

SHAPING CLOSER CONNECTIONS: TRANSNATIONAL CIVIL SOCIETY BETWEEN THE GLOBAL AND THE EUROPEAN ADMINISTRATIVE ORDERS

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SUMMARY: 1. The spill over of methods of administrative governance between the European and the international legal systems. The role of global civil society. 2. The global associational revolution. – 3.1 The interlocutory coalitions and its composition – 3.2 Accession and governance of interlocutory coalitions – 3.3 The coalitions' membership – 3.4 The interlocutory coalitions' activities – 4. Internal mediation. – 5.1 External mediation. Rule-making through communication. – 5.2 Rule-making through standards. – 6. The problem of effectiveness. – 7. Interlocutory coalitions and implementation. – 8. The problem of accountability and legitimacy. – 9. Interlocutory coalitions and administrative convergence. — 10. The paradigm of meta-networks and its tensions.

1. The growing involvement of organized and unorganized groupings, collectively referred to as *global civil society*,² in the supranational policy-making can be regarded as an important means for the spread of common administrative standards for regulatory decision-making within the European Administrative Space (EAS) and the global legal order.

Arguably, the expanding co-operation between this “transboundary” operating civil society, the European Union (EU), and other International Organizations (IOs), is likely to: (1) help a core of common procedural values to spread within the supranational decision-making processes; (2) benefits the integration between the EAS and global administrative law (GAL), both in the policy formulation and in the implementation of rules; (3) and, ultimately, reshape governance into a web in which national and supranational organisms, the public and the private sphere are all united “under a single logic of rule”.³

The validity of this hypothesis, however, might be challenged with three distinct, if often inter-related, counterarguments. First, non-state actors’ finances, agenda, and governance are not legitimate themselves. Neither a representative nor an electoral process makes them accountable. At its heart, the only source of legitimacy of international civil society actors is the factual and diffuse acceptance of their presence and active role in the supranational arena. Hence, the problems they potentially raise: how can accountability be provided to IOs by bodies that are not accountable for themselves?

Another challenge that merits closer scrutiny pertains to the practical implications of non-state actors’ contribution to supranational decision-making. Regardless of the possible benefits for the “democratization” of the supranational legal order, critics submit that a major opening to private parties’ interests may distort or delay the decisional workflow. The problem is not merely rhetorical. The massive and direct participation of stakeholders in decision-making processes held at the supranational level is perceived as counterproductive, rather than beneficial for the effectiveness of international decision-making. By contrast, it is argued that a smaller number of participants, working with no influence from the outside, could guarantee faster decisions and would therefore reduce the organizational expenses.

Third, and most significant, while theories on legal globalization have been successful in shedding light on the assumption that increased IOs’ legitimacy would prelude to an engaged and committed global *democratic* public sphere, these theoretical accounts suffer from a lack of

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² See M. KALDOR, The Idea of Global Civil Society, 79 International Affairs, 583 (2003).

³ See M. HARDT, A. NEGRI, Empire, Cambridge MA 2000.

empirical evidence. Stakeholders are consulted by IOs both indirectly (through indirect representation of their interests) and directly (through procedural mechanisms resembling the typical structure of an administrative process of law). Yet, despite its far reaching implementation of participatory models, IOs remain *loci* where private interests receive poor or inadequate attention. The main weakness of indirect representation lies in the shift from the representative to the executive experience. The fact that supranational regulatory-makers are acknowledged a power of creativity in developing public policies and managing social conflict means that, in the face of changing circumstances, the results of consultation may not be fully transposed into the final decisions, or may not be correctly implemented. By contrast, procedural representation's drawbacks develop from scarcity in transparency and openness of IOs' decision-making processes.

The most direct consequence of these shortcomings is that while the efforts put by civil society representatives into increasing IOs' transparency and openness might well result in changes relevant to the legitimacy of specific decision-making processes (and perhaps even for the legitimacy of single IOs' regulatory frameworks) it might not be as significant for influencing the formation of a global system of governance in which principles and values of administrative fashion are shared. The suggestion that global civil society's active presence in the supranational legal space is fostering the harmonious growth of EAS and GAL may thus be clashed.

It is these controversies that this Paper wishes to begin to probe. In order to understand whether, and to what extent the presence of civil society's actors in the supranational legal space brings the EAS and GAL closer, this Paper organizes as follow. To begin with, a conceptual framework through which to identify and to analyze the phenomenon of civil society participation in the supranational decision-making is provided. Sequentially, focus is directed towards the contribution of civil society's networks to bolstering principles of administrative governance at the European and the global level. Building on such analysis the final part of this Paper develops a theoretical framework for reflections on the role of international civil society in shaping closer connections between the EAS and GAL. To conclude, this Paper details the civil society's network potential to develop and enlarge in the future.

The arguments put forth in the previous pages will be illustrated by reference to selected case studies. The first case is provided by the *Pan-European ECO forum*. At present, the *ECO Forum* is in charge of coordinating the civil society interests with the Meeting of the Parties (MOP) of the Convention on Access to Information, Participation and Access to Justice, signed in Aarhus in 1998 (hereinafter, "the Aarhus Convention").

Second is the *NGO Forum*, an Asian-led network of civil society organizations whose mission is to enhance the capacity of civil society to negotiate with the Asian Development Bank (ADB).

Third is the *Consultative Platform*, which collaborates with the European Food Safety Authority (EFSA). The *Consultative Platform* was established in 2004 by the EFSA Management Board (MB) pursuing Article 36 of the Regulation n. 178/2002, which disposes on the EFSA's duty to establish and to promote a network of organizations operating in the field of food security. The aim of such networking is to facilitate scientific cooperation, to exchange information, and to implement future projects.

Fourth is the *Conference of International Non-Governmental Organisations* (CINGO), which provides a venue where all the Non-governmental Organizations (NGOs) that have been awarded the participatory status by the Council of Europe (COE) can make their initiatives considered. The CINGO was created in 2005, and it is now recognized as an institution of the COE. In view of this, it constitutes a fundamental pillar in the COE "Quadrilogue" with the Committee of Ministers, the Parliamentary Assembly, and the Congress of Local and Regional Authorities.

2. Today, non-state actors are increasingly operating on a European or worldwide rather than just a national stage. The most prominent role among the panoply of non-state actors operating at the international level is played by NGOs. Described as the tip of the iceberg of the international

civil society,⁴ NGOs have widely increased in number over the last thirty years. Accordingly, their leverage on the international stage has gained momentum, to the point that scholars make reference to it in terms of “*global associational revolution*”.⁵

Occasionally – but more relevantly for the purposes of this Paper – NGOs and other non-state actors cooperate through networks constructed by reference to their common interests and needs.

Six chief factors drive the emergence of civil society networks. One factor is the expansion in the number of NGOs that not only are international by means but also are increasingly dealing with problems of global rather than just local dimensions, such as environmental protection, labour rights, women’s rights, or human rights.

Another factor relates to the diffusion of technology, which has decreased the costs of trans-boundary communications, providing means for NGOs to communicate with greater frequency.

Third, globalization has brought dramatic increase in travel and transportation of goods and people around the globe. Many of the leaders of civil society movements have been educated abroad, and have gained work experience around the world. Building from this background, their visions of advocacy and lobbying base on massive networking carried out on a global scale.

A fourth catalyst of a networked global civil society is higher education. The quantitative and qualitative growth of cross-border partnerships among public and private universities has become the epicentre of a vigorous scientific debate over globalization and civil society. Thousands of conferences, research projects, and teaching programmes gather an increasingly developed network of students and scholars from all over the world.

A fifth factor is related to economic reasons. The increased number and visibility at the international level of NGOs has augmented the accessibility to donations (both from the private and the public sector). This increased accessibility has not, however, been corresponded by a substantial growth in the amount of grants and donations available. On the contrary, it is well-acknowledged that chronic under-funding and understaffing affect many NGOs through their lifespan. Networking may be thus explained, on the plus side, in the light of the drive for growth embedded in NGOs’ increased entrepreneurship and expanded operating expenditures or, on the minus side, as a pragmatic solution for NGOs to enhance their limited budget to effectively fulfil their social goals.

Sixth, and fundamentally, networks’ membership generates substantial benefits. Firstly, by routinizing practices, interactions, and exchange among its participants, networks enhance the possibilities for them to engage in debate and negotiation with IOs. Secondly, they increase the opportunities to access relevant information, and to exchange expertise and best possible practices. Thirdly, networks offer to their members increased visibility to the outside world. Finally, networks enhance the credibility of their members through the adoption of formal procedures to select participants and to certify their accountability. For all these reasons, networks are increasingly considered ideal sites by NGOs and other non-state actors for developing large-scale strategies to stronger advocate their requests towards IOs.

The benefits are, however, mutual. Through the synergies with civil society networks, the IOs aim at, first, increasing their democratic legitimacy in the face of growing political challenges; second and equally important, IOs aim at adopting more appropriate regulations by relying on genuine grassroots support, and, third, they aim at being perceived as accountable in the development of laws and policies. As networks of civil society actors emerged from the fundamental needs of IOs to maximize their problem-solving capacity, a utilitarian stance may

⁴ See M. EDWARDS, *NGO Rights and Responsibilities*, London 2000, at 8.

⁵ See L. SALAMON, H. ANHEIER, *The Emerging Non-Profit Sector*, Manchester 1996. On the contribution of NGOs to the formation of the international legal order See M.E. KECK, K. SIKKINK, *Activists Beyond Borders: Advocacy Networks in International Politics*, New York 1998; R. KRUT, *Globalization and Civil Society: NGO Influence in International Decision Making*, Geneva 1997; D. HELD, *Democracy and the Global Legal Order*, Stanford 1995; M. SHAW, *Global Society and International Relations*, Cambridge 1995; H. ANHEIER *et al.*, *Global Civil Society* 2001.

suggest that IOs find it easier to negotiate with a single network instead of managing multiple negotiations with a multitude of NGOs.

3.1 Some of the more problematic aspects addressed in Paragraph 1 will be touched on later. For now, let us posit that ideal civil society networks operate at the supranational level and, for stylistic ease, let us refer to it as *interlocutory coalitions*.⁶

Let us begin with the composition. The interlocutory coalitions are prevalently composed of NGOs. Individuals are not admitted as members. In view of that, interlocutory coalitions may be differentiated from, first, the “*social movements*” theorized by Sydney Tarrow. Social movements are informal networks in which a more heterogeneous number of actors is involved, ranging from individuals, groups of people who act together to achieve specific goals, and only to a minor extent, NGOs.

A second critical distinction has to be made between interlocutory coalitions and trans-governmental committees. The latter are in fact entirely composed of national civil servants. The European comitology committees offer the earliest and most developed example of trans-governmental committees.

A technical and a political component are present in each coalition. The technical component may include scientists, academics, jurists, economists, or more generally experts in specific matters. This “epistemic community” provides a source of technical expertise and knowledge to the decisional workflow of the IOs with whom the coalitions cooperate.

3.2 Second, and decisively, support to the interlocutory coalitions’ activities is provided on a voluntary basis. Its participants are in fact autonomous NGOs and/or other non-state actors which share a common purpose or a common set of values.

Of course also interlocutory coalitions are devoted to legal arrangements (and it will be discussed some in this Paragraph) and use it to regulate their connections. Yet reasons motivating the presence of such legal constrictions do not draw from the necessity of the coalitions’ members to be accredited a status of formal legality, or at least not exclusively. While in fact minor NGOs might have an interest to this extent, bigger NGOs already operate on a legal status due to the accreditation by the IOs. It might be then argued that moving into a coalition denotes a joint undertaking in pursuit of a common substantive objective.

Agreements governing coalitions might have a variety of degrees in depths, from codes of conduct to more nuanced agreements, but usually come in two broad generic types. Agreements of type “A” contain detailed rules and procedures on coalitions’ activities and generally adopt collegial methods of decision-making to coordinate its members. The best known examples coming under this heading are the *Consultative Platform* and the CINGO. Both these coalitions regulate its overall institutional relations, discipline internal affairs, and provide rules for the formation of its policies with a composite set of by-rules and terms of reference.

Agreements of type “B” are relatively vague and open-ended agreements designed primarily to create a framework for cooperation among NGOs with mutual interests and goals. The *Pan-European ECO Forum* and the *NGO Forum’s* Agreements fall within this second category. It is, however, possible that agreements of type B develop more detailed rules to govern the relations among its members. Reasons for bolstering formalization on the part of NGOs generally follows

⁶ The terms *network* and *networking* have been already, and widely, used in a variety of disciplines, ranging from political, social, and legal studies. See, for instance, H. COMPSTON, Policy Networks and Policy Change: Putting Policy Network Theory to the Test, London 2009; T. BORZEL, Organizing Babylon – On the Different Conceptions of Policy Networks, 76 Public Administration, 253 (1998); K.G. PROVAN, H.B. MILWARD, Do Networks Really Work? A Framework For Evaluating Public-Sector Organizational Networks, 61 Public Administration Review, 4 (2001); A. AVIRAM, Regulation by Networks, Brigham Young University Law Review, 1179 (2003); C. HECKSCHER, Organizations, Movements, and Networks, 50 New York Law School Law Review, 313 (2005-2006).

increased interaction and mutual confidence among members, and is aimed at increasing the political resonance of their activity.

3.3 Third, the membership of interlocutory coalitions is not exclusive. The participating NGOs are allowed to conduct their own programs and activities as well as to join other networks. It might be useful, however, to draw a line between the juridical status of single participating NGOs and the interlocutory coalition's juridical status. Broadly speaking, both NGOs and interlocutory coalitions do not have international legal personality. Yet, while the former are governed by the laws of the State in which they are incorporated, the latter are not subjected to national laws but rather gain indirect international legal recognition from their cooperation with IOs.

From the distinction between the legal personality of single NGOs and interlocutory coalitions two corollaries stand out conceptually. First, to be discussed below, to the extent of which the participating NGOs operate on a partnership basis with the coalition – and thus become an integral part of it – they temporarily abdicate their autonomy. This explains why interlocutory coalitions often dispose of a secretariat and a lead organization, which provide coordination to the network; and, also, it explains why initiatives and strategies taken by the coalitions are attributed solely to the coalitions' – and not to their members' – responsibility. Nonetheless, an empirical perspective may suggest that through the membership to a coalition, single NGOs receive indirect international legal recognition as participants in international law-making.

The discourse on membership is also useful to distinguish the interlocutory coalitions from the *global networks*, the *transnational issue networks*, and the *parallel summits*.

Global networks generally define an informal web of different civil society actors (such as, for instance, grass-roots groups, or social movements). But also, and primarily, they identify a geographical rather than a conceptual identity.

Transnational issue networks are gatherings of actors who are bound together by a core of shared values and work together on issues of international relevance exchanging information and services. Not only, however, do these networks lack a defined structure to coordinate accession and membership, but also their existence is in place as long as the issue they aim at opposing subsists.

Finally, parallel summits are events held contextually to inter-governmental summits, the scope of the former being to challenge the legitimacy of the latter. Therefore, parallel summits have a narrower conceptual identity with respect to the interlocutory coalitions, since their activity is hinged on the topic(s) of the official summits.⁷

3.4 Finally, the activities in which the interlocutory coalitions' are involved are wide in number and vary in scopes, ranging from political lobbying, public mobilization, campaigning around particular issues, as well as monitoring the compliance with international treaties, and managing conflict-resolution activities. In broad terms, however, it might be assumed that each coalition undertakes three main tasks. Indeed, these tasks are not mutually exclusive. As a matter of fact, many of the case studies addressed in this Paper reveal interlocutory coalitions performing a number of these activities simultaneously.

At its heart, the interlocutory coalitions mediate. This all-encompassing definition includes both the discussion of the diverging positions carried out by the coalitions' participants and the promotion of policy alternatives to supranational decision-makers. In an early stage, the coalitions mediate "internally" between the diverging stakeholders' interests; later, they mediate between these interests and the IOs' representatives.

Second, and more specifically, interlocutory coalitions may have "rule-making" powers. Of course, if by rule-making we mean the process that brings to the promulgation of norms and regulations we would conclude that interlocutory coalitions do not qualify. Their non-governmental nature would not permit these *consortia* to perform genuine rule-making activities. Be that as it

⁷ For a number of perspectives on this subject See M. PIANTA, Parallel Summits of Global Civil Society, in H. ANHEIER, M. GLASIUS, M. KALDOR, (eds.) Global Civil Society, London 2001.

may, the definition of rule-making appears nevertheless as the most appropriate to describe coalitions' advocacy towards IOs because the constant lobbying pursued by the interlocutory coalitions into IOs' official negotiations and into the other phases of the policy cycle has often resulted in influencing IOs policies and shaping IOs strategic directions.

Third, interlocutory coalitions may have enforcement powers. They may monitor the compliance of specific norms and rules, they may evaluate the degree to which these rules are achieved in fact, and they may report the possible breaches of these rules to the competent bodies.

4. Having settled on a working definition of the interlocutory coalitions, the following Paragraphs will illustrate the coalitions' activities in more specific details, beginning with the description of the elaboration of common strategies, then moving on to the analysis of the rule-making activities, and concluding with the examination of the enforcement and implementation functions. Along with the analysis of these tasks, the benefits for the IOs that collaborate with the coalitions will be discussed.

The first and main function of any interlocutory coalition, as we shall see presently, consists of mediation. This is conceived as a multi-level and multi-directional activity, which not only involves the bargaining between the positions of participants (*internal* mediation), but also encompasses negotiations with governmental representatives and, in a latter stage, implementation (*external* mediation).

Thus understood, both internal and external forms of mediation are crucial to the coalitions' existence. The adoption of uniform approaches to specific matters defines the first key-step in the process of advocacy. Uniformity is achieved through isolating and distinguishing particular constituencies and then promoting among them an aspiration for convergence. Once a uniform strategy has been established, external mediation with IOs, governments and the domestic and international judiciary translates this strategy into concrete means. It is however important to observe that, albeit internal mediation is crucial to the effectiveness of a coalition, the coalitions' efforts to attain genuine reach become visible to the international community only through the activities clumped under the umbrella of external mediation.

Based on the current empirical observations, the cases of the *Pan-European ECO Forum* and the *Consultative Platform* have been selected to illustrate internal mediation in interlocutory coalitions. In the *Pan-European ECO Forum*, accession and membership are subjected to simplified and informal procedures. In contrast to the *Pan-European ECO Forum*, the *Consultative Platform* adopts a more formalized system of rules, which affects – *inter alia* – the mediation among its members.

Every NGO which operates within the United Nations Economic Commission for Europe (UNECE) region, and shares the goal of promoting sustainable development, is a potential eligible member in the *ECO forum*. Acceptance of the coalition's agreement is also requested. Membership can be applied for by a simple letter to the Secretariat of the coalition or by registration for the Plenary. Accordingly, membership can be cancelled by a letter without need to indicate reasons.

Obviously, while facilitating conditions to access the coalition encourage a large participation, they also bring into existence the necessity to mediate in a fast and efficacious way among the diverging positions of its members, and thus to avoid the coalition's inactivity. To prevent this risk, the *ECO Forum* employs two correctives.

The first corrective relies on the organization of the *Forum*. The coalition is structured hierarchically, with the Plenary on the top of the structure, the Coordination Board and the Secretariat at the centre, and a number of Issue Groups and Focal Points situated at the periphery. The Plenary makes common policy statements and defines the strategies of the *Forum*. Yet, the content of such statements and strategies results in a multi-level process of bargaining between the members held during the working sessions of the Issue Groups. These are subject-related coalitions (also termed “content coalitions”) appointed by the Plenary and subjected to the duty to report to it. The process of bargaining is completed by the presence of the Focal Points, whose main task is to

guarantee the coordination between the members of specific UNECE regions, its key-issues, and the *Forum* itself. Informal coordination between the Focal Points and the Issue Groups is organized on a daily basis. A more formal coordination is guaranteed by the Coordination Board, which is composed of the representatives of the two organs.

The second corrective to avoid the inactivity of the coalition, given the considerable diversity among the members NGOs, entails the rules governing the voting within each organ. Each member gets one vote. The Plenary takes decisions by consensus. When consensus cannot be reached, the rule of majority applies and decisions are taken by the 2/3 of the participating members. All the other bodies decide by consensus.

As the *ECO Forum* example suggests, the combination between a multi-level bargaining system and consensus rules may be used to overcome competing visions – a by-product of interest heterogeneity – and to foster compromises. Yet, by leaving the application and enforcement of a strategy entirely to the members' willingness may be risky. This is true especially when highly political problems come into discussion. It is for this reason that in other coalitions more formalized agreements are adopted. Consider the case of the *Consultative Platform*. According to the terms of reference of this coalition, NGOs, stakeholders' organizations representing consumers, and food operators active in the food chain are all admitted to join the coalition.⁸ Accession, however, is precluded to organizations which do not comply with geographical, functional, and practical conditions. More specifically, the accessing organizations are requested to set their activity on the European level; they are requested to be competent in the areas of work of the EFSA; they also have to be in frequent contact with the EFSA.

To complement the conditions to access the coalition, the terms of reference introduce two additional criteria. First, members of the MB, the Advisory Forum, the Scientific Committee, and the various Panels of experts of the EFSA participate in the meetings of the *Platform*. They do not, however, take active part in internal mediation. Their role is aimed solely at ensuring a proper exchange of information among participants, and at providing administrative support to the coalition. In order to coordinate the discussion, the *Platform* also designates a Chair and two Vice-chairs from among its members. Second, detailed rules discipline the maximum number of participants to the coalition (never more than 30), the frequency of the *Platform*'s meetings (twice a year), and locations (preferably in Parma).

Differently from the case of the *Pan-European ECO Forum*, the example of the *Consultative Platform* suggests that a higher degree of formalization may be used to the scope of facilitating the coalitions' effectiveness and to avoid its inactivity. This option, however, has its shortcomings from a democracy-theory perspective. Arguably, the stricter the conditions to access the coalition, the lesser are civil society actors which fulfil these criteria. Needless to say, a narrow number of participants may influence the coalitions' specific weight on the international level and thus undermine its chances to obtain successful outcomes. This explains why, in the case of the *Consultative Platform*, associated (or not permanent) members are admitted to join the coalition.

5.1 Once a strategy is settled, an official position is agreed upon, or the contours of an action are defined, the activity of interlocutory coalitions develops into external mediation. This includes, first and foremost, negotiations between the coalition and the IO. It also includes implementation and conflict-resolution.

When talking about rule-making activities of interlocutory coalitions, one can draw a distinction between two main functions. The first and more general activity reflects the extent to which information and knowledge are fed in the decision-making processes. We posit that information and knowledge are two mutually reinforcing dimensions of communication which cannot be understood in isolation from one another. *Information* consists of sharing facts and data among the participants of a coalition, and eventually towards the outside of it. *Knowledge* is

⁸ See MB 12/09/2006, No. 6. See also H.C.H. HOFMANN, A. TURK, The Development of Integrated Administration in the EU and its Consequences, 13 European Law Journal, 253 (2007), at 260.

actually created out of information and overlaps with the usage of reasons to induce or move someone to believe something or perform some action. Thus, in knowledge not only facts, but also experiences, technical expertise and values are shared.⁹

Information and knowledge may be indeed regarded as forms of rule-making. As observed by the German Constitutional Court in the 1994 *International Military Operations Case*, concerning the right to participation of the Federal *Bundestag* in decisions on the deployment of German armed forces within the framework of operations undertaken by the North Atlantic Treaty Organization and the Western European Union for the implementation of the United Nations Security Council resolutions, changes in the contents of an international treaty might be well brought about by interpretation (rather than by a formal amendment) of an existing international treaty. This is exactly what happens when information and knowledge are spread through the activity of interlocutory coalitions. Its active presence does not necessarily support radical changes. It rather develops moderate modifications through interpretation of administrative principles of law.

Interlocutory coalitions, for instance, may present written statements during sessions or meetings in order to influence officials and governmental representatives, and to reduce the abstractness of IOs' officials questioning towards governmental representatives. Information can be fed to decision-making procedures also in a more proactive way, as in the case of agenda setting. This activity consists of raising points to be discussed and analyzed during the meetings with IOs' bureaucrats. Coalitions are particularly interested in influencing the IOs' *travaux préparatoires* through pursuing the agenda-setting function because, first, it is during this phase that the founding principles for the final documents are usually agreed upon. Moreover, through agenda-setting, coalitions can contribute to the development of new guiding principles from the IO with whom they cooperate.

Take the *NGO Forum*. This is actively involved in the annual meeting of the ADB's Board of Governors, during which decisions are made to set the ADB's policies and programs. In 2008, for instance, the coalition insisted upon the substantial revision of the ADB's policies on the environment, involuntary resettlement and indigenous peoples.

5.2 Alternatively, coalitions may influence the behaviours of IOs by formulating and spreading rules autonomously. Although this is not a general condition – coalitions' activity, practically speaking, may not result in any specific outcomes or forms of legal regulation – when it is encountered it may be well considered as the second and more genuine rule-making function.

The most relevant example of this kind is provided by the standards-setting activity. These consist of a wide array of non-binding sources of law, including principles (general statements that allow a great flexibility in their interpretation and implementation), recommendations, official reports, codes of conduct, declarations of intents, and finally methodologies and guidelines, which provide detailed guidance on requirements to be met for its implementation. The importance of such standards at the supranational level is great. By developing and publicizing such standards, interlocutory coalitions seek to: (1) make them more widespread and influential, in order to let them acquire a sort of soft-law value which could eventually bind upon IOs;¹⁰ (2) and, indeed, aim at increasing their leverage at the international level.

To portray the dynamics of autonomous formulation of standards and rules by interlocutory coalitions fully, the case of the CINGO can be considered. One of the main instruments used by the CINGO consists of official recommendations. These are documents following an official decision

⁹ See V. ALLEE, *The Future of Knowledge: Increasing Prosperity through Value Networks*, Boston 2003. See also J.L. MARTINEZ, *Communication Conflicts in NGO: A Theoretical Approach*, *Instituto de Empresa* Working Paper n. WP 2/02, 2002, available at www.ie.edu.

¹⁰ See generally D. SHELTON (ed.), *Commitment and Compliance: The Role of Non-Binding Norms in the International Legal System*, Oxford 2000. On the relation between networks of NGOs and the formation of international standards See D.B. HUNTER, *Civil Society Networks and the Development of Environmental Standards at International Institutions*, 8 *Chicago Journal of International Law*, 437 (2007-2008).

from one of the COE's institutions in which the CINGO expresses its position and recommends further actions to be taken by the Committee of Ministers. The most recent proposals include suggestions to introduce formal time-limits for decision-making by competent authorities, greater transparency and reasoning in decision-making, and also address general issues such as human rights' protection.

A fundamental point to emphasize is that even in the circumstances when interlocutory coalitions' standards are not intended to directly constrain the behaviour of the underlying IOs, they may be nonetheless directed to the borrowers of these institutions, who are demanded to take them into account during the implementation of the projects. Such prescriptions are designed to increase fairness, responsiveness, and efficiency in national governments. This is the case, for instance, of the *NGO Forum*, who works in close contact with the governments of the Asian and Pacific areas. By developing uniform standards towards' ADB's borrowers, the *NGO Forum* aims at strengthening the existing standards and increasing its influence.

6. The contemplation of the above examples prompts me to reflect upon the fact that formal and informal ways of interaction between interlocutory coalitions and IOs are likely to guarantee a better balance between diverging civil society's and governmental interests at the supranational level as well as to improve the quality of IOs' policy-making. Yet, the finding that a closer number of participants in IOs' decision-making processes would guarantee faster and less expensive decisions have led some observers to express concerns on the active involvement of civil society groups in IOs' decision-making. Critics argue that a greater use of human resources would diminish the feasibility of rapid substantive results, and because of the longer time schedule needed to process the amount of information provided by a large number of participants, would increment the overall costs of decision-making processes. Linked to this problem is a second area of concern. Studies on civil society's participation in international policy-making have pointed out the difficulties for smaller NGOs to keep the pace with the huge number of meetings that inevitably characterize dealings in the international community. While the limited finances and staff resources of small NGOs would substantially reduce their influence on the negotiating processes, the organizational costs of these processes would be nonetheless increased, and the time-schedule would be extended as well.¹¹

In sum, the core of the above critiques is to suggest that inclusiveness is more a theoretical concept than a realistic one. The participation of civil society's groups to IO's policy-making should therefore be constrained by more formal rules, and circumscribed to few selected NGOs.

This Paper does not engage this claim directly. It only argues that formalized networks of NGOs, such as the interlocutory coalitions, may offer a viable solution to the issue of the effectiveness as well as to the issues related to smaller NGOs dealing with IOs. As for the latter concern, the benefits that interlocutory coalitions provide to their members and IOs have already been discussed. Smaller NGOs which comply with the criteria for accession to the coalitions gain the financial and administrative support of a stronger organization. On the part of the IOs, dealing with a single coalition facilitates rapidity and reduces costs in decision-making processes. With more specific regard to the concern on effectiveness, one could allege that the agreements governing the interlocutory coalitions, both of type A and B, often contain provisions specifically designed to avoid such issues. In coalitions governed by agreements of type A, the conditions for the accession to the network and for participating to the organization of its activities are aimed – *inter alia* – at favouring an effective dialogue with IOs' representatives.

¹¹ Martin Kaiser has conceptualized this phenomenon in terms of "participation overkill". In Kaiser's opinion, many NGOs choose not to participate in negotiating processes of considerable importance despite being invited to do so. See M. KAISER, National Forest Programmes and Environmental Non-Governmental Organisations: Participatory Overkill or Real Opportunity for Strengthening Ecological Needs of Forest Related Policies, available at www.greenpeace.com.

The CINGO's rules of procedure, for instance, distribute the coalitions' functions among its internal organs having regard to guarantee the greater possible efficacy of its actions. The Conference identifies the general actions needed to organize its participation in the COE Quadrilogue, and ensures the correct functioning of the participatory status. The Bureau implements the internal and external communication policy of the CINGO, particularly at the EU level. Finally, the Committees' and Transversal Groups' purpose is to facilitate the co-ordination between single members NGOs, and also to serve as common interlocutors for all COE bodies. Additionally, the rules of procedure regulate the organization, the frequency and the time-schedule of the CINGO's official meetings.

Also in coalitions governed by agreements of type B, a regulatory framework provides for the better co-ordination of coalitions' activities. The *NGO Forum*'s by-laws contain provisions on the organization of the coalition's activities, including the provision of timelines for the organization of a meeting and the adoption of decisions. The *Pan-European ECO Forum* appoints a Coordination Board in order to represent the coalition in the EFSA's official processes.

7. The second dimension of external mediation by interlocutory coalitions includes the implementation and the enforcement of international norms and rules.

In looking at implementation by interlocutory coalitions, focus needs to be put upon two elements. The first is implementation by means of enforcement. The second is implementation by conflict-resolution. Both forms of implementation may come in formal or informal ways. Interlocutory coalitions' participation in the enforcement of international treaties is particularly established in the environmental and human rights fields.¹² The *Pan-European ECO Forum*, for instance, over the years has launched many initiatives aimed at examining whether citizens of the Member States who signed the Aarhus Convention are given the opportunity to adequate and effective access to environmental justice. The findings of these initiatives have been widely published. Recommendations to the concerned governments have followed.

But enforcement may also come informally, through simple dissemination of information. Several interlocutory coalitions, for instance, have developed their websites into tools for advertising project-related activities. The *NGO Forum* heightens the public debate on the ADB's development strategies through its website in order to involve its members in monitoring the enforcement and review of ADB's policies. The *Pan-European ECO Forum* distributes a monthly newsletter among its members and the general public. The use of newsletters is aimed at revealing the current state of the negotiating processes with IOs and at helping to clarify certain diplomatic issues to the public. The *Consultative Platform* publishes the minutes of all the official meetings with the EFSA's representative. Finally, all the official recommendations and the related follow-ups from the CINGO to the COE's institutions are given publication on the coalition's website. Other ways to compel enforcement through information are provided by publications related to specific projects' issues. Both the *NGO Forum* and the *Pan-European ECO Forum* diffuse these kinds of publications on a regular basis.

Conceptualized in terms of conflict-resolution, implementation by interlocutory coalitions relates to formal interventions through which civil society actors participate in complaint proceedings taking place before international jurisdictions, as well as to the informal ways of intervention of civil society actors within international judicial *fora*.

Formal ways of intervention essentially consists of the possibility to present *amicus curiae* briefs. Even if, as a matter of principle, the *amicus curiae* role is not the same as a formal legal right

¹² Formal implementation has already received significant attention in international legal scholarship. See P. ALSTON, J. CRAWFORD (eds.), *The Future of UN Human Rights Treaty Monitoring*, Cambridge 2000; S. JASANOFF, NGOs and the Environment: From Knowledge to Action, 18 *Third World Quarterly*, 579 (1997); R. CHARLTON, R. MAY, NGOs, Politics, Projects and Probity: A Policy Implementation Perspective, 16 *Third World Quarterly*, 2 (1995); J. SMITH, R. PAGNUCCO, G.A. LOPEZ, Globalizing Human Rights: The Work of Transnational Human Rights NGOs in the 1990s, 20 *Human Rights Quarterly*, 379 (1998).

to bring cases to a court, it is nonetheless a way to engage civil society interests' within the judicial proceedings and raise awareness in the public opinion.¹³

Formal ways of intervention are also exemplified by the petition mechanisms that allow civil society actors to bring such cases as complainants. As consistently demonstrated by empirical research, litigation from individuals and groups is often used as a way to change rules and practices in its own favour through court actions.

The collective complaint mechanisms provided by the Aarhus Convention's communications from the public is a case in point. In such hypotheses, actions taken in one governmental jurisdiction give rise to grievance by stakeholders living outside that jurisdiction. Thus individuals, NGOs, and other civil society actors (interlocutory coalitions included) are allowed to bring complaints against states that have ratified the concerned agreement.

Finally, informal ways of intervention may include the act of counselling to parties in a dispute, or pressuring parties to initiate proceedings before a court. Also the possibility to appoint experts (as it is in the case of the Compliance Committee of the Aarhus Convention) can be considered as an informal source of leverage to influence policy outcomes.¹⁴ The same holds true for the relation between coalitions and ombudsmen. The functions of ombudsmen are in fact to provide an independent critical appraisal of the quality of administrative action, and to stimulate its future improvements.

8. In introducing the benefits of civil society's networks, the previous paragraphs have stressed the opportunities for IOs lying behind cooperation with transnational civil society, and particularly with coalitions of NGOs. The argument goes as such: cooperation with interlocutory coalitions is particularly profitable for IOs aiming at being perceived as accountable because it replaces the domestic channels of influence to hold the public powers liable. By bringing otherwise unrepresented (or underrepresented) private interests in policy-making, IOs intend to produce net gain in terms of distributive fairness and therefore to provide legitimization to its decision-making processes:

The main objection to this position – and more generally to the efforts put by global and European institutions into developing closer contacts with civil society – is that civil society actors operating at the supranational level are not accountable themselves. They cannot therefore provide for the accountability of the institutions with which they collaborate.¹⁵

This Paper describes NGOs' accountability by pointing at its internal and external aspects. *Functional accountability* relates to internal management practices and financial responsibility towards the members of an organization. *Strategic accountability* relates to the relationship between the organization and its beneficiaries, and more generally to the international community.

When applied to transnational civil society, functional and strategic accountability are countered by a number of key-issues, namely the vast number and the provenience of transnational civil society groups. The elevate number of civil society actors would make the effective cooperation between civil society's groups and IOs impractical. Besides, the fact that the current

¹³ It is for this reason that several NGOs have been continuingly pressing this issue towards the WTO. See N. LEROUX, NGOs at the World Court, 8 International Community Law Review, 203 (2006).

¹⁴ See S. KRAVCHENKO, The Aarhus Convention and Innovations in Compliance with Multilateral Environmental Agreements, 1 Colorado Journal of International Environmental Law and Policy, 7 (2007); M. STALLWORTHY, Whither Environmental Human Rights?, 7 Environmental Law Review, 14 (2005).

¹⁵ See M. EDWARDS, D. HULME, Beyond the Magic Bullet: NGO Performance and Accountability in the Post-Cold War World, London 1996; A. FOWLER, Striking a Balance: A Guide to Enhancing the Effectiveness of Non-Governmental Organisations in International Development, London 1997; L. JORDAN, P. VAN TUIL, NGO Accountability: Politics, Principles & Innovations, London 2006; M. KALDOR, Civil Society and Accountability, 4 Journal of Human Development, 5 (2003); P.B. STEPHAN, The New International Law-Legitimacy, Accountability, Authority, and Freedom in the New Global Legal Order, 70 University of Colorado Law Review, 1555 (1999); J. MCGANN, M. JOHNSTONE, The Power Shift and the NGO Credibility Crisis, 11 Brown Journal of World Affairs, 159 (2004-2005); P. KILBY, Non-governmental Organizations and Accountability in an Era of Global Anxiety, 5 Seton Hall Journal of Diplomacy and International Relations, 67 (2004).

supranational arena is dominated by large, English-language speaking, Northern NGOs would amplify certain political views that are not reflective of the views of developing countries.¹⁶

While both these objections are truthful and hard to be disagreed with, account should be taken on the fact that, as already pointed out before, a salient characteristic of the interlocutory coalitions is the establishment of accreditation standards. Participating NGOs to a coalition must fulfil specific criteria to become part of it, including the possession of an executive organization, financial independence from governmental bodies, international standing, independent governance, geographical affiliation, adherence to behavioural standards, and commitment to common goals. Take the case of the *Consultative Platform* as an example. A variant of this possibility is that the IO itself imposes the accreditation criteria, as in the case of CINGO. Participatory status is granted by the COE to international NGOs that are particularly representative at European level and in the fields of their competence.

Interlocutory coalitions themselves are hinged to the respect of fiscal, peer, and supervisory controls. The donors to the coalitions exercise the fiscal controls. Albeit interlocutory coalitions are not-for-profit networks, it would be incorrect to think that contributions from individuals and public bodies do not play an important role in their operations. In their funding contracts, donors can (and actually do) take steps to make coalitions more accountable. Sponsors and contributors may also decide to interrupt their donations whether the coalitions would not perform efficiently in its activities towards IOs. The peer controls consist of the possibility that those NGOs who have delegated authority to the coalition may withdraw such authority when the coalition does not respect certain perspectives and values anymore. Once NGOs have become constituents of a network, in fact, they are eager to monitor their colleagues' consideration for the agreed standards, since their own reputation might be affected by it. Finally, the same IO with which the coalitions cooperate exercises supervisory controls.¹⁷

Considered as such – that is to say networks that are functionally accountable through the assessment of its members' qualities, and strategically accountable through fiscal, peer, and supervisory controls – interlocutory coalitions move the problem of accountability from the single civil society actors' source of legitimacy to the legitimacy of the political discourse in which they are involved. The challenge, in other words, is no longer whether supranational civil society may provide accountability to IOs, but rather which channels are preferred to influence policy outcomes in the institutions.

Hence, linked to the question of accountability is that of legitimacy. In the most common acceptance of the term, legitimacy consists of the diffuse belief in a community of an appropriate use of power by a legally constituted authority following correct decisions on making policies. Legitimacy as depicted in this Paper encompasses both the capacity of rule-makers to engender and maintain the belief that existing political institutions and its policies are the most appropriate (*formal* or *legal* legitimacy), and the ability to assess its rules on stakeholders' needs (*social* legitimacy). Participation is therefore essential to legitimacy, and particularly to social legitimacy, in the sense that people agree on the existence of a particular IO and participate in its rulemaking, because of their belief to influence its results.¹⁸

Discourses over IOs' legitimacy generally state that this may be achieved in two ways: through indirect representation, or through procedural mechanisms resembling the typical structure of an administrative process of law. The first narrative understands IOs' rule-making as a system of

¹⁶ In academic literature, Northern NGOs are described as organizations based in industrialized countries. As such, they are opposed to Southern NGOs, mainly operating in developing countries.

¹⁷ For a comprehensive analysis of such accountability standards See R.O. KEHOANE, J.S. NYE, Democracy, Accountability and Global Governance, Harvard University Politics Research Group, Working Paper No. 01-4, 2001, available at www.ksg.harvard.edu/prg/nyc/ggajune.pdf.

¹⁸ For a general discourse on legitimacy in international organizations See M. SUCHMAN, Managing Legitimacy: Strategic and Institutional Approaches, 20 Academy of Management Review, 571 (1995); U. BECK, *La società cosmopolita, Prospettive dell'epoca post-nazionale*, Bologna 2003; S. SASSEN, Territory, Authority, Rights. From Medieval to Global Assemblages, Princeton 2006.

multi-level governance, involving representation of constituents' concerns through non-hierarchical steering and management of networks of public and private actors between the domestic and the supranational levels. The second narrative acknowledges and insists on civil society's direct engagement within IOs' regulatory processes.

As previously stated, both channels of legitimacy lack substance when applied to the supranational governance domain. The main weakness of indirect representation consists of the shift from the representative to the executive experience. Procedural representation's drawbacks develop from scarcity in transparency and participatory rights of IOs' decision-making processes.

This Paper suggests that interlocutory coalitions may constitute a possibility, if not a solution, to the problem of legitimacy. They would resemble the "Global Reflexive Interactive Democracy" (GRID) model theorized by Dario Bevilacqua and Jessica Duncan.¹⁹ GRID seeks to enhance participation by framing an approach based on reflexive democracy and interactivity. In the former regard, focus is directed towards co-operation and mutual understanding. Associative bodies such as NGOs complete the picture. Described as "democracy-enhancing links" between decision-makers and civil society, NGOs are demanded to deliver information to the general public and transform its preferences into propositions to be used to influence IOs' decision-making processes. Interactivity, as conceptualized in the GRID model, refers to the development of policies through the cooperation of stakeholders' networks. GRID, this line of argument runs, involves a horizontal and a vertical phase. The *horizontal phase* involves cooperative exchange between all the organizations and actors inside a specific regulatory framework. The *vertical phase* includes the action of influencing supranational regulators through proposals, reports and surveys, and indeed the explanation to the members of the network of how global institutions are acting and responding to networks solicitation.

9. After having discussed the grounds for developing a new conceptual approach to overlapping governances at the supranational level through the presence of organized networks of civil society, two crucial questions need to be answered: (1) how are interlocutory coalitions concretely influencing the interaction between global and European decision-making processes? (2) Is the growing system of civil society networks forming a "bridge" between the global and the European administrative systems?

This Paper suggests that interlocutory coalitions, differently from single NGOs, may be considered a significant factor in spreading interaction and convergence between EAS and GAL. This claim builds off of two subsidiary arguments, one relating to the very notion of administrative convergence, the other concerned with future scenarios in supranational civil society's networks.

The concept of administrative convergence does not have an agreed core of meaning. Of great importance, however, is the fact that convergence implies, first, a reduction of variance and, second, a uniform enforcement of common principles, rules and regulations. Olsen distinguishes between two hypotheses of administrative convergence.²⁰ The first hypothesis is described in terms of *attractiveness*. The second hypothesis is traced in terms of *imposition*. Simplifying a complex argument, in Olsen's opinion attractiveness signifies learning and voluntary imitation of a superior model. Organizational forms are copied because of their perceived functionality, utility, or legitimacy. Instead, when no single way of organizing public administration is seen as functionally or normatively superior, convergence by imposition is likely to happen. Differently from the previous one, this form of convergence is based on the use of authority and power.

¹⁹ See D. BEVILACQUA, J. DUNCAN, Towards a New Cosmopolitanism : Global Reflexive Interactive Democracy as a New Mechanism for Civil Society Participation in Agri-food Governance, 10 Global Jurist Advances, 2010 article 2. Bevilacqua and Duncan applies the GRID to the agri-food regulatory framework, given its sensibility to the problem of public participation. The same model, however, may be easily analyzed in conformity with other sectors of regulation.

²⁰ See J.P. OLSEN, Towards a European Administrative Space?, 10 Journal of European Public Policy, 506 (2003).

While Olsen suggests that administrative convergence follows from attractiveness *or* imposition, this Paper assumes that, in the conceptual landscape of said EAS/GAL relationship, convergence as pursued through the influence of interlocutory coalitions follows from attractiveness *and* imposition. This vision rests on the idea that interlocutory coalitions mobilize good practices and normative standards from different legal arenas by linking various actors and institutions across borders (which can be sketched as convergence through attractiveness), and construct a web of rules by relying on IOs' leadership and authority (which can be described as convergence through imposition).

More precisely, cross-fertilization among coalitions' activities marshals convergence through attractiveness. Partly because of their international leverage, and partly because of the fact that its members may join more than one coalition at the same time, interlocutory coalitions' experience and knowledge is likely to be shared in advocacy campaigns towards different IOs. The contextual participation of the coalitions' members in diverse decision-making processes which intersect and overlap, in fact, contribute to ensuring a degree of coherence in IOs on topics such as participation and transparency. It also limits IOs' free riding from policies and orientations shared with other IOs. Furthermore, the use of standards, codes of conduct, or informal agreements in a coalition may constitute the base for the agenda-setting of another coalition towards a different IO. As argued by David Hunter, "*networks are critical for disseminating lessons learned*". The implication, accepted in this Paper, is that coordination among the members of a coalition, as well as formal and informal contacts between diverse interlocutory coalitions, play a crucial role in spreading integration in EAS/GAL.

Convergence through imposition is more intimately bound up with the institutional aspect. It builds upon the basic assumption that IO's leadership position in specific fields of regulation helps its policies and standards to become important benchmarks for other IOs. In the finance sector, for example, the Performance Standards adopted by the International Finance Corporation have inspired the 2003 "*Equator Principles*" initiative, aimed at developing a set of environmental and social standards among commercial banks. The initiative has spread rapidly among private financial institutions as well as other IOs and today it covers around 80 percent of global project finance. The ADB, for instance, introduced several improvements to its policies after having taken inspiration in the World Bank's reforms.²¹

The discourse on setting standards and spreading it through administrative imposition may be crucial for purposes of assessing the influence of transnational civil society to GAL/EAS interactions. When it comes to a closer evaluation, however, it emerges that the two forms of convergence stand in a complex relationship to each other: both are important to self-completing.

Put in stark terms, when standards are created, they are mere words or symbolic meanings with few or no effect in need of institutional interpretation. They therefore need to be supported by a well-articulated and organized system of monitoring and enforcement. This is even more crucial in the case of global regulatory regimes, where regulatory and supervisory duties are often embedded in the same body.

It requires little analysis to see that implementation of standards may come in many different ways. Drawing on insights from studies on the implementation of standards produced by the G8, implementation by *reference* can be distinguished by implementation by *incorporation*, and interpretation by *application*.²² Implementation by reference takes place when the integral text of a decision is referenced in another legal text from a different IO. Implementation by incorporation is carried out by incorporation of few programmatic lines worked out by an IO with almost no

²¹ See A. HARDENBROOK, The Equator Principles: The Private Financial Sector's Attempt at Environmental Responsibility, 40 Vanderbilt Journal of Transnational Law, 197 (2007); E. SUZUKI, S. NANWANI, Responsibility of International Organizations: The Accountability Mechanisms of Multilateral Development Banks, 27 Michigan Journal of International Law, 177 (2005).

²² See M. CONTICELLI, The G8 and "The Others", 6 Global Jurist Advances, 2006 article 2, at 8.

reference to the activities carried out by this player. Finally, implementation by application consists of the direct application of the standard(s).

To further assess the link between the two forms of convergence, it is useful to recall a perhaps even more apparent example of convergence through imposition: the 1999 Comprehensive Development Framework of the WB. This tool allows the WB to impose “structural adjustments” to the internal legal systems of assisted countries as a condition to access new loans or decrease interest rates on existing ones. These structural adjustments often address issues of administrative governance, such as transparency or accountability of public bodies.

Thus defined, interlocutory coalitions’ penetration into global and European governance evokes Margaret Keck’s and Kathrin Sikkink’s *boomerang effect*, according to which the appeals by external actors towards the international community bounce back and put pressure on IOs and national governments.²³

10. Apart from the argument on administrative convergence, set out above, the consistency of interlocutory coalitions to EAS/GAL convergence can also be drawn on the basis of speculation on future scenarios in supranational civil society networking.

This Paper suggests that an evolutionary process in supranational civil society’s networking is already under way, at the end of which new organizational forms, or meta-networks, are likely to emerge. The empirical picture confirms this: not only the number of civil society networks that operate in the margins of the IOs that license them in the first place is increasing, but also existing coalitions are increasingly merging in meta-coalitions in order to stronger advocate its positions in supranational policy-making.

Interlocutory coalitions such as the *Steering Committee for Humanitarian Response*, an alliance of nine of the largest international humanitarian organizations and networks working with the Office of the UN High Commissioner for Refugees, the *NGO Working Group on the World Bank*, the EPLO, or the *Social Platform* – an umbrella organization for Brussels-based social NGOs and networks of national NGOS in the various Member States aimed at facilitating participatory democracy in the EU by promoting the consistent involvement of NGOs within structured civil dialogue with EU institutions – seems to confirm this assumption.

The paradigm of meta-networks demonstrates how transnational civil society is increasingly organized in coalitions to support its activities, and supports the idea that a closer integration between principles of administrative fashion pertaining to different supranational legal system have developed through networks’ activity. Yet this assumption remains uncharted by official statistics and is only superficially explored in its counter-effects. Networking in civil society shows a number of tensions.

The most evident one is related to its functioning. Holding NGOs and other civil society’s groupings together in a coalition constitutes a complicated enterprise, for it involves clusters. This is especially apparent when networks grow bigger and, in consequence, the likeliness of controversial positions increases. On the one hand, associational forms like the interlocutory coalitions are the best option to foster a broad range of interests of large constituencies and to contain the increasing number and diversity of its members. At a time in which regulation increasingly concerns objects and situations whose heterogeneity and complexity escapes the cognitive capacities of IOs’ decision-making bodies, cooperation with large coalitions of civil society actors becomes fundamental for sound policy-making. On the other hand, however, a bigger network is also a weaker network, due to the wide range of adherents with different views, sizes, and strategies.

A second tension may occur between different coalitions in competition. As noted by Kumi Naidoo, cross-border activism has not yet successfully created a veritable global civil society, due to the fact that no organizations can truly claim representation in all of the countries of the world. The current situation, Naidoo argues, is better described as dominated by a large number of civil

²³ See M.E. KECK, K. SIKKINK, *supra* note 5.

society cross-border groups who, to a greater or lesser extent coordinate their activities depending upon their interest in similar issues.²⁴ This situation, I posit, creates not only the basis for cooperation, but also and perhaps more frequently, for competition. This is particularly the case of bigger coalitions, which encompass a great diversity of actors and are not guided by a clear leadership.

A third tension may occur when particular IOs refuse to co-operate with a coalition on the basis of rules or standards formerly approved of by a different IO, assuming their uniqueness or the presence of important differences.

Lastly, a fourth tension relates to the loss of creativity and experimentation that might occur when the same standards and practices are massively recycled from different coalitions.

²⁴ See K. NAIDOO, *Claiming Global Power: Transnational civil Society and Global Governance*, in S. BATLIWALA, D. BROWN (eds.), *Transnational Civil Society. An Introduction*, Bloomfield 2006, at 53.