Rents, Power and Governance in Global Value Chains

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We are grateful to Jennifer Bair, Stephanie Barrientos, Cornelia Staritz and Will Milberg for their constructive comments on an earlier draft.

March 2016

Summary

This paper provides an architecture for analysing the governance of Global Value Chains (GVCs). It distinguishes between three spheres of governance – setting the rules ("legislative governance"), implementing the rules ("executive governance") and monitoring rules and sanctioning malfeasance ("judicial governance"). This analytical framework is focused on the exercise of power in GVCs which affects the generation, protection and appropriation of rents. It is considered though the lens of four sets of key GVC stakeholders – the corporate sector ("endogenous governance"), civil society organisations, the nation state and supranational institutions (who collectively reflect what we term "exogenous governance"). The paper concludes that whilst the corporate sector is very effective in governing its GVCs, the other three sets of stakeholders have deficient capabilities in this regard. Three case-studies are presented which lead to an hypothesis that the capacity of non-corporate stakeholders to govern GVCs is contingent upon the extent to which this coincides with the interest of the corporate sector.

Keywords

Governance
Global Value Chains
Economic Rents
Competition Policy
Taxation
Globalisation

1. Introduction

Global Value Chains (GVCs) now dominate global trade and much of global production. The World Trade Organisation estimated that in 2012, two-thirds of global trade occurred within the framework of GVCs (Reported in UNCTAD 2013). This estimate follows from a broad definition of GVCs to include all trade which involves either (or both) of the processing of imports which are then exported to other countries, or the production of exports which are processed elsewhere and then exported to further destinations. In other words, this definition covers production in a chain which involves at least three countries. In this paper we employ a narrower definition of GVCs to consider trade in value chains which is in some sense controlled ("governed") by one or more parties. This may involve control over logistics, the division of labor in the chain, technology and innovation, property rights, branding and other determinants of competitive positioning in final markets.

This paper has its origins in a practical question. One of our co-authors is also the Judge President of the Competitions Appeal Court in South Africa and interacts with Competitions Courts in a variety of economies including the US, the EU and the South. He was dealing with cases involving global multinational corporations operating in the South African economy, most notably adjudicating on Wal-Mart's controversial acquisition of one of South Africa's largest retailers in 2012-2013. As he put it: *"Competition and corporate law operate on the assumption that the nation state governs the performance of actors within the domestic economy. But the firms I am dealing with operate at a global level. How do I square this circle?"*

This paper is our joint attempt to understand the dynamics of this "policy quandary", with a view to augmenting the debate on how Global Value Chains can be governed in such a way as to ensure a fairer distribution of benefits from global processes of production and appropriation. We come at this from a variety of disciplinary backgrounds – law, economics and political economy. We are aware that other disciplines such as international political economy, sociology and economic geography have addressed some of the issues which we consider, and are conscious that the literatures which we cite are partial and reflect our individual disciplinary backgrounds[1].

We understand "Governance" to comprise of two key elements. The first reflects the institutions of control (for example, government). The second addresses the exercise of control, the "action or manner of government" (New Oxford American Dictionary, accessed online 10th February 2015). In this paper we address both of these issues, but we do so in a very specific context. Our starting point is that without power, governance is an empty concept. It necessarily involves the exercise of sanctions (be they positive or negative) to achieve a set of given ends. The particular set of ends which we consider in this paper are the capacity to shape the generation and

[1] See for example the Special Issue on Governance in GVC and GPN, Review of International Political Economy 2014, 21, 1, especially the contributions by Neilson et al, Gereffi, Ponte and Sturgeon, Seabrooke and Wigan, Ravenhill.

distribution of economic rents in the context of the growing globalisation of production, exchange and consumption. In this respect, we seek to analyse the changing inter-relations between private (i.e. corporate), pubic (i.e. governments) and social (i.e. civil society) governance in a value chain driven world. We are aware that this is by no means the only sphere in which government operates and governance is exercised, and it is for this reason that we seek to carefully delimit the terrain which we will be exploring.

Power is always contested by a variety of social actors and is never unilaterally exercised. Our focus here is to discuss how the transition towards the dominance of global value chains (GVCs) in the current era of globalisation (roughly post 1980s) has led to a complex but different set of governance relations compared with those found in earlier decades. Governance relations which were previously vested in the national state have become more diffused in the current era of globalisation and, we will argue, have moved in favour of the corporate sector as the generation and appropriation of economic rents and the exercise of power has shifted increasingly from the national to the global level. However, this shift in the locale of governance in favour of private governance is by no means uncontested.

Section 2 discusses economic rent, since our focus lies on the generation and distribution of rents which lies at the heart of GVC analysis. In Section 3 we consider the context in which contemporary GVC governance is set, identifying three major disruptive factors. In Section 4 our attention turns to the nature of governance. Here we distinguish between three spheres of governance - the legislative sphere in which the rules are set, the executive sphere in which the rules are implemented, and the judicial sphere in which the rules are monitored and in which malfeasance is sanctioned. In Section 5 we provide three brief case-studies to show the variance on governance patterns in GVCs, and use this variance to draw tentative general conclusions in Section 6.

2. Power, Rent Generation and Rent Appropriation in GVCs

The post 1970s deepening of globalisation was driven by lead firms constructing increasingly fragmented supply chains criss-crossing national borders. These complex GVCs required coordination, facilitated by command over logistics, transport and communications technologies, necessarily buttressed by the power of the lead firms.

Globalisation provides the scope to gain from scale economies and in so doing, to reap the benefits of specialisation. Selling into demanding and competitive markets exposes producers to new ways of processing, better and new inputs, new customers and new product designs. Given the rapidity of technical progress in highly competitive global markets, the capacity to learn through exporting offers rewarding prospects for economic management and for individual producers.

There are a number of economies and many firms which have managed to grasp the opportunities provided by rapid export growth to achieve sustainable income growth. The most prominent examples of economies are those in Asia – initially Japan from the 1950s and 1960s, then the Asian Tigers (Hong Kong, Korea, Singapore and Taiwan) from the 1970s and 1980s, and most recently China after the mid-1980s. This wide-ranging economy-wide success was built on the performance of successful exporting firms such as Toyota (Japan), Samsung (Korea), Acer (Taiwan) and Huawei (China).

However, the *potential* for reaping these different benefits made possible through participating in global markets does not automatically translate into the *reality* of achieving these gains. Consider the experience of the Central American economies in the 1980s and 1990s who sought to promote export and income growth through an expansion of Export Processing Zones. Many firms burnt their fingers in this phase of export expansion (Kaplinsky, 1993). For example, a Dominican Republic assembler of jeans for the US market invested $150,000 in new equipment in 1989. It began exporting 9,000 jeans a week at a unit price of $2.18, but in the space of 12 months the quantity and price of these exports fell progressively to 5,000 and $2.00 and then to 3,000 and $1.87 respectively. Thus, this mode of export growth did not provide for sustainable income growth but for immiserising growth, that is, a process of increasing economic activity with declining real incomes.

What makes the difference between these positive and negative outcomes? The answer lies in the capacity to exploit and generate rents, to appropriate rents and to protect rents within the context of the dynamics driving GVCs (Kaplinsky 2005). Rent describes an environment of scarcity in the context of demand. The holder of rent benefits from an absence (relative or absolute) of competition, protected by one or more barriers to entry. The more desired the scarce attribute, and the higher the barriers to entry, the higher are the resultant incomes. If these barriers to entry can be protected, then the resultant incomes are sustainable over time. Where they cannot be protected, it is the ability to generate new rents ("dynamic rents") which provides for sustainable incomes. Hence the capacity to appropriate rents provides the key to a gainful insertion into global export markets. The converse leads to intensifying competition, with a negative affect on incomes.

Four primary sources of rent affect income streams. The first are resource rents, "gifts of nature", in which a producer has access to relatively better land or resource deposits than a rival, and where the price of the resource is set by the costs of production of the less well-endowed producer. Examples of such resource rents can be found across the primary sector – particularly fertile agricultural land, high ore-content minerals close to the surface, and low-cost and accessible hydrocarbon deposits

The second major category of rents are those which are created by producers, increasingly through the systematic application of knowledge to production (Schumpeter 1934). These "innovation rents" are endogenous to the participants involved in the chain of production. They may be generated by developing better production processes than rivals, introducing higher quality or differentiated products or developing forms of organisation which are superior to those utilised by rivals.

Complementing these endogenous "created" rents are the exogenous rents which are external to the production chain participants, but which influence their capacity to generate and appropriate rents. Thus compared to rivals in other economies, producers may benefit, for example, from access to better forms of infrastructure, from lower cost and directed financial intermediation, have access to a better trained workforce and to other inputs which affect their capacity to produce effectively. Intellectual property rights regimes (IPRs) buttress their capacity to appropriate the rents generated in production and exchange.

The fourth category are "market rents" which arise through exclusive or near-exclusive control over input and product markets. Here, control inhibits market-entry by competitors through a variety of mechanisms such as collusion, predatory pricing and restrictive practices. This may lead to monopolistic-rents where there are no other competitors; or, through collusion with other powerful parties, to oligopolistic-rents which are shared by a limited number of colluding parties.

Whilst these four categories of rent – resource, endogenous, exogenous and market – are distinct, they are not independent. For example, the capacity of the productive sector to generate and appropriate rents will be a function of the environment in which firms operate and the exogenous rents which they provide. But chain participants are able to influence the policy environment and help to shape the structure of exogenous rents. Similarly, although resource rents are a gift of nature, innovation by chain participants in the search for endogenous rents may lower the costs of resource extraction or produce technologies which compensate for low-grade resource deposits (Wright and Czelusta, 2004). Market rents may be a function of regulated systems and industrial policies which dampen competition, but at the same time, large firms are often able to shape a regulatory environment in a way which limits competition, for example by seeking tariffs to exclude or disadvantage foreign competitors from the domestic market.

Rent generation and appropriation in this era of globalisation has taken place in an increasingly integrated and competitive global environment dominated by the pervasiveness of GVCs. Barriers to entry within GVCs are critical to the development of rents, since without these barriers, there are few limits to competition. These barriers to entry arise from a variety of sources. Some are primarily determined by technological capabilities, where firms gain from their exclusive command over particular capabilities. Firms are also able to shape their environment through the exercise of market power. We refer to these firm-generated rents as "endogenous rent") In other cases, the barriers to entry are primarily driven by factors exogenous to the firm such as policy design and gifts of nature. Understanding the source of entry barriers, their sustainability over time and the capacity of society to control and limit rents requires an understanding of the governance of GVCs. For within GVCs rents are generated, maintained and enforced via power, and governance is the form that the exercise of power takes along the chain.

3. Changing Context in the Global Governance of GVCs

Context is critical in analysing the governance of rents accruing in global production and consumption. At this point in history three related disruptive factors which were ushered in the era of GVC-led global growth have a bearing on these outcomes. The first is the advancing globalisation of production and consumption. This involves a fundamental shift in the structure of firms, their interrelationships, as well as how they relate to other actors and institutions in the public and private spheres. In a previous era, roughly between the end of WW2 and the 1980s[2] the corporation and the nation state occupied a clear territorially defined identity in terms of ownership, production, nationality, accountability and geographical reach. Large TNCs – with their roots stretching back to the late nineteenth century (Wilkins, 1974) – tended to be clearly identifiable as national firms (e.g. German auto firms). To a greater or lesser extent, the nation state was generally able to govern these national firms. Underlying this "national" arena of governance was a production system in which value was added to products in a series of sequential steps, albeit in geographically spread operations. Industrial policies such as import substituting industrialisation sought, often with considerable success, to deepen the degree of value added in a particular national jurisdiction. The corporation both bent to these demands and helped to construct them as they exploited tariff-jumping global opportunities and in some cases sought to persuade host governments to introduce legislation favouring domestic production and value added.

However, the pattern of global integration which developed after the end of the mass production era (variously referred to as the "second industrial divide", Fordism, the Belle Époque – Piore and Sabel 1984, Lipietz 1987, Piketty 2014,) fundamentally altered the pattern and global dispersion of value addition. Instead of production occurring through a series of sequential value-adding steps undertaken within national boundaries, production became increasingly fragmented, with highly specialised tasks being undertaken in parallel across the globe. This not only led to a growing spatial divide between production and consumption, but trade between countries was increasingly in sub-components and capabilities, and less and less in final products (UNCTAD 2013). As we shall see this disruption in the nature of global production has important implications for the pattern of global governance.

The second and third disruptive factors are closely inter-related and can be described briefly. There have been very considerable reductions in transport costs which have gone hand-in-hand with the dispersion of GVCs. Long haul sea and air freight costs have significantly facilitated the movement of goods. Shipping costs have been radically reduced through a combination of factors such as containerisation and design changes; air transport costs fell from

[2] Widely characterised as the golden age of Fordism in the industrially advanced economies, import substituting industrialisation in the developing economies (Piore and Sabel, 1984).

$3.87 per ton-kilometre in 1955 to less than $0.30 in 2000 (World Bank 2009) with the value of air trade increasing by 11.7% p.a. between 1975 – 2004 (WTO 2008). The disruptive impact is not however confined to direct costs. The reduction in lead times arising from an increase in the speed of trade not only lowered indirect costs (for example by allowing for the shrinkage of inventories), but also allowed producers to customise their offerings more closely to consumer needs. Without these cost and time reductions, the fragmentation of products into tasks and the growth of cross-border trade in tasks would have been prohibitively costly.

Allied to this reduction in transport costs there has been a simultaneous increase in the knowledge-intensity of production and in the reduction in costs and growth in speed of the processing and transferring the knowledge component of production. As GVCs have fractured to reflect specialisation in core competences, the lead firms in many of these chains have specialised in the knowledge component of production. The major advances in ICTs have both made this specialisation both possible and affordable. ICTs have thus become central to the logistics of GVCs, to the exercise of governance by lead firms and to the appropriation of rent (OECD/WTO 2013).

As will be seen in the case-studies presented in Section 5 below, each of these three disruptive factors has played an important role in the structure of governance of global production, and in the generation, protection and appropriation of global rents.

4. The Role of Four Key Stakeholders in the Governance of GVCs

The analytic architecture which we will use to analyse the patterns of governance and its implications for rent generation and appropriation distinguishes between three spheres of governance - rule setting, rule implementing and rule monitoring-sanctioning. Without the capacity to apply its reach, establish legitimacy, and sanction malfeasance, governance has no meaning. As we shall see, the manner in which this governance is exercised is context-specific, affected by locality, sector and time. Moreover the pattern of institutions in which governance is exercised may take a number of forms.

Historically the nation state played the major role in the governance of production, exchange and rent appropriation. However in the current era of GVC-led globalisation, this geographically-located governance power has been undermined. A much more complex pattern of governance has emerged and four primary actors are unequally involved in the governance of GVC rents. These are the corporate sector, civil society organisations, the nation state and supranational institutions. Each of these actors is characterised by heterogeneity at the global scale, and each has its own pattern of trajectories and path dependencies. Moreover, these stakeholders co-evolve in a complex political economy environment, and rarely act autonomously. Nevertheless, we argue that each set of actors exhibit common characteristics which shape their behaviour in relation to the generation and appropriation of rents.

4.1. The Firm and the exercise of governance over GVCs

By definition, the central business of the lead firm in GVCs is to concentrate on its core competences and to outsource non-core capabilities, generally to an increasingly global spread of suppliers and customers. Which activities it continues to pursue in-house will be determined by its command over the four core areas of rent identified above – its access to resource rents, the generation of endogenous innovation rents, situating its activities in terrains where it benefits from exogenously determined rents, and in the exercise of its market power to limit competition in input and output markets. In each of these cases the firm will need to determine the rules of the game which affect the roles played by its suppliers and its customers in its chain (legislative governance), to assist its suppliers and customers to meet these standards (executive governance), and then to monitor and sanction their performance in meeting these standards (judicial governance).

The emphasis given to the various instruments of governance and the extent to which the firms exercise these directly (in-house) or through intermediaries will vary across sectors, time and location, and between different firms in the same GVC. There is no necessary reason why we should expect a uniform structure of governance within and between GVCs. But it is central to our argument that, whether directly or indirectly, the lead firm ensures that the relevant forms of governance are exercised. Hence governance functions can be exercised both within and outside the lead firm.

Legislative governance is a key objective for the lead firm – it determines who is included in its chain, what they do, and what rewards they receive, as well as who is excluded from the chain. Central to this agenda are the standards which the lead firm sets for its suppliers and customers. Typically there will be standards which reflect the Triple Bottom Line. The Economic Bottom Line invariably involves QCD standards (quality, cost, delivery) and specific market entry standards defined by governments and other stakeholders relevant to the chain. Social Bottom Line standards include labour standards, standards designed to meet (effective) regulation of corruption. and Corporate Social Responsibility standards affecting their social licence to operate. Similar standards are required to meet the Environmental Bottom Line. These standards are predominantly, but not exclusively, aimed to generate and appropriate endogenous rents. Complementing these activities, the firm is required to ensure that a “legislative framework” exists to protect its rents through the exercise of codified Intellectual Property Rights (such as patents and copyright) and uncodified property rights such as process knowhow and internal managerial routines (Teece et. al. 1992). Beyond these endogenously determined rents, the lead firm will also seek to maintain whatever rights it has over access to resource rents through negotiations with the “owners” of these resources and the provision of the physical and nonphysical infrastructure required to produce and trade effectively. Finally the lead firm will seek to exercise its control over markets, whether these are input or output markets. Often this takes the lead firm into a grey legal terrain of collusive agreements, but it also includes pricing and other marketing strategies.

Whilst the legislative function is primarily exercised directly by the lead firm itself, the executive function which assists suppliers and customers to meet these standards may be outsourced. Specialist service providers may be employed to help upgrade the supply chain, or first tier suppliers may be tasked with ensuring the upgrading of second- and third-tier suppliers (Cusumano, 1985). Similarly, the instruments defining IPRs and other barriers to entry may also in some cases be the responsibility of specialist service firms.

The judicial function of monitoring behaviour in the GVC supply chain may also be conducted either in-house or indirectly. What is critical for the lead firm is that this monitoring be accompanied by effective sanctions to ensure compliance with the legislative function of the firm. Thus malperforming suppliers and customers may be subject to financial penalties or, in extremis, be ejected from the chain.[3]

4.2. Civil Society and the exercise of governance over GVCs

Civil Society Organisations (CSOs) play a growing role in the governance of GVCs and in doing so have also necessarily become internationalised. The primary role of CSOs in the governance of GVCs lies in the legislative sphere where they have sought to influence the terms on which GVCs operate. With respect to the generation of endogenous rents, the focus has been on the Social and Environmental Bottom Lines, placing pressure on lead firms to meet a series of standards such as those on labour, food safety, transparency and the environment. Some examples are as follows:

- In response to the collapse of the Rena Plaza factory in Bangladesh leading to the loss of 1100 lives, (Birnbaum 2013), CSOs campaigned for uniform and better labour standards;
- There is a growing campaign to force pension funds and other organisations to divest from firms exploiting carbon resources;
- CSOs have challenged the barriers to entry which have allowed lead firms to appropriate large shares of chain rents, targeting the nature and duration of IPRs and the regulations affecting tax avoidance and tax evasion;
- CSOs have actively sought to influence the trajectory of government to favour particular sets of producers (for example, SMEs and women).

CSOs have played a more limited role in the executive, implementing function of chain governance. They have generally confined their efforts to assisting particular sets of producers such as SMEs, small farmers, and female entrepreneurs to meet the standards which lead firms have introduced and which are required for them to be incorporated in the GVC (ww.capturingthegains.org).

[3] "Toyota South Africa requires its suppliers to adhere to minimum performance levels. Failure results in the supplier submitting reports on its corrective interventions. While the supplier is being rehabilitated it is not allowed to quote on new projects. If it continues to fail to meet the minimum standards set it is ultimately removed from the supply chain, knowing that it will struggle to ever supply Toyota again. This is the ultimate sanction – the permanent termination of business relations" (Justin Barnes, personal communication, 14th April 2015).

The efforts of CSO with regard to the judicial function of monitoring GVCs has been sporadic, being more prominent in some sectors (apparel, food and electronics) than others (business process engineering and heavy engineering). These sectoral differences arise from the fact that their capacity to sanction malfeasance has largely been limited to the exercise of “moral suasion”, using the threat of reputational damage to sanction lead firms and to force them to comply with the socially set environmental and social standards. Hence their effectiveness has largely been limited to higher income markets where consumers are more concerned with the social and environmental character of GVC processes and products and to chains feeding into final consumption markets (for example, apparel rather than mining equipment).

4.3. The Nation State and the exercise of governance over GVCs

The separation of powers between legislative, executive and judicial governance is a longstanding constitutional principle in many countries. As in the case of the corporate sector (where elements of governance may be exercised directly by lead forms or by chosen intermediaries), the institutional design of the governance functions of the nation state may take a number of forms.[4]

In contrast to lead firms who by definition are forced to govern their chains at a global level, nation states are by definition focused on the *national* control of the *global* operations of GVCs. However, nation states are not homogenous entities but also riven with, and subject to, influences from a myriad of international and local stakeholders struggling to shift the balance of power in their own interests (Poulantzas 1975). In a globalised world this necessarily limits their capacity to exercise such governance.

Hence, their legislative efforts are predominantly targeted at the standards which the firm sets to determine the performance of its operations and those of its suppliers within the home country. It also affects the nature of the products which lead firms import into the home country from its global supply chain with regard to environmental and safety standards. Similarly, legislation affecting the control of barriers to entry (such as competition law and IPRs) are predominantly directed at the national level. Notwithstanding this preponderant national focus, and often as a response to pressures exerted by CSOs, some national governments have introduced legislation which affects the global operations of lead firms, for example, with regard to the control of corruption and other activities which affect the global appropriation of rents in the chain (see below). But these attempts by nation states to regulate the global operations of lead firms have generally been unambitious and weak, not least because of the limited geographical reach of national government

[4] In the US, for example, there is a relatively high degree of institutional power-separation over framing, executing, checking compliance, and imposing malfeasance sanctions between the Congress/Senate, President, and Supreme Court. By contrast, in the UK there is a closer fusion of the legislative and executive functions in the institutions of governance. In both systems, and the majority of other hybrid governance systems, the judicial function tends to stand as an independent body, separated from legislative and executive functions.

power. Correspondingly, the executive power of the nation state to enforce this legislative regime is geographically limited to national borders.

The role of nation states with regard to the judicial sphere of monitoring and sanctioning chain activities similarly reflects this national sphere of nation-state control. Here, insofar as the state seeks to govern the global components of VCs (for example, with respect to corruption and the monitoring of product standards), the state relies on its wider and economy-wide apparatus of implementing policies in general in which the judiciary performs its function of monitoring and sanctioning national legislation.

One important arena in which the capacity of the nation state to govern rent generation and appropriation has been played out is with respect to Industrial Policy. Classically, and stretching back to the early nineteenth century (Chang, 2002), industrial policy was pursued within national borders. Domestic producers were protected against international competition. Their productive capabilities were supported by governments with a range of policies which included preferential purchasing and other instruments designed to foster domestically-owned and domestically-located production. After WW2, with the advance of trade-related specialisation, industrial policy gave greater emphasis to meeting demand in external rather than domestic markets. In some cases, particularly in East Asia, this outward-orientation was supported by a combination of import substituting industrialisation policies (ISI) and incentives designed to foster export oriented industrialisation EOI) (Amsden, 1989; Wade, 1990). However, the capacity of nation states to sustain this pattern of support for local production and ownership was increasingly undermined by the drive of GVCs to extend beyond national economies and the power of TNC lead firms to exercise their governance reach across the globe. This was supported by the advance of neo-liberal policies, supported through multilateral and plurilateral inter-state agreements. These both removed the capacity of the nation state to protect producers from international competition and its capacity to support nationally-based producers through policy-instruments such as subsidies and preferential purchasing. Instead, given the dominance and limits imposed by GVCs the scope, reach and legitimacy of industrial policy has had to be reconfigured. Through engaging with GVC dynamics it has had to support the upgrading factors in any national context that allow domestic companies to climb up the links of the chain, thereby making it easier to capture the gains and reap the potential benefits from integration into GVCs (Dalle et al. 2013, 2014; Gereffi and Sturgeon 2014; Kaplinsky and Morris 2014; Low and Tijaja 2013).

4.4. Supra-National Institutions and the exercise of governance over GVCs

The multilateral institutions which have had the greatest impact on the generation and appropriation of globally generated rents are the GATT and the WTO whose governance has affected the structure of global trade. The GATT, established in 1947, was a multilateral governance agreement designed to assist the industrialised economies to extend their international market reach through trade. Its primary function was to enhance trade through a deregulation of the barriers to global exchange, by way of a reduction of the customs and other trade barriers which had supported ISI across a range of economies. The GATT rules were however sectorally biased, and had the effect of deregulating trade barriers in sectors in which US and European TNCs were competitive, but not in sectors (such as agriculture and textiles) where they faced competition from developing countries.

However this non-binding and partial approach to the regulation of international trade was inadequate to support the extension of global specialisation in general. In particular, the fracturing of production in GVCs meant that trade was increasingly occurring in intermediates. The production of these intermediates spanned a large range of sectors and the maintenance and extension of this global pattern of production and exchange required a more generalised regulatory system, and one which had the teeth to enforce conformance. The emergence of China as a global participant in this GVC-driven extension of global production and exchange after the mid 1980s accelerated this new structure of global trade. This required a different pattern of global trade governance, culminating in the formation of the WTO in 1995.

The GATT was an ad hoc, voluntary and provisional multilateral agreement which was focused on the legislative sphere of governance, defining the rules of market entry, with some measure of monitoring capability. But it had a limited remit with regard to the executive and judicial capacities to implement, monitor and sanction this trade regime. It had no capacity to sanction nation states who "refused to play by the GATT rules". By contrast, the WTO's dispute settlement procedures are much more powerful, faster and more efficient. It also has an increasingly powerful sanctioning capacity. Moreover, in contrast to the GATT, the WTOs purview also spans industrial policy, explicitly ruling out policies such as the favouring of locally-owned firms and domestic sourcing. Hence, whereas the GATT can be seen as a multilateral institution favouring the growth of global specialisation and trade, the WTO goes beyond this to provide a structure which promotes GVC-led global specialisation and trade.

However the WTO as a global governance institution is fraught with contradictions, often leading to major contestation. Whilst global TNC lead firms need the WTO to de-regulate international trade and industrial policies to foster global trade, nationally based large firms and many developing country governments, are often opposed to this systemic liberalisation. WTO membership, as opposed to the voluntary contractual agreement in GATT, ultimately means there are too many national players with different agendas. There are thus cases (for example in agriculture) in which the WTO's governance of the global trade regime is not able to prevail.

A second set of supranational institutions who play a role in the governance of global GVCs are the two major Bretton Woods institutions – the IMF and the World Bank. As in the case of the WTO, their primary contribution has been to reduce state governance of GVCs. They have achieved this through their sustained interventions to remove the trade policy impediments to the advance of GVCs and to undermine the remit and capacity of national governments (particularly in the developing world) to control the operations of the productive sector by implementing industrial policies (Dalle et. al. 2013). These efforts have predominantly affected the legislative sphere of chain governance, as the Fund and the Bank have had little capacity to monitor and sanction chain activities. To a limited extent the World Bank has exercised an executive function in assisting producers to meet the standards required by lead firms in GVCs. The IFC, the Bank's lending arm, for example imposes conditionalities relating to various standards (IFC 2012).

A third set of supranational institutions with relevance to the governance of GVCs are regional supranational institutions such as the EU, NAFTA and the emerging TTP grouping in Asia and the proposed TTIP agreement between the EU and North America. Their role has been largely to reinforce (or sidestep obstacles to) the legislative governance drive of the WTO and the Bretton Woods institutions, but to do this on a regional scale. Hence their "reach" is limited to those countries which are party to their agreement. In some limited cases, they have begun to venture into the sanctioning sphere of global GVC governance, as in the case of the OECD and EUs' fledging efforts to govern the distribution of global chain rents, a topic which we will consider in more detail in Section 6.3 below.

These supranational institutions have predominantly focused on limiting the national state's ability to govern the increasingly pervasive and dominant GVCs which have been driving global trade and integration.

5. In reality, who governs GVCs? Three case-studies

The broad trends we have identified in Section 4 are as follows. Lead firms generally tightly govern their value chains so that they are able to generate, protect and appropriate all four forms of rent at a global level. CSOs play a role in the legislation of some standards in GVCs, particularly those affecting the Social and Environmental bottom lines of the corporate sector. They also play a limited executive role in assisting the inclusion of particular sets of suppliers in GVCs and in monitoring the performance of GVCs with respect to their conformance to social and environmental standards. Their judicial powers to sanction GVC performance depend on moral suasion and the reputational damage which confront lead firms who fail to conform. Both the nation state and supranational institutions are active in the legislative sphere of chain governance. However, as a general rule, what powers they have to execute their governance, and particularly to sanction their governance, is limited. The national states are territorially bounded, whereas GVCs operate beyond and between boundaries. In some respects, supranational institutions seek for global reach, but their capacity to monitor and their power to sanction rent generation and appropriation is limited since they lack the political legitimacy which is required to execute these functions at a global level.

These general conclusions are what they are – general – and there is some variance around the mean. We now offer three brief case-studies of the pattern of GVC governance to illustrate some of these differences. We have chosen these case-studies in order to make a general argument which we will pursue in the concluding section of this paper. The three case-studies are with respect to the governance of health and safety product standards in food GVCs, the governance of overall chain rents through fiscal tax systems, and the control of market rents through competition policy.

5.1 The governance of product safety product standards in food GVCs

The distinguishing feature of health and safety standardisation is that as globalisation has unfolded, food safety standards, both in products and production processes, have become generalised and uniform across countries.

Global standards over food safety (the legislative sphere of governance) involved through a co-evolution of corporate standards responding to consumer pressure in individual high income economies and safety standards introduced by national governments in these economies to protect consumer welfare. In the first instance, the implementation of these standards (that is, the executive sphere of governance) was undertaken, directly or indirectly by lead firms or their intermediaries, who also took responsibility for monitoring chain performance and for sanctioning suppliers who failed to conform to these standards.[5] Their motive was to both avoid reputational damage and to seek a market advantage by differentiating their offering.[6] Subsequently, nationally-based CSOs assisted in the execution, monitoring and sanctioning of chain performance.[7]

This co-evolution of national and corporate standard setting increasingly shifted to the global level, involving both supranational institutions and internationalised CSOs. Focusing on the legislative sphere of chain governance, in 1963 the World Health Organisation (WHO) and the Food Agriculture Organisation (FAO) jointly created the Codex Alimentarius.[8] In 2001, EU food retailers created a further voluntary standard, Euro GAP (which subsequently become Global GAP). This incorporated harmonized standards for products and farm processes in fresh fruit and vegetable value chains feeding into European final markets. By 2015 Euro GAP and Global GAP were the most widely compliant farm certification schemes internationally with over 250 members (retailers, suppliers and NGOs) affecting trade into

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[5] Although not legally binding, retailers' refusal to buy from non-compliant producers and exporters has dictated broad compliance and rendered these international standards effectively binding as legislated regulations. Failure of global suppliers to comply often results in the ultimate sanction of being excluded form a retailers supply chain.

[6] In many cases retailers add additional specific standards to govern their GVC relationships with global suppliers, deliberately differentiating and using them as a competitive tool, rather than merely adhering to minimum regulations. For example, in the UK market, Tesco's has its own PPPL (plant protect product list), Marks and Spencers has a Red and Amber List, Morrisons a MPPL list (Morrison's plant protection list) and Munster an ARFD (acute reference dose) list.

[7] Even where health and safety standards have no legally enforceable basis, institutional standards setting coalitions within civil society pressure lead firms to monitor compliance and threaten sanctions in the form of loss of brand credibility.

[8] Codex is a set of codified and harmonised international food standards, guidelines, and codes of trade practice in the food industry designed to protect the health of consumers. It also promotes coordination of all food standards work undertaken by international governmental and non-governmental organisations through national or international legal agreements.

markets which comprised more than 90% of the global population.

Although these supranational institutions are not tasked with the implementation of these standards, they play an increasing role in monitoring and sanctioning, For example, Codex has been incorporated into the WTO's Sanitary and Phytosanitary (SPS) Agreement as the relevant standard-setting measure for harmonised food safety. Consequently it has become the benchmark used by the WTO in food trade disputes, and many of its regulatory principles have been incorporated in various national government legislative frameworks particularly in developed countries.

In summary, we can observe a general coalescence of governance of food safety standards in GVCs involving all of the four major stakeholders (Figure 1).[9] All four sets of stakeholders are active in the legislative sphere; the corporate sector, and to a lesser extent the CSO sector, are responsible for executive governance; and all four sets of stakeholders monitor and sanction chain conformance.

In terms of how the governance of GVCs through these food safety standards affect the capacity to generate and appropriate the four different sets of rents set out above, we can observe the following. They primarily affect the generation of endogenous and market rents in the corporate sector and, to a limited extent, the exploitation of resource rents for some producing countries and firms with disproportionate access to "food-safety friendly" ecological environments. To a limited extent they reflect the exercise of exogenous rents (providing the framework for individual firms and countries to benefit disproportionately from their insertion into GVCs) and have little or no impact on the capacity of nation states to appropriate a share of the rents which have been generated in the system of global production and exchange.

Figure 1. Governance of food safety standards – key stakeholders and spheres of governance

	Legislative sphere	**Executive sphere**	**Judicial sphere**
Firms	Active	Active	Active
CSOs	Active	Moderately active	Active
Governments	Active	Passive	Active
Supranational Institutions	Active	Passive	Active

5.2. Taxation and the governance of rent appropriation in GVCs

Tax systems evolved from an era in which national or local legislatures controlled domestic economic activity and are designed to capture a share of

[9] In this Figure, as well as in Figures 2 and 3, there are no specific metrics to back our judgment of the nature of chain governance, or to calibrate the difference between our broad assessments, such as the relative weight of "active" legislative governance by all four sets of stakeholders.

producer rents for the construction and defence of the social state.[10] They are based upon the concept of fiscal jurisdiction which identifies two fiscal principles.[11] The first is the *source principle*: This allows a state to tax a person on all income derived from all economic activity which is conducted in the country where these activities are located notwithstanding their country of legal residence. The second is the *residence principle*: This allows a state to impose taxes on any activity of any taxpayer as long as the taxpayer is within its jurisdiction. A "resident" person or firm in this form of fiscal policy is taxed on its world-wide income irrespective of source.

The development of cross-border production systems has long been recognised as a problem for the corporate sector since it faced the danger of being taxed across national jurisdictions for the same set of activities, that is being subject to taxation on both the source and residence principles. Thus, was born the idea of the *double tax* treaty.[12] If the same income was subject to tax in both the residence and source jurisdictions, the tax imposed by the source country would be in addition to the tax imposed by the residence country. This would result in a disincentive to global investment and trade.[13] Conversely, however, in the case of *double-non-taxation* – that is, if neither the residence nor the source country resulted in tax payments - the rate of tax on this globally generated income is zero.

Globalisation through the extension of GVCs has often posed insurmountable challenges to the operation of this fiscal system and many of the worlds leading GVC lead firms live in a world of double-non-taxation, in other words they pay hardly any tax to any government, whether this be in the source or the residence country. The combination of intra-firm trade in asset-specific intermediates (for example, a gearbox for a VW car is very specific and cannot be priced identically to that for a BMW), the growing knowledge content of production and the advance of low-cost, very fast and opaque ITCs, have meant that nation states are unable to assess and control intra-firm transfer prices. This has disrupted their capacities to distinguish between the source and residency principles which underlie taxation systems. In this environment, the multinational corporate sector is thus able to manipulate the source, residence or permanent establishment rules and choose a favourable

[10] Until 1914 national taxes accounted for less than 10% of national income in the developed world (Piketty 2014: 474-475). However after WW1 the role of taxation changed dramatically. Between 1920 and 1980, the share of national income that wealthy countries chose to devote to social spending increased considerably so that the tax/GDP ratios increased sharply. By 1980, Australia's ratio was 26.2%, Germany 36.4%, Netherlands 40.4%, the United Kingdom 34.9% and the USA 25.9% (OECD, 2013).

[11] Both principles have received a variety of treatments in national tax systems. For example a country which follows a source based system may introduce deeming provisions to classify certain income to be from the source of the taxing country, even if the actual source is to be found elsewhere.

[12] The first model double tax convention drafted by technical experts in 1927 was founded on "the most elementary and undisputed principles of fiscal justice (which) therefore required that the experts should devise a scheme whereby all income would be taxed once and only once*"* (Avi-Yonah 2014, p5)*.'*

[13] In more than 3,000 tax treaties that were concluded subsequent to 1927, the principle was followed that active income would be taxed in the country of source and passive income would be taxed in the country of residence (Avi-Yonah 2014).

jurisdiction in order to minimise its global tax contribution.[14] One indication of the prevalence of this pattern of tax avoidance is that in 2010 5.2% of global FDI "originated" in Barbados, Bermuda and the British Virgin Islands exceeding the share of Germany (4.8%) and Japan (3.8%) (OECD 2013)

In the context of pervasive and growing fiscal deficits in many northern economies, in 2013 the OECD sought to tackle the problems confronting nationally-based tax systems in its Base Erosion and Profit Shifting initiative (OECD Action Plan on base erosion and profit shifting. OECD Publishing 2013) This addressed four problems - the inability of national tax authorities to impose tax on economic activity that is located outside the national territory; tax incentives which foster a race to the bottom in incentives; national tax systems not keeping up with how firms in the digital economy add value and generate profits; and the valuation and origin of intangibles such as licensing and design. However, this embryonic attempt to exercise supranational governance over the distribution of rents in GVCs only addressed the chaotic pattern of non-uniform legislative sphere of chain governance. It failed to address the executive function of implementing the emerging global regulations, let alone providing and implementing the sanctions which are required to ensure conformance by the private sector. It is important to note that CSOs are beginning to play a role in the monitoring of corporate taxation levels, and in mobilising civil society to sanction malfeasant corporations through consumer protests and boycotts.[15]

Figure 2 focuses on the capacity of different stakeholders to appropriate a share of the rents generated in GVCs resulting from the exploitation of resource, endogenous, exogenous and market rents. It is clear that the corporate sector is both very active and effective in this process of rent appropriation. National governments, supranational institutions and CSOs are increasingly concerned at the inability of nation states to capture a larger share of these chain rents.[16] But, whilst previous systems of tax governance depended on a reasonable correspondence between the nation state and rent generating activities in the domestic economy, in the GVC-led globalisation era nation states are only weakly able to exercise their governance over these rents. Neither transnational institutions or CSOs have been able to impose effective global regulatory tax control. These general trends are summarised in Figure 2.

[14] Google's permanent establishment in the United Kingdom reduced its liability for UK tax to £55m in 2012 on sales of £5.5bn by ensuring that its British sale transactions were conducted by an Irish subsidiary paying a significant royalty to a tax haven Bermuda company (Huffington Post 30/11/2013; Daily Telegraph 10/12/2014). It promoted a fictitious account of its activities whereby its UK staff were deemed to be adding little value, despite the fact that average salaries of its staff in the UK exceeded $240,000, more than double the salaries paid to its Irish employees.

[15] For example, when it transpired in 2012 that Starbucks' had paid no tax to the UK exchequer since 2009, and that it had only paid £8.6m in corporation tax in the preceding 14 years, public protest compelled a change in policy. In response, Starbucks announced it would pay £20m in tax over 2013/14 (Guardian 23/6/2013)

[16] The capacity of national citizens to benefit from a share of chain rents (for example, through higher wages) is also widely challenged in the policy arena (www.capturingthegains.org), but the discussion in this section is confined to the role played by taxation systems in GVC rent appropriation.

Figure 2. Effectiveness of governance of rent distribution in GVCs

	Legislative sphere	Executive sphere	Judicial sphere
Firms	Very strong	Very strong	Very strong
CSOs	Moderately Active	Weak	Weak
Governments	Active	Weak	Weak
Supranational Institutions	Active	Weak	Weak

Note the qualification on the entries in this Figure provided in Footnote 11

5.3. Competition law and the governance of market power rents in GVCs

Competition law reflects a tension between on the one hand a concern to curb harms caused to the market by private economic power and on the other hand a concern to limit the excessive use of government regulation over the market (Gerber 2002). The governance of market power has its origins in the US in the nineteenth century, reflecting the desire of the nation state to curb the share of producer rents captured by the corporate sector. More recently, since competition has been seen as the well-spring of innovation, the state has sought to curb market power in order to sustain economic growth.

The legislative governance of market power began with the Sherman Act antitrust law in the US in the 1890s. This was couched in very general terms and for this reason the Federal Courts were tasked with the challenge of developing, executing and enforcing the law on a case-by-case basis. Two Federal agencies were created to enforce the law. These were the Federal Trade Commission established in 1914 and the anti-trust division of the Department of Justice established in 1903. In addition, the US allows private parties to institute civil actions for breach of the legislation which, if successful, can result in the imposition of treble damages, a facility unique to US law. For almost half a century, US anti-trust law was the only national law which dealt with the operations of the market. Hence it had a massive influence on the subsequent development of competition law globally over the following 50 years.

In 1957, by way of the Treaty of Rome, six European countries agreed to introduce a common market which was underpinned by a common competition law. The European Commission was empowered to conduct investigations in respect of alleged infringements of these provisions and, if necessary, to impose fines. Its decisions are subject to the review by the European Court of Justice which is empowered to determine whether the European Commission has acted lawfully. A range of sanctions were introduced to support this legislative framework. Critically, this EU competition framework applies to the operations of firms within the EU, and not to their extra-EU exercise of market power.

In the forty years after its introduction, EU competition law promoted a range of objectives including economic democracy, fairness, competition in the internal market, and protection of final consumers and small and medium enterprises. However, EU competition law increasingly came to be influenced by US jurisprudence, reflecting the influence of the Chicago School of Economics on US competitions policy (Posner 1979; Cucinotta et. al. 2012). This led to the adoption of a narrow efficiency standard, inaccurately referred to as “maximizing consumer welfare” (Gal and Fox 2014). This defines the goal of antitrust as allowing business to be freed of government or judicial intervention unless there is an act complained of that will diminish aggregate consumer welfare by way of a clearly proven case of diminution of output or an increase in price. In other words, the focus has shifted from a concern with market structure to market performance.

As globalisation has spread and other economies have been drawn into the global market, more than 100 developing economies have passed competition laws during the past 25 years. These reflect the same approach towards optimality (that is, market performance rather than market structure) as embodied in the US and subsequently EU law.

However notwithstanding the character of these competition law regimes, most countries lack the institutional resources and strength to translate the legislation into effective executive governance and to impose appropriate sanctions on offending businesses. In the context of this weakness in executive and judicial governance, many economies have sought to rely on the US and EU competition systems, particularly with regard to constraining global TNC lead firms. However this has had resulted in limited governance of the competitive environment in GVCs. In F Hoffman–LeRoche v Empagram (2004) the US Supreme Court held that foreign purchasers of a product that is sold by a worldwide cartel cannot invoke US anti-trust law unless they can prove that the harm suffered was caused by cartel activity situated *within* the USA. The EU system is also not legally hospitable to litigants who wish to bring a case before the EU regulatory authorities where there is no EU connection to either the plaintiffs or defendants.

In other words, competition law in both these global hegemons, but particularly the US, has focused on protecting competition and consumers in their domestic markets. It is not concerned with constraining the manner in which the TNC lead firms behave outside their national borders. Competition in the global operations of GVCs has thus been largely unregulated.

In recognition of these limits, in 2002 the EU proposed a framework for international competition regulation to take place within the framework of the WTO. Developed countries with mature competition laws would be obliged to assist developing countries, particularly where corporations which are managed and controlled in developed countries were involved. It was proposed that global cartels would be prosecuted in the home economies of the lead firms. However, by 2004 the attempt to develop even this restrictive version of an international anti-trust law had been dropped from the WTO agenda. Developing countries contended that rather than meeting their concerns with the regulation of global anti-trust behaviour, the proposed WTO competition law would only benefit the EU, the US and Japan in gaining access to their markets as well as securing cheaper prices for their raw materials. In other words it would not reflect the realities of the changing global dispersion of production and consumption (Gerber 2007).

In the face of this failure by both the nation state and supranational institutions to challenge the exercise of market rents at a global scale, one CSO has begun to address this important determinant of rent generation. The International Competition Network (ICN) is a network of competition regulators which seeks to create some convergence of procedure for premerger notification, the development of substantive standards for assessing mergers, and prevention of cartel activity at a global scale. In general however, CSOs such as the ICN have been unable to impose and police competition regulation, and have been confined to raising public awareness of the rise of global oligopolies and oligopsonies[17].

Figure 3 focuses on the governance of market power in GVCs. It illustrates, that in this era of GVC-driven globalisation, to the extent that governance over corporate market power exists, it is confined to the national sphere. There is no international legislative, executive or judicial governance which addresses the *global* market power of the corporate sector.

Figure 3. Effectiveness of governance of markets rents in GVCs

	Legislative sphere	Executive sphere	Judicial sphere
Firms	NA	Very strong	Very strong
CSOs	Passive	Weak	Weak
Governments	Active, but limited to national sphere	Active, but limited to national sphere	Active, but limited to national sphere
Supranational Institutions	Growing concerns	Weak	Non existent

Note the qualification on the entries in this Figure provided in Footnote 11

6. Conclusions: Who Governs GVCs – a tentative general argument

In previous sections of this paper we considered two issues relevant to the governance of rents in GVCs. The first was to provide a framework for analysing the governance of these rents. We distinguished three spheres of governance (legislative, executive and judicial), and identified the significance of geographical reach and legitimacy. The primary actors in this governance agenda are the lead corporation ("endogenous governors", and three sets of "exogenous governors", that is CSOs, the nation state and supranational institutions. Secondly, we sought to put flesh to these analytical bones, concluding that as a general rule, by their nature, lead firms govern their GVCs in all three spheres of governance – legislative, executive and judicial. CSOs have come to play a growing role in the legislative sphere, but have

[17] Hollman and Kovacic (2011) who are office bearers of the ICN remain optimistic that international convergence around a substantive standard for regulation of anti competitive behaviour may still be ' built on reputational and peer pressure' of a kind which has been generated through the workings of the ICN over the past two decades

limited capabilities in both the executive and judicial spheres. As a general process, in this new era of globalisation, we observed that public governance has been unable to follow the global spread of economic market dominance - nation states and supranational institutions lack the capacity to govern (i.e. exercise significant power over) *global* value chains and hence substantially limit the capacity of lead firms to appropriate rather than distribute rents.[18]

Nevertheless despite these general conclusions, the pattern of governance is of course contextual, varying by sector, by geographical space and over time. Thus, in the three brief case-studies which we presented in Section 5, we observed one case (food safety) in which CSOs and national and supranational institutions played a role in exercising power in all three spheres of governance, often in tandem with the corporate sector. On the other hand, in the governance of the appropriation of GVC rents through tax systems, we noted the relative powerlessness of state and CSO actors. In competition policy affecting the generation of market rents, to the extent that there is any agreement on a legislative framework, this follows the principles contained in the policies of the global hegemon (the US) which explicitly absents its purview from global market structures and behaviour. In so doing it both exercises significant power over other national states and reinforces the power of value chain lead firms on a global scale.

US antitrust regulation has increasingly over the past three decades been based on the assumption that markets work well and that barriers to entry and exit are usually insignificant. For this reason, antitrust law which curtails unilateral conduct of dominant corporations holds almost no attraction in contemporary US antitrust law. It follows that there is little possibility that the US, or the EU for that matter, will agree to a set of substantive standards to regulate anti competitive behaviour in global markets which extend regulation significantly beyond the present scope of US domestic law.[19]

The question is whether within this contextual variance, there is a general story to be told, and here we offer a tentative explanation. The perhaps surprising example in the case-studies was that on food safety, where we observed cooperation and an alignment of interests between the four sets of stakeholders. In an increasing number of cases, CSOs cooperate closely with lead firms, and national states and supranational organisations introduce legislative frameworks which govern the global operations of value chains, and which are backed by the capacity to monitor performance and to sanction malfeasant chains. We should be less surprised to see an absence of cooperation between governance actors with regard to tax and competition policies. What explains these differences in the governance of GVCs?

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[18] This restriction on the nation states sphere of governance is too often mirrored in the legal analysis of regulatory frameworks. As Kennedy (2013: 9) points out, ‘Much legal scholarship remains parochial, enthralled by the details of each national legal system’s totemic institutions …. The technical professional conventions governing scholarly production in the legal field discourage pronouncements about the large trends in global political and economic life.’

[19]. See Fox (2007) also the opinion of Scalia J, on behalf of the US Supreme Court in Verizon v Trinko 540 US 398(2004) in which the Court revealed an extreme reluctance to apply antitrust law to the conduct of a monopolist.

We suggest that the explanation for these contrasting developments is that the lead firms have an active interest in the governance of food safety, since the potential for reputational damage in the case of non-performance is substantial and has a major impact on the corporate bottom-line. Moreover, a plethora of CSO and state standards places enormous potential reputational costs on the lead firm. Thus, far from resisting governance by other parties, common standards are in the interest of the corporate sector. By contrast, the corporate sector has sharply conflicting and competitive interests to the state and CSOs with regard to tax and competition policy. In these cases, the relatively strong power of the corporate sector prevails and there is an absence of effective CSO, national state and supranational institutional governance.

Thus the general tentative conclusion we draw is that in a context where lead firms closely but not uncontestedly govern their GVCs, the power of the state and civil society to influence GVC operations is largely constrained by the extent to which this is coincides with the interests of the corporate sector.

We offer this as a conclusion which needs further investigation. But we are aware of the dangers of being too simplistic. The nation state is not an unvariagated tool of large global corporations. Rather it is the site of contested power, albeit with unequal influence wielded by the various stakeholders attempting to influence its capacities, direction, functions and operations. The governance of GVCs thus remains a contested terrain despite the balance of governance power lying with the lead firm drivers which we have observed as currently prevailing. This sometimes results in nation states attempting to exercise power to limit the global scope and scale of GVC operations in the national interest. For example, the OECD's recent attempts to control transfer pricing (see Section 4 above) responds to a fiscal deficit in many northern economies and to the need of states to respond to pressures exerted by civil society. In another example, the US is seeking to introduce legislation which will induce firms such as Apple (which in 2015 had liquid assets outside of the USA of more than £150bn) to repatriate taxable funds to the US. Similarly, some CSOs are becoming more active in their attempts to police and pressure lead firms, as in a series of consumer boycotts of firms such as Starbucks and Amazon who have effectively been able to escape the governance of their global operations.

In the final analysis we are dealing with a complex world of interconnectedness between variously unequally powerful social actors attempting to incorporate and influence each other with varying success. This is why TNCs spend significant resources lobbying and trying to shape state governance, engaging in supranational institutions, influencing and sometimes agreeing to be influenced by CSOs by including them in their own CSR programmes, responding to local firm demands, and participating in international development cooperation interventions. Lead firm governance interests, as they are manifested, are therefore not 'natural' and 'pre-given' but are rather historical reflections of a struggle over the social appropriation of particular forms of rent and attempts at the alignment of interests from various actors.

The current era of globalisation simultaneously reflects an era of GVCs expanding beyond the governance of the nation state into a seemingly uncontrolled regulatory space, but also a sharpening of nationalist conflicts centred on countries' and citizens' seeming inability to exercise national governance. We live in a world of political turmoil, evident at both the national and global level, and it would be foolhardy to assume that what exists at a given point in time (2016) will forever be cast in stone. We see an increasing groundswell of public opposition to the hegemony of corporate governance power, explicitly focusing on the manner in which global operations inhibit national control in the distribution of globally generated rents. The fundamental question that these contradictions of governance throw up is whether globalisation as we know it has reached its limits, or whether it will morph into new forms of governance in the creation of social stability.

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