Multinational Corporations in the Vortex of Converging Geopolitical, Ethical and Material Pressures

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Thanks to Professor Michael Plummer for that generous introduction and the staff here at SAIS Europe for inviting me and arranging this talk. At the risk of dating my (aging) self, for four decades I have been hearing about the Bologna Center—and for three decades working with and hiring graduates of this world-class program. The global perspective of SAIS Bologna graduates is unsurpassed in my experience—as is their appreciation of the good life and fine food!

My talk today rests on a dual premise that is debatable to some but a challenge to me from the beginning of my career: that multinational corporations exert massive power for better or worse; and that there is a legitimate and important agenda for corporate responsibility, accountability and sustainability which has gained traction and momentum since the mid-late Nineties. I will make the argument that this agenda is at a critical crossroads—not for the first time but perhaps now with the most far-reaching stakes and consequences for not only companies and their investors but more significantly for the entire world.

As 2023 takes shape amidst "polycrisis" and "megathreats," the responsible business agenda may be tested more consequentially than at any time since its inception a quarter century ago. Despite recent glimmers of global economic optimism, this "fractured world" remains beset by crisis and threat even as it recovers from an historic pandemic. The intensification of climate change and severe weather; the disruption of supply chains and energy sources; the persistence of inequality and poverty; the mass movement of refugees and migrants; the specter of food insecurity and famine: all present severe, intertwined challenges beyond the responsible business agenda across the global economy and the international community.

But the most fundamental source of crisis and threat—compounding all the others— is posed by war and conflict, superpower tension and confrontation. The same warnings are being sounded: "Geopolitics is the biggest threat to globalization;" "Don't let geopolitics kill the world economy;" "Geopolitics threatens to destroy the world that Davos made." Russia's invasion of Ukraine and U.S.-China are of course the two most significant points of collision between geopolitics and globalization, but other countries and regions are current or potential flashpoints which test corporate responsibility—from Myanmar amidst the post-coup civil war to Saudi Arabia in the aftermath of the murder of Jamal Khashoggi. Certain industries— most visibly extractives and technology but also apparel, agriculture, automotive and others—are in the crossfire.

That crossfire will be especially intense at the nexus of the extractive, technology and automotive sectors as the just transition toward a lower-carbon world puts a premium on critical minerals (such as cobalt and lithium) to power renewable energy sources, from wind turbines to electric vehicles. Yet those critical materials are already the focus of geopolitical competition—especially related to China with Ford under fire earlier this week for investing $3.5B in an EV factory in Michigan with support from a Chinese battery maker. Indeed, according to a late 2022 New York Times investigation, China and the U.S. "have entered a new 'Great Game of sorts" over cobalt in the Congo. Cobalt is an essential component in lithium-ion rechargeable batteries and those which power smartphones, tablets, laptops and EVs, with nearly 75% of the world's supply mined in the DRC. Cobalt mined there make some actors at different levels of the value chains in all three sectors complicit in illicit trade and human rights abuses, including forced and child labor. The brilliant new book by Siddarth Kara, Cobalt Red: How the Blood of the Congo Powers Our Lives describes in vivid detail the dark side of clean energy and its challenge to governments and international institutions, companies and investors across sectors.

Of course, "rising geopolitical tensions have coincided with growing encroachments of disruptive technologies of all aspects of public and private life" as Eric Schmidt, the former CEO and Executive Chairman of Google, has recently written. Technology is the most multi-faceted sector in which geopolitical, ethical and material pressures converge—from China, Russia and Saudi Arabia to surveillance, censorship and disinformation.

Responsible business is now caught in the vortex of geopolitical, ethical and material pressures. Intractable dilemmas are turning into inescapable decisions. The dilemmas certainly challenge the roles and responsibilities of multinational corporations and institutional investors and may possibly divide companies' shareholders and stakeholders, and in turn cause tensions with both the home and host governments of countries where they are based, where they operate and from where they source. The decisions will lead to fewer win-win solutions—the longstanding default expectation that corporate responsibility could square circles--- and more zero-sum outcomes that leave jagged angles.

These converging (geopolitical, ethical and material) pressures have forced many companies—and entire industries—to weigh tough trade-offs and make hard choices related to three governments at the nexus of that tension between geopolitics and globalization.

The first example is not well known; the second and third are in the headlines every day:

First, Corporate America and Wall Street intervened immediately before and after the November 2020 U.S. presidential election to state public support for the peaceful transfer of power and a responsible transition. These underreported actions proved prescient ahead of the January 6, 2021 insurrection. Leading business associations and companies overcame inhibition about taking what could appear to be partisan positions to support American democracy as the anchor of domestic economic, global financial and geopolitical stability. Hundreds of CEOs, subsequently registered support for voting rights amidst proposed restrictions at the federal and state levels. Some institutional investors remain concerned by systemic risk posed by continuing threats to American democracy.

Second, Western multinationals have long wrestled with labor and human rights issues in China, from factory conditions to internet censorship. But mounting geopolitical tensions between China and the U.S.—with the UK, EU, Canada and Australia at times caught in the middle—have been reinforced by protectionist trade measures and an aggressive effort by the U.S. to impose stricter export controls of sensitive technologies and to develop self-sufficiency in semiconductors as the centerpiece of a broader reshoring of strategic supplying chains. At the same time, Apple is unlikely to extricate itself from its extensive, sophisticated "red supply chain" that binds it to the most significant geopolitical competitor of its home country government, a dependency that has attracted criticism from Democrats and

Republicans alike. American companies will be looking for greater clarity and consistency in U.S.-China relations, but the recent balloon incidents reflect and reinforce the volatility in the relationship.

Moreover, the repression of the Uyghur Muslim minority in Xinjiang compelled major European and American apparel brands to cut ties with cotton suppliers that may have been using forced labor. The Chinese government retaliated against H&M by cancelling its presence on ecommerce platforms. China essentially forced western brands to make a choice—a choice then effectively made for American companies and those exporting into the U.S. market by the Uyghur Forced Labor Prevention Act enacted in December 2021. American corporate sponsors of the International Olympic Committee walked through a "minefield" of criticism ahead of the February 2022 Beijing Winter Olympics, illustrating the shift from win-win to zero-sum outcomes facing companies attempting to maintain their presence in China and their reputations elsewhere. A year after the Winter Olympics, the need to improve traceability of the content in manufactured goods amidst forced labor concerns—as well as continuing supply chain disruptions—is "forcing some Western fashion brands to rethink their decades-old dependence on China."

As Rana Foroohar of the Financial Times has observed, "China and America are locked in destructive codependence…(and) need each other for economic reasons they would rather not admit." But that codependence—even if less destructive—will continue to impose harsh trade-offs on western companies and investors.

Western companies – and entire industries—will now be forced to balance commercial interests and ethical values, profits and principles in the world's second largest economy and largest consumer market. That may be the case this year as "domestic instability and labor activism reshape how foreign companies operate in the country." Earlier this month the German Finance Minister warned that his country's relationship with its largest trading partner has become a dangerous dependency as "our import dependence is a geopolitical risk" and called for closer trade ties to democratic "value partners." That dependence has been especially challenging for Volkswagen as it continues to count on China as the main driver of its global growth, even as it suspended production and sales in Russia last March.

Third, Russia's invasion of Ukraine defied core principles of the UN Charter by violating the territorial sovereignty of another state and using force to alter national borders. Russian forces have killed thousands of civilians and committed war crimes that probably constitute crimes against humanity. Moreover, as Business for Ukraine (B4Ukraine) emphasized in its Declaration last July, "Russia's attack on Ukraine is an attack on the rules-based international order" on which both the global economy and the international community depend.

A wave of western companies—not just those subject to sectoral sanctions by home country governments—committed to leave Russia almost immediately following the invasion. But according to the analysis of 3,079 companies by the Kyiv School of Economics, only "about 38% of foreign companies have already announced their withdrawal from the Russian market or suspended their activity, but another 39.% are still remaining in the country, 16.1% are waiting and only 6.2% have made a complete exit." (as of February 12, 2023). Some of the companies which are remaining or waiting offer a range of explanations—some say "excuses"—for maintaining their operations. Consumer goods companies still operating without sanctions are especially prone to criticism and reputational risk— and Unilever has disclosed its dilemmas and options. Moreover, companies remaining are paying taxes to the Russian government and also risking direct complicity in the war effort as their employees remain subject to forced conscription as the partial mobilization ordered last September continues.

Strikingly, few companies of the companies which have committed to leave Russia have offered explicit principled, human rights-related rationales for exits; most have made their decisions on understandable reputational and operational grounds. Looming over the issue of how to justify and explain these decision—to stay or to go—is not only the potential shape of a post-conflict (if not post-Putin) future Russia, but also the precedents set for a potential conflict in another region of the world that would be even more disruptive to the international community and the global economy: an attack by China on Taiwan. That is the nightmare scenario that will cause corporate C-suites and board rooms—and geopolitical risk analysts and consultants—to lose sleep. More important, those executives and directors will face pressures to get a grip on how they can not only anticipate and mitigate risk.

Russia's attack on Ukraine is giving fresh impetus to mandatory HRDD, which in turn is gaining currency through the EU and beyond. Human rights due diligence (HRDD) sits precisely at this convergence of geopolitical, ethical and material issues. It offers an analytical, operational framework that has gained utility over the last year in since Russia's invasion of Ukraine.

- HRDD's foundations and precedents—including in conflict and high-risk settings— extend back over two decades to the Voluntary Principles on Security and Human Rights (2000) and the first-ever HRIA commissioned by any company in any industry by BP for the Tangguh LNG project (2002).

- HRDD was consolidated and elevated during the two Ruggie mandates (2005-08 and 2008-11), culminating in the Guiding Principles on Business and Human Rights (UNGPs) and have ever since become the driving force in the field and emerging priority for ESG investors.

- The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals for Conflict and High-Risk Areas has been pathbreaking for companies, responsible investors and NGOs since 2013.

- The United Nations Development Program (UNDP) and UN Business and Human Rights Working Group's new (June 2022) Heightened Due Diligence for Business in Conflict-Affected Contexts: A Guide crystallizes the approaches that companies and investors can apply at a critical time.

HRDD is a stepping-stone to a broader sensibility that can inform engagement with multinational corporations and large institutional investors alike. The Russia-Ukraine war should encourage a fusion of what they have already known and done for decades—political and geopolitical risk analysis— with the human HRDD that they know and do far less. In my experience working with multinational corporations and institutional investors, I have learned that progress can be made at a pivot point that lies part or mid-way between where they are and where we want them to be. The convergence of political and geopolitical risk analysis with HRDD strikes me as such a pivot point.

At stake for multinational corporations and institutional investors is no less than the continuity and efficacy of the rules-based order that defines the international community and underpins the global community. Individual companies and entire industries share a stake in supporting and defending this order at a time when its stability and even legitimacy are severe stress.

Multinational corporations have been among the greatest beneficiaries of the international rule-based order over the last three-quarters of a century since its creation amidst the ashes of WWII. Yet at times they appear to take its existence for granted even as their trade and investment, innovation and entrepreneurship, markets and customers, all depend on its continuity and vitality.

That rules-based order not only attempts to uphold sovereign borders and prevent conflict, to protect human rights and vulnerable groups. It also provides companies and investors with frameworks to ease the climate crisis and to spur a just transition—with diminished poverty and inequality— to a lower carbon world. The rules-based order is hardly only a set of means; its ends are set forth clearly in the UN Charter and the Universal Declaration of Human Rights.

Yet this rules-based order has faced its own contradictions as some of its original architects and longstanding champions (including the U.S. and UK) have been among those states which have transgressed the sovereignty of others without full support of the international community through the UN (as with the 2003 invasion of Iraq). Moreover, the international rules-based order is perceived by many in the Global South as inherently western despite its universal aspirations and applications. But a corporate failure to defend international standards and multilateral institutions—including human rights— will further undermine business as well as governments and civil society alike.

Support for the international rules-based order may point to a new geopolitical corporate responsibility. While indeed idealistic, it can be activated as a pragmatic agenda that can help multinational corporations and institutional investors address the dilemmas inherent in this convergence of intensified ESG pressures and tensions with geopolitical tensions and conflicts.

Companies and investors can and should:

- Avoid situations where they cause, contribute or are directly linked to human rights abuses through the UNGPs and heightened human rights due diligence (HRDD)

- Advocate for the "shared space" of the rule of law, accountable governance and civic freedoms.

- Support peace, justice and strong institutions through SDG 16 and "transformational governance."

- Demonstrate a sustained commitment to enhance equity, transparency and accountability.

- Diminish inequality by tackling poverty and ensuring sustainability by arresting the climate crisis.

The elements of this agenda are not entirely or even mostly new, having emerged over the last decade. But while embraced to varying extents by leading companies, none are implemented with the priority and urgency necessary to address the global problems and opportunities that underly them. Moving this agenda forward could bring incremental progress element by element, but transformational progress if moved forward with that priority and urgency.

At the same time, this convergence of geopolitical, ethical and material pressures confronting multinational corporations and institutional investors coincides with a dual challenge to the ESG agenda that encourages companies and investors to examine environmental, social and governance

risks. While this challenge does not focus explicitly on geopolitical issues, it questions the link between ethical and material considerations that companies and investors alike face.

Sustainable investing and their supporting metrics are under scrutiny: data quality and comparability; due diligence and disclosure requirements, portfolio construction and fund marketing.

- Efforts are underway to improve the consistency and comparability of ESG data and metrics, to define the salience and in many cases the materiality of S risks and issues, and to align standards beyond the "alphabet soup" that has emerged over the last two decades. Corporate green-washing, blue-washing and white-washing are being exposed if not expunged. Asset managers are getting the message that portfolio construction and fund names must be subjected to the same degree of transparency and accountability as their holdings.

But the debate extends from these methodological and technical issues to the ideological and indeed political premises and purposes of the entire corporate responsibility and sustainability agenda as it has evolved over the last two decades.

- This debate has led to an attack not only on ESG investing but also on "woke capitalism" as investors and companies alike get caught up in "America's culture wars" and partisan warfare. Unlike the methodological and technical issues, which can be largely resolved even if imperfectly, the underlying ideological and political premises and purposes are probably irreconcilable because they reflect such stark differences over the respective roles and responsibilities of business and government—and indeed even more fundamentally the complex relationship between democracy and capitalism.

Let me conclude by observing that while progress is rarely linear let alone inevitable, history shows us that progressive change that disrupts political, economic and social norms usually triggers a negative response: the storming of the Bastille to begin and then Thermidor to end the French Revolution; the civil rights movement in the 1960s U.S. and then another half a century of persistent discrimination and structural racism; the New Deal and the Great Society and then Ronald Reagan (again in the 1980s U.S). But reactions trigger their counter-reactions; now there is a "backlash against the backlash" against ESG.

The ESG agenda will reform and will move forward, even as the political and ideological battles continue in the U.S. The agenda will move forward around the world. But the larger—and unresolved question—is whether and how multinational corporations and institutional investors absorb and address the implacable, inescapable convergence of geopolitical with ethical and material challenges that will not diminish but intensify. Will we see a new geopolitical corporate responsibility take shape—and take action—in time to help fortify the battered remnants of the international rules-based order? That is the challenge for responsible business and investment—for all of us as citizens and activists, shareholders and stakeholders—and for students as you decide how your life work will contribute to the world.

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