Corporate Environmental Accountability and International Law

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Nothing new in int’l environmental law

- **1972 Stockholm Conference on the Human Environment**
  - Preamble of the Stockholm Declaration: “To achieve this environmental goal will demand the acceptance of responsibility by citizens and communities, and by enterprises and institutions at every level, all sharing equitably in common efforts”

- **1992 Rio Conference on Environment and Development**
  - Agenda 21, chapter 30: “Strengthening the Role of Business and Industry”, including “Promoting responsible entrepreneurship”

- **2002 World Summit on Sustainable Development**
  - Political Declaration: “duty of the private sector to contribute to the evolution of equitable and sustainable communities and societies” and (para. 27) and “need for the private sector to enforce corporate accountability, …within a transparent and stable regulatory environment” (para 29)

- **2012 “Rio+20” Conference**: “green growth”? 
International standard-setting initiatives

- UN
  - Partnership approach: Global Compact (2000)
  - Human-rights based approach:

- OECD

- International Finance Corporation (World Bank group)
  - 2006 Performance Standards
Why international standard-setting?

- Need for ‘translating’ international environmental law into standards

- Corporate “Accountability”
  ≠ corporate (social) “responsibility”
  ≠ corporate “liability”

- Initially multinationals, gradually “business”

- Converging standards
Common environmental standards

- **Integration**
  - Environmental impact self-assessment
  - Environmental management system
- **Prevention/ No harm**
- **Precaution**
- **Disclosure of environmental information**
- **Public consultation**
  - grievance system
- **Sustainable use of natural resources?**
  - Internationally protected sites
  - Internationally protected species
Further convergence: 2011 review of OECD Guidelines and IFC Standards

- **Procedural standards**
  - OECD: stakeholder involvement and focus on local communities
  - IFC: prior informed consent & benefit-sharing

- **Substantive standards**
  - Climate change
  - Efficient resource use
  - Biodiversity
Cross-fertilization between Environmental and human rights dimensions?

- **UN Framework for Business and Human Rights**
  - borrowing environmental tools?

- **Gap-filling** by the UN Special Rapporteur on Indigenous Peoples’ Rights

- **Role of the Convention on Biological Diversity**
  - Benefit-sharing?
International monitoring

- Global Compact → ‘integrity measures’ (credible allegations of systematic or egregious abuse, including severe environmental damage)

- UN Special Rapporteur on Indigenous Peoples’ Rights → ‘communications’

- OECD Guidelines → implementation procedure (National Contact Points - NCPs - and OECD Investment Committee)

- IFC CAO (Ombudsman function)

→ increasing proceduralization? (2011 OECD review)
→ increasing convergence in their findings?
References

- E Morgera, Corporate Accountability in International Environmental Law (OUP, 2009)