

Government Regulation of International Corporate Social Responsibility in the US and the UK: How Domestic Institutions Shape Mandatory and Supportive Initiatives

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Abstract

While most scholarship on corporate social responsibility (CSR) focuses on company-level CSR initiatives, it increasingly also examines government programs for CSR. However, research on how governments contribute to CSR has mainly focused on domestic and not international CSR challenges. This literature also does not specify whether governments shape CSR through mandatory regulation or supportive initiatives. This article adopts a process-tracing approach to determine how governments regulate international CSR. It demonstrates that the legal and political systems in the liberal market economies of the UK and the US lead to different forms of public CSR regulation — notably in the areas of labour standards in apparel and tax transparency in extractives. The UK government has been more likely to support bottom-up collaborative multi-stakeholder initiatives, whereas the US government has favoured top-down mandatory regulation.

1. Introduction

Business responsibility has traditionally been defined as voluntary (private) social and environmental activities by corporations (Vogel 2008). Companies voluntarily engaged in philanthropic programs, such as donating money to the local school or hospital, and the government was not involved. Furthermore, philanthropic initiatives were primarily aimed at solving social problems in the local community where companies were based. In recent years, the role of business responsibility has changed in two key ways. First,

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the focus of corporate social responsibility (CSR) has shifted from a local community orientation to the international level. A major reason is that as corporations from the global north (advanced industrialized countries) increasingly source from or operate in the global south (emerging or less developed countries) they face a wide range of CSR demands. Stakeholders such as civil society organizations, unions, institutional investors and the media demand that corporations undertake initiatives to protect human rights and labour rights, adopt initiatives to prevent corruption, etc. (Gjølberg 2009; Locke 2013; O'Rourke 2006; Vogel 2008). Second, governments have become more and more involved in CSR programs either through traditional mandatory regulation of business or through soft law that encourages companies to pursue CSR initiatives (Knudsen *et al.* 2015). Since the legal context differs from one country to another, the same action may be voluntary in one context but not in another. Notably the European Commission has changed its definition of CSR from 'social and environmental activities that companies adopt on a voluntary basis' to (the less precise) 'the responsibility of enterprises for their impacts on society' (European Commission 2011), which logically admits behaviour regulated by the government (Knudsen and Moon 2017).

Most of the literature on CSR focuses on the development of company-level CSR initiatives (Brammer and Pavelin 2005; Brammer *et al.* 2012; Brown and Knudsen 2015; Kinderman 2012; Koos 2012). However, increasingly a literature has also emerged that explores the development of *government* involvement in shaping CSR initiatives as the dependent variable (Albareda *et al.* 2007; Knudsen *et al.* 2015; Midttun *et al.* 2006, 2012). This article focuses on the development of government regulation of CSR and asks how the domestic political context — and in particular the legal and political systems — in the liberal market economies (LMEs) of the US and the UK contributes to shaping public regulation of CSR intended to influence companies' international CSR activities.

This article proceeds as follows: Section 2 presents the theoretical framing, while Section 3 describes the research approach. Section 4 analyses how domestic institutions contribute to shaping government regulation of international CSR in the extractive and apparel sectors in the UK and the US. Section 5 provides a discussion of key findings and offers a conclusion.

2. Theoretical discussion

Hall and Soskice (2001) have proposed that the advanced industrialized countries fall into two main types: LMEs such as the US and the UK and co-ordinated market economies (CMEs) such as Germany and Denmark. LMEs rely more on market mechanisms while CMEs tend to co-ordinate business transactions through non-market relationships. These differences exist across several key institutional domains of the economy. The distinction between LMEs and CMEs is based on the nature of institutions, such as industrial

relations, vocational training and education, corporate governance, inter-firm relations and employee relations. For that reason, CSR practices are often seen as differing across these two groups of countries. CSR is 'embedded in' (Moon and Vogel 2008) or structured by (Matten and Moon 2008), the domestic institutions, including laws, which governments have created and legitimated (on the embeddedness of institutions, see more broadly Dahl and Lindblom 1992 [1953]; Granovetter 1985; Hollingsworth and Boyer 1997).

Some scholars argue that because CMEs have a higher degree of state regulation and institutionalized stakeholder rights (Aguilera *et al.* 2007; Campbell 2007; Midttun *et al.* 2006), they encourage more firm-level CSR. For example, institutionalized co-determination may facilitate more employee involvement in the development and implementation of social standards (Jackson and Bartosch 2016). In contrast, other scholars argue that because LMEs have a more market-driven system characterized by more deregulation and welfare state retrenchment, corporations have responded by promoting more voluntary CSR programs (Jackson and Apostolakou 2010; Matten and Moon 2008). In this article, I focus only on LMEs and I make two contributions: I show that in contrast to expectations that CSR in LMEs has emerged in a largely business-driven fashion, governments have in fact played a key role in shaping international public policies for CSR. Furthermore, I demonstrate that institutional differences in the US and the UK have led governments to adopt different forms of public policies for international CSR.

The vast number of scholarly articles on how domestic institutions impact CSR focuses on *domestic* not international CSR. Two examples illustrate this point. First, Matten and Moon in their much-cited article on explicit and implicit CSR argue that a growing retrenchment of the welfare state means that private actors increasingly need to fill an emerging governance void. US corporations have long made explicit their attachment to CSR such as through funding hospitals, whereas in the UK CSR has been more implicit as 'every British citizen is entitled to coverage under the National Health Service, and corporations, along with other taxpayers, contribute to this through taxation' (Matten and Moon 2008: 412). But as European welfare states, and in particular the UK, cut back services such as public healthcare and education, corporations have increasingly begun to adopt explicit CSR initiatives that resemble those adopted by US firms in order to fill the governance void. In other words, CSR shifts from being implicit to explicit. Matten and Moon (2008) focus on how corporations explicitly fill a domestic governance void and they do not consider international CSR challenges. Second, Jackson and Apostolakou (2010) conclude that UK firms obtain high rankings in CSR indices because they adopt extensive CSR programs to make up for the low level of social provisioning offered by the UK state.

However, when companies from the global north today engage in CSR they typically do so because they operate in host country contexts where government social and environmental regulations are seen as inadequate — not because home country regulations of welfare provision are inadequate. Most CSR initiatives that are rewarded in the Dow Jones Sustainability

Initiative, for example, have an international orientation (i.e. initiatives to combat corruption in host countries), while the alleged governance void is in the home country in the global north such as in the UK. The Dow Jones Sustainability Initiative rewards CSR programs that primarily focus on the global south including programs to prevent corruption and to promote access to health. It is not clear how a decline in public health care and education services in the UK would lead UK firms in sectors such as extractives and pharmaceuticals to adopt international CSR programs that grant these firms a good ranking in a CSR initiative such as the Dow Jones Sustainability Initiative (Brown and Knudsen 2015). Instead of looking for relationships between domestic institutions and policies on the one hand and company scores in CSR ranking initiatives on the other, I examine the way that home country institutions shape public policies for internationally oriented CSR. I thus explore how the legal and political systems in the US and the UK shaped the policy-making processes that led to government initiatives for *international* CSR.

Furthermore, the literature on LMEs and public policies for CSR highlights the regulatory similarities in the US and the UK instead of the differences (Kinderman 2012; Marens 2012). In this study, I build on recent work conducted with Moon and Slager (Knudsen *et al.* 2015) where we identified different forms of government regulation of CSR ranging from endorsement to facilitation, partnership and mandate. In order to explore and compare regulatory forms of US and UK government policies for CSR I distinguish between ‘mandatory’ and ‘supportive’ government CSR regulation. Mandatory regulation requires legislation and can be enforced through the legal system. It also entails regulation of minimum standards for business performance. Government supportive forms of CSR can come in the form of facilitation or partnership policies that require governments to substantiate their commitment to encouraging CSR. Governments can do this by, for example, providing financial and organizational resources or by engaging in collaboration with business organizations to disseminate knowledge or develop/maintain standards, guidelines, etc. In conclusion, I explore how domestic political institutions and legal systems shape different public policies for international CSR in the US and the UK.

3. Research approach

Methodology

This study adopts a *process-tracing* approach to understand how governments adopt CSR regulation. Process-tracing is ‘an analytic tool for drawing descriptive and causal inferences from diagnostic pieces of evidence and often understood as part of a temporal sequence of events phenomena’ (Collier 2011: 284). The main purpose is to obtain information about specific events and processes, and the most appropriate sampling procedure is to identify the key actors that were most involved in the policy-making processes.

Furthermore, a case-study approach can be an optimal research design when an in-depth understanding and explanation of a phenomenon is required (Pettigrew 1990; Yin 1994). I conduct case studies to explore the impact of the political and legal systems on international CSR programs in the UK and US. I focus on government regulation aimed at two major international CSR problems: tax transparency in the extractives sector and labour standards in the apparel sector.

Selection of Countries

I examine the different legal and political systems in the US and the UK and explore their impact on government regulation of international CSR. The legal system is important because mandatory regulation can be enforced through the courts, which companies sometimes prefer. In most cases, a firm's costs increase when it adopts its own private initiatives to improve social or environmental standards for example. However, if competitors are required by law to adopt similar standards the result is a more level playing field (Vogel 2008). On the other hand, mandatory regulation can also lead to lawsuits, which can be costly to firms.

The nature of the legal system can lead to distinct forms of government regulation. The US has a stronger tradition of pursuing solutions to regulatory problems through its legal system than the UK (Aguilera *et al.* 2006; Kaplan 2014; Werner 2012). In Kagan's work on adversarial legalism, the US methods of policy implementation and dispute resolution are described as more adversarial and legalistic when compared with the systems of other economically advanced countries (Kagan 2001, 2008). Americans more often rely on legal threats and lawsuits, and American laws are generally more complicated and prescriptive, adjudication more costly and penalties more severe (Kagan 2001).

Kagan (2001) portrays the UK as more collaborative than the US. Concerning the UK, Moran (2003) argues, for example, (focusing mainly on financial services regulation) that the UK has had a model of a more collaborative style of 'club government', although this has subsequently become much more formalized with the establishment of independent regulatory agencies following the US model. In his study on environmental regulation in the US and the UK, Vogel (1986) reaches the same conclusion that the US regulatory approach is more rigid and rule oriented compared to the more flexible and informal British system (see also Ramseyer and Rasmussen 2010). As a consequence of the more collaborative British system, Aguilera *et al.* (2006) observe that regarding corporations and their relationships with stakeholders in the UK, NGOs are invited to be involved in working out regulatory solutions while this is less the case in the US (Aguilera *et al.* 2006). In contrast, in the US interest groups are more likely to use courts as an alternative political forum for seeking policy goals (Kagan 2008). I expect these different legal traditions in the US and the UK to affect government approaches to regulating international CSR.

The legal systems are deeply rooted in the political institutions and values of the US and the UK (La Porta *et al.* 1997, 1999). The UK is a parliamentary system where the majority party controls the Executive and Legislative branches (Hay 2002). The Prime Minister is held accountable to the legislature, which means that the Executive and his or her government are of a like mind with the majority of legislators, because as a rule Prime Ministers come from the party with a majority of seats in the Parliament. In contrast, in the US, the Executive and Legislative branches may, or may not, be controlled by the same political party and there is a high level of checks and balances between the Executive, Legislative and Judicial branches reflecting a mistrust of concentrated power (Lipset 1996). In situations where the President and Congress are not represented by the same party conflict over control of the bureaucracy is not uncommon and may spur private litigants to mobilize opposition (Farhang 2008). According to Kagan, the US has developed a distinctive 'legal style', crafting and enforcing laws and regulations, conducting litigation, adjudicating disputes and empowering the courts (Kagan 2008: 22). Kagan (2008: 23) further notes 'Adversarial legalism reflects deliberate governmental encouragement of litigation and judicial action to help implement public policy'. In short, the US is a more politically fragmented and less closely coordinated decision-making system where contestants in political struggles are more likely to employ litigation. The US also has never had the kind of strong labour party dominated by organized labour union federations that the UK has. This difference contributes to a more centralized and public sector protection of labour, while in the US labour law is more privatized and decentralized (Kagan 2008).

Summing up, the expectation that follows from this literature is that the US government adheres to a regulatory tradition, which is more 'top-down and hierarchical' relying on its legal system to impose sanctions in cases of non-compliance. The legal and political systems are closely linked and the system of checks and balances makes this link particularly clear at times when the President and Congress represent different parties and legalism becomes more pronounced. In contrast, the UK government views the adoption of regulation as a more co-operative and interactive process resembling more of a 'bottom-up collaborative' approach. The political system is more inclusive and business, labour and civil society organizations often contribute to shaping and further developing government initiatives while bureaucracies play an important arbiter role. Furthermore, the UK government regulation is less detailed and complex and is more likely to focus on the process rather than specific rules.

Selection of CSR Sectors

Industry sectors face different challenges with global extractive industries (Bennie *et al.* 2007; Jackson and Apostolakou 2010) and manufactured consumer brands (Spar and LaMure 2003) among those with the earliest and most extensive CSR initiatives. The pressure for CSR can come from a

variety of external stakeholders such as NGOs, trade unions, customers and government (Spar and LaMure 2003). I focus on the ready-made garment sector, which has faced tremendous CSR challenges such as appalling working conditions with low pay, long hours, factory collapses and fires (Locke 2013). I also focus on the extractive industry, which has been plagued by major problems such as corruption and human rights challenges (Frynas and Stephens 2014).

Data

I study US and UK government documents outlining the positions of key political actors in debates about labour standards in apparel and tax transparency in extractives. I also consider European Union (EU) and government reports as well as secondary sources including academic articles, consultancy reports and newspaper accounts. Finally, I conducted 20 informational interviews with key political actors involved in regulating tax transparency in extractives and labour standards in apparel. The goal of process tracing is to obtain information about the process leading to the adoption of government regulation of international CSR (Tansey 2007) and I therefore also identified and interviewed key political actors involved in making new policies for international CSR. I interviewed government and EU officials as well as business representatives, civil society actors and union representatives. I carried out interviews between 2012 and 2016 in London, Brussels, Washington DC and Dhaka, respectively. Furthermore, as part of a larger and related research project, I undertook a total of 31 interviews in Dhaka, 10 interviews in Brussels, 11 interviews in Washington and 5 in London. While I do not cite all 57 interviews, they contributed to my understanding of the policy process that led to the adoption of international CSR regulation by the US and UK governments. The article next proceeds to process trace how the US and UK institutional contexts (the legal and political systems) shaped different forms of government regulation of international CSR.

4. Results and analysis

The cases studies demonstrate clear differences between the US and the UK legal and political systems approaches to government regulation of international CSR. The US government has pursued mandatory regulation more so than the UK, and the UK government has been more willing to promote and support multi-stakeholder initiatives with union and civil society representation. Some policy convergence has occurred as the UK government recently has adopted mandatory initiatives (i.e. the Modern Slavery Act) that resemble those (trade) initiatives to protect labour adopted by the US government much earlier. Furthermore, the US government has joined a major UK government-initiated multi-stakeholder initiative (the Extractive Industries Transparency Initiative — the EITI — see EITI 2016).

The Extractives Sector

Transparent payment of taxes and charges by usually Western companies in the extractive sector to their host, usually developing, country governments is a long standing issue in international business responsibility (David-Barrett and Okamura 2016; Frynas 2009). The lack of accountability and transparency in revenues from oil, gas and mining can exacerbate poor governance and lead to corruption, conflict and poverty (Frynas 2009; Hauffer 2016). The aim of government regulation is to increase transparency over payments by companies to host governments and government-linked entities, as well as transparency over revenues by those host country governments. The hope is that this will lead to greater accountability in expenditures in the host state.

(a) UK government initiatives in extractives

The UK case illustrates that a government that controls Parliament can adopt tax transparency legislation in extractives without the gridlock that characterized the US policy-making process. The policy-making process in the UK includes business and civil society actors in policy making and continued policy development under the guidance of the UK bureaucracy.

In the 1990s, public criticism erupted of extractives firms and their role in perpetuating corruption in their host countries. A major event in the UK was the publication in 1999 by the UK NGO Global Witness of a report on the lack of transparency and government accountability in the oil industry in Angola (Frynas and Stephens 2014). The Global Witness report highlighted how the Angolan civil war was financed by oil money. This report led to demands for a new approach 'Publish What You Pay' (PWYP). The purpose behind the PWYP campaign's emphasis on transparency was to make clear how much each local mine paid in taxes in order to empower local communities to make political demands for public services. In February 2001, John Browne, the Chief Executive Officer of BP responded to the campaign and committed to publish payments made to the government of Angola (Browne 2010). BP and the government discussed how BP's initiative could be expanded to other companies as BP was hoping to level the playing field (Browne 2010). The British government followed the lead from BP to enhance tax transparency in extractives and in 2003 initiated the adoption of the EITI (Browne 2010; EITI 2016; interview with Clare Short, 14 November, 2014; interview with BP, 19 February, 2015). The EITI thus started out as a collaborative project between the UK government and a major UK company as well as a critical NGO (PWYP). This is different from the US where business generally disapproved of tax transparency regulation — perhaps because the US government's proposal has come in the form of a more rigid mandate (Dodd-Frank section 1504).

The aim of the EITI is to increase transparency over payments by companies to host governments and government-linked entities, as well as transparency over revenues by those host country governments. The key EITI

members are countries that decide to comply with the EITI standard. A country is required to publish an annual EITI report to disclose information on the key steps in the governance of oil, gas and mining revenues: contracts and licenses, production, revenue collection, revenue allocation, and social and economic spending. All companies operating in the country, including state-owned companies, are required to publish what they have paid in taxes to the country's government. The EITI requires a reconciliation of what the government discloses that it has received with what companies declare they have paid. The EITI operates as a multi-stakeholder initiative in each country where civil society organizations, companies and government representatives meet to determine the extent of taxation. Each national multi-stakeholder group determines how to adapt the EITI implementation process to reflect local circumstances, needs or preferences including, for example, a specific legal environment or the details of the payments to be published.

The responsibility for launching and co-ordinating the initiative in its early years rested with the UK Department for International Development (DFID). DFID thus functioned as an arbiter between business as well as civil society organizations. The EITI can be interpreted as reflecting a soft and collaborative way to regulate international CSR that reflects the UK's tradition for regulating processes as Moran (2003) has shown rather than regulating via detailed rules. According to Clare Short, who as Minister for Development initiated the EITI, 'The UK government proved a critical actor by acting as a "deal maker" in an atmosphere of mutual suspicion between the key companies and Global Witness. This reflected its unique resource of governing authority, which underpinned the continuing legitimacy with which the government was able to endow the EITI' (interview with Clare Short, 14 November, 2014).

Since its formation in 2003, the EITI has grown and today has assumed the status of an international organization reflecting a membership of national governments, companies, NGOs, investors and other international organizations. The EITI also provided inspiration for the EU's 2013 revision of its 1978 Accounting Directive in order to regulate tax transparency in extractive and forestry companies outside of the EU (interview, European Commission, Directorate-General for Internal Market and Services, 23 November, 2014). The UK government played a key role in promoting the revision of the EU Accounting Directive. In 2013, the UK held the Presidency of the G8 and at the summit in Lough Erne in July 2013 pushed for tax and transparency reform (Kishibe 2013; interviews with the EU Commission, Directorate-General for Internal Market and Services 26 November, 2014 and on 23 November, 2014 with the Directorate-General for International Cooperation and Development). A key issue for the UK and the EU was to establish a level playing field for European firms vis-à-vis US firms in order that UK firms and US firms would face the same regulatory requirements. One reason for the need to level the playing field was that European firms are much more likely to be listed both at a European stock exchange such as the London Stock Exchange as well as in the US. In contrast, US firms are

more likely to only be listed in the USA. Hence, European firms often have to manage both US and European regulatory requirements, whereas US firms only have to meet US requirements.

(b) US government initiatives in extractives

The Dodd-Frank Wall Street Financial Reform Act's Section 1502 on conflict minerals and Section 1504 on tax transparency in extractives are unusual additions to a financial services bill. US politicians saw an opportunity to use as leverage a shifting political climate after the 2008 financial crisis with a focus on financial transparency to include a focus on greater tax transparency in the extractive sector. These sections of the Dodd-Frank Act are unrelated to the US banking system, which is the main focus of the Dodd-Frank Act. I focus here on Section 1504, which requires stock exchange listed oil, natural gas and minerals companies to file reports to the US Securities and Exchange Commission (SEC) on project-level payments to foreign governments.

The initiation of the Dodd-Frank Act is necessarily different from that of the EITI for two reasons. First, the Act is a piece of coercive mandatory legislation. The US in contrast to the UK pushed for a traditional legally enforceable piece of legislation rather than a bottom-up multi-stakeholder initiative such as the EITI. Second, the process of passing legislation in the USA tends to be a much more drawn out and iterative process than that in the UK (Woody 2013; interview, Oxfam US, 7 November, 2014). US companies led by the American Petroleum Institute (interview, API, 7 November, 2014) lobbied for an exemption in situations where the host state prohibited disclosure but the SEC resisted these demands (Simons and Macklin 2014). The API and the US Chamber of Commerce considered that the disclosure sections of Dodd-Frank would put US firms at a competitive disadvantage and the API and other business groups filed a lawsuit against the US SEC for its implementation of Section 1504 of the Dodd-Frank Act. They succeeded in front of the District Court in 2013, which ruled that the SEC had not adequately justified the mandatory disclosure requirements (Simons and Macklin 2014). The Court remanded the rule to the SEC (American Petroleum Institute et al. v. SEC 2013). The US government regulation of tax transparency in extractives is a clear illustration of 'adversarial legalism' (Kagan 2001). It remains to be seen if Section 1504 will ever be implemented since on 3 February, 2017 President Trump signed an executive order to roll back the Dodd-Frank Act (*New York Times* 2017).

However, while the US did not initiate the EITI or participate in its development, the US government in September 2011 announced that it would begin the multi-year process of becoming an EITI compliant country. The EITI has become the *de facto* standard in tax transparency reporting for the extractive sector and the US government decided that it would benefit US firms to be part of this initiative.

Summing up, the UK government has promoted a multi-stakeholder bottom-up approach to CSR through the adoption of the EITI. The EITI

TABLE 1
Government Regulation of Tax Transparency in the Extractives Sector

Initiatives	Government role	Country of origin	
		UK	US
Extractive Industries Transparency Initiative (EITI)	The UK government initiated the EITI and provided financial and administrative support	Multi-stakeholder initiative and not legally binding Compliance evaluation: Analysis (since 2013 shift from aggregated data to company-level data) National level (host country focus)	
Dodd-Frank Act Section 1504	US government adopted traditional mandatory legislation		Legally binding for listed firms Compliance evaluation: Hard data International level (extraterritorial)

illustrates how the UK policy-making process promoted a consensus seeking and inclusive multi-stakeholder initiative where firms and critical NGOs could meet and try to work out their differences. In contrast, the US followed a simple recourse to top-down hierarchical mandate through the US legal system and the Dodd-Frank Act’s Section 1504. However, similarities also exist in how governments have sought to regulate tax transparency as the EU revised its Accounting Directive regarding tax transparency along the lines of Dodd-Frank’s Section 1504. Thus, policy convergence has occurred in mandatory regulation but also in softer forms as the US has joined the EITI. Table 1 provides an overview of government involvement in regulation of tax transparency in the extractive sector

The Apparel Sector

Poor working conditions including low pay, excessive overtime, factory fires and building collapses plague the apparel sector in the developing world. The US and UK governments have both pursued policies to improve working conditions in apparel factories but their different political and legal systems have resulted in different forms of public policies for international CSR.

(a) UK government initiatives in apparel

In the mid-1990s, the UK media exploded with accounts of labour violations in global supply chains. UK companies with subsidiaries or suppliers in developing countries were increasingly confronting the realities of operating in countries with poor regulation of labour standards. The UK government has played a key role in initiating and supporting a multi-stakeholder initiative to promote labour standards in global supply chains. Furthermore, the UK's parliamentary system enabled the government to act fairly swiftly. Similar to its role in the EITI, the Labour government was able to act without opposition from the Conservative party. Furthermore, the UK government brought into the policy-making process labour and civil society actors and DFID served as the arbiter between the different interests.

In 1998, Clare Short, then Secretary of State for International Development, launched the Ethical Trading Initiative (ETI — see ETI, 2016). The ETI focuses on improving labour standards in global supply chains including in textile and apparel. It was among the first initiatives to be included in the UK government's CSR agenda. According to Clare Short, 'The leading brands such as The Body Shop, Littlewoods and Sainsbury's were mainly concerned with resolving problems of their supply chain legitimacy. The unions were more concerned with establishing clear and defensible labour rights, and the civil society groups with positive international development. It was the government then, which facilitated discussions among leading retail companies, trade unions and NGOs' (interview with Clare Short, 27 November, 2014; see also Barrientos and Smith 2007; *The Guardian* 1999). DFID played a key role in bringing companies and civil society actors together to jointly discuss how to develop the ETI to protect labour standards in apparel. The UK union movement supported ethical trade and collaborated with UK retailers (House of Commons, Memorandum submitted by the TUC to the House of Commons, February 1999).

Regarding the regulatory form of the ETI, the government stated, 'there is no need for a comprehensive social labelling' (House of Commons 1999). Instead, the ETI emphasized continuous learning and including all stakeholders (interview, ETI representative, London Office, 4 July, 2016). Corporations do not need to be perfect when they join the ETI but they must show commitment to the ETI Base Code and demonstrate improvement over time. The process-oriented learning aspects of the ETI reflects the UK policy-making approach where social partners are engaged in developing solutions and partners are willing to accept that solutions need not be fully developed but 'in process'. The UK government maintains observer status on the ETI Board, signalling its continued involvement. In short, the ETI was prompted by key concerns from UK businesses with global supply chains and global operations, and linked with government foreign policy and development priorities. It should be noted that the UK government does not rely only on soft regulation such as the ETI. In 2015, the UK adopted the Modern Slavery Act that prohibits slavery and human trafficking in their own business or supply chains (UK Government 2015). This Act resembles at least to some

extent Section 307 in the 1930 Smoot-Hawley Tariff Act (see below) that prohibits importing into the US merchandise produced in whole or in part by forced labour such as prison and child labour (Burgoon 2001).

(b) US government initiatives in apparel

The US has a long history of using ethical trade through mandatory regulation to promote political goals. One reason is that party discipline plays less of a role in the US. It is not uncommon for individual members of Congress to insist on labour provisions in US trade agreements, as a way to signal to their constituents that trade should be fair. For example, Congressman Sandy Levin from Michigan whose district has a strong representation from the United Autoworkers' Union has been one of the most ardent supporters of labour provisions in US trade agreements (interview with the AFL-CIO, 29 November, 2016). Ethical trade has primarily centred on creating a level playing field for American workers by preventing cheap imports made under poor working conditions. In 1947, the US established what is today referred to as ILAB (Bureau of International Labor Affairs), which leads the US Department of Labor's efforts to ensure that workers around the world are treated fairly (Department of Labor, 2016).

The UK government cannot undertake trade policy independently of the EU and is therefore not amenable to union pressure for a level playing field the way the US government is (interview, European Commission, Directorate General for Trade, 24 November, 2014). The US has used trade policy to promote labour and human rights abroad and the argument has been to set standards that are high in order to protect the jobs of US workers or at least to ensure a level playing field (Compa and Vogt 2000; interview, US Trade Representative's Office, 30 November, 2016). In the UK, the emphasis is not primarily on protecting UK or European workers through social clauses in trade agreements but rather on promoting economic development.

The US also experienced an explosion in the media from the mid to late 1990s documenting appalling labour conditions in global supply chains (Hughes *et al.* 2007). In 1996, the Clinton administration concerned that the growing publicity about sweatshops would threaten its push for more free trade, proposed the Apparel Industry Partnership (AIP). This was a multi-stakeholder initiative established to reach consensus on the monitoring of global supply chains. Originally, the AIP had representatives from unions, business and civil society organizations. However, the unions and one of the participating NGOs, the Interfaith Center on Corporate Responsibility, withdrew from the initiative following disagreement over the influence of business over the monitoring scheme that was being considered. A long discussion ensued about whether the AIP should have a label or not. The unions wanted an independent monitoring system which business opposed (Bair and Palpacuer 2012; Fransen and Burgoon 2014). The Fair Labor Association (FLA), which was dominated by firms such as Nike and Liz Claiborne then succeeded the AIP and the FLA did not include unions. Instead, it is a 'collaborative effort of socially responsible companies, colleges

and universities, and civil society organizations' (Fair Labor Association, accessed at www.fairlabor.org, 13 March, 2017).

Hughes *et al.* (2007: 502) point out that campaigning had a 'significant legal dimension' (with groups such as Human Rights First being run by lawyers and experimenting with legal frameworks such as the Alien Tort Claims Act, which hold corporations accountable for actions affecting foreign workers). The earlier role of the Act was limited and it has now been eviscerated as a mechanism by which to discipline labour practices of US firms abroad. A main focus in the US has been on creating a level playing field for US workers (Hughes *et al.* 2007; interview, ILAB, 29 November, 2016). I demonstrate below in the discussion of US trade relations with Bangladesh that the US used trade policy to promote labour rights. In contrast to the US discussion about the need for labelling (see below) in the UK, the government stated, 'there is no need for a comprehensive social labelling' (House of Commons 1999). In other words, in the ETI there is an emphasis on continuous learning and including all stakeholders (ETI representative, 4 July, 2016), whereas in the US, the FLA is a business-led initiative and Social Accountability International (SAI) focuses on social labelling. The process-oriented learning aspects of the ETI reflects the UK policy-making approach where social partners are engaged in developing solutions and partners are willing to accept that solutions are not fully developed but 'in process'. In the US, in contrast, unions in particular pushed for a clear and certified standard that can be pursued through the legal system but business opposed this.

Summing up, both the US and the UK governments have played key roles in promoting labour standards in supplier factories. The UK initiative highlighted how ethical trade could contribute to economic development, while the US government's main emphasis was on creating a level playing field for US workers (Hughes *et al.* 2007). The UK government has played a key role in shaping a process-oriented multi-stakeholder initiative, whereas in the US business and unions could not agree on the process of the FLA. The UK government established an inclusive multi-stakeholder initiative with union and NGO involvement, whereas the US government's initiative (AIP/FLA) to a greater extent reflected a strong business emphasis and the US also used trade policy to promote labour rights.

UK and US Government Initiatives in the Wake of the Rana Plaza Factory Collapse in Bangladesh

I also compare government initiatives to improve labour standards in the US and the UK after the 2013 Rana Plaza factory collapse in Bangladesh. In April 2013, Rana Plaza, an eight-storey commercial building collapsed in Dhaka, the capital of Bangladesh. This was the deadliest garment factory accident in history killing more than 1,100 workers. The case illustrates that the US government has continued to promote core labour rights through trade (interview, Labor Attaché, US Embassy in Bangladesh, 6 August, 2015; interview, Bangladesh union BIGUF, 3 August, 2015; interview, Danish union

3F, 2 August, 2015). Since the UK government cannot undertake trade policy independently, I primarily consider the US government's position on trade and labour standards. However, both the UK and the US governments supported initiatives to protect labour that were undertaken by private actors — the Bangladesh Accord for Fire and Building Safety (Accord — see Bangladesh Accord, 2017) and the Alliance for Bangladesh Worker Safety (Alliance — see Alliance, 2017). I demonstrate that the different regulatory approaches in the UK and the US — the inclusion of unions and NGOs in shaping the ETI and excluding unions in the FLA — are replicated in the Accord and the Alliance, respectively.

The US is more likely to use coercive regulation while companies concerned with the threat of lawsuits prefer to develop business-only initiatives rather than engage in multi-stakeholder programs. In June 2013, President Obama adopted a foreign trade policy initiative, suspending Bangladesh's trade benefits under the Generalized System of Preferences (GSP) in view of insufficient progress by the Government of Bangladesh in granting Bangladeshi workers internationally recognized worker rights (*The Washington Post* 2013; see also Manzur *et al.* 2017). Established by the Trade Act of 1974, the US GSP consists of unilateral grants of favourable treatment (reduced tariff rates) (Compa 2016). A labour rights clause was added to the GSP in 1984 that enabled the President to not designate any country that has not taken or is not taking steps to afford internationally recognized workers' rights. The GSP amendment allowed labour advocates to file complaints with the Office of the United States Trade Representative (USTR) challenging a country's beneficiary status because of internationally recognized worker rights. The USTR would then hold public hearings in which advocates, foreign government officials and workers from countries under scrutiny could testify. The US has adopted a large number of bilateral trade agreements that include labour standards provisions as a condition for market access (Compa 2016). A notable example is the Better Factories program in Cambodia that according to Kolben (2004: 79) 'created incentives for the Cambodian garment industry to bring itself into substantial compliance with international labour standards and Cambodian labour law'.

Since 1990, the AFL-CIO has filed numerous petitions on violations of internationally recognized workers' rights, in law and practice, in Bangladesh (AFL-CIO, 2007). The AFL-CIO presented a case again before the USTR in 2007. The USTR agreed to hold a hearing on 28 March, 2013. The AFL-CIO argued that 'Bangladesh's failure to afford internationally recognized worker rights as required pursuant to Section 2462(d) of the Generalized System of Preferences' (Office of the US Trade Representative, 2013). The GSP waived tariffs on imports into the US but did not include textiles or apparel. Out of the \$4.9 billion worth of goods imported into the US from Bangladesh in 2012, the GSP applied to only \$34.7 million (Quelch and Rodrigues 2014 (A and B)). Nonetheless, the trade suspension was a blow to Bangladesh's image (interview, US Trade Representative's Office, 30 November, 2016). The Bangladeshi government had also hoped to negotiate a bilateral trade

agreement with the US with lower tariffs but after Rana Plaza this goal was pushed aside (interview, ILAB, 29 November, 2016; interview, BGMEA, 28 July, 2015; interview, Bangladeshi Minister for Industry, 26 April, 2016). Furthermore, the US decision raised concerns in Bangladesh that the EU might similarly close off special access trade (interview, Bangladeshi Minister for Industry, 26 April, 2016). However, whereas the EU also links trade access and labour rights, it tends to promote a broader set of democratic and human rights rather than particular labour rights (Aaronson 2006).

The approach by the US and UK firms also differs regarding how to improve occupational safety and health in the apparel sector in Bangladesh. Twenty-one UK apparel firms have helped establish the Accord, which is a multi-stakeholder initiative together with the ILO and trade unions. The Accord is a legally binding agreement. Over 150 apparel corporations from 20 countries in Europe, North America, Asia and Australia; two global trade unions, IndustriALL and UNI; and numerous Bangladeshi unions have signed it. The Clean Clothes Campaign, the Worker Rights Consortium and the International Labor Rights Forum and Maquila Solidarity Network are NGO witnesses to the Accord. The ILO acts as the independent chair (Bangladesh Accord 2017).

Many US retailers and brands would not sign the Accord due to liability fears (interview, Alliance, 13 July, 2015).¹ Instead, a group of North American apparel companies and retailers and brands founded the Alliance — an internally binding agreement to improve worker safety in Bangladeshi apparel factories. However, the Alliance has no union representation. In short, the American response consists of a government-to-government trade initiative in response to trade union pressure, and a business-only initiative.

Table 2 provides an overview of government involvement in the regulation of labour standards in the apparel sector.

5. Discussion and conclusion

This study has demonstrated that different legal and political systems shape a distinct regulatory mix of mandatory and supportive forms of public policies for international CSR. The US has a stronger focus on mandatory regulation that fits its legalistic approach, while the UK has a stronger tradition for government-led processes that facilitate discussion and learning among a range of key stakeholders about how to solve problems and co-create solutions. Multi-stakeholder initiatives such as the ETI and the EITI are examples of this. A key difference between the UK and the US is that UK corporations are more willing to collaborate with business-critical unions or civil society actors reflecting a political system where business, unions and civil society actors are more likely to attempt to find common solutions under the guidance of the government. The US government originally supported the adoption of multi-stakeholder initiatives in apparel but business and labour could not come to an agreement, as the union wanted a living wage

TABLE 2
Government Regulation of Labour Standards the Apparel Sector

<i>Initiatives</i>	<i>Government role</i>	<i>Country of origin</i>	
		<i>UK</i>	<i>US</i>
Ethical Trading Initiative	UK government initiated and supported financially and with administrative resources	Multi-stakeholder initiative (including unions) Not legally binding	
<i>Accord</i>	EU, European companies and US government supported the initiative	Multi-stakeholder initiative (including unions) Legally binding	
Apparel Industry Partnership	US government initiated and supported with financial resources — today Fair Labor Association		Multi-stakeholder initiative (union exited) Not legally binding
<i>Alliance</i>	The US government (USAID) supported the initiative		Business-only initiative Not legally binding
US Trade Agreement with Bangladesh (GSP)	US initiated the end to the GSP		Government-government negotiation Legally binding

Note: Support for the Accord and the Alliance in italics.

that business refused. Many US companies prefer to participate in initiatives with limited or no union involvement such as the FLA or the business-only Alliance. Tables 3 and 4 provide an overview of the focus of the UK and US governments in these initiatives as well as an overview of key mandatory government initiatives and supportive programs concerning international CSR.

To date the literature on how the domestic institutional context shapes public policies for international CSR has generally seen LMEs with their greater focus on markets and smaller welfare states as having a less developed role for the state in terms of shaping CSR (Jackson and Apostolakou 2010; Matten and Moon 2008). However, both the US and the UK governments play important roles in developing CSR programs for their international corporations and their activities abroad. Furthermore, a more fine-grained

TABLE 3
Government Focus and Mandatory and Supportive Regulation of Tax Transparency in
Extractives

	<i>Government focus</i>	<i>Mandatory regulation</i>	<i>Supportive regulation</i>
US government	Tax transparency (as part of financial transparency)	Dodd-Frank Section 1504	US government decision to implement EITI
UK government/ EU	Tax transparency (as part of financial transparency and international development through DFID)	Revision of EU Accounting Directive ('Transparency Initiative')	UK government decision to initiate process-oriented multi-stakeholder initiative (EITI)

TABLE 4
Government Focus and Mandatory and Supportive Regulation of Labour Standards in
Garments

	<i>Government focus</i>	<i>Mandatory regulation</i>	<i>Supportive regulation</i>
US government	Level playing field for US workers	Section 307 of the 1930 Smoot Hawley Tariff Act Bilateral trade agreements linking trade access to labour standards (many examples) 2013 Obama administration revoked GSP trade access for Bangladeshi products	Support for (mainly) business led initiatives (government initiates FLA; financial support for Alliance)
UK government/ EU	International development agenda	EU remains open for 'Anything But Arms' goods from Bangladesh UK 2015 Modern Slavery Act	Support for process-oriented multi-stakeholder initiatives (government initiates ETI; financial support for Accord)

process-tracing approach is able to pinpoint how distinct domestic contexts — political and legal systems — shape particular forms of public policies for international CSR with the US using trade policy to drive improvements of labour abroad and setting a high bar with the goal to protect American workers. The UK has focused on ethical trade as an element of its international development program focusing less on UK workers and highlighting instead

a multi-stakeholder approach. Through the EU, the UK has also pursued a policy of open trade underpinned by capacity building funded by government and EU programs. In extractives, the UK government promoted tax transparency as part of its development agenda through a multi-stakeholder initiative, while the US focused on tax transparency as an element of its financial reform package.

However, while the domestic institutional context contributes to shaping the specific form of public regulation, some government policy convergence has taken place across the two countries. For example, the EU with strong support from the UK has revised its Accounting Directive in ways that resemble the Dodd-Frank Act (highlighting country-by-country reporting for companies) and the US has recently become a member of the EITI, which was originally set up by the UK government. In the apparel sector while the US and the UK/EU governments have pursued different trade policies vis-à-vis Bangladesh, both the US and the UK continue to meet regularly in the so-called Sustainability Compact. The Sustainability Compact is an agreement adopted on 8 July, 2013 that brings together the EU, Bangladesh, the US and the ILO accompanied by employers, trade unions and other key stakeholders with the common goal of improving working conditions and respect for labour rights.

In closing, I address five limitations of this study. This article has only taken a first step toward outlining how distinct political and legal traditions can shape the adoption of government international CSR programs but more in-depth process tracing is needed in order to demonstrate how UK policy makers and key stakeholders came to agree on the adoption of multi-stakeholder programs such as the ETI and the EITI. More research is necessary to clarify how different key stakeholders perceived the benefits and disadvantages of such initiatives and how compromises were reached. Second, the study highlights the nation state as policy maker and regulator but other national institutions also contribute to shaping the organization and governance of corporations including, for example, the financial system and the system of education and training (Lane 2007) or political parties (Iversen and Soskice 2006). In this analysis I have not explored in detail the impact of different political parties. The initiatives under consideration here have all been introduced by Labour governments (in the UK) and Democrats (in the US). In the case of the UK, the approach of the NGOs, unions and companies to the issue of ethical trade, for example, was very much in accord with the formative idea of the Blair government, 'The Third Way' (Giddens 1998), by which it was intended that governing became a collaborative endeavour with business and organized labour. Blair was inspired by Bill Clinton's renaming his party the New Democrats. Both Clinton and Blair rejected a neoliberal belief that everything can be left to the market, but both also saw the traditional left-of-centre faith in state intervention in the economy as outdated.

Third, the article has highlighted differences between the US and UK legal traditions and their implications for the form of public policies for

international CSR. However, little is known about how the US and UK policy makers learn from each other. Regulators want to maximize regulatory efficiency and do not want to burden companies with unnecessary regulatory costs in the form of legal requirements that have the same overarching goal (i.e. tax transparency) but that vary in the US and the UK. How do the US and UK governments seek to ensure consistency across regulatory requirements? Informational interviews with both US, UK and EU officials have highlighted that policy learning is important but the conditions are not well understood under which policy makers in distinct regulatory spaces pursue policy convergence and when they do not. Fourth, I have focused on the US and the UK only. Similar analysis probing how political and legal systems shape government regulation of international CSR across Europe could provide important insights into the role of government in shaping mandatory and supportive forms of regulation in different institutional contexts. Finally, this study has focused on government mandatory and supportive international CSR initiatives but does not consider the impact on firm-level CSR initiatives in UK and US corporations. It is to be expected that national institutions may exert a substantial influence over firms' international CSR strategies (Christopherson and Lillie 2005; Knudsen 2017; Lane 2007).

Background interviews (listed chronologically for each sector)

Garments

1. Sainsbury's (founding member of ETI), 12 October, 2012.
2. Clare Short. Clare Short is the former UK Minister for International Development (1997–2003), 14 November, 2014.
3. European Commission, Directorate-General for Trade, 24 November, 2014.
4. Accord, Bangladesh, 13 July, 2015 (phone interview).
5. Alliance, 13 July, 2015 (phone interview).
6. Vice President BGMEA (Bangladeshi Garment Manufacturers and Exporters' Employers' Association), 28 July, 2015.
7. Danish Union 3F in Bangladesh, 2 August, 2015.
8. Bangladeshi Union Federation (BIGUF), 3 August, 2015.
9. Labor Attaché, US Embassy, Dhaka, Bangladesh, 6 August, 2015.
10. Amir Hossain Amy, Bangladeshi Minister for Industry, 26 April, 2016.
11. ETI London Office representative, 4 July, 2016.
12. US Trade Representative's Office, 30 November, 2016.
13. ILAB (Bureau of International Labor Affairs), 29 November, 2016.
14. AFL-CIO, 29 November, 2016.

Extractives

1. BP, Executive Vice President, 19 February, 2014.
2. Oxfam America, special advisor, extractives, 7 November, 2014.
3. American Petroleum Institute, advisor, 7 November, 2014.
4. Clare Short. EITI. Clare Short is the former Chairwoman of the EITI (March 2011–February 2016) and former UK Minister for International Development (1997–2003), 14 November, 2014.
5. European Commission, Directorate-General for Internal Market and Services, 23 and 26 November, 2014.
6. European Commission, Directorate-General for International Cooperation and Development, 23 November, 2014.

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Note

1. American companies generally face a higher risk of litigation than European companies. Unlike the system in the USA, courts in Europe generally prohibit class-action lawsuits, do not allow contingency fees for lawyers who win cases and require losing parties to pay legal fees for both sides. Those European policies often discourage lawyers and plaintiffs from filing lawsuits.

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