These investments had to be made two years before the supplier was actually expected to supply the brakes to the MNC. To make sure that processes at the supplier were in order, and to assure resource use efficiency (energy, waste and steel consumption), the MNC insisted on the adoption of high environmental standards in negotiations with the supplier. Exchange relations between buyers and suppliers that are not marked by asset specificity in that way, by contrast, do not result in the insistence on environmental standards by MNCs vis-à-vis suppliers. A case in point in this respect concerns the provisions a producer of tire-components in South Africa has to meet. Given that its product does not require MNCs to invest in his production facilities before an order, the supplier does not face any specific demands from MNCs in regard to environmental standards (Héritier et al. 2009). This explains the variation as concerns supply chain regulation in the automotive industry with respect to environmental standards.

Reputational concerns and asset specificity not only explain in-house and supply chain policies of MNCs – they also apply to the engagement of automotive firms in local capacity building of state agencies. To be able to demonstrate that a firm complies with, for example, the laws regulating effluents or industrial fallout, reputation driven firms have a strong interest in the existence of legal standards regulating these areas. However, more often than not such standards do not exist. Hence, firms are motivated to assist local government agencies to formulate them.[41] Similarly, headquarters that have made asset specific investments in their South African branches tend to demand proof from the branches that they meet all legal requirements. The lack of regulatory standards in areas such as effluents or industrial fallout makes it difficult for the branches to demonstrate that they are actually meeting these requirements. Hence, branches subject to asset specific investments have an interest in supporting local government agencies to draft such standards.[42]

In turning to the observed variation with respect to governance through multi-stakeholder initiatives, two explanations may be

suggested. Firstly, the shadow of anarchy is at work. MNCs that have founded 'waste clubs', for example, have identified the need to recycle and manage their waste efficiently for reasons of reputational concerns and asset specificity. However, efficient waste management and recycling are often impossible if there is no market for recycling and waste management. In order to create such a market, some high-end market MNCs have tried to team up with other companies in their area to create a sufficient demand for recycling companies to emerge – presupposing that this demand will lead to the necessary supply. The need to team up with other companies for the end of creating sufficient market demand to inspire the founding of a recycling company also relates to a third argument – task specificity (Schäferhoff 2011). To be more precise, car firms can only facilitate the foundation of a recycling company in cooperation with other actors. On their own, their market demand for such a firm would not be sufficient. It is in this sense that the task of organizing recycling is complex. Multi-stakeholder initiatives, in turn, facilitate the necessary cooperation it takes to fulfill this complex task. Hence, task complexity explains why car companies reach out and engage in multi-stakeholder initiatives in some areas (such as recycling), while they organize policies in-house in others (e.g. the reduction of consumption of water, energy and steel in the process of production).

Secondly, with respect to multi-stakeholder initiatives in which suppliers are involved, NGO pressure gains leverage. More specifically, local communities in the vicinity of production plants can positively affect firms' engagement in governance, as well as the success of this engagement. The empirical example concerns a large chemical fiber producer for the tire-industry located near Cape Town (Börzel et al. 2011).[43]

In the 1990s, this firm was still heavily polluting the environment. The surrounding neighborhoods suffered badly from industrial fallout, effluents, uncontrolled hazardous waste disposition and emissions. Some of these local neighborhoods inhabited by relatively well-off middle classes and property owners managed to organize and protest against this business misconduct. This segment of society is traditionally thoroughly organized in South Africa – for example in school councils, neighborhood committees, and political parties. It was thus relatively easy for the inhabitants of these neighborhoods to organize against the firm after political liberalization in the mid-1990s. The pre-existing institutions, in particular the school councils and local committees, were the forums where the issue of environmental pollution

was first discussed. It was also here where they decided to create an environmental forum to organize advocacy. Thus, thanks to the pre-existing network of institutions, local neighborhood organizations were able to stand up against the unrestrained pollution of the fiber company and successfully achieve advocacy. In the context of the Bellville Environmental Forum, founded as a conflict mitigation mechanism, the firm was forced to negotiate gradual pollution reduction measures with the local community organizations. Today, the firm is in the process of ISO 14001 environmental management certification and has significantly reduced its negative impact on the local neighborhoods – thanks to the forum-mechanism. In summary, it is a mixture of mechanisms and drivers that motivates firms to engage in environmental governance.

Before I summarize the findings, I shall address two aspects of firms contributing to governance that I have not so far explained. The first concerns the engagement of MNCs in the car industry in transnational public–private partnership such as the United Nations Global Compact or the UNEP Mobility Forum. As mentioned, the decision to participate in such partnerships is made in the headquarters of these companies, largely unaffected by the South African branches. We may speculate about the motivation of these firms to participate in these initiatives. Regarding their participation in multi-stakeholder initiatives and their interest in a generally solid level of regulatory standards, the strong reputational concerns of automotive MNCs and their global high level of asset specific investments may be reasons for their participation. The analysis of this engagement of MNCs in transnational public–private partnerships lies beyond the scope of this inquiry as it concerns the global strategy of MNCs with regard to corporate social responsibility. In this book, however, we set out to explain the more limited contributions of car firms to governance in South Africa. The second aspect concerns the absence of any involvement of the unions. This finding is not really surprising. Unions, by their very nature, organize support for labor-related and social issues. Environmental concerns are not a priority for them. Moreover, as this analysis has shown, firms' governance contributions may have the effect – as in the case of firms lobbying for stricter emissions regulations – that social concerns are traded off against environmental ones. Hence, union support cannot be assumed to play a crucial role in firms' contribution to governance in the field of the environment. Table 9.2 summarizes the findings. It is structured according to governance contributions and the drivers that bring them about.

*Table 9.2* Drivers of governance contributions

| Governance contributions | | Driver |
|---|---|---|
| **Fostering of public regulation and state capacities** | *Consultation and Lobbying*<br>Input to upcoming regulation on air and water quality, lobbying for stricter emissions standards through NAAMSA. However, these activities vary between MNCs in their intensity | Efficiency gains, keeping competitors out |
| | *Capacity-building*<br>Assistance of local government agencies in the monitoring of environmental laws. However, these activities vary between MNCs in their intensity | Asset specificity, reputational concerns |
| **Public–private co-regulation** | *Bipartite*<br>On transnational level: Engagement in UNEP Mobility Forum, Global Compact. However, these activities vary between MNCs in their intensity | Beyond the scope of this study |
| | *Tripartite*<br>Unions are generally not engaged in environmental issues | |
| | *Multi-stakeholder*<br>Waste Club organized in Rosslyn (cross-sectorial initiative) with government and not for profits to organize recycling. However, these activities vary between MNCs in their intensity<br>Suppliers: Belleville Environmental Forum, involving large supplier of automotive industry | Asset specificity, reputational concerns, task complexity, NGO pressure |

(*continued*)

*Table 9.2* Continued

| Governance contributions | | Driver |
|---|---|---|
| **Private self-regulation** | *Involving non-state stakeholders* | |
| | Cooperation with WWF on conservation projects | Reputational concerns, task complexity |
| | *Through business association* | |
| | NAAMSA takes self-regulatory action vis-à-vis fuel providers to offer higher quality, environmentally friendlier fuel. However, these activities vary between MNCs in their intensity<br>Suppliers: NAACAM assists suppliers to attain ISO 14001 certification through training courses | Efficiency gains, keeping competitors out |
| | *Along the value chain* | |
| | MNCs regulate supply chain extensively by pushing ISO 14001 environmental management systems down the supply chain. However, there is variation between MNCs in the degree to which they push down regulation | Asset specificity, reputational concerns |
| | *In-house* | |
| | Widespread adoption of ISO 14001 and TS 16848 among MNCs and in the supply chain. However, differences persist with respect to the degree of implementation | Asset specificity, reputational concerns |

## Conclusion

The automotive industry makes particularly strong attempts to contribute to governance in South Africa. More specifically, the multinational corporations – large car companies such as BMW, Mercedes, Ford and General Motors – that dominate the industry sector try to augment the level of standards and regulations in the field of the environment in the country. Thereby, they make use of a diverse set of strategies and governance modes, ranging from unilateral consultations with government and collective action as organized in the context of the national association NAAMSA, to in-house environmental policies. The main rationale for these firms to engage in extensive environmental governance is to reduce uncertainty, the incomplete, contradictory and rudimentary state of implementation of the South African environmental law. In particular the concerns that emerge when firms make substantial investments with a long duration before returns are generated – that is asset specificity – and reputational concerns, have prompted these firms to engage in environmental governance. Environmental programs are a strategy by which these concerns can be accommodated. These arguments explain why MNCs engage in-house in demanding environmental policies. They also account for supplier firms being less involved in the mentioned governance attempts. Apart from being smaller – and thus, lacking the capacities – these firms' investments are relatively lower and associated with fewer risks, as the duration before returns are generated is generally shorter in this sector segment. Hence, for the business model of these firms, areas of limited statehood are less of a burden than for the large MNCs.

## Notes

1. 'BRICS' refers to Brazil, Russia, India, China and South Africa (see Armijo 2007).
2. BBC News, 'Globalizing the Car Industry' (by Steve Schifferes); http://news.bbc.co.uk/2/hi/business/6346325.stm [accessed 22 January 2012]. Growth rates of 20–25 percent (between 2004 and 2011) make South Africa one of the fastest growing car markets worldwide (see NAAMSA 2011).
3. See http://www.agoa.info/index.php?view=country_info&country=za [accessed 23 January 2011].
4. South African car exports grew in this period from circa 9,000 cars in 1995 to 58,000 in 2000; 114,000 cars were exported in 2005, increasing to 170,000 in 2007 and 280,000 in 2011. These increases make the automotive industry the third largest economic sector after mining and agriculture, and the largest of all manufacturing sectors in South Africa, accounting for approximately 30 percent of the country's manufacturing output. Car production contributes

about 7 percent to the gross domestic product (GDP) and circa 13 percent to the total exports. See NAAMSA (2006, 2011); Statistics South Africa: http://www.southafrica.info/business/economy/sectors/automotive-overview.htm [accessed 19 June 2009]; see also United States Department of Commerce (2005: 1).

5. Most interview partners asked for confidentiality. In these cases the interview partner firms will be abbreviated and anonymized. Interviews with the Corporate Affairs Manager and a Public Communications Manager of a large German automotive MNC, 2 August 2007, Munich; telephone interview with the Director of Public Affairs and Policy in Germany of another high-end market automotive MNC, 6 August 2007; interview with the CEO of the national automotive association in South Africa, NAAMSA, 13 February 2007, Pretoria.
6. Black (2001); Black and Mitchell (2002); Barnes and Black (2003); Lorentzen and Barnes (2004); Meyn (2004).
7. See note 4.
8. As concerns the distinction between process and product standards see Vogel (1995: 18, and 2005).
9. Black (2001); Black and Mitchell (2002); Barnes and Black (2003); Lorentzen and Barnes (2004); Meyn (2004).
10. Depending on production depth in their factories, OEMs account for up to 35 percent of the added value of automotive production; hence two-thirds or more of the total value creation is in the supply chain. Interview with the Manager for Quality Management and Integrated Management Systems of a German MNC in South Africa, 23 September 2008, East London and with the CEO of NAAMSA, 13 February 2007, Pretoria.
11. Interview with the Chairperson of the Fuel and Emissions Committee of NAAMSA, 20 February 2007, Rosslyn; interview with the CEO of NAAMSA, 13 February 2007, Pretoria; interviews with the Environmental Manager and the Corporate Planning Manager of a German MNC in South Africa, 20 February 2007, Rosslyn; interview with the Manager for Quality Management and Integrated Management Systems of high-end market firm 2, 23 September 2008, East London.
12. Interview with the Chairperson of the Fuel and Emissions Committee of NAAMSA, 20 February 2007, Rosslyn; interviews with the Environmental Manager and the Corporate Planning Manager of a German MNC, 20 February 2007, Rosslyn.
13. Interview with the Manager for Quality Management and Integrated Management Systems of a German MNC, 23 September 2008, East London.
14. Ibid.
15. Interviews with the Environmental Managers, the Managers for Corporate Planning and with Production Managers of several German and US American MNC, 14 February 2007, 20 February 2007, 30 September 2008, Rosslyn and Sylverton.
16. See the webpage of the NBI: http://www.nbi.org.za/ [accessed 20 January 2012].
17. Interviews with the Environmental Managers, the Managers for Corporate Planning Manager and with Production Managers of participating MNC, 14 February 2007, 20 February 2007, 30 September 2008, Rosslyn and Sylverton.

18. Interview with an Environmental Manager of a large supplier of tires, 30 March 2007, Cape Town, South Africa.
19. Interview with the Manager Environmental and Safety Engineering and the Manager for Employee Wellness and Occupational Health of a US American MNC, 20 February 2007, Sylverton.
20. Interestingly, instances of self-regulation in the context of NAAMSA in the strict sense do not seem to occur in the field of environment in South Africa. The absence of a credible 'shadow of hierarchy' in this policy field is certainly the main reason for the absence of self-regulation in the context of associations.
21. Interview with the Chairperson of the Fuel and Emissions Committee of NAAMSA, 20 February 2007, Rosslyn; interview with CEO of NAAMSA, 13 February 2007, Pretoria. Interviews with the Environmental Manager and the Corporate Planning Manage of a German OEM, 20 February 2007, Rosslyn.
22. See webpage of NAAMSA: http://www.naamsa.co.za/unleaded/ [accessed 15 January 2012].
23. Interview with the Chairperson of the Fuel and Emissions Committee of NAAMSA, 20 February 2007, Rosslyn.
24. Interviews with the Environmental Managers, the Managers for Corporate Planning Manager and with Production Managers of several (US, Japanese and German) MNCs, 14 February 2007, 20 February 2007, 25 September 2007, 30 September 2008, Rosslyn, Uitenhage and Sylverton.
25. Ibid. See also Interview with the Chairperson of the Fuel and Emissions Committee of NAAMSA, 20 February 2007, Rosslyn; interview with CEO of NAAMSA, 13 February 2007, Pretoria.
26. Interview with the Chairperson of the Fuel and Emissions Committee of NAAMSA, 20 February 2007, Rosslyn; interview with CEO of NAAMSA, 13 February 2007, Pretoria. Interviews with the Environmental Manager and the Corporate Planning Manage of a German OEM, 20 February 2007, Rosslyn.
27. By a low-regulating foreign competitor I understand a firm seeking market entry to South Africa which originates from a country in which the level of environmental and other regulation is lower than in the Triad markets.
28. Market entry refers to firms negotiating sales contracts with South African car dealers, and the perception of established South African firms that a low-regulating competitor strives for market entry.
29. Interview with CEO of NAAMSA, 13 February 2007, Pretoria.
30. See Cokayne, Roy (2008) 'McCarthy adds cheap Chery range'. *Business Report*, 12 May 2008. Available at: http://www.busrep.co.za/index.php?fSectionId=563&fArticleId=4397598 [accessed June 2008]; interview with the Chairperson of the Fuel and Emissions Committee of NAAMSA, 20 February 2007, Rosslyn; interviews with the Environmental Manager and the Corporate Planning Manager of a German MNC, 20 February 2007, Rosslyn; interview with the Occupational Health and Corporate Social Responsibility Manager of another German MNC, 26 February 2007, East London.
31. Toyota constitutes a special case since it is the only company that strives for dominance in all market segments – middle class, premium and, in the long term, the Third World segment. Interviews with the Environmental Manager and the Corporate Planning Manager of a German MNC, 20 February 2007,

Rosslyn. Interview with Justin Barnes, who is a manager of an automotive cluster and a renowned automotive expert in South Africa, 1 October 2007, Durban.

32. South African emissions control standards are oriented toward European standards. As a matter of fact, they are direct translations of European standards. In Europe, emissions standards are abbreviated EURO 1-5 norms. The higher the EURO norm, the more recent its invention, and the more demanding (that is, restrictive) the prescribed emissions level.
33. Consumers would have to buy these cheaper cars illegally – which would have severe negative consequences in case of liabilities. Hence, in the case of emissions standards regulations are self-enforcing (and thus do not require effective state enforcement in order to be effective).
34. Interview with the Chairperson of the Fuel and Emissions Committee of NAAMSA, 20 February 2007, Rosslyn; interviews with the Environmental Manager and the Corporate Planning Manager of a German MNC, 20 February 2007, Rosslyn.
35. Ibid.
36. However, these findings only pertain to the MNC sub-sector of the automotive industry. The supplier sector does not engage in any lobbying activities. Our theoretical argument can account for this observation, too. Most of these suppliers are South African in origin and thus come from a weakly regulating country themselves. These companies struggle to meet the high standards demanded by MNC and will therefore not engage in any activities that would raise the level of standards further. In addition, they do not fear market entry of low-regulating suppliers.
37. Interviews with the Environmental Manager and the Corporate Planning Manager of a German MNC, 20 February 2007, Rosslyn; interview with the Occupational Health and Corporate Social Responsibility Manager of another German MNC, 26 February 2007, East London; interviews with the Corporate Affairs Manager and a Public Communications Manager of a German MNC, 2 August 2007 Munich; telephone interview with the Director of Public Affairs and Policy of a German MNC, 6 August 2007.
38. Interview with the Manager for Manufacturing, Planning and Environmental Management of a German MNC, 25 September 2007, Uitenhage.
39. The firm thus produced in 'CKD-mode'. 'CKD' refers to 'completely knocked down' vehicles. 'CKD-mode' denotes a process according to which new cars made in Germany are disassembled and shipped to South Africa where they are reassembled yet again. This kind of production is a common practice of globally operating OEMs. Reasons for the dis- and re-assembly are threefold: Firstly, the South African market is not yet fully liberalized. Import restrictions and local content requirements force OEMs, on the one hand, to relocate some value-added processes (that is, the assembly) to the country and, on the other hand, to add some local content (usually of minor importance) to the vehicle. Secondly, there are a number of countries that grant Africa preferential access to their markets. To operate from an African production base allows auto firms to enter these markets on lower duties. Thirdly, the global car sales market is restricted by import and export quotas. A CKD-site in South Africa enables a German firm, for example, to export to Asia in higher numbers by using South Africa's export quotas in addition to the German ones.

40. Interview with the Manager for Quality Management and Integrated Management System of a German MNC, 23 September 2008, East London.
41. Interviews with the Environmental Manager and the Corporate Planning Manager of a German MNC, 20 February 2007, Rosslyn; interview with the Occupational Health and Corporate Social Responsibility Manager of another German MNC, 26 February 2007, East London.
42. The same argument applies to supply chain regulation. A South African branch of a MNC that has made asset specific investments in suppliers wants to know that these suppliers comply, at a minimum, with South African law. However, if legal standards in certain areas do not exist, such a requirement becomes risky. Hence, these branches of MNCs have a strong motivation to assist the local government in formulating such standards on a high level.
43. Interviews with the Managing Director, Union Representative, Environmental Manager and Floor Managers/Chemical fiber producer, 30 March 2007, Bellville; interview with representative/TEXFED, 21 March 2007, Johannesburg.

# 10

# Cleaning up Their Act, or More? Mining Companies and Environmental Protection in South Africa

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Historically, mining is the most important industry sector in South Africa. No other industry matches this sector in terms of its contribution to the GDP and its political weight (see Chapter 2 in this book). However, the industry is also the number one polluter in the country. The negative externalities of mining are substantial. Mining causes large-scale destruction of landscapes: erosion, siltation, deforestation and desertification are common side effects of mining. Mining activities are also often contested on account of the land conflicts they inevitably entail, as they repeatedly compete with other forms of land and nature appropriation, such as agriculture or tourism. In addition, the use of toxic chemicals in mining and processing leads to the pollution of soils, rivers and ground water; air pollution is caused by dust from bulldozing and tailing dams. Conflicts over pollution, for example water affected by toxic spills and seepage of acid or radioactive substances, occur regularly.[1] Toxic waste management and the rehabilitation of old mines – issues particularly important for the traditional mining areas of Witwatersrand – are crucial regulatory aspects. In addition, mining companies have an extraordinarily high energy-consumption; energy, in turn, is mostly generated by coal-fired power plants in South Africa. The mining industry thus contributes substantially to South Africa's $CO_2$ emissions, and to climate change in general. Finally, given the scarcity of water in South Africa, the industry causes problems on account of its enormous consumption of water. Mining operations and mining processing steps are water intensive. In addition, acid mine drainage destroys existing water resources (Adler and Rascher 2007, Ashton et al. 2001, Hobbs and Cobbing 2007, Hobbs et al. 2008). In brief, mining is a 'double-edged sword'[2] for South Africa: the industry promises economic

development, employment and growth; yet its environmental externalities run the risk of destroying the very basis of future economic development and well-being in the country.

In South Africa, these negative environmental effects have a strong social component (McDonald 2002). During the apartheid era, polluting industries such as mining processing plants and petro-chemicals were set up mainly near townships and so-called homelands, areas where the 'black' population lived. As a result, the poor and politically and socially discriminated parts of the population have been exposed more than anyone else to fierce, toxic, health-threatening environmental pollution.[3]

Given these numerous negative impacts, large multinational mining companies in South Africa, such as BHP Billiton, Anglo American, De Beers or AngloGold Ashanti, seek actively to promote the image of 'green' mining and of being contributors to environmental governance. For example, these companies have led the discourse on sustainable mining and advertised various internal processes that reduce their negative environmental externalities. Yet, whereas both the mining firms and government claim that the regulatory requirements in South Africa are demanding – even 'world-class' – in reality enforcement is weak and insufficient (see Chapter 8 in this book). In this chapter, we therefore explore whether there actually are contributions to environmental governance by large- and medium-sized mining firms in South Africa and inquire how these contributions vary in terms of the quality of the engagement.[4]

We argue that a looming shadow of hierarchy and reputational concerns largely explain why many mining companies engage in environmental governance in a context of weak law enforcement and contribute at least to some extent to environmental protection beyond legal obligations. The two factors also account for variation in the quality of governance contributions. Local community pressure not only enhances the effect of both but also provides a third driver for environmental governance contributions by mining companies.

In our analysis, we consider large- and medium-sized companies that operate in gold mining, (AngloGold Ashanti, Harmony Gold and Goldfields), in platinum mining (Anglo Platinum, Lonmin and Impala) and in coal mining, (BHP Billiton and Anglo Coal). The chapter starts with an analysis of mining companies' contributions to environmental governance in South Africa that go beyond legal compliance, and discusses the quality of such contributions in this field. This is followed by a discussion of factors that explain why some companies in some areas

engage in far-reaching, beyond-compliance environmental governance, whereas other companies, and the same companies in other areas, refrain from doing so.

## Contributions to environmental governance

Large mining companies in South Africa have installed various internal mechanisms to reduce negative externalities. In terms of disclosure, all major mining companies participate in the discourse concerning corporate social responsibility. Sustainability is the key concept of their focus. Companies entertain elaborate websites creating the image of corporate responsibility and sustainability. By 2006, many structured their reporting according to the standards of the Global Responsible Investment (GRI) guidelines as well as the principles of the South African King Report, which both include environmental protection as a criterion (see Chapter 8). In an accountability ranking of the biggest 52 companies listed at the Johannesburg Stock Exchange (JSE), five of the eight listed mining companies are among the top ten ranked companies (McNulty 2006).[5] Anglo American and BHP Billiton range even within the top five, followed by large South African companies, such as AngloGold Ashanti, Gold Fields, Impala Platinum and Harmony (Jenkins and Yakovleva 2006). With reference to the internal process management already mentioned, most of the listed companies have also undergone ISO 14001 environmental management systems certification.[6] The mining industry has in addition engaged in sector-specific voluntary standards and initiatives on the global level.[7]

Against this background, the following section will provide an account of where and how firms engage in environmental governance. More specifically we explore to what extent mining companies in South Africa contribute to a clean and sustainable environment and improve environmental governance in ways that extend beyond cleaning up their own negative externalities in compliance with national regulation. In addressing the mode of interaction, we ask whether they foster regulation or build capacities of state agencies in the environmental field or whether they engage in public-private initiatives for environmental protection and private self-regulation within their production site.

Looking at mining firms' *involvement in public regulation*, we find several instances where some firms, including most large mining firms, participate in forums initiated by the South African government. The follow-up activities in the mining sector of the World Summit of Sustainable

Development 2002 in Johannesburg may serve as an example. They involved the creation of the Intergovernmental Forum on Mining and Sustainable Development[8] with the goal of encouraging member states to implement the relevant mining clauses of the Johannesburg Plan of Implementation (JPOI) (see Chapter 8). To address these issues, the South African Department of Minerals and Energy (DME) developed a targeted implementation strategy and initiated a national Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development, consisting of government departments, the mining industry, labor and non-governmental organizations (Burger 2005: 456).

At the national level, larger mining firms participate in a similar fashion in a range of consultation forums with regard to environmental legislation. In the context of the cooperative government approach promulgated in the South African constitution, the major pieces of environmental legislation feature extensive consultative procedures. Besides long established informal lobbying channels between important industries and the respective branch of government, a range of formal consultation forums therefore exists. Prominent examples are the Environmental Impact Assessments (EIAs),[9] which are required by the National Environmental Management Act (NEMA)[10] and involve comprehensive stakeholder participation forums in deciding on the establishment or expansion of mining operations. In addition, the key legislation in mining, the Minerals and Petroleum Resources Development Act (MPRDA) provides for the establishment of a multi-stakeholder board that includes a number of departments, industry, labor and civil society with the task to advise the minister (DME 2002).

Participation in such consultations may be used in different ways, with the aim to prevent stricter regulation or to contribute to environmental governance. Firms' governance contributions are related to the establishment and improvement of environmental standards and their implementation with regards to mitigating environmental impacts. A positive example for this is a government-business forum that focuses on air quality issues in the North-West platinum mining region. This so-called air quality forum was initiated by the Department of Environmental Affairs of the North West Province and comprises all affected and interested parties with the goal of controlling emission targets in areas with environmental challenges due to industrial activity. Embedded in regular consultations between state authorities and companies, firms address air quality issues in the region and establish monitoring standards as well as joint reduction measures and compliance.[11]

Another example is the role of some firms in drafting the mine closure act. In the consultation process with mining firms, AngloGold Ashanti suggested that its internal, relatively demanding mine closure policy could be used as a blueprint.[12] This sets a benchmark for other companies with less comprehensive mine closure provisions. According to industry representatives, consultation processes thus make the expertise of the industry available for the regulator.[13] In this regard, these latter activities not only feature a standard-setting component, but also involve some degree of capacity transfer (Kranz 2010). At the same time, such consultations are of course also used by mining firms for lobbying activities that aim at the prevention of tighter environmental controls.

Concerning local and provincial government, where administrative capacities are particularly weak, South African law requires companies to align their local policies with the so-called Integrated Development Plans (IDPs) of local government. In the context of such cooperation, firms would, for example, assist local government in providing environmental services, such as waste water management or the provision of water infrastructure, as well as general capacity-building around managing these tasks (Kranz 2010). An example for a partnership with a municipality is the arrangement between Implats and Rustenburg municipality regarding the treatment of municipal sewage at the company's treatment plant (ibid.: 182).[14] Finally, AngloGold Ashanti claims to have adopted extensive mechanisms to engage with local administrations to improve their governance capacities and thereby serve the companies' long-term interest of having a capable public authority in place delivering public services.[15]

Another example for capacity building at the local level relates to the implementation of the 1998 South African Water Act. In order to obtain the right to abstract water for operating purposes, companies are required to (re-)apply for comprehensive water licenses which entails a complex procedure involving an Environmental Impact Assessment (EIA). Faced with a considerable backlog in issuing these licenses, the national Department for Water Affairs has recognized its capacity problems and has called upon the mining industry to provide assistance (Pegram and Schreiner 2009). As a response of the mining industry, the Chamber of Mines offered training programs for department staff.[16]

While environmental legislation in South Africa is predominantly driven by the state, these examples indicate that companies do contribute to environmental governance by participating in consultative forums. There are also cases where capacity-building is a side-effect rather than the result of a conscious effort of the cooperation, with

government officials in the context of consultative forums or other forms of interaction. For example, AngloGold Ashanti, Goldfields and Harmony Gold that operate in the West Rand gold mining region have maintained intensive and at times also controversial interaction with government and other actors with regard to monitoring environmental impacts related to acid mine drainage and pollution with heavy metals and radio-nuclides in the Wonderfonteinspruit catchment (Coetzee et al. 2006, DME 2008).[17] While not directly aimed at fostering regulation, the mining companies have contributed to the building of regulatory capacities of regional and local government departments with regard to monitoring environmental data collection, management and modeling (Kranz 2010: 123–36).

The attempt to improve the energy efficiency of mining companies is an example of *co-regulatory approaches*. Spearheaded by the Sustainable Futures Unit of the National Business Initiative (NBI), voluntary energy efficiency targets have been transformed into a sector-specific energy efficiency accord adopted by the DME and mining companies in which both partners agree on targets to reduce energy consumption.[18] To date, the project boasts of 31 companies and industry associations who have signed a voluntary Energy Efficiency Accord with the DME to reduce their energy consumption (see also Kaan and Klapper 2012). To the end of organizing economic and social transformation in post-apartheid South Africa more generally, the government has promoted a cooperative approach that has included consultation processes and public-private partnerships in many areas. The Mining Charter, a result of these efforts, is a 'voluntary agreement' between government and the mining industry that obliges firms to contribute to socio-economic empowerment. Companies need to prove compliance with the Charter in order to obtain licenses (see Hamann and Bezuidenhout 2007, Hamann 2008). While some elements of voluntary contribution – such as defining particular targets – were part of the process, the process was very much top-down and hierarchical. The South African government was the driving force and used its powerful position – and thus its potential legislative and executive powers – to define a social role for big business in the mining industry (Hamann et al. 2008).

Mining companies also engage in *multi-stakeholder initiatives* either at the transnational level, or within the local context of their operations. Many of these governance configurations have no government participation. At the transnational level, a number of multi-stakeholder initiatives have emerged that promote the development of transnational voluntary standards and codes of conduct. The voluntary international

Cyanide Management Code which was developed by UNEP, NGOs and the International Council on Mining & Metals (ICMM) is a case where a transnational sector-specific standard has trickled down into national legislation.[19] Having been adopted by nine of the largest gold producers in the world in 2005, the South African Chamber of Mines initiated a multi-stakeholder process that devised a national voluntary guideline.[20] Drawing on these two documents, the state's Mines Safety and Health Inspectorate has approved a mandatory guideline of good practice. Mining companies which do not comply with it may be charged with an administrative fine.[21]

A similar spillover effect from the transnational to the national level with comparable implications for standard-setting has taken place with regard to a sector-specific initiative on biodiversity. Inspired by a joint initiative of the IUCN[22] and the ICMM at the transnational level, the local IUCN-branch and the Chamber of Mines have initiated a formal multi-stakeholder forum to deal with the improvement of biodiversity management in mining. The so-called South Africa Mining and Biodiversity Forum (SAMB) provides a discussion platform for a range of state and non-state actors,[23] while legislation on mining and biodiversity has long been blocked in between different branches of government.[24]

At the local level, a number of multi-stakeholder initiatives exist that are often part of mining companies' stakeholder management policies and address issue-specific concerns with regard to environmental problems in a mining area. This could involve the mitigation of pollution incidents as well as joint planning to develop infrastructure for providing a common good, such as the access to water resources. As an example, the gold-mining company Harmony, which mainly operates in the Gauteng West Rand, is liaising with both the municipality and the Randfontein Environmental Action Group, an environmental NGO, to develop broadly accepted measures to reduce fugitive dust from its slime dams around Randfontein (Harmony Gold 2006: 60).[25]

Similarly, all major platinum mining companies in the Rustenburg area have such procedures in place to manage their impact on environmental resources and elicit community opinion on their behavior. At Anglo Platinum, for example, stakeholder and community interaction is managed through the Community and Environment Department (CED), which maintains contact with communities as well as key environmental stakeholders, such as the North-West Eco Forum (Kranz 2010). Platinum-miner Implats' stakeholder engagement focuses on six 'host' communities. These are affected by daily operations. Engagement

is guided to a large extent by the needs formulated in the municipal Integrated Development Plans (IDP), for example with regard to local water needs, dust suppression and the effects of drilling.[26] Platinum miner Lonmin has also adopted a very comprehensive and integrative stakeholder engagement approach. It aims at building partnerships with the surrounding municipalities and communities.[27] This approach also provides for the linkage to the communities under the auspices of the Greater Lonmin Community (GLC), where community members engage to discuss environmental strategy and more long-term visions of sustainable development with the company.[28]

A substantial number of these community engagement forums work without much state involvement. Concerning private governance by individual firms and within the industry in the field of environmental protection and sustainable development, we find activities at different levels. In contrast to the engagement of mining companies against HIV/AIDS in South Africa (see Chapter 5), the transnational arena plays a more important role compared to the national and local arenas. Being both culprits and innovative standard setters in the area of HIV/AIDS, South African mining firms instead adopt and implement ready-made environmental policies that are institutionalized in the national environmental regulation or transnational standards (see also Prakash 2005, Szablowski 2007).

At the international level, nine of the largest mining companies closed ranks in 1999 to form the Global Mining Initiative (GMI) with the intent of presenting the industry as committed to environmental principles and standards. In preparation for the World Summit on Sustainable Development in Johannesburg 2002, a comprehensive consultation and research program, the Mining, Metals and Sustainable Development process, was begun to develop cutting edge sustainability policies for the industry in the Southern African region. As a result, the International Council on Mining and Metals (ICMM) was established and mandated to develop a common global reporting standard for the industry, the Sustainable Development Framework (SDF).[29] Membership in the ICMM requires firms to integrate a set of 10 principles and seven supporting position statements into corporate policy, as well as setting up transparent and accountable reporting practices. These principles include the continual improvement of their environmental performance, the contribution to the conservation of biodiversity and integrated approaches to land use planning as well as a responsible product design, use, re-use, recycling and disposal of their products.[30] Working groups under the auspices of the ICMM on critical issues with regard to mining and sustainable

development meet regularly and develop guidelines on sustainability issues which are crucial to the global agenda. As such, the Environmental Stewardship work program seeks to strengthen its members' capacity to improve their environmental performance and 'risk management' and to work effectively with governments and local communities.[31] Interviewees from the major players of the mining industry frequently referred to the ICMM as providing orientation and blueprints for new policies and best practice examples at the national level.[32]

In South Africa, all larger mining companies are part of the South African Chamber of Mines which acts as the major representative of big mining companies vis-à-vis the South African government. This national association of the mining industry has traditionally been a powerful industry body which represents about 90 percent of the industry (CoM Annual Report 2006). While its influence has diminished with the end of apartheid, it still serves as the main coordination body of the large mining houses. With regard to environmental policies, its environmental advisor provides background information, facilitates exchange, and develops common industry positions and guidelines on key environmental issues. There is an environmental working group consisting of technical staff of member companies, and an environmental committee at the management level. Like its largest members, Anglo American and BHP Billiton, the Chamber of Mines is a member of the ICMM. Currently, efforts are made to establish an industry-wide voluntary reporting scheme for mining firms' sustainability performance. To raise the profile of the South African industry these shall be integrated into an industry-wide CSR report issued by the Chamber of Mines.[33]

A more recent example for collective standard-setting initiatives is the position paper of the Chamber with regards to the 'Water for Growth and Development' strategy of DWAF, issued in March 2009 (CoM SA 2008). The policy document was developed within a consultative process among the member companies as well as the most relevant external stakeholders. Commitments are laid out for the entire industry – in this case with regard to the role of mining in water resource development. These are, however, not binding. The underlying idea is to affect peer pressure and raise the awareness toward potential reputational damage.[34]

Unlike the larger mining companies, smaller and younger firms hardly engage in environmental governance at all. Quite on the contrary, they pose environmental problems which often also affect larger companies. Gold Fields, for instance, points to particular problems

related to water pollution in the West Rand area.[35] A similar example can be found in the coal mining industry in Mpumalanga and with DeBeers.[36] As the biggest companies in the area, they are blamed for pollution even though it is largely caused by smaller mines downstream. While companies claim that only government should regulate the environmental performance of these smaller companies,[37] there are attempts on the part of larger companies to engage smaller competitors in environmental forums and processes. For instance, AngloGold Ashanti seeks to establish certain water management and monitoring standards that make activities of smaller firms better controllable.[38] Likewise, larger players in the Mpumalanga Highveld, such as BHP and Anglo Coal, strive to engage actively emerging mines. At the catchment level, these efforts have led to the formation of the Olifants River Forum as a multi-stakeholder initiative addressing management issues in the catchment. Firms actively participate in discussing broader water management issues, both setting and monitoring emission standards, as well as resource quality levels (Kranz 2010: 160).

Another area of collective private self-regulation refers to partnerships between mining companies and private not-for profit organizations which have the goal of standard-setting or service provision. An example is the Initiative for Responsible Mining Assurance (IRMA). It brings together a group of large mining companies, major retailers, and environmental NGOs, in order to provide for an independent and voluntary monitoring system that verifies compliance of mining operations with environmental standards.[39] The initiative is innovative in that it targets the value chain up to the global retailers of jewelry. Its impact is limited however. While initial discussions covered a broad range of environmental issues, such as tailings disposal, protection of biodiversity, emissions and water,[40] a 2009 update of the initiative only included cyanide management as a key principle for which precise standards were drafted.[41] Overall, the initiative is hardly institutionalized and its environmental standards remain vague.

Other private–private partnership initiatives can be found at the local level, such as sponsorship initiatives for NGOs and community projects. An example is Anglo American's support for a wetland conservation project. Partnering with a South African non-governmental organization, Working for Wetlands, local people are trained in rehabilitation skills and care for off-site wetlands to compensate for those lost on site on account of mining (Anglo American 2005: 40). In other cases, companies have sought to engage with local community groups to support the monitoring of their environmental issues at the local level, as observed

in the West Rand gold mining area. As mentioned above, Gold Fields has taken a proactive approach toward addressing some of the pertinent water management issues in the Wonderfonteinspruit catchment. The company took the initiative to form the Wonderfonteinspruit Action Group (WAG), which brought together mines, regulators, scientific institutions and community representatives in order to work toward a better understanding of the pollution situation in the catchment. The initiative led to the creation of a catchment-wide monitoring system and the re-establishment of Water Management Forums for the catchment area (Kranz 2010).

## Governance for whom? Assessing the quality of environmental governance contributions by business

Overall, the large- and medium-sized companies we have studied have actively contributed to environmental governance in South Africa. However, crucial questions revolve around the quality of these contributions. The quality of governance contributions is assessed here with respect to three aspects: first, effectiveness of implementation; second, geographical and social scope of governance initiatives and contributions – we also refer to this point as the inclusiveness of governance; and third, the indirect effects of governance attempts and how such attempts relate to the negative externalities of core business practices (Hönke, with Thomas 2012).

In terms of scope, many environmental problems are negative environmental externalities of core business practices. Reducing such externalities contributes to a cleaner environment from which everybody may benefit. Contributions that reach beyond reducing own negative externalities benefit the broader public if companies participate in projects that improve the environment and if this improvement is accessible to all (clean air, clean water, rehabilitated wetlands and so on). Problems with the inclusiveness of governance by firms therefore seem to be less an issue in the environmental policy field than in the area of combating HIV/AIDS. However, a number of limitations need to be raised.

A first limitation concerns the problem-solving effectiveness of environmental governance among mining companies. It is difficult to distinguish 'talk-shops' and 'green-washing' from activities that effectively reduce negative environmental externalities of mining or otherwise contribute to environmental governance. The MMSD process for instance was advertised broadly by the industry. However, critical voices have questioned whether the documents contained any new ideas on

how to render mining more sustainable.[42] And in fact the actual impact of the accumulation of knowledge that took place during the MMSD process on the environmental practices of mining firms in South Africa is difficult to trace.[43] The activities of the Mining Interest Group (MIG)[44] illustrate how much of the industry's involvement in environmental issues beyond the firm relates to outreach and the management of public opinion. Often, such forums are very much directed at showcasing the mining industry's position rather than engaging in a truly open dialogue. Therefore, this behavior entails a form of lobbying according to the industry's understanding (Kranz 2010). Similar problems relate to capacity building by companies for selected parts of the state administration. Due to the intensive interaction of company officials with government representatives, such activities in some cases straddle the line of agency capture or co-option. Examples are the speeding-up of the process leading up to water licenses (see previous section), but also other involvement with the regulatory process which is bound to result in advantages for the corporate actor given his controlling influence exerted in the first place. The extent to which voluntary environmental standards actually lead to changing practices at local mining sites of companies is also not always clear.

A second limitation refers to the scope and thus the inclusiveness of contributions to environmental governance by medium- and large-sized mining firms. A first aspect in this regard relates to membership in environmental governance initiatives. Awareness of sustainability issues and engagement in environmental governance differ between companies. Only some mining companies comply with national law and international standards and engage in environmental governance beyond compliance. While large global companies take the lead in rankings such as the Social Responsibility Index of the JSE, medium-sized companies of South African origin are 'followers' at best, and smaller enterprises do not participate in the discourse at all.[45] While the latter are not the focus of this chapter (which concentrates on multinational mining companies), it should be mentioned that many of the smaller mining enterprises engage less in environmental protection. Compared to the larger mining companies, they are much less visible – and they also do not have such a problematic historical legacy as building blocks of the apartheid system – and follow a more risk-friendly business strategy. Yet, when comparing medium-sized companies with large global players, the contributions to environmental governance by the former beyond what is required are rather limited (Szablowski 2007: 79).[46] This is also reflected in the membership of environmental initiatives among

the industry. The ICMM, for instance, has seen only limited buy-in from industry peers. Over recent years, membership has increased from six major companies and three industry associations in 2004 (Prakash 2005) to 18 of the large global mining companies and 30 national and transnational commodity associations in 2010 (ICMM 2010). Yet two out of the ten largest mining companies are still not members, and neither do smaller companies take part in the environmental initiatives of the ICMM. Membership in the South African Chamber of Mines is equally limited to larger mining companies (see below).

Another aspect in regard to the quality of governance contributions is that large mining companies focus on environmental management within the company, which is important and the basic responsibility of firms. Yet these activities remain limited to reducing negative externalities caused by the very same company. Such activities might prevent more degradation of the environment, but they do not make a genuinely positive, additional contribution to a better environment. Only the latter would go beyond a cleaning up of companies' own act. A second aspect refers to the relationship between addressees of such contributions and those affected by the core business activities of mining firms. Mining firms sometimes engage in conservation activities far away from mining sites, such as the wetland project sponsored by Anglo American mentioned above. Such sponsorship can be regarded as contributing to better environmental quality in South Africa. However, while useful in constructing a green image for the firm, it does not reduce the environmental pollution and the negative impact on affected communities caused by that very same company, as these contributions are unrelated to the company's core business practices.

## Understanding contributions to environmental protection by mining companies

Most large mining companies engage substantially in environmental governance, particularly in comparison with other sectors. The mining industry stands out with respect to the significant number of collectively shared standards and initiatives in the environmental field. However, these efforts are very much related to the substantial negative environmental impact of the industry, and a substantial part of them revolves around attempts to reduce at least some of these negative externalities. Whereas large- and medium-sized companies engage to some extent in environmental governance, we find variation in the quality of contributions to a better environment.

Two factors stand when trying to understand why most medium- and large-sized mining companies engage in at least in some sort of environmental governance in South Africa. Firstly, the threat of hierarchical regulation is an important context factor that accounts for why mining companies are more active governance providers than, for instance, textile companies (see Chapters 7 and 12 in this book). On the one hand, mining companies are confronted more with an external shadow of hierarchy than firms from other sectors. International organizations and companies' home states have repeatedly considered and already partly introduced binding regulation for the activities of multinational companies abroad. On the other hand, the mining industry is confronted with the looming threat of stricter enforcement of domestic law more than other sectors analyzed in this book. The shadow of hierarchy cast by the South African state is more relevant for mining companies because they depend on the specific sites where minerals can be exploited. Mining companies are bound to invest in those countries and places that dispose of rich mineral deposits. Once they invest in a place, these companies are confronted with substantial sunk costs; that is with substantial initial investments for which there are very long cycles of returns (Auty 2006, Snyder 2006).[47] In addition, they are to a high degree dependent on a secure operating environment as well as a functioning public infrastructure. For both reasons, the exit option of industrial mining firms is low. This particular characteristic of multinational firms in this sector explains the extent to which they try to respond to public pressure and engage with state actors in order to influence public policy and its implementation. Another factor that reinforces the shadow of hierarchy is public pressure. Since the 1990s, activists have made the extensive environmental pollution caused by extractive industries a specific subject of public debates, and have pushed for stricter regulation and implementation of environmental law.

Regarding external threats of regulation, examples include sector-specific programs issued by transnational organizations, such as the IFC, by national governments (e.g. Canada and Australia), regulation in export markets, or other international environmental policy regimes, such as expected climate protection requirements in the context of a potential follow-up to the Kyoto Protocol. Such external shadows of hierarchy affect firm behavior in South Africa in various ways: compliance with the IFC guidelines, for example, is a prerequisite for accessing financial support by the IFC. Furthermore, multinational firms might be required to abide with certain environmental standards by their home country irrespective of the regulation in their respective host

country. The interplay of national and international norms is reflected by the process leading up to the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights. While a global establishment of the norms failed in 2003,[48] a special representative to the Secretary General of the UN has put together a new framework outlining international standards for extractive industries since 2005. As a reaction, home countries of major mining companies, such as the UK, Canada and others in the EU, discuss or have already put in place new regulation concerning corporate operations in other countries.[49]

The global debate on climate protection offers insights into the mechanisms by which international environmental regimes, which are in the first place only binding for states, might become relevant for firms, too. The 2011 meeting of the Conference of the Parties to the Kyoto Protocol, held in Durban, South Africa, raised the awareness of climate change issues among many South Africa-based firms and also spurred expectations for stricter regulation in that field by the South African government in the near future. While concrete legislation has not yet been put in place, the expectation alone has led to considerable debates and activities on the part of companies. A good example for the anticipation of coming regulation by firms is the voluntary energy-efficiency accord of the DME with private actors, motivated by energy constraints and the possible upcoming regulation of South Africa under the Kyoto protocol in the post 2012-phase.[50] Firms are faced with potential energy cuts as well as fines for greenhouse gas emissions, as well as the introduction of an emission trading scheme. MNCs with experience in emission trading schemes and energy-efficiency policies anticipate similar regulation in South Africa and thus follow an early mover approach in this policy field (Kahn and Klapper forthcoming). These examples show that the threat of regulation casts a shadow of hierarchy over mining firms which they anticipate by engaging proactively in environmental governance.

The anticipation of new legislation also resonates with the level of existing environmental legislation for the mining sector in South Africa, which is comprehensive and targets many aspects of mineral exploitation and processing. Mining companies are regulated by several ministries, with the Department of Mineral Resources[51] taking the lead. As pointed out before (see Chapter 8 in this book), implementation is beset by difficulties for various reasons, such as regulatory fragmentation and a lack of enforcement capacity. In the mining sector in particular, the Minerals Department is an ambivalent institution as it is supposed to encourage mining development in South Africa, yet also

claims to lead environmental regulation of the same sector. The much weaker Department of Environmental Affairs has been struggling to build capacities in order to enforce environmental standards independently.[52] However, companies face risks in not being legally compliant, as ad hoc controls or requirements may come from any of the departments concerned with environmental issues (e.g. water) related to mining. The political opposition has also pushed for a separation of the economic promotion and environmental regulation of mining firms, so keeping the threat of stricter regulation looming over the industry.[53]

While this might change the way mining companies interact with government departments in the future, the relevance of regulation in making mining companies engage in environmental governance becomes quite evident in the gold mining areas of the Witwatersrand. Here, where there are massive historic and present day mining impacts on water and land resources, responsibilities for distinct impacts are often hard to assign and compliance is extremely difficult to monitor. Without the continued intervention of the regulator (in this case regional water directorates) companies would not properly address the pressing issue of acid mine drainage. This holds true for companies across the board. In cases where the authorities lack the capacity or resources to monitor company behavior effectively, companies choose not to become active in mitigating negative impacts of acid mine drainage (Kranz 2010).

Second, environmental governance contributions by larger mining firms are driven by reputational concerns reinforced by the diffusion of transnational norms and standards of environmental protection. Only certain companies have been socialized into these standards and have adopted them to protect and promote their 'green' image. Reputational concerns thus explain to an important extent variation we find in the quality of contributions of mining firms to environmental governance in South Africa. Environmental regulation has been a crucial topic of global governance, and has been at the core of the global corporate responsibility movement. International standards have become relevant for corporate behavior in South Africa through both changes in the market environment that made certain firms streamline environmental standards from the headquarters across mining operations in different countries and the adoption of demanding environmental standards by the South African government that provide incentives for companies to engage in environmental protection.

International financial markets provide important incentives for applying high environmental standards in countries, like South Africa, which have limited capacities to enforce environmental laws (King

and Lenox 2001). Multinational mining companies operating in South Africa are largely dependent on capital flows from those sources and are therefore directly influenced by investors' evaluation of their company performance. Mining companies are subject to extensive reporting requirements with regard to their social and environmental performance, especially if they are listed at stock exchanges outside South Africa (Bezuidenhout et al. 2007).[54] Shareholder activism is becoming a widespread phenomenon at the world's most important stock exchanges in New York and London. In addition, the Johannesburg Stock Exchange features its own Social Responsibility Index (SRI) (see Chapter 8). Larger firms with a brand name, such as AngloAmerican and De Beers, are especially subject to an intensive screening process. Yet for less visible large- and medium-sized companies, positive performance on the JSE SRI is also increasingly important for signaling trustworthiness to investors.

More visible brands in particular engage in environmental governance out of reputational concerns and often in response to public pressure. These two factors also largely explain variations in the quality of engagement. Mining companies in South Africa have been 'shamed into' (better) contributions to environmental governance by NGO campaigns that have targeted the reputation of companies. There are a particularly high number of transnational campaigns against extractive industries, such as those by Friends of the Earth, Human Rights Watch or the *Publish What You Pay* network in Africa.[55] Such transnational shaming mechanisms are more threatening for a company if they are complemented or enhanced by local activism and critique. Post-apartheid South Africa has a lively and outspoken environmental NGO-scene. South African activists have employed different strategies such as lobbying, campaigning, capacity-building and, increasingly, litigation to point to corporate malpractice.[56] The Federation for a Sustainable Environment is, for instance, involved in a number of lobbying and whistle-blowing efforts in the Gauteng gold mining area (Eeden 2008). Environmental groups have also joined efforts with other civil society groups such as trade union branches and community-based organizations (Lund-Thomson 2005). Overall, South African NGOs and local communities have been very active and more openly outspoken than in the apartheid past. All this puts pressure on companies and government to contribute to the collective good (e.g. Atkinson 2007, Ballard and Habib 2006). Often, South African NGOs are also well-connected with a transnational network of NGOs that critically monitors the activities of mining firms.

Making local struggles visible and linking them to global public and transnational campaigns has made local community protest more

effective, turning it into a major risk factor for mining companies in areas of limited statehood (Hönke forthcoming). The activities of the Federation for a Sustainable Environment, a South Africa-based NGO, are an example in this respect. The federation is lobbying against gold mining-related water pollution and is not only very vocal in South Africa, but has also managed to bring issues such as acid mine drainage to the attention of international news media.[57] Mining companies in South Africa have sought to pacify these critics through the adoption of high self-regulatory standards and an ostensive commitment to social responsibilities. Among the companies operating in South Africa, large global companies such as BHP Billiton and Anglo American, and companies that were targeted by a human rights campaign, such as AngloGold Ashanti, have thus often taken the lead in the Social Responsibility Index of the Johannesburg Stock Exchange.[58]

Finally, there is variation between firms with and without brand names; in other words, between more and less visible mining firms. Many of the smaller and some of the medium-sized mining companies are considerably less exposed to corporate shaming campaigns. These companies are 'followers' at best; they do not engage much in extensive environmental governance. One might argue that this is the case because such an activity would be too costly and beyond their means (e.g. Malherbe 2000). However, size does not fully explain these differences in behavior. The case of AngloGold Ashanti is illustrative in this regard as it shows how reputational concerns – in reaction to shaming campaigns – make a difference. The medium-sized gold mining company has become a leader in engaging in human rights and security-related CSR.[59] This can be traced back to campaigns against the firm in the past – the most famous being against irresponsible security practices in Eastern Congo. In this campaign AngloGold Ashanti was accused of complicity with the Nationalist and Integrationist Front (FNI), a rebel group that used to control the region in which AGA holds its Mongbwalu concession in Ituri. The case became central to international NGO campaigns urging regulation against companies fuelling conflict (HRW 2005). In the aftermath of such serious criticism, the company reconsidered its approach to corporate social responsibility, including environmental governance. Other medium-sized companies that have not been the target of such criticism, such as Harmony Gold and Goldfields, do not engage in environmental governance to the same degree.[60] This example shows that public pressure on companies with reputational concerns can lead to greater environmental governance by mining firms. Smaller companies are even less visible and therefore populate the more risk-friendly

business segment of the mining industry (Szablowski 2007: 79, Malherbe 2000). They therefore tend not to engage in environmental governance beyond what is absolutely required and enforced by the state.[61]

Our evidence from South Africa highlights different ways in which public pressure can materialize and how it affects corporate environmental governance. Above we have provided evidence for the reputational concerns-argument, as outlined in the introduction to this book: pressure can be exercised through shaming campaigns which target corporate reputation. Yet public pressure against mining companies is often expressed as *local community protest*. Such protest does not always work through the mechanism of reputation. Instead, protest action such as blockades and sabotage may impose direct operational costs on the company – through damage, interruption of operations and through law suits (Frynas 2001, Hönke 2012). Local contestation can incite more environmental governance by mining firms on account of the 'site-specificity' of mining operations, since walking away from the costs such protest imposes an unlikely choice. Mining firms will rather address community protest that disrupts operations than leave for less troublesome investment environments (Hönke 2012, 2013).

These two mechanisms of how community pressure may operate – through reputational concerns or through physical threat and the imposition of direct costs – are not always easy to distinguish, and are often interrelated. Both mechanisms explain how pressure from local communities makes a difference to how much mining firms engage in environmental governance. The important point of the argument here is that community pressure can also affect the environmental practices of firms that do not have a brand name and that are thus not vulnerable to reputational concerns. Community pressure has worked for instance in the case of the medium-sized and not widely known gold-mining company Harmony in the Randfontein area. After community protest that addressed problems with the fugitive dust caused by the company, Harmony liaised with both the municipality and the Randfontein Environmental Action Group and developed measures to reduce the dust (Harmony Gold 2006: 60).[62]

Overall, we find more inclusive efforts by firms to environmental governance where there is mobilization by the local communities than where no requests are made. In cases where little pressure was exerted from surrounding communities, either because digressions were not visible or they were not attributable to any specific firm, or where communities were not organized well enough to voice their concerns, firms were less responsive to the community aspect. Examples include

numerous smaller firms in the West and East Rand area which are often located in areas with largely impoverished populations, without much visibility to critical grassroots environmental groups. The response to such protests will therefore carry more contributions to a sustainable environment if communities target a firm with a brand name. Other prominent examples of local community mobilization are found in the platinum mining of Rustenburg. These, however, have often remained ineffective in improving companies' contributions to sustainable development and environmental protection. Protests are coordinated in this area by organizations such as the Luka Environmental Forum or the North West Environmental Forum, with support from national NGOs such as the Federation for a Sustainable Environment.[63] Yet while these organizations targeted the reputation of Impala and Anglo Platinum and tried to impose direct costs on the companies by blocking roads, this community protest had only little effect on corporate behavior. Further research into the concrete political context is needed to understand this ineffectiveness of mobilization.

Finally, the mining sector stands out in the way that public pressure – in relation with reputational concerns – not only affects the quality of environmental governance contributions by individual mining firms targeted by campaigns but by the sector as a whole. Reputation in the mining industry is considered by brand name firms, and thus most larger firms, not as company-specific but as a collective issue (Szablowski 2007, Prakash 2005). Those companies that are greatly exposed to public pressure in particular describe reputation as a collective issue pertaining to the entire industry. Anglo American Group, Goldfields or BHP report that they would often be blamed for pollution in areas in which they operate, or used to operate, even though such pollution was caused by other companies.[64] While smaller companies can ride freely on the positive image produced by the CSR-activities of larger companies, all companies in the sector suffer reputational damages when any mining company is criticized (Hönke et al. 2008, Prakash 2005). As a representative of one of the largest mining companies put it: '[engagement in collective goods provision] is not an individual, corporate thing, it is also necessary for the survival of the […] mining industry'.[65]

Some representatives of these companies acknowledge that the industry needs to integrate better these 'ungoverned', smaller companies and make them abide to the same standards as larger and more visible mining companies. The significant number of sector-wide voluntary standards at the transnational level and in South Africa suggests that serious efforts are being made in this regard; we have mentioned the

Sustainable Development Framework of the ICMM and the Cyanide Management Code at the transnational level, and the plans of the South African Chamber of Mines to introduce joint environmental reporting standards at the national level. However, such peer pressure seems only to apply to a small group of large companies. Membership in the relevant business associations and initiatives is exclusive, for instance. The ICMM mostly represents global players and the South African Chamber of Mines is the voice of big business. Suggestions to offer membership of the CoM to new and smaller actors, or to create a new, more inclusive association for the mining industry, have not been taken up. Overall, little pressure has been put on small companies to join and abide to sector-wide standards, and individual firms largely refrain from engaging junior companies.[66]

Nevertheless, there are haphazard efforts to integrate smaller firms in the environmental governance initiatives of larger companies as well as multi-stakeholder dialogues.[67] The degree to which this is taking place depends on how closely different operations are located to each other. In the coal mining areas companies are basically 'on each other's doorsteps', and the negative impacts of individual firms are difficult to assign to the respective polluter. In the case of the Loeskop dam in the Mpumalanga Highveld, Crissismere area, BHP was accused of polluting and entering a protected area without justification. According to the company, however, the damage was done by smaller mining companies that operated in the vicinity.[68] It is also difficult to get smaller companies to the table as they have little incentive to invest in costly environmental regulation as they lack the necessary financial resources and human capacities. Therefore, a representative of a major mining firm said that he was happy about the increasing community pressure with which mining firms in South Africa are faced.[69] Smaller companies are also obliged by law to consult with neighboring communities and contribute to the IDPs of local municipalities. Even where these requirements are not closely monitored and enforced by the state, communities have become more sensitive to environmental issues and more conscious of their rights; according to the environmental manager of BHP they have resorted to putting pressure on smaller companies as well to contribute to environmental governance.[70]

## Conclusion

This chapter has shown that most large- and medium-sized mining companies in South Africa engage extensively in environmental governance.

However, much of this engagement is concerned with internalizing at least some of the substantial negative imprint the industry has on the environment. Concerning these contributions, we have found little evidence that companies foster environmental state regulations; this is related to the fact that – as opposed to HIV/AIDS – most international standards are part of South Africa's environmental legislation. Business is faced with an implementation gap of this regulation. Contributions to better governance by government therefore relate to capacity building at this stage of the policy cycle. With regard to co-regulation, we found most governance contributions in the environmental field in multi-stakeholder initiatives at the transnational and local level. The mining industry stands out in that sector-wide environmental governance initiatives and business associations play an important role. We have pointed to three limitations in the quality of contributions to environmental governance by mining firms: firstly, a lack of inclusiveness of membership in voluntary mechanisms, secondly the limited effectiveness of environmental governance attempts, and thirdly, limitations in the scope of such contributions especially in comparison to the huge negative externalities of the industry.

We have argued that the relatively high level of engagement of mining companies in environmental governance – as compared to companies in the textile industry for instance (see Chapter 12) – is, across the board, related to a looming shadow of hierarchy and reputational concerns. Compared to the other sectors analyzed in this book, the mining industry faces a stronger threat of potential regulation and sanctions (shadow of hierarchy) at both the national and global levels. In terms of national regulation, this is closely linked to the dependence of mining firms on the mineral deposits they already exploit. The reasons for this are not only geological. Mining companies do not easily leave operations because of high sunk costs and long return-to-investment cycles.

The absence of an exit option also renders mining companies more vulnerable to reputation concerns and public pressure. Medium- and large-sized mining companies engage in more effective and inclusive environmental governance the more public pressure they face. Such pressure is exercised through national and transnational shaming campaigns and targets corporate reputation. In addition to reputational damage, local community protest imposes costs on the company through damage and the interruption of operations. Such public pressure is perceived by some of the larger companies in the sector as affecting not only individual mining firms but also their collective reputation.

Mining will always be harmful to the environment. At the same time, economic growth and development through investment in mining activity remain an imperative for many newly industrializing and developing countries, such as South Africa. This antagonism boils down to the question of how these two dimensions will be managed and balanced in future. In this endeavor, the contribution of mining companies to environmental governance needs to be judged against two other factors: the young, albeit quite comprehensive environmental regulation in South Africa, as well as the overall legacy of mining in the country, which, after all, amounts to more than 100 years. Mining companies often deal inadequately with mine closure and retroactive responsibilities for environmental impacts incurred in the past, as for example in the case of the Witwatersrand gold mines, and, in effect, carry passed mismanagement into the future.[71]

## Notes

1. See for instance the spill at Anglogold Ashanti, http://www.anglogold.com/subwebs/informationforinvestors/reports08/reporttosociety08/f/AGA_RTS2008.pdf [accessed 28 February 2012]. For a schedule of significant environmental incidents see www.agareports.com/08/environmental-incidents.htm, (last accessed 28 February 2012). Another example is the incident of visible pollution of the Blesbokspruit catchment due to Pamodzi Gold's operations in the East Rand that were reported in April 2009, see Creamer, M. (28 March 2009) 'We won't survive the weekend' – Pamodzi Gold east rand GM, *Mining Weekly*. Available from: http://www.miningweekly.com/article/we-wont-survive-weekend-pamodzi-gold-east-rand-gm-2009-04-28 [accessed 16 March 2012].
2. Interview with Director, Centre for Sustainability in Mining and Industry, Johannesburg, South Africa, 16 March 2007.
3. Ibid.
4. It is important to keep in mind that negative externalities and lack of engagement in environmental governance is even more widespread among less visible and smaller-sized mining companies, which are growing as a result of the industry's restructuring process in South Africa (Malherbe 2000).
5. The ranking was conducted by the Centre for Corporate Citizenship/UNISA collaborating with the UK based NGO 'Accountability' by using its accountability standards as a measure.
6. This information has been drawn from the respective company websites.
7. Initiative for Responsible Mining Assurance (IRMA), see http://www.responsiblemining.net [accessed 16 March 2012]; International Council on Mining & Metals (ICMM), see http://www.icmm.com [accessed 16 March 2012]; Extractive Industries Transparency Initiative (EITI), see http://eitransparency.org [accessed 16 March 2012].
8. The Forum was initiated by initiated by United Nations Conference on Trade and Development (UNCTAD) and United Nations Department of

Economic and Social Affairs (UNDESA), UK's Department for International Development (DFID) and the Canadian Department of Foreign Affairs and International Trade (DFAIT).

9. Government Notices Nos. R 385, R 386 and R 387 in Government Gazette 28753 of 21 April, as amended by Government Notice R 613 in Government Gazette 28938 of 23 June 2006.
10. Act 107 of 1998, amended by Act 56 of 2002, Act 46 of 2003 and Act 8 of 2004.
11. Bryszewski, W. and Visser, J. (2004) 'Air quality management in the North West Province of South Africa – A successful partnership with industry'. Available from: http://www.pyrometallurgy.co.za/InfaconX/091.pdf [accessed 16 March 2012].
12. Interview with company Public Affairs Manager and Environmental Manager, Johannesburg, 28 March 2007.
13. Interview with company Regional Manager, Operations Rustenburg, Marshalltown, South Africa, 30 October 2008.
14. Interview with company Senior Manager Engineering, Operations Rustenburg, Pretoria, South Africa, 11 November 2008.
15. Interview with company Public Affairs Manager, Johannesburg, South Africa, 20 March 2007 and with group manager community relations, Johannesburg, South Africa, 3 October 2007.
16. Interviews with Environmental Adviser, Chamber of Mines, Johannesburg, South Africa, 16 November 2007; with National Business Initiative, 2007, Johannesburg.
17. We witnessed the heated debates at the Potchefstroom Imbizo, a public hearing on these issues at which critical scientists and activists as well as government and Goldfields presented their views (Potchefstroom, 6 December 2007). Also interview with Environmental Activist, Johannesburg, South Africa, 7 October 2007.
18. Interviews with Environmental Adviser, Chamber of Mines, Johannesburg, South Africa, 16 November 2007; National Business Initiative, Interview with Representative of the Sustainable Futures Unit, NBI, Johannesburg, South Africa, 19 March 2007 and with the director of the NBI, Johannesburg, South Africa, 16 November 2007.
19. International Cyanide Management Institute (2011): The International Cyanide Management Code, http://www.cyanidecode.org/pdf/thecode.pdf [accessed 16 March 2012].
20. For the work of South African Chamber of Mines, see http://www.bullion.org.za/ [accessed 16 March 2012].
21. Interview with Mines Safety and Health, DME, Johannesburg, South Africa, 27 March 2007.
22. International Union of Conservation.
23. Chamber of Mines South Africa, conservation groups and the government departments concerned (DEAT, DME, and Department of Water Affairs and Forestry/DWAF).
24. See Kuntonen-van`tRiet, J. (2007) Strategic Review of the Status of Biodiversity Management in the South African Mining Industry. Available from: http://www.bullion.org.za/Departments/Environment/Downloads/Strategic%20review%20-%20biodiversity%20management.pdf [accessed

16 March 2012]; Interview with Deputy Directors, DME/Environment, Pretoria, South Africa, 27 March 2007.

25. Interview with company Environmental Manager and Manager of Corporate Affairs, Randfontein, South Africa, 2 October 2007.
26. Interview with company Social Development Manager and company Transformation Manager, Rustenburg, South Africa, 1 December 2008.
27. Interview with company Vice President External Affairs, Mooinooi, South Africa, 4 December 2008.
28. Interview with company Vice President External Affairs, Mooinooi, South Africa, 4 December 2008.
29. Following the MMSD process, the former transnational mining association ICME was transformed into the ICMM, charged with carrying forward the GMI agenda. See http://www.icmm.com for further details.
30. See ICMM homepage http://www.icmm.com/our-work/sustainable-development-framework[accessed 16 March 2012].
31. See http://www.icmm.com/our-work/work-programs/environment [accessed 16 March 2012].
32. Interviews with Environmental Adviser, Chamber of Mines, Johannesburg, South Africa, 16 March 2007; company Environmental Manager and Public Affairs Manager, Johannesburg, South Africa, 28 March 2007.
33. Interview with Representative, Chamber of Mines/Environment, Johannesburg, South Africa, 16 March 2007.
34. Interview with Representative, Chamber of Mines/Environment, Johannesburg, South Africa, 16 March 2007.
35. Interviews with Head of Corporate Affairs and Sustainable Development and manager sustainable development, Johannesburg, South Africa, 28 November 2007.
36. Interviews with company Environment Manager, Cape Town, South Africa, 29 March 2007; Senior Vice President and Head of Corporate Affairs and Sustainable Development, Johannesburg, South Africa, 28 November 2007; Interview with company Public Affairs Manager and Environmental Manager, Johannesburg, South Africa, 20 March.2007.
37. Interviews with company Environment Manager, Cape Town, South Africa, 29 March 2007; Senior Vice President and Head of Corporate Affairs and Sustainable Development, Johannesburg, South Africa, 28 November 2007.
38. Interview with company Public Affairs Manager and Environmental Manager, Johannesburg, South Africa, 20 March 2007.
39. http://responsiblemining.net . Participating companies: AngloGold-Ashanti, BHP-Billiton, DeBeers Group, Falconbridge, Newmont, Rio Tinto, Xstrata; jewelry retailers: Tiffany & Co., Wal-Mart/Sam's Club; B.A.s: Council for Responsible Jewellery Practices, International Copper Association, ICMM, Jewelers of America, the Nickel Institute; NGOs: Canadian Boreal Initiative, Center for Science in Public Participation, Conservation International, EARTHWORKS, Great Basin Minewatch, Oxfam America, Pembina Institute, Renewable Resources Coalition, WWF.
40. IRMA (7–9 June 2006): Report of first meeting in Vancouver, Canada. Available from: http://responsiblemining.net/pubs/IRMAframeworkFinal.pdf [accessed 16 March 2012].

41. IRMA (2009): IRMA Update 2009. Available from: http://responsiblemining.net/pubs/IRMA_Update_AUG09-1.pdf [accessed 16 March 2012].
42. For instance Moody R. Sustainable development unsustained: a critique of the. MMSD project. Nostromo Research, 2002. Available from: http://www.minesandcommunities.org/ Charter/mmsd (last accessed 15 June 2007) and Whitemore (2006).
43. This situation might change as one of the organizers of the process has started a review of the MMSD achievements in 2012, see http://www.iied.org/minings-search-for-sustainability-how-far-have-we-come [accessed 16 August 2012].
44. The MIG is a voluntary association of mining firms operating in the Witwatersrand area to discuss key environmental issues involving the entire industries.
45. Interview with company Environmental Manager, Witbank, South Africa, 26 November 2007.
46. Interview with Deputy Directors Environment, DME, Pretoria, South Africa, 27 March 2007; interview with Consultant and Lecturer, School of Mining Engineering at the University of the Witwatersrand, Johannesburg, South Africa, 20 March 2007.
47. This can be understood as a specific form of what is defined as asset specificity (Williamson 1975) in the introduction to this book (see Thauer 2010 and 2014).
48. See the draft of the UN Norms in 2003: Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, U.N. Doc. E/CN.4/Sub.2/2003/12/Rev.2 (2003). Available from: http://www1.umn.edu/humanrts/links/norms-Aug2003.html [accessed 16 March 2012].
49. See for instance the UK Company Act (2006), the US Dodd Frank Act (2010), and the development of CSR norms in the European Union (for a summary see http://www.humanrights.ch/de/Themendossiers/TNC/CSR/EU/index.html [accessed 16 March 2012]).
50. Interview with Representatives of the Sustainable Futures Unit, NBI, Johannesburg, South Africa, 19 March 2007.
51. Formerly known as Department for Minerals and Energy (DME).
52. Morgan, Gareth (17 January 2012) 'State must do more to manage mining's environmental effects', *Business Day*. Available from: http://www.businessday.co.za/articles/Content.aspx?id=162668 [accessed 22 February 2012]. Interview with Professor at CSIM Wits University, Johannesburg, South Africa, 19 March 2007.
53. Morgan, Gareth (17 January 2012) 'State must do more to manage mining's environmental effects', *Business Day*. Available from: http://www.businessday.co.za/articles/Content.aspx?id=162668 [accessed 22 February 2012]; Interviews with company Environmental Manager, Witbank, South Africa, 26 October 2007; Group Environmental Consultant, Johannesburg, South Africa, 10 December 2007. On fragmentation see also interview with Deputy Directors, DME/Environment, Pretoria, South Africa, 27 March 2007.
54. These requirements are increasingly tightened at the JSE as well.
55. The environmental pollution of the Niger Delta through the oil installations and pipelines of Shell and Chevron, which traverse the entire region with oil

spills that occur on a regular basis and contaminate soil and water, has raised one of the best-known transnational campaigns denouncing environmental pollution in areas of limited statehood.

56. Van Eeden, E. (2008) 'Weaknesses in Environmental Action in South Africa: A Historical Glance on the West Rand (Gauteng)', *Water Resources Development*, 24: 3: 463–75. Van Eeden, E. (2008). 'An Historical Assessment of NGO Efficiency in Progressing Towards a Sustainable Environmental Heritage Focus, with a Case Study from the Wonderfonteinspruit Catchment, Gauteng', Rivonia, PEA Public Environmental Arbiters.
57. See for instance 'Schleichende Umweltkatastrophe, Giftwasserbedroht die Millionenmetropole Johannesburg', radio feature by Dagmar Wittek, 5 March 2011, Deutschlandfunk. Available from: http://www.dradio.de/dlf/sendungen/einewelt/1404172/ [accessed 16 March 2012].
58. See http://www.jse.co.za/Products/SRI.aspx and the 2010 Ranking http://www.jse.co.za/About-Us/SRI/Results/2010Results.aspx [accessed 16 June 2011].
59. AGA ranks second on the high-impact industries best-performers list of the Sustainable Investment Index 2010 of the Johannesburg Stock Exchange, http://www.jse.co.za/About-Us/SRI/Results/2010Results.aspx [accessed 16 June 2011]. The company has become a member of the VPs in 2007. See AGA's global security strategy and the reporting on the VPs, http://www.anglogold.co.za/Sustainability/Other+public+reports/ [accessed 16 June 2011]. Interviews with Manager Community Relations and Social Development, AngloGold Ashanti Ltd., Johannesburg, South Africa, 3 October 2007.
60. Harmony Gold and Goldfields is not a member of the VPs. Internal policies on security and human rights are weak and/or little implemented in practice. Environmental governance is less comprehensive and protest by local communities has not had much impact, at least not in the case of Harmony Gold (http://www.goldfields.co.za/sus_reports.php [accessed 16 March 2012]); Interview with Environmental Activist, Johannesburg, South Africa, 7 October 2007; Interview with company representatives, Johannesburg, South Africa.
61. Also interviews with Deputy Directors DME/Environment, Pretoria, South Africa, 27 March 2007; Consultant and Lecturer, School of Mining Engineering at the University of the Witwatersrand, Johannesburg, South Africa, 20 March 2007; Company Environmental Manager, Witbank, South Africa, 26 November 2007.
62. Interview with Environmental Manager and Manager of Corporate Affairs, Randfontein, South Africa, 2 October 2007. See also Tyrer, L. (14 November 2006) 'Harmony attempts to deal with Randfontein dust challenge while mulling big retreatment option', *Mining Weekly*. Available from: http://www.miningweekly.com/article/harmony-attempts-to-deal-with-randfontein-dust-challenge-while-mulling-big-retreatment-option-2006-11-24 [accessed 16 March 2012].
63. Interview with Luka Environmental Initiative, October 2008, Phokeng, South Africa; Interview with Environmental Activist, Johannesburg, South Africa, 7 October 2007.
64. Interviews with company Environmental Manager, Cape Town, South Africa, 29 March 2007; Company Environmental Manager, Witbank, South

Africa, 26 October 2007; Company Manager of Sustainable Development, Johannesburg, South Africa, 28 October 2007.

65. Interview with company Public Affairs Manager, Johannesburg, South Africa, 28 March 2007.
66. See membership on http://www.bullion.org.za/content/?pid=24&pagename=Members (accessed 16 March 2012). Interviews with company Group Environmental Consultant, Johannesburg, South Africa, 10 December 2007; Company Environmental Manager, Witbank, South Africa, 26 October 2007.
67. Interviews with company repressentatives, Witbank, South Africa, October 2008.
68. Interview with company Environmental Manager, Witbank, South Africa, 26 October 2007.
69. Ibid.
70. Ibid.
71. Interviews with Director, Centre for Sustainability in Mining and Industry, Johannesburg, South Africa, 16 March 2007; interview with Environmental Activists in West Rand area, Randburg/Johannesburg, South Africa, 7 October 2007.

# 11

# Securing the Production Basis: Environmental Governance in the Food and Beverage Sector

*Nicole Kranz*

## Introduction

More than any industry discussed in this book, the food and beverage (F&B) sector is crucially dependent on sound ecosystems. The sector needs ecological raw materials for production. At the same time, the production of foodstuffs leads to a significant abstraction, exhaustion and deterioration of environmental resources. Given this dilemma, I ask to what extent the South African F&B industry contributes to mitigating these impacts, and what the main drivers are that determine its contributions to environmental governance.

With the industrialization and intensification of food production in South Africa in the past 20 years, the impact of these production processes on natural resources has increased substantially; particularly in the agricultural production of raw materials, but also during food processing, transportation and packaging. Intensive agricultural activities have led to a serious degradation and over-utilization of soil and water resources. Should these activities continue at current levels, water use in the agricultural sector will aggravate the problem of water-scarcity in the drought-prone regions of South Africa (Addams et al. 2009, Mukheibir 2008). The water demand of the agricultural sector in South Africa is currently estimated at 8.4 billion $m^3$, which is significant when compared to 1.5 billion $m^3$ for industrial and 3.5 billion $m^3$ for urban/household uses. While the overall water use in the country is projected to increase significantly over the next 25 years, its use for irrigation is unlikely to rise since the allocation of water for agricultural purposes has already been capped at a certain level by national government (DWAF 1998). Nevertheless, a growing demand for food is expected to trigger an intensification of water use on account of an increase in water

demand in food processing. In addition, an escalated use of fertilizers and pesticides in high-intensity agriculture will further impair the quality of water and soil resources. Eventually, such developments will also have a negative impact on local and regional biodiversity and climate patterns and thus threaten the livelihood of those directly dependent on these resources (Du Plooy 2006).

While these impacts relate more directly to the agricultural sector, food processing companies are increasingly being forced to show responsibility for these impacts, too. Due to its dependency on the agricultural sector, the food manufacturing sector is extremely vulnerable to changing climate conditions, droughts and water shortages (Turton 2008). The country used to be largely self-sufficient and strongly oriented toward exporting to world markets. Recently, however, South Africa has been obliged to import agricultural goods. This demonstrates the many linkages of the commercial food and beverage sector with overall food security in South Africa (Vogel and Vincent 2006).

In addition to issues of natural resources, the packaging and packaging waste of foodstuffs constitute environmental concerns that affect the entire sector. The air pollution that results from sugar milling is another environmental impact incurred by the food industry (Cheesman 2004). Finally, energy consumption and the transportation of raw materials and food products are gaining relevance in the context of climate change debates.

In what way are F&B companies mitigating these impacts? In the section that follows I will describe distinct contributions of F&B firms to environmental governance and explore the prevailing modes of interaction in delivering these contributions. I will then discuss the main drivers – what factors, beyond and in addition to securing the production base, that is, access to sufficient resources – determine the behavior of firms?

## From compliance to standard-setting and capacity-building: companies' contributions to environmental governance

Overall, the governance contributions by F&B business are modest, at best, particularly when compared to the automotive or mining sectors (see Chapters 9 and 10 in this book). They are largely driven by multinationals and large South African multi-product firms which represent a third of the production capacity and pollution impacts in the food segment. In the beverage segment, Coca-Cola and SAB Miller represent more than three quarters of the production capacity. Most of their

activities are self-regulatory by nature. Smaller producers and firms in various specialized sectors (e.g. meat, bulk foods etc.), by contrast, have hardly engaged in any governance activities (Fig 2004). If they do, it is mostly within the context of supply chain regulation by larger companies.

## In-house and supply chain

Larger companies usually engage in self-regulation to reduce their waste production, energy consumption, carbon emissions and use of water along the value chain. However, they do so to varying degrees. Environmental issues fare relatively high on the agenda of these F&B firms, depending on their relative exposure to the consequences of environmental pollution. On the one hand, there are those large firms that seek to mitigate their own negative impacts. Unilever, for instance, which is partly responsible for the pollution of the Boksburg Lake in the Gauteng Province,[1] engages in reducing pollution sources at its own plant and also cooperates with other industries on the lake in order to facilitate a coordinated approach to effluent management. Tongaat Hulett, a sugar manufacturer, is taking a range of technical measures in order to reduce air pollution at its Durban milling facility. This includes technological solutions as well as improved monitoring systems in order to identify peak emissions (Tongaat Stakeholder Forum 2007). The majority of small firms in the F&B sector, by contrast, have largely refrained from regulating their negative externalities.

On the other hand, large firms seek to preserve their resource base. Nestlé, for example, reduced water usage at its Mossel Bay dairy plant in the Eastern Cape by 54 percent between October 2009 and May 2010 in reaction to a severe drought, which affected the town of Mossel Bay as much as the local industry.[2] Significant savings could be made from the recovery and re-use of condensate from the evaporation process, which is an integral part of dairy production. In addition, several immediate water-saving measures were introduced. Among them are the shortening of automated wash time and the modification of hosepipe nozzles[3] to reduce water flow. Employees were advised on water-saving measures at home. The case serves as an industry benchmark for what is possible in terms of water use reductions. SAB Miller, at its barley malting plant in the municipality of Caledon in the Western Cape, has been developing and installing several measures to reduce overall water usage during

production as well as end-of-pipe emissions[4] into local watersheds.[5] These approaches are quite common among larger firms and are mirrored by the broad adoption of the ISO 14001 standard throughout the sector (Du Plooy 2006).

Similarly, several South African F&B companies have chosen to join the international Water Footprint Network. Here, firms receive guidance on the use of water footprinting tools and obtain the opportunity to engage in voluntary benchmarking with peer firms. The aim of the network is to facilitate assessment of the water content of products on the basis of the entire water use during the production process (Gerbens-Leenes et al. 2007). Especially large beverage firms, confronted with the issue of water use and wastewater generation (Turton 2008), have subscribed to the Water Footprint Concept (see also below).

Firms that engage in in-house self-regulation do not only relate to internal environmental management schemes, but also promote regulation along the supply chain. SAB Miller or Nestlé, for instance, employ environmental management systems to monitor environmental compliance along their supply chain.[6,7] In some cases, firms have also introduced their own certification schemes to ensure compliance among their suppliers and assign responsibilities for sound procurement practices to their supply chain. For example, SAB Miller helps smallholder hops and barley famers develop skills that enable them to work independently on a sustainable basis. These activities are not only relevant in the current debate on skills development in South Africa, but are also expected to become more important over the next years with increasing demand for organic food from export markets (SAB Miller plc et al. 2010). Other examples in the beverage sector are Coca-Cola's activities to promote production and packaging standards across the entire value chain (Moore School – Division of Research 2005).

Woolworths, a high-end food and textile retailer, has been investigating issues around wastewater management, including reuse and recycling throughout its agricultural value chain. To this end, the company conducted expansive wastewater audits on the basis of which it encouraged suppliers to improve their wastewater performance (GIZ 2010). These efforts are related to Woolworths' 'Farming for the Future' program, which seeks to reform commercial farming in order to fully integrate farming-related negative externalities across the entire value chain (Smith 2008b). The company thus engages in an innovative process that seeks to formulate and establish completely new environmental

(and social) standards for large-scale farming operations. The comparison with Pick 'n Pay, a South African retailer with a similar product range, demonstrates that such activities are, however, not the norm in the industry. Pick 'n Pay engages in some, but less encompassing activities along the supply chain.[8] While Pick 'n Pay strives to adhere to environmental regulations pertaining to their own operations, they devote less resources to crafting innovative approaches for the protection of their resource base than Woolworths.

The pattern that emerges here is that industry leaders use their production clusters to influence companies in the supply chain. Smaller firms and firms that cater to those South Africans still living in severe poverty, do not usually exert any pressure along their supply chain or rely on intermediary players, such as millers' and farmers' associations to control upstream parts of the supply chain, for example farmers and processors.[9]

## Multi-stakeholder initiatives, collective self regulation and public-private partnerships

While most of the large firms engage in in-house and supply chain regulation, *collective private self regulation* through business associations in the F&B industry only occurs in a few instances. Unlike the mining and the automotive sectors, F&B lacks strong business associations at the national and international level; as a result corporate private self-regulation is less institutionalized (Fig 2004). There is some evidence that the product-specific Soft Drinks Council of South Africa is playing a role in negotiations around the new waste management legislation and packaging.

The most prominent example however concerns the activities of the South African Sugar Association (SASA) regarding standard-setting in the area of sugar farming.[10] Following the initiative of larger sugar farmers in KwaZulu Natal Province who supply raw sugar to the large sugar and food companies, SASA developed guidelines on sustainable sugar farming with the support of WWF South Africa. These guidelines are inspired by the ISO 14001 management system, to which were added economic, ecologic and social management goals. Sugar farmers participated in the formulation of the guidelines and tested them in a year-long development phase in close collaboration with local government. SASA plans to gradually introduce these standards to all operations in KwaZulu-Natal.[11] Cadbury cooperates with WWF South Africa to promote such sustainable practices in the sugar growing regions of

KwaZulu Natal, but also beyond the South African border, for example in Swaziland.[12]

Yet such forms of collective self-regulation are rather exceptional. In other F&B subsectors, business associations have remained largely inactive. If they have at all, firms have become involved in joint initiatives with industry peers, NGOs and other non-governmental stakeholders. This particularly applies to the preservation of their resource base, for which self-regulation is often not sufficient in view of the fact that others keep depleting common pool resources. Examples at the local level are Unilever's attempts to mitigate pollution of the Boksburg Lake. In order to identify solutions, the firm has initiated an exchange with other companies, local NGOs and academic institutions.[13] Similarly, Tongaat Hulett relies on regular citizens' forums for affected communities to better gauge pollution impacts around sugar milling in Durban and to manage impacts appropriately.[14] At these monthly meetings, community members have the opportunity to voice their concerns about observed impacts, to share their monitoring data as well as comment on suggested mitigation measures.

A particularly interesting case of an F&B company seeking to secure its resource base is SAB Miller. It has not only implemented a comprehensive water footprint approach at the company level but also linked it up to the water needs and impacts of other firms operating in catchments. The main goal of this initiative is to 'identify shared water-related risks of SAB Miller and other users of the relevant watersheds and to increase sustainability of SAB Miller's operations and supply chain by better management of these watersheds through partnerships between business, government and civil society' (SAB Miller plc et al. 2010). The program covers the following aspects:

- detailed water footprint assessments for SAB Miller operations and relevant agricultural suppliers,[15]
- risk analysis and sustainability assessments at the watershed level (key ecological assets and ecosystem services, necessary environmental water needs, future threats from economic development and climate change),
- mapping of initiatives already underway in these basins and potential partners and donors.

In a second step the company engages with other actors in the respective watershed to coordinate water conservation initiatives of various parties to ensure the realization of synergies. In the context of this

initiative, the firm makes contributions beyond the alignment of different stakeholder interests. It also engages at the international level in the development of an innovative method to assess firms' water impact and in the subsequent promotion of its widespread application (SAB Miller plc et al. 2010).

Other examples, including transnational initiatives, are the active adoption and promotion of standards established through international norms, such as the Water Project, which is convened by the World Economic Forum, and the CEO Water Mandate under the auspices of the UN Global Compact. The former initiative aims mainly at establishing a networking space for those firms engaged in the development of water infrastructure (World Economic Forum 2008). The latter provides a business-only platform for exchange on water efficiency measures, the implications of human rights requirements and business's involvement in public policy making (United Nations Global Compact and Swedish Ministry of Foreign Affairs 2007). Participating South African or South Africa-based companies are actively contributing to the further spread and adoption of the standards emanating from the Water Mandate.[16] These standards not only comprise recommendations with regard to efficiency improvements at the firm level, but also pertain to the interaction of firms with communities and their involvement in public policy. Interestingly, networks that originally consisted exclusively of firms have often expanded to include other actors as well. Especially in the environmental field, strategic alliances with NGOs have become common practice among the larger firms. Non-business partners take on the role of an independent convener for multi-stakeholder or joint industry platforms. An example in this respect is the partnership/strategic alliance on water footprinting initiated by SAB Miller together with WWF South Africa and the German Development Cooperation (GIZ) (see above) (SAB Miller plc et al. 2010).

Such (trans)national multi-stake holder initiatives are clearly exceptional, however, in terms of their scope and foresight, and thus mark the upper end of the spectrum of possible contributions. They are limited to less than a dozen of large F&B companies while the vast majority of smaller firms have refrained from engaging with local or national authorities, peers and other stakeholders.

## Lobbying and capacity-building

While the overall governance contributions in the F&B sector are modest and largely confined to self-regulation and multi-stakeholder

arrangements, we do find some instances of *public private co-regulation*, involving business and government actors. One example is SAB Miller's engagement with the Caledon municipality on mitigating impacts of water usage and waste water emissions in a water-scarce catchment.[17] At the national level, the government (Department of Water Affairs) and major companies (water-intensive industries) cooperate in the context of a dialogue forum on water management issues as well as the design of the National Water Resources Strategy. In some instances, such activities even resulted in *fostering public regulation*, for example during the national hearings on the new waste management legislation in South Africa, held in 2007. F&B companies mainly contributed to the consultative process on packaging issues seeking to shape new waste management legislation. Their proposals were closely related to previous self-governing advances around packaging, for example on the issue of recycling packaging materials. Beverage firms have been pushing for more coherent and comprehensive waste collection and more consistent recycling quotas in their interaction with government.[18]

In addition, many of the larger firms engage in support and capacity-building. Nestlé, for example, has not only increased its own operating water efficiency in the Mossel Bay case, but also assisted the local municipality in updating and improving its water monitoring and management activities. The water shortage could be alleviated in the wake of these activities.[19] At the national level, F&B companies have participated in several dialogues on improving national water governance, convened by national government departments as well as the South African National Business Initiative (NBI). For example, business[20] contributed its expertise to the 2009 National Strategy on Water for Growth and Development. For this purpose, the South African government (Department of Water Affairs) established a Water Sector Leadership Group of key stakeholders including large business associations (such as Business Unity South Africa and the Chamber of Mines), civil society, academic institutions and the energy sector. The aim was to receive advice on key strategic issues, such as resource protection, water conservation and demand management as well as institutional reform. In addition, annual high level advice is provided by a CEO roundtable of key companies, which directly advises the ministerial level (DWAF 2008).

Such governance contributions are rather insular, however, in light of the large number of smaller firms whose activities do little good with regard to the alleviation of environmental problems, particularly when compared to the automotive and mining sectors.

## What drives firms' contribution to environmental governance?

Overall, contributions to environmental governance are limited in the F&B sector. It is mostly the large firms that seek to reduce negative externalities in their production process and protect the resources required for their production, such as clean water for production purposes. Among those firms that have the capacity to engage in environmental governance, those with a brand name catering to high-priced market segments are particularly active in self-regulation. Food retailers are highly sensitive to consumer preferences, particularly if they have a brand image to defend. Reputational concerns drive in-house and supply chain regulation to a large degree, as the following comparison of food retailers will illustrate (Börzel et al. 2011).

Woolworths is a food retailer that mostly caters to the high-priced market segment, which amounts to about 5–10 percent of the South African households. Woolworths has been able to achieve a premium for its products by paying higher attention to product quality and production standards; responding to an emerging demand from consumers, it has introduced self-regulation on organic food as well as ethical retail in general. In the absence of any South African legislation in this area, Woolworths is clearly viewed as the forerunner in this segment.

In order to assure the quality of its products, Woolworths employs a variety of self-regulatory measures along the food value chain, regarding the products themselves as well as packaging and transport. For example, the company has developed packaging that is easy to recycle, avoids genetically modified organisms and decreases the water usage during production. Just like its other self-regulatory activities, packaging is audited against the standard set by the Global Reporting Initiative (GRI). The regulatory targets require the company to work continually with its suppliers on maintaining product quality and to monitor closely adherence to internally set standards (Börzel et al. 2011). Woolworths introduced an organic product labeling scheme in order to communicate product qualities to customers. Their organic food is strictly governed by International Organic Standards and independent certifying bodies.[21] Alongside enhancing the quality of its products, Woolworths also seeks to reduce the carbon footprint of its production. This is to be achieved by cutting transport and relative electricity usage by up to 30 percent, making carbon-neutral sourcing decisions and helping with the set-up of carbon-friendly production sites (Woolworths Holding Company 2007). For the voluntary tightening of both, product and

process-regulation, the company received the Responsible Retailer of the Year Award in 2008. The company's market share grew by 25 percent in 2007 (Woolworths Holding Limited 2008).

The front-runner strategy is likely to pay even more in the future since the sales of organic food is expected to rise significantly over the next three years with a growth rate of up to 30 percent expected over the next five years (Business Monitoring International 2007). As a result, some of the larger competitors in the food retailing sector started to capitalize on the rising popularity of organic and ethically produced food both at the national and the global level and followed suit.

Pick 'n Pay caters to a less environmentally concerned customer base and used to devote considerably less efforts to controlling its environmental impacts along the supply chain. Yet it has increased the range of organic products on offer by 50 percent over the last years. This is evidence of the company's overall commitment to social responsibility as part of its overall strategy. Shoprite and Massmart have also undertaken significant efforts to improve the environmental footprint of their products by working with their suppliers, although their corporate engagement is less consistent and concerted than the self-regulation of Woolworths (Reichardt 2008).[22] In the area of organic food, their activities are only emerging.[23]

By contrast, companies like Pioneer Foods and Premier Foods, the bulk of whose production goes to the 45 percent of South Africans whose purchasing power is limited because they live in more or less severe poverty and are hardly concerned about the environment, seek to capitalize on high sales volumes with relatively low margins rather than enhanced product quality.[24] They impose comparably less stringent requirements on their suppliers.[25] There also appears to be a difference between those retailers that specialize in branded products and those that sell mostly bulk products, such as rice or maize.

In many cases, environmental self-regulation helps firms achieve efficiency gains through streamlining production processes, avoiding waste and recycling resource input. Companies also save costs, and reduce their overall dependency on a resource (Turton 2008, United Nations Global Compact and Swedish Ministry of Foreign Affairs 2007). Often these efficiency gains are referred to as a 'win-win situation' for profit and the environment.[26] Yet efficiency gains do not explain why some large firms are more active in in-house and supply chain regulation than others. The evidence from the South African food retail sector presented above shows that such variation is largely explained by reputational concerns: high-end brand name food retailers engage in self-regulation

to increase the market value of their products and firms competing in the same type of market tend to follow suit. Among those companies targeting low-end markets, self-regulation is much less developed, on a lower level and generally rare.

Large companies move beyond self-regulation and engage in multi-stakeholder initiatives if protecting their production base and natural resources is a complex task for which they have to rely on the cooperation with other key stakeholders. They form industry alliances, such as for example the CEO Water Mandate,[27] collaborate in multi-stakeholder platforms, and engage in capacity-building activities. The latter is particularly eminent at the local level where companies in some cases dispose of much higher capacity than local government.

Several MNCs have implemented firm-internal standards as part of their corporate policy to follow the same standards and regulations across all their global operations.[28] Seeking to protect both their reputation and production base they are willing to step up to make sure that their efforts at preserving common pool resources (on which they rely for their production) are sustainable and not compromised by others (Kranz 2010). 'Government is doing as much as they can but it is just not nearly enough. The need is frighteningly big – it is too big for the government. That's why the private sector has to get involved. It is not a choice!'[29] Small companies, by contrast, struggle to comply with existing regulations and often escape compliance because of the weak monitoring and enforcement capacities of state authorities, particularly when it comes to process regulation.

Fostering state regulation may also yield competitive advantages since it ensures that competitors within the sector and beyond will have to comply with the same regulatory standards. For this reason, protecting common pool resources as the base of their production may also provide incentives for large F&B firms to lobby for public process regulations and build the capacities of state authorities to monitor and enforce them. At the local level in particular, public authorities fail to deliver certain services or deal with certain issues. Large companies are then prompted to step in to ensure that their efforts to protect common pool resources are sustainable and not compromised by the lack of enforcement or the lack of service provision (Kranz 2010). At the same time, companies mitigate the strategic risk inherent in potential new legislation by engaging with government at different levels. In addition, they use the opportunity to shape government policies according to their preferences, which not only helps them gain competitive advantages but also ensures that the legal and institutional infrastructure is conducive to their own resource needs.

While the South African state is in general too weak to cast a credible shadow of hierarchy, some of the larger companies are subject to an external shadow originating in countries to which they export. Most of these firms are multinationals that have a brand name to protect and that also seek to foster their image among South African high-end consumers (see above). Unlike their South African competitors, they actively contribute to environmental governance. Yet, Clover is an exception in this regard. Contrary to other South African companies,[30] Clover aims at exporting to international markets. This explains its strong inclination to engage in strict self-regulation, which is then also expanded to the supply chain to some extent: 'We were in a project to export to Germany. So we complied with all their standards.'[31]

Finally, transnational norms are increasingly important in influencing the environmental strategies of larger companies. Especially with regard to the issues of climate change and energy, their governance contributions are driven less by industry-standards, than by global policies. Important conveyers for transnational norms are sustainability indexes, such as the Dow Jones Sustainability Index, FTSE 4Good[32] and, increasingly, the local Johannesburg Sustainability Index (JSE). Companies perceive the assessment as a permanent check on their performance; it relates them to their industry peers and 'raises the bar all the time'.[33] Thus, transnational norms reinforce reputational concerns as the key driver of corporate self-regulation in the F&B sector.

## Conclusion

Contributions to environmental governance in the South African F&B sector are as diverse as the sector itself. Smaller firms with less impact are hard to monitor and unlikely to comply with environmental regulation, let alone become active beyond what is required by law. By contrast, larger food and beverage firms with a brand name to protect, which dominate the clustered South African F&B sector, engage in environmental governance in several ways. They undertake measures to reduce their own negative externalities, for example efficiency improvements, pollution clean-up and emission reductions. They also contribute to the setting of standards with regard to packaging, air pollution control and water management schemes. Not only do these standards influence the behavior of other competitors in the industry, they also facilitate compliance with existing or imminent regulation. In some instances, firms also help to build capacity in terms of the management of environmental issues with local, provincial and national government. All in all, these

measures help to secure access to resources, that is, the production base for companies reliant on the availability of environmental resources.

In realizing such governance contributions, F&B companies engage in various forms of interaction: while self-regulatory approaches clearly dominate, they are often complemented by the involvement of other non-state or government actors. These strategies are mainly related to the inherent complexity of addressing environmental problems or managing natural resources, which requires cooperation with other stakeholders. There are also some instances where firms directly engage in lobbying activities in order to influence standard-setting at the national level, which is related to concerns about competitiveness.

Governance contributions are largely driven by reputational concerns and actual or imminent resource constraints and potential efficiency gains expected by the companies. Whenever environmental issues become a problem for the production process itself, companies act largely in their economic self-interest. In order to secure their access to resources or avoid competitive disadvantages, firms do not only engage in in-house and supply chain regulation but also foster government regulations and engage in consultative forums. This is different from cases where companies are responsible for negative externalities, but do not directly depend on the affected natural resource (e.g. in the case of air pollution). Here, it is predominantly reputational concerns and an external shadow of hierarchy cast by the countries to which they wish to export that drives the self-regulatory efforts of F&B firms.

Taken together, these drivers explain why contributions to environmental governance are by and large confined to big, mostly multinational companies with a brand name that operate in high-end markets. Here product prices are above average, consumer controls are tight and, in the case of export markets, strict product regulation is enforced. Smaller firms are less exposed to international norm discourses, have no reputation to protect, cater to mass markets and do not seek to export to highly-regulated countries that could cast an external shadow of hierarchy either. Since large companies only account for one third of the environmental impact of the sector, the effects of their governance contributions are likely to remain limited.

## Notes

1. Interview with Corporate Responsibility Manager, Unilever South Africa, 5 November 2007, La Lucia.

2. Interview with Sustainability Manager, Nestlé South Africa, 17 November 2010, Cape Town, on occasion of the UN Global Compact meeting.
3. Nozzles are mechanic devices to regulate the flow in pipes and tubes. Technological changes can help in managing flow more effectively.
4. End-of-pipe emissions occur at the end of a production process and are usually discharged into the environment or transferred to treatment facilities.
5. This was my own observation on occasion of a field visit at the malting facility, Caledon, 16 November 2010.
6. Interview with Head Sustainability Affairs SAB Miller, 16 March 2007, Sandton, Johannesburg.
7. Interview with Corporate Communications Officer Nestlé, 23 March 2007, Johannesburg.
8. Interview with Corporate Sustainability Manager, Pick 'n Pay, 22 September 2011, Cape Town.
9. Interview with Corporate Responsibility Manager, Bulk Foods Company 14 March 2007, Johannesburg.
10. Interview with Manager Environment Department, South African Sugar Association, 7 November 2007, Mount Edgecombe.
11. Interview with Manager Environment Department, South African Sugar Association, 7 November 2007, Mount Edgecombe.
12. Interview with Programme Coordinator Mondi Wetlands Project, 6 November 2007, Glenashley; interview with Corporate Social Investment Officer Cadbury Schweppes, 17 October 2007, Johannesburg.
13. Interview with Corporate Responsibility Manager, Unilever South Africa, 5 November 2007, La Lucia.
14. http://www.tongaat.co.za/imc/annual_reports/ar08/sustainability/s_report.asp [accessed 16 December 2012].
15. For South Africa part of this process has already been completed: 1. considerable variation in footprints: 155 liters water per liter of beer in South Africa (excluding grey water; 171l grey water included) vs. 61l Peru; 2. vast majority (95 percent) of water used for cultivation of raw crops, 5 percent for brewing and bottling.
16. My own observation on occasion of the semi-annual UN Global Compact meeting, held in Cape Town in November 2010.
17. My own observation on occasion of a field visit at the malting facility, Caledon, 16 November 2010.
18. Interview with Community Affairs Manager, Coca-Cola South Africa, 26 March 2007, Johannesburg.
19. Interview with Sustainability Manager, Nestlé South Africa, 17 November 2010, Cape Town, on occasion of the UN Global Compact meeting.
20. Mostly larger firms described in this chapter.
21. Author unknown: 'Going Organic', in: http://www.fastmoving.co.za/features/going-organic [accessed 12 July 2008].
22. Interview with Program Coordinator Mondi Wetlands Project, 6 November 2007, Glenashley.
23. Author unknown: 'Going Organic', in: http://www.fastmoving.co.za/features/going-organic [accessed 12 July 2008].
24. Interview with Manager Corporate Affairs, Pioneer Foods, 3 April 2007, Paarl.

25. Interview with Corporate Responsibility Manager, Premier Foods, 28 March 2007, Johannesburg.
26. See Coca-Cola company website: http://www.thecoca-colacompany.com/ [accessed 15 November 2011]; Nestlé: http://www.nestle.com/Pages/Nestle.aspx, [accessed: 30 January 2011]; SAB Miller: http://www.sabmiller.com/ [accessed 15 November 2011]; Unilever: http://www.unilever.com/ [accessed 15 November 2011].
27. South Africa is in fact the country with the highest number of active firms within the CEO Water Mandate.
28. Interview with Head Sustainability Affairs SAB Miller, 16 March 2007, Sandton, Johannesburg; interview with Community Affairs Manager, Coca-Cola South Africa, 26 March 2007, Johannesburg.
29. Interview with Corporate Responsibility Manager, Unilever South Africa, 5 November 2007, La Lucia.
30. Interview with Corporate Responsibility Manager, Bulk Foods Company, 28 March 2007, Johannesburg.
31. Interview with Corporate Environmental Manager, Clover Danone, 27 March 2007, Roodeport.
32. FTSE: Financial Times Stock Exchange; 4Good 'for Good': the sustainability index of the FTSE.
33. Interview with Head Sustainability Affairs SAB Miller, 16 March 2007, Sandton, Johannesburg.

# 12

# A Race to the Bottom? Environmental Protection and the Textile Industry

*Anna Kristin Müller-Debus*

## Introduction

While the textile sector is not as heavy a pollutor as, for example, the mining industry, it still has a considerable impact. Textile production consumes large amounts of fresh water, especially during the dyeing process. In addition, the manufacturing of textile products involves the use of chemicals such as, for example, transfer agents or dyes, which can have a strong negative environmental impact if not carefully handled and disposed of.[1] Saturated with dyes, defoamers, bleaches and detergents, the chemically contaminated wastewater of textile production often causes severe environmental damage. Textile retailing is adding to the environmental impact of the industry sector on account of its heavy dependence on energy-intensive air-conditioning in shops, in addition to the transport and distribution of products to shopping centers across South Africa. These aspects make the industry a significant producer of $CO_2$. Hence, the textile industry has ample opportunity to contribute to environmental governance in South Africa.

The main argument of this chapter is, however, that the industry lacks sufficient incentives for a profound engagement in environmental governance – notwithstanding the notable exceptions of individual firms or segments of the sector that engage in environmental protection. The textile sector is, by and large, a negative case as concerns the interest of this book in 'a race to the top' with respect to governance. In fact, it is an example of a sector in which 'race to the bottom' dynamics seem to prevail (see also Chan 2003, 2005). The industry sector is dominated by the retailers' purchasing power. Most of these retailers are price-driven in their market strategy (see Chapter 2 in this

book). Textile production is highly liberalized internationally and a rather low-tech, low-investment and labor-intensive business based on short-term contracts with organizationally independent suppliers (Gereffi and Memedovic 2003). As a result, there are strong incentives to minimize the costs of production and maximize negative externalities; this explains why the governance performance of the textile sector is comparatively low.

This chapter will first present the attempts of the textile sector to contribute to environmental governance. Secondly, I will consider potential explanations for why so many firms in the textile industry do not contribute to environmental governance. What accounts for the notable exceptions of the few firms and segments in the textile industry that substantially contribute to governance?

## The exception to the rule: contributions of textile firms to environmental governance

The textile manufacturing segment in South Africa, in particular apparel and garment production, is, economically speaking, in dire straits. Textile retailers in South Africa prefer to source their products from the Far East (most importantly China), where labor and other costs of production such as energy, waste management and water are lower than in South Africa.[2] Therefore, margins are limited in what remains for South African textiles production. In fact, manufacturers have their backs to the wall, struggling for survival on an everyday basis. Under such conditions, environmental concerns are more often than not considered negligible. The exception in this respect is the industrial textile manufacturers segment. This branch – firms making filters for the car industry for example – is not as economically weak as the apparel and garment segments and, moreover, industrial textile manufacturers do make attempts to contribute to environmental governance in South Africa.

The textile retailer segment, while economically strong, is inactive concerning environmental governance as most firms in the apparel and garment manufacturer segment. Except for high-end market firms, the whole retailing industry is highly price-driven and makes use of the comparative cost advantages that the globalized market for textile trade offers. This makes the industry particularly prone to 'race to the bottom' dynamics (Chan and Ross 2003, Gereffi and Memedovic 2003).

If we consider the individual attempts – or the absence thereof – of the South African textile industry to contribute to governance, it comes

to the fore that, firstly, the industry hardly ever engages in any direct consultation or lobbying activities with the government in regard to environmental governance, and does not attempt to foster the regulatory capacities of state agencies. This is noteworthy, as the industry's retailer segment includes companies of substantial size that are actively lobbying government in other fields of regulation (such as, e.g., trade regulation or food security – see Chapter 11).

Regarding public–private co-regulation, the sector, secondly, is not coordinated much with the state or multi-stakeholder initiatives to strengthen environmental governance in South Africa. Public–private partnerships in this respect are rare. However, some noteworthy examples stand out. These account for most of the textile industry's attempts to contribute to environmental governance in South Africa. A German-originating upmarket brand, which produces underwear, has run a partnership program with the Danish government in the past in order to enhance productivity.[3] This program also included environmental aspects such as energy efficiency and the reduction of waste production. Other public–private partnerships of local industry communities with the South African government which aim mainly at enhancing the productivity of textile production – just like the project that involves the above mentioned German firm – also have positive spin-offs for environmental governance. For example, the 'KwaZulu-Natal Clothing and Textile Cluster' (KZC CTC) and the 'Cape Clothing and Textile Cluster' (CCTC) in the Western Cape, unite several apparel, garment and industrial textile manufacturers as well as retailers such as Retailer DC[4] and Retailer OO.[5] The public-private partnerships that form the basis of these clusters were founded to upgrade the local textile manufacturing industry to international standards in terms of efficiency, productivity and quality. The funding for these clusters is mainly provided by the provincial governments, the textile retailers and via membership fees. The main beneficiaries are the textile manufacturers. However, contrary to their original reluctance to join, retailers also profit from the clusters since they can draw on a more reliable textile supply chain.

While the clusters were set up for economic reasons, a side effect of their existence is that they provide a structure within which issues related to environmental protection can be addressed. For example, in the local industry cluster KZC CTC in KwaZulu-Natal, companies take part in seminars on environmental protection. Here they learn about international standards of corporate social responsibility and the value and ways of implementing environmental management systems.

These examples of public–private co-regulation, however, need to be put in perspective. The Clusters are important initiatives, but mainly from an industrial development point of view. Environmental protection is certainly not a priority for them, and the activities in this respect are rather limited. Moreover, the environmental protection attempts in these clusters do not address the retailers, but only the manufacturers. Furthermore, the participating manufacturers amount to only a small fraction of textile manufacturers in South Africa.[6] Hence, their impact is rather limited.

Apart from public–private partnerships, some local multi-stakeholder initiatives are worth pointing out as additional means of public–private co-regulation in the realm of the environment. The Belville South Environmental Forum in the Western Cape, for instance, comprises companies, NGOs, schools, universities, resident associations and local, provincial and national government (Héritier et al. 2009).[7] Here, a large local textile firm negotiates with civil society organizations' measures to reduce its substantial environmental impact on the neighboring local communities – all this under the auspices of the local government. The community monitors the company's activities. However, involvement in such initiatives is not a common thing for textile manufacturers to do. In fact, these are rare projects and are the exception rather than the rule. If at all, it is industrial textile manufacturers that contribute to such forms of environmental governance. In summary, the textile industry is not a main provider of governance in South Africa by means of public–private co-regulation.

This is, thirdly, also true for the engagement of textile firms in private self-regulation. In general, the level of organization in associations in the industry sector is low (Müller-Debus et al. 2009a, 2009b). Accordingly, collective attempts to contribute to environmental governance are weak. Some textile retailers, such as Retailer DC, Retailer OS and Retailer OO take part in the National Business Initiative (NBI),[8] a cross-sector approach of the industry in South Africa to organizing governance. Environmental protection is one of the NBI's focus areas, handled by the Sustainable Futures Unit (SFU). With information and advocacy work, a weekly online newsletter, a quarterly publication and executive guides the SFU offers various services to its members (on the SFU see also Chapter 11). Thus, the SFU has the potential to prove itself as a forum for governance contributions.[9] However, while companies can contribute to environmental protection via specific projects, they do not have to as part of their membership. Moreover, basic membership fees are voluntary. 'We have an entirely voluntary

membership fee structure. We give them an indication of what their peers would be paying. Some pay significantly more, some pay significantly less.'[10] This allows for instable commitment as well as official membership without actually contributing to environmental protection activities.

For example, in the context of the NBI, the government negotiated a list of voluntary commitments with the industry, which turned into the Energy Efficiency Accord signed in May 2005. In the Accord, parties agree to 'collaborate to establish a mutually beneficial framework for voluntary energy efficiency initiatives'.[11] In 2008, the Department of Trade and Industry reported that

> [O]ver 2 405 GWh of electricity were collectively saved by 15 of the Accord signatories who were able to report their information in the 2007 financial year. This is over 8 660 TJ and is equivalent to more than 3.5 days of the average national electricity demand.[12]

Retailer OO was among those companies that even exceeded the envisioned energy savings of. However, Retailer OO is the only textile retailer actively engaged in this project. None of the other retailers, let alone the textile manufacturers, contributed to the reduction of negative externalities in the realm of energy efficiency.[13]

Retailer OO has also collaborated with the South African NGO ComMark Trust, which seeks to 'make markets work for the poor', Cotton SA, which is the forum and service provider of the South African cotton industry, and Organic Exchange, an international organization dedicated to expanding global supplies of organic cotton.[14] The aim of this collaboration is to foster the use of organic cotton in textiles. The initiative developed an organic cotton program that is now implemented in a number of cotton farms in the Eastern Cape and Limpopo provinces under the direction of the Agricultural Research Council's Institute for Industrial Crops, a state organization. Thus, the initiative not only contributes to sustainable production but also to the economic development of South Africa's previously disadvantaged small-scale farmers. 'Retailer OO is committed not only to promoting the use of organic cotton, but – and perhaps even more importantly – to fostering the growth of a local organic cotton industry', says Retailer OO' Group Head of Design, Sourcing & Technology, in January 2008.[15] The retailer is the world's third largest consumer of organic cotton, only second to the American giants Wal-Mart and Nike.[16] However, this initiative again does not enjoy broad support within the textile sector. Instead, it

reflects the activities of one specific firm, Retailer OO, and is thus rather exceptional in the sector.

As far as supply chain regulation is concerned, only few retailers and manufacturers show any activity (Héritier et al. 2009, Müller-Debus 2010, Thauer 2010). Retailer OO provides information on environmental protection and expects its suppliers and second-tier suppliers to adhere to its supplier code of business conduct. This involves having an environmental management system in place. Retailer OO closely monitors the implementation, focusing on energy usage, recycling, carbon emissions and wastewater.[17] Retailer IK and Retailer DD take a similar approach. As one senior manager of a textile supplier explains,

> Retailer IK has an office here at our premises. And we are not going to say that we had all the checks and balances in place. We are progressively moving toward having them all. In particular now with their requirements, their standards are extremely high … they are very focused on environmental issues; they are very focused on compliance in every logistical form you can imagine. So it's a lot of work for us. … They demand more in terms of environment, in terms of social standards, than the government would require.[18]

However, Retailer IK has only two contractor factories in the country. Hence, only a small proportion of apparel and garment textile manufacturers are faced with the mentioned pressure to implement environmental standards. In general, the implementation of certified management systems is rare among textile apparel and garment manufacturers. Retailer DD demands ISO 14001, but does not require immediate implementation; in addition, it has only very few suppliers in the country.[19] The industrial manufacturers, in contrast, often do run certified management systems such as ISO 14001. For example, textile manufacturer, which supplies high-end hotel chains with hotel carpets, and textile manufacturer, which supplies filter systems to the automotive industry, have implemented ISO 14001. They also demand environmental management systems from suppliers.[20]

As a supplier of different retailers, which include Retailer OO, Retailer DD, Retailer DC, Retailer RP and Retailer DD, an apparel and garment manufacturer has emphasized that 'most of the companies do not really have an environmental clause. Only Retailer OO and Retailer DD do'.[21] Similarly, a sportswear manufacturer and an underwear company have indicated that their customers do not ask them to implement environmental policies or standards.[22] The General Manager of a Gauteng-based

manufacturer, which supplies Retailer DC but was not approved as a supplier for Retailer OO, points out that 'Retailer OO is the only one that is really strong about environmental protection'.[23] Other textile companies confirm this view. Retailers such as Retailer OO or Retailer IK are exceptions as far as contributions to environmental protection are concerned.[24]

Finally, with respect to in-house attempts to mitigate environmental pollution, the findings are highly similar to what was asserted already above. In the retail sector so far only Retailer OO seems to be committed to reduce its energy use and $CO_2$ footprint. The other firms lag behind. For example, Retailer OS – a retailer catering for a medium income segment by South African standards – only began to think about how its $CO_2$ impact could be measured in the future when reporting of the $CO_2$ footprint was about to become a requirement of the Johannesburg Stock Exchange listing of the company.[25] Hence, the firm felt the pressure at least to consider a measurement of its impact – which shows that it is still a far cry from engaging in the reduction of that impact. A similar situation of inactivity with respect to environmental concerns prevails in the apparel and garment segment of the textile manufacturing sector. Except for those firms that supply Retailer IK and Retailer OO, the majority of manufacturers do not take into account environmental considerations in the organization of their production processes. Illustrative in this respect is a textile manufacturer that was once a contractor of an international fashion brand. When the firm was still a supplier to this internationally renowned brand, it was pressured to engage in environmental protection, even to the extent that the firm prepared for ISO 14001 environmental management system certification. Ever since the firm had lost its contract with this international corporation[26] some years ago, however, it started to release the 'dye water […] into the sea'[27] again and is thus 'killing all our whales', as a manager of the textile firm remarks.

A different situation persists, however, in the industrial textiles segment. Industrial textile firms often engage in in-house policies to protect the environment. Cases in point are the carpet manufacturer and the automotive second-tier supplier, already mentioned, which both run ISO 14001 environmental management systems. The table below summarizes the (absence of) environmental governance contributions of firms in the textile sector (Table 12.1).

## Drivers of environmental protection in the textile sector

Why is it that many firms in the textile industry do not contribute to environmental governance? And what accounts for the few notable

*Table 12.1* The (absence of) environmental governance contributions

| Governance contributions, modes of interaction | | Retailers/International brands | Apparel and garment textile manufacturers | Industrial textile manufacturers |
|---|---|---|---|---|
| **Fostering of public regulation and state capacities** | *Consultation and Lobbying* | No direct lobbying | No direct lobbying | No direct lobbying |
| | *Capacity-building* | No capacity building | No capacity building | No capacity building |
| **Public-private co-regulation** | *Bipartite* | Public–private partnership of underwear manufacturer with Danish government; industry cluster initiative which involve environmental aspects | Industry cluster initiative which involves environmental aspects | Industry cluster initiative which involves environmental aspects |
| | *Tripartite* | Unions generally not engaged in environmental issues | Unions generally not engaged in environmental issues | Unions generally not engaged in environmental issues |
| | *Multi-stakeholder* | No multi-stakeholder engagement | No multi-stakeholder engagement | Belville South Environmental Forum in the Western Cape or the Environmental Project Group in KwaZulu Natal |

| | | | | |
|---|---|---|---|---|
| **Private self-regulation** | *Involving non-state stakeholders* | Retailer OO cooperates with NGO ComMark Trust, Cotton SA and Organic Exchange; no other engagement of retailers | No engagement | No engagement |
| | *Through business association* | Retailer OO and several retailers take part in NBI energy efficiency initiative (but only Retailer OO is actively participating) | No engagement | No engagement |
| | *Along the value chain* | Retailer OO, Retailer IK and Retailer DD regulate supply chain; most retailers, however, show no engagement in supply chain regulation | No engagement | Some firms demand from their suppliers ISO 14001 environmental management systems |
| | *In-house* | Retailer OO runs energy efficiency programs; most retailers are, however, inactive | A limited number of firms have environmental policies in place | A majority of firms runs environmental management systems such as ISO 14001 |

exceptions? In regard to the generally low level of governance, large retailers dominate the industry sector with their purchasing power (Gereffi and Memedovic 2003). Although they have the capacities to engage in environmental governance, most of these retailers are more concerned with achieving a low price.[28] This is also why they source most of their products from the Far East, especially China, in order to profit from comparative cost advantages.[29] Only small proportions of the products they sell are produced in South Africa.[30] With respect to these small proportions, their interest is to achieve the lowest possible price in order to keep profit margins up for the products they sell by profiting from the comparably lower costs for labor, energy, waste management and water.[31] As a consequence, the sector is dominated by 'race to the bottom' rather than 'race to the top' dynamics (Chan 2003, 2005). Correspondingly, the textile manufacturing segment, and in particular apparel and garment production, is under economic pressure, too. Firms are trying to minimize the cost of production. While the overall governance performance of the textile sector is weak, the situation is different in the industrial textile segment. This segment takes part in high-tech supply chains, for the automotive industry for instance, where margins are generally higher, and in which long-term, asset specific investments dominate (Müller-Debus 2010, Thauer 2010, 2014). Industrial textile firms are not only highly regulated by buyers (e.g. large multinational car companies) (Héritier et al. 2009); they also have strong internal incentives to engage in environmental governance (see Chapter 9).

There are different reasons for the absence of lobbying and consultation activities from textile firms. For one, textile manufacturing firms – of both the apparel and garment and industrial textiles segments – are mainly small- or small-to-medium-sized companies that generally do not engage in direct interaction with government. On the one hand, these firms lack the capacities to sustain a close relationship with the government. Hardly any of these firms has a public affairs management office. On the other hand, access to government is quite restricted for firms of minor size, in particular in view of the many firms in this industry segment; a government prefers to talk to few representatives only. If it does at all, the government grants associations that represent the aggregate interests of these firms' access to consultation and lobbying processes. However, associative structures are weak in the textile industry (Müller-Debus et al. 2009a, 2009b). The large retailers that in fact would have the capacity have no interest in fostering environmental regulation or the regulatory capacities of government, as this would increase the costs of production. There are exceptions, however,

including Retailer OO and Retailer IK. Yet these players only account for a niche within the market; they do not have the bargaining power to raise the level playing field regarding environmental standards in South Africa. It is nonetheless worth asking what it is that drives these firms' self-regulatory environmental engagement, especially as this engagement is the exception to the rule in the sector.

The companies that engage in self-regulation, such as Retailer IK, Retailer DD and Retailer OO, target the high-end of the consumer market and are subject to ongoing monitoring and campaigns by NGOs.[32] These companies seek to maintain a socially responsible reputation. Moreover, the South African Retailer OO serves consumers with an interest in environmental protection. It is for these reputational concerns that Retailer IK, Retailer DD and Retailer OO also control and closely work with their suppliers to improve compliance. This is especially the case for Retailer OO and explains why this retailer also engages in in-house environmental policies.[33] In order to safeguard its reputation for sustainable products and production, Retailer OO engages in environmental protection initiatives such as the Organic Cotton Program. Thus, the interest in establishing and maintaining a reputation for an environmentally sound approach triggers these companies' engagement in environmental governance initiatives.

Differences within the retailer segment of the industry with respect to reputational concerns also account for large parts of the observed variation of engagement in environmental policies in the apparel and garment textile manufacturer segment. The suppliers of those retailers and international brands with reputational concerns have to adhere to rather strict environmental standards. Hence, the reputation-based argument that explains the engagement of retailers and international brands in governance extends to their respective value chains as well. However, since only a small proportion of South African textile firms supply these reputation-driven retailers and international brands, the impact of this factor is limited. Most of the apparel and garment manufacturers in South Africa supply firms that do not show an interest in establishing an environmental and social reputation and therefore neglect any environmental concerns in their business operations. In fact, usually it is the price that matters – at the expense of environmental protection.

The behavior of the retailer Retailer DC is an example of how a textile company without a particular interest in developing a reputation for corporate social responsibility and a corresponding customer group refrains from environmental protection activities. The case is particularly interesting as Retailer DC is a company that not only serves

the mass-market, but also has stores that sell to middle-class segments of the consumer market. Hence, the case does not stand on its own, but represents retailers that sell to relatively broad consumer markets.[34] The 2003/4 launch of the Socially Responsible Investment (SRI) Index of the Johannesburg Stock Exchange (JSE) pushed JSE listed companies to rethink progressively their approach to social responsibility. The Index measures companies' policies, performance and reporting in relation to environmental, economic and social sustainability issues. Therefore, it became an imperative for Retailer DC to formulate an environmental policy. Moreover, the company started to take steps toward making internal procedures more environmentally sound.[35] However, with privatization the move toward more sustainability came to a hold. Thus, today, the retailer's approach to sustainability is not more than basic – as a statement by the Logistics Manager shows:

> Now we've been privatized[36] we don't have to publish but we're still aware of some of those things. We're obviously working where we can. Diesel emissions are a problem; we try not to send empty trucks anywhere in the country. We wait until a load is full before we dispatch a vehicle so … and as our turnover grows unfortunately we will have more trucks on the road.[37]

Correspondingly, the retailer's interaction with suppliers does not touch upon environmental matters.[38] Despite having a long history of textile sourcing, Retailer DC has had only loose relationships with its over 700 suppliers. Certainly, suppliers have always been required to comply with legislation and maintain a certain quality, quantity and price. 'Every time we contract a new supplier, we do financial health checks … and we have a quality assurance department, and that involves literally everything – so pre-production samples, post-production samples and pre-event competitive shopping and so on.'[39] However, environmentally ignorant behavior on the part of suppliers has not been viewed as a danger to the Retailer DC brand.[40] The company does not follow a business strategy based on a particularly developed socially responsible reputation.

What explains, then, the rather strong performance of the industrial textile segment with respect to environmental standards? Firstly, reputational concerns are important. The carpet manufacturer sells to high-end hotel chains. The automotive second-tier supplier sells to high-end market car companies. These customers demand adherence to the highest international standards attainable from their suppliers for reputational reasons. Hence, the firms have to be ISO 14001 certified to be a supplier. Secondly, beyond reputational concerns, the customers of the two

mentioned companies tend to maintain long-term relationships with their suppliers on account of the high levels of asset specificity in these value chains; in fact they become dependent on them to a certain extent (Héritier et al. 2009). Environmental management systems such as ISO 14001 are a means by which these customers can reduce uncertainty and related risks of such long-term exchange relationships (Héritier et al. 2009, Thauer 2010, Müller-Debus 2010). The mitigation of risks inherent in long-term exchange relationships is thus a driver for buyers to demand strong environmental programs from their suppliers in this industry segment. In addition, and similarly to the automotive industry (see Chapter 9), the long-term, asset specific investments in production technologies of these firms motivate them to engage in environmental standards in order to remain competitive and to guarantee resource use efficiency. In the apparel and garment segments of the textile industry, by contrast, these aspects of asset specificity are absent. Apparel and garment production usually involves only minor specific investments. Therefore, buyers (the retailers) do not depend on individual manufacturers to a comparable degree, and therefore engage in short-term contracting only. If a supplier does not deliver at the envisioned price or expected quality, (s)he is easily substituted by another seller on the market. Also, intra-organizational long-term investments are largely absent in apparel and garment production. Hence, the profit-maximizing vision of these firms is predominantly short-term oriented on account of absent asset specificity and therefore does not value the long-term gains that can be achieved through environmental management.

Finally, what remains to be explained is the engagement of retailers in public–private partnerships such as the Manufacturing Clusters. Firstly, the retailers have an interest in enhancing the productivity of local textile manufacturing for the reasons spelled out above – that is, for profit margins, given that South Africa is a rather expensive country for textile production. While retailers tend to largely source from abroad, local sourcing facilitates short-notice ordering and does not bear the risks associated with international buying. Secondly, government pressure has been an incentive. Due to the severe industrial decline of the textile industry and corresponding job losses, government threatened to hamper textile imports. The Textile Manufacturing Clusters had already been established when the retailers were invited to participate. The consultant coordinating the cluster's activities explains:

> The retailers have only been members of the cluster since April 2006. We had a big strategy session with the retailers at the end of 2005, well, October 2005. I met with the CEOs of each of the retailers and

*Table 12.2* Drivers of environmental governance contributions

| Governance contributions | | Driver |
|---|---|---|
| **Fostering of public regulation and state capacities** | *Consultation and lobbying* | None |
| | *Capacity-building* | None |
| **Public-private co-regulation** | *Bipartite* | Reputational concerns, efficiency, shadow of hierarchy |
| | *Tripartite* | None |
| | *Multi-stakeholder* | Reputational concerns, shadow of hierarchy |
| **Private self-regulation** | *Involving non-state stakeholders* | Reputational concerns |
| | *Through business association* | Reputational concerns |
| | *Along the value chain* | Reputational concerns, asset specificity |
| | *In-house* | Reputational concerns, asset specificity |

> I asked them if they could please attend a two-day session with the industry, for us to discuss where the opportunities were for the local manufacturers. They were under a huge amount of pressure from government in terms of all the sourcing, because they'd all shifted their sourcing offshore.[41]

The clusters themselves are public–private partnerships. Provincial government was especially interested in avoiding further job losses in the textile industry. It should, however, be noted that environmental protection – as emphasized above – only constituted a minor point on the agenda of the clusters. It was part of a package aimed at fostering sustainable development and efficiency with the help of standard setting (Table 12.2).[42]

## Conclusion

The textile industry is, generally speaking, a rather weak governance provider in the field of the environment. This makes the industry sector in the context of this book – and in particular when compared with other sectors, such as the automotive industry – a negative case of business governance and the alleged 'race to the top'. This sector is

dominated by the retailers' purchasing power. Most of these retailers, however, are price-driven in their market strategy. They do not engage in environmental management, nor do they require suppliers to engage in environmental regulation. Retailer OO and Retailer IK are notable exceptions on account of their strong reputational concerns. The retailers' lack of consideration for environmental standards has consequences for their suppliers as well – they depend on them. The textile manufacturing segment in South Africa, and in particular apparel and garment production, are facing dire economic times. Under such conditions, environmental concerns are, more often than not, considered as negligible. Rather, strong incentives persist to minimize the costs of production and maximize negative externalities.

An exception to this is the industrial textile segment, which is in fact a relatively strong governance provider. These companies, however, play their part in high-tech supply chains, as in automotive production, where margins are generally higher, and in which long-term, asset-specific investments dominate. As a consequence, this segment is not only highly regulated by buyers (e.g. large multinational car companies), it is also driven by strong internal incentives to engage in environmental governance (see Chapter 9).

In conclusion, where environmental governance emerges in the textile sector, reputational concerns and asset specificity are the main driving factors. However, since asset specificity is low overall and a reputation for socially responsible behavior has so far been of value only for a small proportion of textile consumers in South Africa, the textile sector is generally characterized by a relatively limited interest in environmental protection.

## Notes

1. The textile industry draws on approximately 2000 different types of chemicals. See Environmental Hazards of the Textile Industry, Hazardous Substance Research Centers/South & Southwest Outreach Program, June 2006. Interviews conducted in March and September 2007 with various textile companies and experts in South Africa.
2. Interview with General Manager, textile manufacturer, 20 September 2007, Cape Town, South Africa; interview with textile expert, 1 October 2007, KwaZulu-Natal, South Africa; interview with Good Business Journey Manager, Retailer OO, 17 September 2008, Western Cape, South Africa; interview with Logistics Executive, Retailer DC, 30 September 2008, Gauteng, South Africa. See also Chan (2003, 2005).
3. Interviews with the Human Resources Manager, the Occupational Health Manager and the Production Manager, German textile brand, 1 and 20 September 2007, Western Cape, South Africa.

4. Several interview partners asked us to anonymize the names of companies.
5. Interview with textile expert, 1 October 2007, KwaZulu-Natal, South Africa.
6. Interview with General Manager, textile manufacturer, 20 September 2007, Western Cape, South Africa; interview with General Manager, textile manufacturer, 13 September 2007, Gauteng, South Africa; interview with DTI Western Cape, 18 September 2008, Western Cape, South Africa; interview with textile expert, 1 October 2007, KwaZulu-Natal, South Africa.
7. Interview with Environmental Manager, a Production Manager and a Union Representative, textile manufacturer, 30 March 2007, Western Cape, South Africa.
8. For details pertaining to the NBI see the chapter 'Business and Environmental Governance in South Africa' by Kranz and Hönke in this volume.
9. NBI Annual Report 2008; information available from www.nbi.co.za [accessed June 2009]; interview with Sustainability Officer and CEO, National Business Initiative, 19 March 2007, Gauteng, South Africa.
10. Interview with Sustainability Officer and CEO, National Business Initiative, 19 March 2007, Gauteng, South Africa.
11. Report 'NBI Energy Efficiency Accord. Collaborative Action for Energy Regional Network Case Study. World Business Council for Sustainable Development'. Published 2008. Available from http://www.wbcsd.org/DocRoot/PfGHVgSo01GC3ES3tuf2/NBIenergyefficiencyaccordfullcase.pdf; also interview with Sustainability Officer and CEO, National Business Initiative, 19 March 2007, Gauteng, South Africa.
12. Information available from: http://www.nbi.org.za/SiteCollectionDocuments/ee_accord_assessment_report.pdf.
13. Information available from: http://www.nbi.org.za/SiteCollectionDocuments/ee_accord_assessment_report.pdf.
14. Information available from http://www.Retailer OOholdings.co.za/media/news_display.asp?Id2=140 [accessed June 2009].
15. Information available from http://www.Retailer OOholdings.co.za/media/news_display.asp?Id2=140 [accessed June 2009].
16. Information available from www.textileexchange.org [accessed June 2009].
17. Interview with Good Business Journey Manager, Retailer OO, 17 September 2008, Western Cape, South Africa.
18. Interview with Human Resources Manager, Production Executive and Sales Executive, apparel manufacturer, 16 September 2008, Western Cape, South Africa; interview with Supply Chain Manager, Retailer IK SA, 1 October 2008, Gauteng, South Africa; interview with Wellness Manager, Retailer IK, 27 September 2008, Gauteng, South Africa.
19. Interview with Human Resources Manager, Retailer DD SA, 20 September 2007, Western Cape, South Africa.
20. Interview with Management Systems Manager, textile manufacturer, 28 September 2007, KwaZulu-Natal, South Africa.
21. Interview with Human Resources Manager, Project Manager and others, textile manufacturer, 2 April 2007, Western Cape, South Africa.
22. Interview with General Manager and Human Resources, apparel manufacturer SA, 25 September 2007, Eastern Cape, South Africa; interview with Supply Chain Manager, Director Manufacturing and HR Manager, apparel manufacturer, 25 September 2008, KwaZulu-Natal, South Africa.

23. Interview with General Manager, textile manufacturer, 13 September 2007, Gauteng, South Africa.
24. Interview with Quality Management Representative and colleagues, textile manufacturer, 17 September 2008, Western Cape, South Africa; interview with Human Resources Manager and Production Manager, German textile brand, 21 September 2007, Western Cape, South Africa; interview with General Manager, textile manufacturer, 20 September 2007, Western Cape, South Africa.
25. Interviews with the Group Logistics and Sourcing Manager, with the Risk Manager and the Corporate Social Investment Manager, Retailer OS, 16 September 2008, Western Cape, South Africa.
26. The international corporation withdrew production from South Africa on account of the country's relatively high costs of production.
27. Interview with the Project Developing Manager and the Training Coordinator, textile manufacturer, 2 April 2007, Western Cape, South Africa.
28. Interview with General Manager, textile manufacturer, 20 September 2007, Western Cape, South Africa; interview with General Manager, textile manufacturer, 13 September 2007, Gauteng, South Africa; interview with DTI Western Cape, 18 September 2008 Western Cape, South Africa; interview with textile expert, 1 October 2007, KwaZulu-Natal, South Africa.
29. This is even true for Retailer OO, the up-market retailer.
30. Why do these retailers still source some parts of their products from South Africa? The explanation relates to the vicinities between South African textile manufacturers. These allow retailers to order batches of clothes at short notice.
31. Interview with General Manager, textile manufacturer, 20 September 2007, Western Cape, South Africa; interview with textile expert, 1 October 2007, KwaZulu-Natal, South Africa; interview with Good Business Journey Manager, Retailer OO, 17 September 2008, Western Cape, South Africa; interview with Logistics Executive, Retailer DC, 30 September 2008, Gauteng, South Africa. See also Chan (2003, 2005).
32. A recent example is a campaign launched by Greenpeace. Information available from http://www.greenpeace.de/fileadmin/gpd/user_upload/themen/chemie/Dirty_LaundryHung_Out_to_Dry_WEB_FINAL2.pdf [accessed August 2011].
33. Interview with Human Resources Manager, Production Executive and Sales Executive, apparel manufacturer, 16 September 2008, Western Cape, South Africa; interview with Supply Chain Manager, Retailer IK SA, 1 October 2008, Gauteng, South Africa; interview with Wellness Manager, Retailer IK, 27 September 2008, Gauteng, South Africa.
34. The inference is that only those retailers (such as Retailer OO) that target an exceptionally high segment of the consumer market and/or have an exceptionally strong brand position engage in governance.
35. Interview with Logistics Executive, Retailer DC, 30 September 2008, Gauteng, South Africa.
36. In 2007, Retailer DC was bought by a US private equity company and, hence, left the JSE/SRI. However, without participation in the SRI the retailer did not see any reason to intensify environmental protection activities.
37. Interview with Logistics Executive, Retailer DC, 30 September 2008, Gauteng, South Africa.

38. Retailer DC Annual Reports.
39. Interview with Logistics Executive, Retailer DC, 30 September 2008, Gauteng, South Africa.
40. Interview with Logistics Executive, Retailer DC, 30 September 2008, Gauteng, South Africa.
41. Interview with textile expert, 1 October 2007, KwaZulu-Natal, South Africa.
42. Interview with DTI Western Cape, 18 September 2008, Western Cape, South Africa; interview with textile expert, 1 October 2007, KwaZulu-Natal, South Africa.

# Part IV
# Conclusions

# 13
# Racing to the Top?

*Tanja A. Börzel, Christian R. Thauer and Jana Hönke*

Sans Fibre, a large chemical industrial textiles firm in Bellville, Cape Town, was a heavy environmental polluter during apartheid times (Héritier et al. 2009, Bray and Thauer 2014). The surrounding neighborhoods suffered badly from the Sans Fibre factory's industrial fallout, effluents, uncontrolled hazardous waste disposal and emissions. With South Africa's full transition to democracy, the local community would not take it any more. Citizens rallied together against the business. To force the company to reduce its pollution output, inhabitants organized a series of actions. A media campaign was launched; protests were organized in front of the factory gates; and local politicians and state representatives, who in South Africa often lack the capacity to enforce environmental laws, were pressured to take action against the pollution of the firm. As a consequence, the firm agreed to establish an environmental forum as a conflict mitigation mechanism. In the context of this forum, Sans Fibre was forced to negotiate pollution reduction measures with the local community. Today, the firm is in the process of ISO 14001 environmental management certification, and has significantly mitigated its negative impact on the locality.

This example illustrates the contested role of business in society and global governance. Until recently, most of the literature on business and governance in areas of limited statehood analyzed firms in the context of economic, environmental and social exploitation. Sans Fibre seems to be a case in point. To save costs, the firm simply dumped the negative side effects of production on the local environment and community. This behavior reflects a general tendency of business to relocate its production sites to areas of limited statehood in order to escape the strict regulation of high-regulating home markets in the EU, the United States or Japan. In competing for foreign direct investment, this relocation

strategy of globally operating business forces states to enter a regulatory 'race to the bottom', resulting in the downsizing of regulation. Emerging markets and developing countries, in turn, cannot catch up with the industrialized part of the world in a sustainable way.

More recent analyses, however, suggest a different perspective on business and governance in areas of limited statehood. Rather than undermining state regulation, business may help fill governance gaps left by states that are not capable and are often unwilling to provide collective goods and services. The example of Sans Fibre is again helpful in illustrating a less detrimental role of firms for governance in areas of limited statehood. To gain the trust of the local community and thereby lower public pressure, the managers of the firm decided to invite residents to the plant regularly and demonstrate the implemented measures. This kind of direct monitoring appeased the protests, while the environmental performance of the chemical fiber producer improved as an outcome of further negotiations between the firm and the residents. Over the years, the relationship between the residents and chemical fiber producer was transformed. 'There is no longer a need for the firm to negotiate with the residents because we've exhausted the problems, our list has gone',[1] says the environmental manager of Sans Fibre. Nonetheless, the firm still organizes the environmental forum today. It seems as if the firm has changed sides. It is now allying with the residents and helping them to target other heavy polluting firms and competitors in the neighborhood. In order to avoid competitive advantages, it now pressures other firms into becoming more environmentally friendly themselves.

This edited volume is not partial to either of the two perspectives on the role of business for governance in areas of limited statehood. We believe that it is, in the end, an empirical question what this role is and under which conditions business is ready to play it. This role is indeed ambivalent. On the one hand, the business of business is to make business, as Milton Friedman infamously pointed out. The institutional mandate of companies is profit-oriented. Since social and environmental standards involve costs, companies tend to have a preference for less rather than more regulation. On the other hand, business increasingly accepts its social responsibility to mitigate negative impacts of economic activities on the natural and social environment. The direct delivery of public health or education is still conceived of as a public task to be fulfilled by the state (Deitelhoff and Wolf 2010). Yet companies require certain collective goods and services to make profits. In industrialized countries, these goods and services are usually delivered by the state. In areas of limited statehood, by contrast, the state is too weak, and

often not willing, to provide minimal security, basic infrastructure or sufficient energy and clean water – public goods the provision of which is necessary for business activities.

The contributions to this book present ample evidence that companies voluntarily implement environmental protection standards, provide HIV/AIDS-related services, or agree to use sustainable energy in areas where the South African state lacks the capacity or the willingness to do so. At the same time, however, the various chapters do find significant variation, both with regard to the extent to which companies engage in health and environmental governance as well as to the quality of their contributions. This book therefore asks what kind of governance contributions firms in South Africa make and how these governance contributions can be explained.

## Governance by business: what and how firms contribute

Four findings stand out with regard to the dependent variable of our study; that is, *what* firms do and *how* they do it when they contribute to governance. Firstly, *what* governance contributions businesses make, and to which extent, varies across the four industry sectors we have analyzed in this book. Large car companies operating in South Africa actively fight HIV/AIDS – though to different degrees. Firm programs offer comprehensive health services to employees who have contracted the disease. They also work with suppliers to provide for such services, offer them to the families of employees and sometimes even to the local communities in which they are embedded. The findings for the mining industry are similar. As in the car industry, mining firms are active governance providers. Large textile retailers, by contrast, are only just now beginning to consider what they may be able to offer employees infected with HIV/AIDS. They are hardly active in this area, and do not address the problem the disease causes beyond their own business organization. Finally, the record of food and beverage firms is mixed. Some are as active as the large car companies, while others seem just as indifferent to the disease as most textile retailers.

*Finding 1: The automotive and mining industries are active governance providers, whereas the textile industry does not provide much governance. Food and beverage takes on a middle position.*

Secondly, we find – these general differences notwithstanding – substantial variance between individual firms and sub-segments within

each of the four industry sectors. For example, there are differences among textile firms between, on the one hand, industrial textiles and the apparel and garment manufacturing segments, on the other. The chemical fiber producer, Sans Fibre, mentioned above illustrates how substantial the governance activities of industrial textile firms have become. A laggard with respect to environmental standards until the mid-1990s, the firm is today in the process of ISO 14001 certification and collaborates with the local community forum to make industry in general more environmental friendly. However, whereas industrial textiles are a relatively strong governance provider, the apparel sector is on the weak end of the spectrum in this respect. Paltex, for example, a dyeing factory in Garankuwa, which produces for large South African clothing retailers, releases its effluents untreated in the environment and shows absolutely no concern for corporate social responsibility or for contributing to governance (see Chapter 12; Héritier et al. 2009). In the automotive industry, differences persist between, on the one hand, large multinational car companies such as Ford, VW or BMW and, on the other hand, the supplier segments. The multinationals in this industry sector provide comprehensive health services to their employees and adopt high environmental standards in their processes of production. In addition, they assist suppliers, government agencies and NGOs to raise the level of services and standards in the locality they operate in (see Chapters 4 and 9 in this book). For example, BMW has, in cooperation with German development agencies and the South African state, set up a hospital for the local community to provide HIV/AIDS related health care. In contrast, the suppliers in this sector are usually less active governance providers, with the notable exceptions of large multinationals in this sector segment, which behave similarly to BMW, Mercedes and the like (e.g. Robert Bosch South Africa) notwithstanding. In general, large suppliers that directly deliver to multinationals, such as VW or General Motors ('first tier suppliers'), often have some form of HIV/AIDS workplace policy and also run the environmental management system ISO 14001. However, they do not contribute much to governance beyond that and so hardly ever collaborate with government or NGOs to provide for common health care services or generally high levels of environmental standards. The smaller the supplier, and the lower the position in the automotive value chain (i.e. 'second tier suppliers' that supply to the suppliers of large firms such as Nissan or Mercedes), the fewer are the governance contributions. In the mining sector, governance contributions also vary between larger, internationally well-known companies, and medium-sized and smaller companies.

Anglo American and De Beers, for instance, have been leading in building comprehensive private programs to combat HIV/AIDS in South Africa, whereas Goldfields and Harmony Gold do less and only followed behind (see Chapter 5). We found similar patterns in the environmental field. In several sub-regions, small, polluting companies even pose problems to larger brand firms. Chapter 10 demonstrates, however, that there is variation between medium-sized companies. Anglogold Ashanti performs better than many of its peers, which suggests that size is not the most relevant factor but reputation. In the food and beverage sector, similar differences persist between, on the one hand, large firms and international brands and, on the other hand, small firms and domestic brands. Whereas the former run HIV/AIDS workplace and environmental protection programs, try to motivate suppliers to do the same and collaborate with NGOs and government to contribute to service provision in general, the latter hardly show any such activities.

*Finding 2: There is significant variation within the industry sectors, both between sector sub-segments and individual firms.*

Thirdly, with regard to *how*, firms contributing to governance make use of all modes of governance provision, including in-house programs, supply chain regulation, multi-stakeholder initiatives and public–private partnerships, as well as lobbying of and consultation with government. For example, Mercedes in East London provides employees and their families with HIV/AIDS health care services on a level high above South African health care institutions. The firm also applies the environmental regulatory standards of the municipality of Stuttgart to its South African operations, to which no regulatory or business standards in South Africa are a match. In addition to these in-house programs, the firm also works with suppliers to motivate and assist them in adopting similar in-house programs. Mercedes also requires its direct suppliers to attain ISO 14001 environmental management certification and so regulates its supply chain. Moreover, the multinational company works with local NGOs, schools, clinics and governmental ministries in the context of collaborative sexual education programs to tackle the problem of HIV/AIDS in society, and provides for some local communities health care services for citizens who have contracted HIV/AIDS. The firm also approaches the local government in order to raise the level of environmental standards in the municipality of East London (see Chapters 4 and 9), and has lobbied the central national government in the past to change its insufficient approach toward HIV/AIDS. What is interesting is that this finding

of firms making use of all available modes of governance holds irrespective of sector context; that is, it characterizes the four industry sectors in the same way. In the food and beverage industry, too, those firms that contribute to governance, such as Unilever, do so in various ways, employing a diverse set of governance modes. While the findings are analogous in the mining industry, an exception is, to a certain extent, the textile industry. Some of the large retailers engage in governance, for example, when they insist that suppliers adhere to environmental standards or when they begin offering HIV/AIDS-related services to their employees. In these (rare) cases, the engagement does not, however, extend to public–private partnerships, lobbying or government consultation activities. Textile retailers in general avoid direct involvement with government on all levels and in every respect and therefore do not lobby for stricter environmental or health regulation or engage in public–private partnerships with state agencies (see Chapters 7 and 12).

*Finding 3: Firms and sectors that are active governance providers make comprehensive use of the various governance modes available.*

Fourthly, the analyses in this book reveal a policy field-specific variance with regard to the mode of governance provision. HIV/AIDS is a social problem that requires direct governance contributions and calls for a more cooperative approach than the reduction of negative externalities, such as environmental pollution, which is often achieved through unilateral technical measures. A firm, such as Mercedes Benz South Africa, is therefore part of a whole web of collaborative initiatives designed to combat HIV/AIDS, as described for the previous finding, ranging from supply chain initiatives, capacity building in public institutions, lobbying of governance to the direct provision of health services in local communities. The firm's activities in the field of the environment, by contrast, are more limited. They mainly focus on improving the firm's ISO 14001 environmental management system and internal processes. Few activities go beyond that, such as the lobbying and consultation activities described of the firm in East London, which aim to motivate and assist the municipality to adopt and implement higher standards (in the fields of air pollution and effluents). Unlike its activities to combat HIV/AIDS, however, Mercedes does not collaborate with South African state agencies and/or foreign developmental agencies in the context of public–private partnerships in the field of the environment, nor does it work with NGOs to coordinate multi-stakeholder processes. There is some variation within the policy fields, in particular in the

field of environment. Water management is, for example, sometimes addressed by means of in-house programs only, for example when firms reduce effluents in the context of ISO 14001 management systems. As the food and beverage industry shows, however, water management can resemble common pool resource problems (Ostrom 1990), rendering it a highly complex task – much higher than when a firm is reducing its own waste output. Task complexity is key for how firms seek to provide governance – the more complex the task, the more firms have to rely on involving other actors.

*Finding 4: The provision of HIV/AIDS services (that is common goods) leads to more cooperative modes of governance than environmental pollution reduction (i.e. the reduction of negative externalities).*

## Explaining business governance: drivers, context conditions and enhancing/mitigating variables

How to explain these findings? In this book, we discuss five arguments concerning business contributions to governance as (potential) independent variables:

1. *Shadow of anarchy:* the anticipation of companies that collective goods and services will not be provided at all if they do not step in as governance providers.
2. *Shadow of the market:* financial costs and benefits generated in competition with other firms and constituted by
   a. *Asset specificity:* two arguments relate to asset specificity. Firstly, investments in human resources lead to health governance contributions; secondly, investments with long pay-off periods in production technology motivate firms to provide environmental governance.
   b. *Reputational concerns:* a brand name to protect, the target market of a company, consumer expectations, NGO and community pressure and so on.
3. *Shadow of hierarchy:* the regulatory threat by state agencies to impose regulation unilaterally.
4. *Firm size:* the turnover and number of employees of a firm as well as the financial, technical and informational resources determine the capacity of a company to engage in governance.
5. *Task complexity:* the degree to which the provision of governance necessitates the actions of and cooperation with other actors.

What is the causal status of these factors? Which of these arguments explain firms' motivation, which are rather context conditions, and how does the explanatory power of the various drivers and context conditions vary across industry sectors and policy fields?

The main driver that explains variation in firms' motivation to contribute to governance is the *shadow of the market*; that is, *asset specificity* and *reputational concerns*. When firms invest in skills of employees or make long-term investments in production technology, they have strong incentives to adopt HIV/AIDS policies and environmental standards to mitigate risks associated with such investments. Likewise, firms that have a brand name to protect and/or are under scrutiny of civil society organizations or local communities are under pressure, and are motivated to contribute to HIV/AIDS and environmental governance. The shadow of the market varies between and within industry sectors. Asset specificity and reputational concerns account for the greatest proportion of the overall variation of governance contributions between and within industry sectors.

The *shadow of anarchy* is a necessary context condition for the shadow of the market to be effective. In areas of limited statehood, it is by definition a constant rather than a variable, which has made it difficult for us to isolate its casual effect. In the exceptional case of the mining industry and HIV/AIDS, however, we can show that the shadow of anarchy is a true driver for governance contributions by business. The industry confronts such high prevalence rates among workers in the mines – higher than in any other industry sector in this book – that the firms' motivation to fight the disease is similarly strong as in cases in which firms have made asset specific investments or are concerned about their reputation (i.e. in which firms are under the shadow of the market). In this specific case, a strong shadow of anarchy is a functional equivalent to the shadow of the market as main driver of firms' motivation.

*Firm size* turns out not to be a driver, but an enhancing and/or mitigating variable of the causal effects of the shadow of the market. If a firm is rather small, it lacks the necessary preconditions for governance. Hence, even if a firm is motivated to contribute to governance on account of asset specificity or because it is concerned about its reputation, the resulting governance contributions will not be very significant. To become an important contributor to governance, firms need a basic infrastructure and substantial resources, which small firms usually do not have. At the same time, the larger the firm, the lower the relative costs of governance provisions and, therefore, the more significant the governance contributions if firms are affected by the shadow of the market.

*Task complexity*, finally, accounts for *how* firms contribute to governance and *how effective* these contributions are. The more complex the task, the more will firms engage in cooperative modes of governance provision and, consequently (given that coordination always involved problems of collective action), the less effective will be the provision of governance. Task complexity is thus a driver of governance modes and effectiveness; it varies across policy fields. Fighting HIV/AIDS among its workers is a much more complex task for a company than reducing its greenhouse gas emissions, since the pandemic spreads outside its purview. In consequence, when firms fight HIV/AIDS they have to make attempts to collaborate with suppliers, NGOs and local state agencies in order to yield the desired effects. At the same time, addressing complex tasks through such cooperative modes is less effective.

Unsurprisingly, the *shadow of hierarchy* is largely absent in areas of limited statehood as we find them South Africa. This is true for the automotive, textile and food and beverage industries. In the mining and, to a much lesser extent, food and beverage sectors, the South African state has, however, developed some credible regulatory capacities and thus casts a shadow of hierarchy over firms. In these cases, the shadow of hierarchy becomes a source of and driver for the motivation of firms to contribute to governance.

## Relating drivers to outcomes: four key findings

With regard to the sector variance, the automotive industry is an active governance provider on account of its high level of *asset specificity*. Car firms invest a lot in (engineering) skills of employees that are hard to find on the South African labor market – more than any other industry sector considered in this book (see Chapters 4 and 9). They also make investments in production sites with long pay-off periods on a higher level than in the other industry sectors. Accordingly, the car industry sector as a whole is, besides mining, the main positive case of the analyses in the context of this book. Multinational car firms are particularly strong governance providers: they run strong HIV/AIDS workplace programs as well as environmental policies such as ISO 14001 management systems. In addition, they give suppliers incentives to start up and run such programs, too. They also contribute to governance beyond the purview of their factory gates and value chains in the context of public–private partnerships, multi-stakeholder initiatives and other interactions with government. Given the different levels of complexity, these coordinated modes of governance are

strong in the area of HIV/AIDS, whereas they feature less prominently in the field of the environment. However, even small- to medium-sized firms in the industry contribute, though to a lesser extent, to governance in the context of in-house HIV/AIDS and environmental programs. On the other side of the spectrum, the textile industry operates on particularly low levels of asset specific investments – both in human resources and production technology (see Chapters 7 and 12). Textile production is driven by short-term margins, not by long-term skills development or investments in production facilities. This makes firms rather risk-averse as concerns problems such as HIV/AIDS or (the costs of insufficient) resource use efficiency. The textile industry is, on account of these features in relation to asset specificity, the weakest provider of governance in the areas of HIV/AIDS and environment in the context of this book. The food and beverage sector ranges somewhere in between. Some firms invest in skills and soil development and thus run strong HIV/AIDS workplace programs and also contribute to governance beyond their own purview, as described for the automotive industry above. Other firms, however, have not made any such investments and therefore are rather laggards with respect to HIV/AIDS and environmental standards. In addition to asset specific investments, the mixed record of the food and beverage industry with respect to contributions to governance is partly also caused by reputational concerns (see below).

The mining industry does not conform to this pattern, however. Production in this sector is not based on high or rare skills. Despite low levels of asset specificity, mining firms are actively fighting HIV/AIDS. Rather than asset specificity, the prevalence rates, which are significantly higher than in any of the other industry sectors analyzed in this book, increase the intensity of the *shadow of anarchy* mining firms are exposed to, and have motivated the trade unions to put pressure on firms. It is therefore the higher intensity of the shadow of anarchy in the mining cases in combination with union pressure (i.e. *reputational concerns*) that is driving mining firms to engage in HIV/AIDS governance and that compensates for the lack of asset specificity (see Chapter 5). Asset specificity, on the one hand, and the shadow of anarchy combined with reputational concerns, on the other, are thus causally equivalent in motivating firms to engage in governance.

The mining industry is also an exceptional case with respect to environmental governance. As in the field of HIV/AIDS, it is not asset-specific investments in production sites that induce firms to engage in governance. Instead, it is the regulatory threat of national government

and inter-/transnational organizations that prompts firms' engagement. Unlike the other three sectors, mining is a highly 'political' industry that relies on state licenses for its operations. Companies therefore feel a relatively strong *shadow of hierarchy* cast by the state over their activities, which compensates for the lack of asset specificity motivating firms to engage in governance. The shadow of hierarchy is also stronger because mining companies make 'site-specific' investments in natural resource deposits and hence do not have an easy exit option. The shadow of hierarchy is furthermore enhanced by public pressure. South African activists have employed different strategies, such as lobbying, campaigning, capacity-building and litigation to make companies reduce negative environmental externalities and compensate for their effects. They also link up with transnational campaigns and, for instance, have brought problems with acid mine drainage to the attention of international news media. Such public pressure enhances the threat of regulation (*shadow of hierarchy*; see Chapter 10).

*Finding 5: Different intensities of the shadow of the market explain the variance of governance contributions between industry sectors – the notable exception being the mining industry, which is also driven by the shadows of anarchy and hierarchy.*

*Asset specificity* and *reputational concerns* also explain most of the intra-sector variance. Investments in the rare skills of employees (in the field of HIV/AIDS) and a strong brand name orientation determine the degree to which firms engage in HIV/AIDS programs. For example, industrial textile firms often invest in the skills of their employees, unlike apparel and garment manufacturers. The hotel carpet manufacturer Crossley Carpets is a case in point (see Chapter 7). The firm trains employees with skills that are unique to its production process. On account of this investment in skills, the firm runs a sophisticated HIV/AIDS workplace program to protect it from becoming negatively affected by a high prevalence rate of the virus among the workforce. On the (rare) occasions when garment firms actively provide governance they are driven by reputational concerns and brand image. Woolworths, for example, capitalizes on serving socially conscious, well-off customers and, accordingly, presents some activities to do with the fight of HIV/AIDS in the workplace. The food and beverage industry is also driven by both asset specificity and reputational concerns. Woolworths is, again, a case in point. The firm is a food retailer in South Africa, and so fights HIV/AIDS on account of its brand image. For automotive firms,

the incentives deriving from asset specific investments in the employee skills endangered by sick leave, lower productivity and social conflict are particular strong and therefore supersede reputational concerns as a motivation. In the field of the environment, investments in production facilities with a long duration before they pay off are a predictor for intra-sector variance of individual firm's engagement in governance across all four industry sectors. Similarly to HIV/AIDS, however, reputational concerns are additional strong drivers in the textile and food and beverage industries for those firms who are active as governance providers. In contrast, car firms are largely determined by asset specificity. Reputational concerns play a role here, too, but are usually superseded by asset specificity concerns. Firm size is a mitigating or enhancing variable with respect to intra-sector variance. Small firms, even if they have made asset-specific investments or are concerned for their reputation, can usually not contribute much to governance; the larger the firm, however, the bigger the contribution (everything else being equal). Crossley Carpets, for instance, is heavily dependent on the specific skills of its employees and thus has, on account of this asset specificity, a strong motivation to contribute to HIV/AIDS governance – which for a textile firm is rare. The firm provides employees with a range of sophisticated health services. However, as a small- to medium-sized firm with 600 employees it lacks the capacities to go beyond this rather narrow focus of activities. Crossley Carpets therefore does not and cannot build clinics for the local community or develop, together with public institutions, sexual education projects for the general citizenry. Large firms such as, VW, by contrast, have not only the motivation but also the resources and, accordingly, contribute much more to the governance of HIV/AIDS. Within the mining industry, reputational concerns explain much of the intra-sector variation in governance contributions too, especially in the environmental domain. In addition to NGO campaigns, local contestation incites contributions to environmental governance by mining firms. This mechanism even works for smaller companies with no brand name. Gold miner Harmony Gold, for instance, has started to reduce dusk and improve the air quality around its operations in response to local community protest (see Chapter 10). In the field of HIV/AIDS, in addition to reputational concerns, firm size has a particularly strong mitigating effect on companies' governance contributions. The shadow of anarchy (extremely high HIV/AIDS prevalence rates) and public pressure are high for all companies. However, Anglo American and De Beers – due to their size – have more capacities to invest in comprehensive workplace and community

programs than smaller companies, such as Harmony Gold could afford (see Chapter 5).

*Finding 6: Different intensities of the shadow of the market explain the intra-sector variance of governance contributions between individual firms and industry sub-sectors; firm size amplifies or mitigates the causal effect.*

The shadow of the market also explains the extent to which firms make use of different modes of governance. Those firms and industry sectors over which the shadow of the market looms strongly make use of the different modes of governance available to them. Those little affected by reputational concerns or asset specificity do not contribute much to governance at all. Again, firm size is important here as a mitigating or enhancing variable, as the cases of Crossley Carpets in comparison with VW illustrate.

*Finding 7: Modes of governance contributions are explained by the shadow of the market and firm size.*

The observed variance with respect to the modes of governance provision between policy fields (HIV/AIDS vs. environment) and within policy fields (within environment) is determined by the different degrees of complexity of the respective governance tasks. Complex tasks, such as the governance of HIV/AIDS or, within the issue area of the environment, of a fresh water basin, require collective efforts and thus involve cooperative modes of governance provision. Multi-stakeholder initiatives, collective action in associations, or public-private partnerships mark the governance of such complex tasks. Non-complex tasks, by contrast, do not necessitate collective action. For example, the reduction of negative externalities, such as of environmental pollution, can be achieved by firms on their own by adopting ISO 14001 environmental management systems.

*Finding 8: The higher the task complexity, the more cooperative the modes of governance provision.*

## Fostering regulation?

What do our findings reveal with regard to the role of business in driving countries into a race to the bottom or rather fostering a race to the top? Our results are mixed in this respect. In light of the diversity

of industry sectors and firms we analyzed, this may not come as a big surprise (Madsen 2009). Nonetheless, our ambivalent results reconfirm that the effect of business on governance in areas of limited statehood is an empirical rather than principal question.

The textile industry and also large parts of the food and beverage sector do not contribute much to governance in areas of limited statehood. On the contrary, their outsourcing and relocation practices tend to fuel race to the bottom dynamics. If large textile and food and beverage retailers find a location where they can source the products they later market and sell cheaper, they will often go for it – notable cases of firms that are driven by strong reputational concerns or asset specific investments notwithstanding. The search for the cheapest production site is surely in line with arguments about a race to the bottom, as it puts pressure on countries, regulators and supplier firms to keep production costs low and, possibly, to downsize regulation and standards.

However, in particular in the automotive and mining industries – but also in some smaller parts of the food and beverage industry – we find evidence for just the opposite: firms fostering regulation. We have identified the drivers that motivate firms in this respect: the shadow of the market in the case of the automotive, food and beverage and textile industries and a mixture of the shadow of the market and the shadows of anarchy and hierarchy in the case of the mining industry.

Our analyses identify four mechanisms by which companies help raise regulatory standards in areas of limited statehood. Firstly, those companies that are motivated to contribute to governance often also seek to regulate their supply chain. In particular if firms have close relationships to suppliers, and so cannot easily substitute them, they make them adopt high social, health and environmental standards (this is a kind of asset specificity argument for buyer-supplier relationships; for a detailed empirical analysis see Héritier et al. 2009 and Thauer 2010). A case in point is a large supplier in the automotive industry developing brake systems for a multinational car company in South Africa. Given that brakes are a rather important component of a car, the multinational closely supervises and regulates the supplier. In the context of this close supervision, the multinational demands from this supplier to operate on similar health and environmental standards as its own operations. The automotive industry is a most likely case for such supply chain diffusion of standards. The industry is characterized by outstandingly high levels of asset specific investments, and generally close relationships between buyers and suppliers. However, the mechanism is also valid in the context of the textile industry, which is not

marked by high levels of asset specificity and is not a strong governance provider: in those (rare) instances in which textile firms are under such a strong shadow of the market that they actually become motivated to contribute to governance, they also regulate their suppliers if they have close relations with them. A case in point is Woolworths, a South African retailer with exceptional reputational concerns, which has made corporate social responsibility part of its brand identity. The retailer has close relations and long-term contracts with a (small) number of suppliers in South Africa. These suppliers have to meet some minimum environmental standards before supplying to Woolworths. Other suppliers, to which the retailer does not have such close relations, but from which it sources sporadically, do not have to meet such standards. Hence, the shadow of the market, in combination with close relationships to suppliers, brings about a diffusion of standards in the supply chain.

Secondly, multinational companies that are motivated to contribute to governance often transport their regulatory standards from their home market regulations abroad when they invest in foreign countries (Murphy 2004, Hall and Soskice 2001, Skjaerseth and Skodvin 2003, Xing and Kolstad 2002). Recent studies show, for example, that ISO 14001 diffuses through foreign direct investment and is thus now widespread even in emerging market contexts of limited statehood (Prakash and Potoski 2006, Prakash and Potoski 2007). Our analyses point to similar cross-country diffusion effects. Automotive firms originating from Germany, for example, apply the environmental regulation of the municipalities of Munich and Stuttgart, respectively, to their operations in East London and Midrand in South Africa. These German regulatory standards are way above any South African or international environmental standards (Thauer 2014). With these standards, the firms also import the respective know-how concerning environmental protection and planning to South Africa and generally raise the level of standards in the country.

Thirdly, firms that voluntarily adopt high standards to secure asset specific investments, to protect their reputation or avoid state regulation may seek to make other firms – especially competitors – adopt similar standards in order to level the playing field. Sans Fibre, the textile firm mentioned at the beginning of this chapter, illustrates this mechanism well. It exhausted the list of demands the local community had vis-à-vis the firm. Nevertheless, Sans Fibre continued to participate and to sponsor the community forum in which these demands were originally aired in order to make other firms – and especially competitors – engage in environmental pollution reduction, too (see Chapter 12; Bray and

Thauer 2013). In the mining sector, large brand name companies such as Anglo American Group or BHP report that they often get blamed for pollution in areas in which they operate, even though such pollution was caused by other companies. In the coal mining areas, for instance, companies are located next to each other so that the negative impacts of individual firms are difficult to assign to the respective polluter. Therefore, large companies, such as BHP, have sought to integrate smaller firms in environmental governance initiatives and multi-stakeholder dialogues in order to engage them in improved environmental governance (see Chapter 10).

Fourthly, companies that have been driven by one or more of the shadows to adopt high regulatory standards have an incentive to turn them into public regulation when faced with foreign competitors with low regulatory standards targeting the same market (see Börzel et al. 2011 and Chapter 9). By imposing strict regulation upon foreign competitors, the home firm will improve its commercial position in the home market, maintain its competitive advantage and even manage to force out its opponents (Garcia-Johnson 2000, Kolk et al. 1999, Porter and van der Linde 1995, Rugman et al. 1999). To negotiate such measures successfully, the established firm has to be able to threaten credibly its government, for example by menacing with exit. The National Association of Automobile Manufacturers of South Africa (NAAMSA) has actively lobbied the South African government to issue stricter emissions regulations for newly registered vehicles. These lobbying activities have been quite successful so far. In response to the pressure of NAAMSA, the South African government raised emissions standards to the EURO 3 norm emissions control level. In addition, it announced that it would raise the standard to the EURO 4 level within the next two years. These stricter regulatory requirements have the effect of keeping competitors from China, India and South America out of the South African market since their cars observe only lower emissions standards and cannot easily be up-graded (Börzel et al. 2011; Chapter 9). Likewise, in the mining sector, joining the Kimberley Certification System not only protects the reputation of companies producing, trading and selling diamonds. It is also a way of keeping new traders out of the market and regaining the companies' earlier dominant market position (cf. Kantz 2006, Paes 2005).

In sum, whether business activities contribute to a race to the top or a race to the bottom depends on certain scope conditions. This book identifies some of them. *Necessary conditions* for race to the top dynamics are the shadow of the market (i.e. asset specificity and reputational

concerns); in the mining industry, additional conditions are the shadow of anarchy and hierarchy. Our case studies yield some first indications for *sufficient conditions*. In the shadows, we are likely to see:

- *supply chain regulation and diffusion of standards* if firms have close relationships to suppliers and are dependent on them;
- *a transfer of standards from highly to weakly regulating countries* if firms originate from a highly regulating country;
- *sector-wide diffusion of standards* if firms gain the opportunity through collaboration with civil society organization or local communities to impose their high standards on competitors; and
- *lobbying for stricter regulation* if firms confront the threat of market entry from competitors of weakly regulating countries.

## The quality of business contributions to governance

The edited volume has explored what drives business to contribute to governance. We have paid less attention to the quality of their contributions and of what effect they have (but see Chapters 5 and 10). However, examining how effective and inclusive business contributions are is an important aspect of governance (Börzel and Hönke 2012, Hönke and Thauer forthcoming, Hönke, with Thomas 2012).

Firstly, quality relates to how *effective* business contributions to governance are. A first question in this regard is to what extent companies have honored their commitments to governance. Company engagement is often criticized as 'cheap talk' or 'green wash' to avoid further regulation. Above, we have referred to motivating factors that account for variation in company contributions to governance, such as asset specificity and reputation. These also explain variation in the extent to which companies implement a governance commitment. However, another important question is how to explain variation in program implementation within the same company, or between companies with similar motivation to contribute to governance. The contributions to this book find such variance, which is largely explained by *task complexity*. Complex tasks require complex solutions that involve coordination with many other actors. Fighting HIV/AIDS is incredibly complex and it is difficult to bring together and coordinate all the actors necessary to respond effectively to the pandemic. This is particularly so in the context of limited statehood. The effectiveness of business contributions to the governance of complex issues is thus low. Governance in complex task areas is in fact generally associated with lower degrees

of effectiveness. This holds for all kinds of governance actors: governments, NGOs and companies (see Krasner and Risse 2012).

Secondly, quality refers to the inclusiveness of business contributions to governance (Hönke, with Thomas 2012). The focus on effectiveness usually ignores the question of how inclusive these contributions are with regard to their geographical and social scope (Börzel et al. 2012, Hönke 2012). As the chapters in this book have shown, companies often provide club rather than public goods. HIV/AIDS programs, for instance, are not always generally accessible but are confined to a particular group, for example employees and their families or the residents of the local community that hosts the production site. Moreover, companies may favor certain social groups within the local communities, for example the elders (Hönke, with Thomas 2012). Public or community pressure can help extent the inclusiveness of business contributions. Labor laws, for instance, have forced mining companies to guarantee the same pension and home-based care benefits to early retired HIV-positive workers and dependents of deceased workers as to everybody else. Community pressure can also result in a broadening of the scope of business contributions to governance. Mining operations are particularly vulnerable to (often violent) local protest, which may not only cause reputational costs, but also disrupts their operations since companies cannot simply leave for less troublesome investment environments (see Chapter 10; Hönke 2013).

Thirdly, even if business contributions are effective and inclusive, they might still have unintended consequences impairing the provision of other collective goods and services (Hönke, with Thomas 2012). For instance, raising environmental standards in an industry sector may keep competitors that do not meet these standards out of the market. A striking example in this respect is the South African association of automobile manufactures (NAAMSA), which successfully lobbied the South African government to issue stricter environmental regulation to keep low-regulating competitors from China, India and South America and their very cheap cars out of the South African market (see Chapter 9). In South Africa, mobility is a major social issue, and the lack thereof is a principal barrier to employment for people who live in remote townships far away from the industrial centers. Keeping cheap cars out of the market may be not only an impediment to free trade, but also an obstacle to enhanced mobility and inclusive labor markets. Business contributions to governance may involve trade-offs – in this case between enhanced environmental protection and enhanced mobility and free markets.

Fourthly, governance contributions of companies should not be assessed in isolation but need to be measured against the negative external effects of other business practices. Anglo American, for instance, sponsors conservation projects far away from its mining sites, and may well contribute to a better environment. However, such sponsorships do not compensate for the overall negative environmental externalities of Anglo American's business operations.

In sum, we find significant variation in the quality of business contribution to governance. In order to evaluate them, we need to take into account different types of actors: those benefiting from business contributions, those being indirectly affected by such governance attempts, and those being negatively affected by company activities. Hence, the interesting question is not only whether companies contribute to governance. We also need to ask to what extent and for whom they contribute to governance or rather undermine it (Hönke, with Thomas 2012; see also Avant et al. 2010: 365–66). This book has taken only first steps in this direction.[2]

## How far do our findings travel?

To what extent are the arguments of this book relevant beyond the issues of HIV/AIDS and environmental protection, and beyond areas of limited statehood in South Africa? What is the potential for generalization? Our research conducted in various other projects allows us to explore how far our findings travel.

The environment and HIV/AIDS are often considered 'low' or 'soft' politics, and could, therefore, be most likely cases for business contributions to governance. However, they can also be found in the hard case of security. In South Africa, for instance, the business association Business Against Crime sponsors a support program for police stations that aims to improve public security provision (Hönke 2013). Notwithstanding this, business contributions to public security are less frequent than in the areas of environmental protection, health and social development (see ibid., Deitelhoff and Wolf 2010). However, the same drivers that we have identified in this book play an important role. The shadow of anarchy is a major motivation for mining companies to contribute to security governance. Theft and illegal mining are serious problems for gold and platinum mining companies in South Africa. To combat both not only within but also outside the mine, firms rely on state agents that have the capacity to support them. Since the 1990s, mining companies have in addition often been confronted with protests and

strikes. They have invested in the South African police because they rely on local police stations for public order policing. For instance, mining companies support a special detective unit dealing with organized crime and sponsor a support program for local police stations (Hönke 2013).[3] Reputation is another important factor that accounts for business contributions to security governance. Anglo Platinum has been criticized in the national and international media for repeated police violence in the areas in which the company operates in South Africa. Several times, the police the company called in to deal with protesting communities in Limpopo province responded violently to the point that people got injured and even died (e.g. Action Aid 2008). In response to the NGO campaign and public criticism, the company started to implement the Voluntary Principles on Security and Human Rights in its South African operations. This includes human rights training for state police (ibid., Hönke 2013).

Evidence from the field of security also corroborates our arguments about the quality of business governance contributions. In South Africa, the rise of commercial security has fostered a fragmented and selective distribution of security. Effective governance for and within certain 'clubs' (e.g. local communities) is detached from broader social and economic peace (Hönke 2013, Kempa and Singh 2008). The same is true for the scope of multinational mining companies' contributions to public security in the DRC. The chasing of peasants and artisanal miners off the land and the bribing of local authorities in order to have them provide for 'public order' may well increase security for a few – including companies – but produces insecurity for the majority (Hönke 2010, Hönke and Geenen forthcoming). Some activities that might be (mis)taken as contributions to improved collective service provision from a state-centric perspective have the opposite effect in practice. Gold mining companies in Tanzania, for instance, have built state capacities in the security sector, yet instead of improving public security in the gold mining region, this has led to an increase in violent encounters between local populations and security forces (Hönke, with Thomas 2012).

The findings of this book also reach beyond the case of South Africa. The various shadows are equally relevant to motivating business contributions to governance in other areas where statehood is more or less limited in comparison to South Africa, as our empirical research in the Democratic Republic of Congo (DRC) and China demonstrates. The cases of AngloGold Ashanti (AGA) and Anvil Mining in the Democratic Republic of the Congo are illustrative for the effect public pressure has on companies who care about reputational concerns – even in areas

with very limited statehood. AngloGold Ashanti returned to a mining concession in the DRC in 2003 when the area was controlled by a militia group called the Front of National Integration (FNI). It entered talks with the armed group and agreed to provide financial and other support to the group in 2004 in return for allowing its exploration activities to resume in Mongbwalu. This gave rise to significant pressure by the human rights community which accused AGA of being complicit with human rights abuses that FNI had committed with the help of material support it received from the company (HRW 2005). This case fuelled the debate on the role of business in conflict and weak governance zones (Kapelus et al. 2008). In 2005, AGA publicly renounced its financial support of FNI in the DRC as a regrettable mistake and a breach of its principles and values, but pledged to continue its exploration program (Anglo American 2005). In response to the critique, however, AGA began to implement the VPs and became an official member in 2007 (Börzel and Hönke 2012).[4] Likewise, in 2004, Anvil Mining was involved in human rights abuses carried out by the Congolese army (FARDC) near its Dikulushi Mine in Katanga Province, DRC. During the attempt of FARDC to recapture the town of Kilwa, serious human rights violations occurred, such as summary executions of rebels. Congolese soldiers used Anvil's vehicles to transport looted goods and corpses. Anvil admitted that it had provided food, tents and pay to Congolese soldiers during the operation. In the military prosecution of war crimes, three of Anvil's employees were charged with aiding and abetting the FARDC in committing crimes in 2006 (Global Witness 2007). The Congolese military court found Anvil and its employees not guilty in 2007. Yet the case received considerable international attention and put Anvil under sustained pressure from human rights groups who did not accept the ruling due to the court's lack of independence. In reaction to massive public pressure, Anvil Mining turned into a role model for implementing the Voluntary Principles on Security and Human Rights. Problems with effective implementation notwithstanding, compared to other companies Anvil Mining has contributed to conflict prevention around its operations in the DRC. The company has also sought to share best practice with peers (Hönke 2013, Börzel and Hönke 2012).

In China, where statehood is less limited than in South Africa, textile firms are equally driven by the shadow of the market to contribute to governance in the areas of human rights and the environment. China is the biggest textile manufacturer in the world. At the same time, firms operate under an oppressive regime which weakens civil society and NGO activities. Hence China is a hard case for our argument that

reputational concerns drive governance contributions by business. The risk of corporate misconduct being detected by an NGO or Western consumers is rather limited. The country is too big and has too many firms that export to Western market to make systematic surveillance by NGOs possible. Most importantly, however, as an authoritarian regime, China does not allow for any such systematic surveillance by civil society organizations. Our argument about reputational concerns still seems to be valid. W[5] is a large US American mass-market firm that does not invest much in its brand reputation (Thauer 2010). The firm is therefore not very concerned about reputational losses when it sources textile products from China. One of W's suppliers is the Korean-owned firm D, in Shaoxing, Zhejiang province close to Shanghai. The supplier says that apart from quality standards and price demands, W does not require it to adhere to any other standards. Accordingly, the labor rights situation in the firm is precarious: workers often do not have a regular contract, overtime hours are generally not compensated and work time is not limited, making excessive overtime the rule rather than the exception. W does not ask the firm to implement any environmental standards either.[6] Unlike W, the large multinational, US American fashion brand G requires suppliers to adhere to minimum human rights, labor, health and safety, and environmental standards. G invests substantially in its brand name, and is very concerned about its reputation, as it has been targeted by NGOs for infringing on basic labor standards before (Thauer 2010). In 2006, D was in the process of becoming a supplier of G. The relation between G and D would have been based on a rather long-term contract, in which G guaranteed D business for six months, and in addition offered an automatic extension of the contract in case of contract fulfillment. In return, however, G demanded from D to become compliant with its global code of conduct, and thus significantly to improve labor, health and safety conditions and to set up an environmental policy. D failed to do so, and thus did not become an accredited supplier with G. While the actual governance attempt of G was therefore in this case unsuccessful, it is precisely this failure that illustrates the strictness and sincerity of G's willingness to contribute to governance. G walked away and did not do business with D rather than risk its reputation being damaged on account of improper business practices in supplier firms.

The examples from the DRC and China demonstrate that our theoretical framework is generally applicable to areas of limited statehood and is a good starting point for research on governance by business outside a shadow of hierarchy cast by the state. The relevance of some

of the causal arguments will naturally decrease or increase in other institutional contexts. In areas of more limited statehood than South Africa, such as the DRC, the shadow of the market is less pervasive. Only few upper-market and, in general, export-oriented manufacturers have productions sites in the country. This seems to be true for failing and failed states in general, which have very limited public infrastructure and high degrees of insecurity. The economies of these countries are less diversified and often do not even have a noteworthy manufacturing sector. In the DRC, those large MNCs that produce for external markets come generally from the extractive industries. Hence firms that make asset specific investments are rather rare, as are firms that are or supply to big Western brand name companies. In other words, in areas of weak statehood, the preconditions for the drivers we have identified as the shadow of the market are often simply lacking. The overall contribution to governance by companies is consequently lower. However, due to the long-term and 'site-specific' nature of mining investments, local contestation can be an important mechanism that incites business contributions to governance. Our evidence from South Africa highlights that it is not only NGOs that put public pressure on companies by targeting company reputation. Trade union or local community protest that threatens to interrupt operations is also important (see Chapters 5 and 10). Such protest might also raise reputational concerns. Most importantly, however, protest actions such as blockades impose direct operational costs on companies as they interrupt operations and may even damage equipment. Mining firms address such community pressure in order to avoid costs and to continue their operations (Hönke 2012, 2013). Simply leaving for less troublesome investment environments is rarely an option.

At the same time, the shadow of anarchy becomes more important in areas of more limited statehood. It weighs more heavily on companies where there is very little or no public infrastructure, such as in the DRC. On the one hand, this can provide some strong motivation for companies to become governance actors complementing or substituting for governance by the state. On the other hand, companies are rarely involved in comprehensive, inclusive governance provision. They rather avoid such public roles. They prefer to help state actors build the capacity to provide collective goods and services rather than doing it themselves (Deitelhoff and Wolf 2010).[7] In a similar vein, local communities expect businesses not only to clean up their act but also to make a contribution to communities' socio-economic development. However, this does not necessarily mean that they want the companies

themselves to deliver the collective goods and services, but rather to pay into a public fund (Hönke, with Thomas 2012). Since statehood is more limited, extensive business governance raises even more serious questions about the legitimacy of such private governance than in South Africa.

The arguments in this book also seem to hold in general for areas with less limited statehood than South Africa, such as China (Thauer 2010). However, as in the case of the DRC, the different institutional context enhances and diminishes the effects of some drivers. Like South Africa, China is an emerging economy. But at the same time, it is a strong authoritarian and socialist state, with a tradition of the state ruling and organizing the economy. In such a context, we cannot expect firms to fill governance gaps in policy areas that are contested. Yahoo's recent self-censorship in China is a good example in this respect. The firm, which usually claims to be a facilitator of the freedom of speech and civil rights, agreed to comply with the censorship of the political regime.[8] Hence, under strong authoritarian rule, our findings may find little bearings in contested issue areas and policy fields.

The strong role of the state affects our argument about reputational concerns: NGOs and local communities in China are, on account of its repressive political system, severely circumscribed in their political activities. Many NGOs, including those that originate from the 'Western' world, are strongly conformist and do not pursue any activities that may be in conflict with the government's policies. Unlike in South Africa, pressure from concerned citizens, protests from local communities, and the naming and shaming campaigns of NGOs that push companies to contribute to governance are therefore rather exceptional (Thauer 2010). Sans Fibre, the chemical company mentioned at the very beginning of this chapter, illustrates the point. The firm became the target of community protest only after the repressive apartheid regime was over. The new civil rights-oriented constitution of South Africa and its new democracy empowered the local communities in Cape Town to stand up against the polluting firm. Statehood in China is less restrained by the rule of law and democratic institutions, but is in general repressive. Authoritarian rule, as in so many emerging market countries which are only semi-democracies, is a context in which we should expect reputational concerns to be a much weaker driver than in South Africa – examples of some global brands, such as G in the example above, that have been attacked for their business practices in China before notwithstanding.

Putting our findings in a comparative perspective points to an important context condition for the role of statehood for governance in areas of limited statehood: institutional restraints on the monopoly over the use of force and the capacity of the state to set and enforce collectively binding rules. Unlike in areas of consolidated statehood, there is no linear relationship between central state power, on the one hand, and institutional restraints, such as the rule of law and democracy, on the other. While governance contributions by business may require a minimum of statehood, more statehood does not necessarily mean better governance (Börzel et al. 2012, Krasner and Risse 2012). We need to pay more attention to the interaction between statehood and regime type in driving governance contributions by business and other actors.[9]

## How much statehood and what for?

While the shadow of anarchy is defined by the absence of statehood, the shadow of hierarchy and the shadow of the market still rely to some extent on consolidated statehood. The shadow of hierarchy is only weak or entirely absent in areas of limited statehood. However, it can be cast externally by consolidated states that host the headquarters of multinational companies or by international organizations whose capacity to enforce international standards depends on the cooperation of consolidated states. Thus, the international climate change negotiations on a follow-up agreement of the Kyoto Protocol have spurred expectations among business for stricter national regulation in the near future (see Chapter 10). Home-country regulation may not only cast an external shadow of hierarchy if it obliges companies to comply with social or environmental standards irrespective of where they invest or act. Multinational companies, such as Coca Cola, which are located in or produce for markets subject to high regulation have little incentive to use different production standards in areas of limited statehood (Börzel et al. 2011). Thus, the shadow of the market is often generated by norms and rules set by governments in areas of consolidated statehood at the national or international level (Börzel and Risse 2010). Likewise, reputational concerns may have induced diamond traders, such as De Beers, to join the Kimberley certification system. Yet the enforcement of international standards depends on consolidated statehood since the certificates are issued by national governments (cf. Kantz 2006, Paes 2005). Moreover, reputational concerns are particularly effective if NGOs campaign against violations and consumers in areas of consolidated statehood care about compliance. Many customers and

share holders of De Beers or Coca Cola live in high-regulating countries and cherish the image of the product they purchase. They are vulnerable to the public shaming campaigns of transnational NGOs that often operate out of their home countries.

The good news is that asset specificity is largely independent of statehood. It induces business to engage in self-regulation to curb the rent seeking behavior of their local subsidiaries and suppliers irrespective of the capacity of the host or home state to set and enforce public legislation (Thauer 2010, 2014). In the absence of asset specificity, external statehood may still be sufficient to provide incentives for business to engage in governance. The multi-level nature of governance, which links areas of consolidated and limited statehood, provides a functional equivalent to the shadow of hierarchy that areas of limited statehood are often unable to generate (Börzel 2010, 2012). However, there is more to statehood than generating incentives.

Governance contributions by business often need to be institutionally embedded in order to contribute to the provision of collective goods and services. In other words, once a company is motivated to contribute to governance, the effectiveness of such an attempt might depend on a functioning state structure providing some basic collective goods and services, such as political stability, security, roads or energy supply (see Börzel et al. 2012). This is particularly likely if complex tasks are involved that rely on the cooperation of – or fulfillment of functions by – other actors than business. Combating HIV/AIDS effectively requires a comprehensive health care system that reaches out to entire families and communities in order to prevent infection and care for infected people. It is also related to broader social, economic and cultural factors that need to be addressed (Schäferhoff 2011). Similarly, environmental standards must be set locally to be at all applicable for firms. If local state agencies do not issue any such regulation, companies face difficulties in asking their suppliers to adhere to the standards to which they have committed under their CSR engagement. Governance without government can be, and sometimes needs to be, strengthened by governance by government in the same area in order to be comprehensive and effective (Amengual 2010). Companies that make governance contributions that reach beyond their corporate purview often look to the state to provide the infrastructure to put in place such cross-functional governance, as well as for the provision of basic security or legal certainty. Thus, automotive companies have sought to engage systematically local public authorities in their attempts to raise the awareness of HIV/AIDS in the wider population, implement preventive measures

(e.g. use of condoms) and provide better health care services for those who have contracted the virus. Workplace programs are highly problematic if the state does not guarantee that employees are to be taken over by public health care institutions if they leave the company. This entails the risk of developing resistances toward antiretroviral medications for persons who contracted AIDS (see Chapter 4). ISO 14001 provides another example of statehood being important to making business contributions to governance work. While many firms have introduced an ISO 14001 management system, its certification requires compliance with rather complex national environmental standards. If these standards are lacking on, for example, the local level, firms fear that they may fail in the certification process; in any case, it makes things more complicated for business as it increases the uncertainty with respect to what is expected from them for successful certification (see Chapter 9).

Basic collective goods and services do not necessarily have to be provided by the host state. External actors might step in, particularly if they have of adequate funding and can rely on precise and binding rules and procedures to coordinate their actions (Krasner and Risse 2012). There is evidence that highly institutionalized governance configurations linking external and local actors are functionally equivalent to statehood in the host state. However, these governance configurations may still rely to some extent on the consolidated statehood of external actors (see above).

Finally, when firms are not much concerned about their reputation, pressure from consumers, peers, shareholders or NGOs may yield hardly any effects on companies. Under such circumstances, the state may become the addressee of advocacy networks and consumer campaigns in order to make it put pressure on firms to commit to CSR. We call this mechanism 'invoking state authority' (cf. Börzel et al. 2012). Local activist groups exert pressure on the state to put pressure on individual companies. This may sound contradictory to the notion of areas of limited statehood, where the state by definition is too weak to threaten companies with the implementation of strict regulation. However, while limited capacities of the state refer to the overall lack of capacity to regulate companies systematically, state actors still do have resources. The question is on which tasks are they spent. If state agencies are pressured to concentrate their activities and resources on one or a few particular companies, these companies will have to react and give in to the pressure that is exerted upon them in turn. Ultimately, such a concentration of state activities threatens the 'license to operate' of the

targeted company. Such mechanisms of 'invoked state authority' are also relevant for the external shadow of hierarchy (see above).

## The dark side of statehood

While statehood may often be required for governance contributions by business, particularly if they relate to complex tasks, its presence can also have the opposite effect. This is, however, less related to a lack of capacities to cast a credible shadow of hierarchy, but to the unwillingness of state actors to encourage governance contributions by companies in the first place. On the one hand, governments in areas of limited statehood often have little autonomy from business. On the other hand, they may (ab)use their legal authority to impose some of their political and personal economic interests on firms. Companies rely on informal political networks to receive state contracts and licenses in many areas of limited statehood. They then owe members of these networks personal favors (Hönke 2013, Reno 2001).

State actors may also prevent companies from providing a particular collective good or service and obstruct their governance contributions if these contributions address issue areas in a way that is not supported by government or that empower groups that are in opposition to government. The South African government has long had an erratic stance toward HIV/AIDS and was openly hostile toward anyone raising the issue (see Chapter 3). It therefore obstructed business engagement in combating the pandemic by seeking to take control of public–private initiatives. Another way the state acts against governance contributions by firms is to use the law as a weapon against companies that pursue a politically sensitive agenda, as recently experienced by Google in China. Hence, governments in areas of limited states may be too weak to cast a 'shadow of hierarchy' over firms to make them engage in governance. But they can still undermine the provision of collective goods and services by business casting a 'reversed' shadow of hierarchy, 'throwing the book' at firms that undermine their political power or act against their economic interests.

Finally, state actors may refuse to provide companies with the necessary support for contributing to governance fearing 'agency loss' or 'agency capture' because of the inferiority of their financial resources, personnel and expertise (Börzel 2009, Hellmann et al. 2002, Stigler 1971). Collective goods and service provision by companies may in fact be perceived as negatively affecting the authority of the state in a particular functional field or region (Hönke, with Thomas 2012, Tsai 2011). Thus, the South African state has not only refused support for and tried

to take control of business initiatives to fight HIV/AIDS. Local government actors sought to capture business workplace programs to enroll their own public employees in return for taking over former business employees into the public health service (see Chapter 4).

With regard to the mining sector, the literature on rentier states directs attention to the indirect effects of companies on governance (Hönke 2013, Ross 1999). Governments often still serve as the main gatekeeper between the domestic and the international spheres (Reno 2001). In spite of states' overall weak capacities, governments maintain the monopoly over symbolic capital and the legal authority to decide over mining rights. Contrary to arguments that interpret the rise of private actors in contemporary governance as a sign of the weakening power of central state authorities, the extended role of companies in local governance can be seen a form of 'indirect discharge' (Hönke 2010, 2013). Governments of states with areas of limited statehood quasi-outsource local governance to companies and use corporate governance contributions to regain or strengthen control over regions and revenues from mining, thereby ensuring regime survival. Through strategic absence, host states indirectly discharge the management of local grievances and conflict to companies, such as in mining regions in Southern and Eastern DRC (ibid., Hönke and Geenen forthcoming). In fact, non-state governance may not complement governance by government but rather further reduce the provision of collective goods and services by the state (see also Cammett and MacLean 2011). Future research on governance needs to take into account such effects of non-state governance on domestic politics.

The dark sides of statehood can be reinforced by companies that actively seek to use political networks to gain access to markets or favorable contract conditions. Such 'neopatrimonial collusion' (Handley 2008, Hönke 2013) between business and state increases the likelihoood that business governance contributions will take on the form of club goods limited to a political network. In this case, the good provided is not accessible for the general public or a group of designated beneficiaries, but only benefits those who are already privileged. Companies may find such 'neopatrimonial collusion' acceptable or even economically beneficial (Hönke 2012, Reno 2001). Yet if they are reputation-driven, 'neopatrimonial collusion' constitutes a serious economic risk. NGOs or the media may pick up on such practices, with potentially severe consequences for the brand image of the firm.

To conclude, while a certain degree of statehood may be still necessary to make business contribute to governance, statehood can also discourage or undermine business efforts. This raises again the question

of scope conditions. Our findings indicate that the dark sides of statehood are less likely to occur if statehood is institutionally restrained (Börzel 2009, Börzel 2012). At the national level, such restraint can consist in an effective rule of law and institutional checks and balances on government, such as democratic elections. At the local level, social cohesion can hold local politicians accountable and make them strive for inclusive governance outcomes (Tsai 2007). This '*shadow of the community*' (Börzel 2010, Börzel and Risse 2010, Hönke, with Thomas 2012) is less likely to be effective where low social cohesion combines with weak accountability mechanisms, since local leaders are more likely to engage in exclusive governance arrangements.[10]

## Toward varieties of statehood?

This book presents ample evidence for business making substantial contributions to governance in areas of limited statehood. Multinational companies have become governance actors, albeit selective ones, even if the shadow of hierarchy cast by the host state is largely absent. Yet governance by business is seldom governance without statehood. The capacity to set and enforce binding rules on the provision of collective goods and services or to deliver them directly is important to making the functional equivalents for the shadow of hierarchy work. While anarchy is defined by the absence of statehood, companies engaging in governance in its shadow often still rely on basic collective goods and services that are to be provided by the state. At the same time, unrestrained statehood may significantly impair governance contributions by business if state authorities fear a loss of control or have to forgo economic gains.

Governance in areas of limited statehood does not have to be provided by the state, but it does require statehood. This is not necessarily a contradiction. Firstly, areas of limited statehood are not the same as failed states, where statehood is completely absent. Secondly, the opposite of limited statehood is not exclusive but consolidated statehood. In areas of consolidated statehood, states possess the capacity to control the monopoly of violence, to set and enforce collectively binding rules and to deliver collective goods and services. Yet, they do not monopolize statehood but share it with or delegate it to international organizations and (trans)national non-state actors to provide governance (cf. Beisheim et al. 2011). In areas of limited statehood, by contrast, statehood is not shared but is contested or at least uncoordinated. The state is too weak to act as a 'governance-manager' (Genschel and Zangl

2008) coordinating the contributions of different governance actors and settling conflicts among them. Rather than providing such 'meta governance' (Peters 2010), state actors tend to employ the capacities they have left to compete with non-state actors, undermine their governance activities or seek to use them for their own benefit (Hönke 2010). If they are too weak, they are simply circumvented (Schäferhoff 2011) and contested (Köhler and Wilke 2011) by non-state actors, as companies did in South Africa in fighting HIV/AIDS.

The findings of this book demonstrate that the shadow of the market provides powerful incentives for firms to curb their negative externalities and to deliver certain collective goods and services directly – even in the absence of a credible shadow of hierarchy. To what extent asset specificity and reputational concerns, however, are sufficient to induce firms to act as governance managers in areas of limited statehood remains an open question. Beyond their own purview, firms are more likely to contribute to governance in cooperation with state authorities, building their (meta-)governance capacities rather than substituting for their weaknesses, at least in the long run (see also Deitelhoff and Wolf 2010). This might indicate that areas of limited statehood are likely to follow the trajectory of modern and shared statehood. At the same time, we also find evidence for business circumventing state actors or state authorities that seek to 'discharge' (Hönke 2010) rather than delegate the delivery of collective goods and services to firms, which could give rise to the emergence of a new variety of statehood. Finally, there may be instances in which neither state nor non-state actors are willing or able to take on the role of governance-managers, ensuring existing forms of limited statehood will probably prevail. In the end, we might see the emergence of varieties of statehood rather than the prevalence of a particular type.

## Notes

1. Chemical fiber producer Sans Fibre 2007: Interviews with the Managing Director, a Union Representative, the Environmental Manager and several Floor Managers, Bellville (near Cape Town), 30 March 2007.
2. The quality of governance contributions is the focus of the SFB 700 research project 'Companies and Governance in Sub-Saharan Africa' (2010–13). Available from: http://www.sfb-governance.de/en/teilprojekte/projektbereich_d/d2/index.html [accessed 6 November 2012].
3. For a discussion of the limited inclusiveness of these programs see Hönke 2013.
4. It should be noted, however, that most transnational companies that operate in the DRC do not have a brand name and/or largely remain under the radar of public scrutiny. In these cases, the shadow of the market simply does not work.

5. For reasons of confidentiality, the name of the company cannot be revealed.
6. However, this aspect is less important in the context of D, as the firm's production process mainly consists of knitting and sewing, which has only a minor environmental impact.
7. For the unintended consequences of such capacity building see Hönke 2012, 2013, and Hönke and Thomas 2012.
8. See interview with Julien Pain, expert of 'Reporter ohne Grenzen' in *Der Spiegel* (3 May 2006). Available from: http://www.spiegel.de/netzwelt/web/zensur-im-internet-yahoo-ist-am-schlimmsten-a-413805.html [accessed 6 November 2012].
9. This is a focus of the SFB 700 research project 'Companies and Governance in Sub-Saharan Africa' (2010–13). Available from: http://www.sfb-governance.de/en/teilprojekte/projektbereich_d/d2/index.html [accessed 6 November 2012].
10. This is another focus of the SFB 700 research project 'Companies and Governance in Sub-Saharan Africa' (2010–13). Available from: http://www.sfb-governance.de/en/teilprojekte/projektbereich_d/d2/index.html [accessed 6 November 2012].

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