

GLOBAL MONITOR

The International Chamber of Commerce

DOMINIC KELLY

According to its constitution, the fundamental objective of the International Chamber of Commerce (ICC) is 'to further the development of an open world economy with the firm conviction that international commercial exchanges are conducive to both greater global prosperity and peace among nations'. This objective gives rise to three principal aims – the promotion of 'international trade, services and investment, while eliminating obstacles and distortions to international commerce'; the promotion of 'a market economy system based on the principle of free and fair competition among business enterprises'; and the fostering of the 'economic growth of developed and developing countries alike, particularly with a view to better integrate all countries into the world economy'.¹

In other words, the ICC is an organisation whose actions are steeped in the liberal tradition of political economy. As such, it should come as no surprise that in the contemporary era it has been a staunch supporter of globalisation as a force for and source of both prosperity and peace.² On the other hand, the ICC has vehemently opposed protectionism of any sort, whether motivated by narrow economic interests or the satisfaction of wider societal needs and values. For this reason it has been critical of the failure of the World Trade Organization (WTO) to achieve concrete results during the Doha Development Round of negotiations. For this reason also it has not been convinced of the benefits of economic regionalism, although it has been at great pains to engage with regional projects such as the European Union.³

The ICC's aims are met via two main means – political advocacy and lobbying directed at national governments and at international organisations; and the provision of a range of practical services to business, including, for example, the International Court of Arbitration (ICA), ICC Commercial Crime Services and publications such as International Commercial Terms (Incoterms).⁴ The relationship between these two sets of activities is quite clear, and is nowhere more

Dominic Kelly, Department of Politics and International Studies, University of Warwick, Coventry CV4 7AL, UK.

obvious than in the voluntary formulation and implementation of standards, model contracts and codes, including dispute settlement, governing all areas of business activity and the subsequent appeal to appropriate levels and fora of governance for the codification (or ‘unification’) of these voluntary obligations in national and international law.⁵

Given its global range and the composition of its membership (chiefly businesses of all sizes and types from all sectors but also chambers of commerce and other organisations), the ICC is an organisation of considerable potential influence.⁶ As a consequence it has come under fire from a variety of quarters, with the most withering blasts emerging from within the ranks of the anti-globalisation movement. In this the ICC presents a profile no different from other targets of this movement including, for example, private organisations such as the World Economic Forum (WEF) and European Round Table of Industrialists, multinational corporations such as Royal Dutch/Shell and international organisations such as the WTO. Examination of the long history of the ICC reveals, however, that this struggle over the legitimacy of private authority in international affairs was a cause for concern, debate and contestation well before the emergence of a putative global civil society or an anti-globalisation movement.

The remainder of this report provides an examination of these activities organised around the central theme of the perceived *illegitimacy* of the ICC as a private actor in international affairs and the effort expended by the organisation in order to overcome this. This examination entails an historical overview, consideration of its structure and procedures and an introduction to some of its contemporary activities.

From ‘Merchants of Peace’ to the ‘World Business Organisation’

Very broadly, the ICC has demonstrated a marked degree of activism during periods of turmoil in the global political economy and has kept a relatively low profile in times of prosperity and peace. It is very active in contemporary times, as it was in the 1920s and 1930s and in the latter half of the 1940s. Given the ‘practical’ role of the organisation, however, it is important to keep in mind that the ICC has never gone into a state of hibernation. It was active in (Swedish) exile from its Paris headquarters even during the Second World War.

The creation of the ICC was first mooted in 1919 at the International Trade Conference held in Atlantic City, New Jersey, 20–24 October.⁷ This issue was, however, secondary to discussions concerning reparations following the First World War, and in particular the role that Germany was to play in European reconstruction. In what was to become almost a leitmotif of internal ICC politics, the conference split along European and Anglo-American lines regarding this question. The reparations debate was not settled in Atlantic City or at the meeting held to set up the ICC in Paris in 1920. However, by the early 1920s the economic situation in Europe had become so bad that the ICC embarked upon a prolonged campaign to break the deadlock over the settlement of reparations, actively sponsoring and heavily contributing toward the Dawes Plan, which was brought into effect by the 1924 Treaty of London.⁸ It was this kind of high-profile activity, continued in the run-up to the Second World War and in its aftermath, that led the ICC

to adopt as its subtitle 'Merchants of Peace' and as its slogan 'World Peace through World Trade'.

Simultaneously, in a range of fora it continued with efforts to effect the reconstruction of Europe and to deepen and soothe connections with the United States. The mechanics of this operation focused on four major areas: transport, communication, finance and trade.⁹ In this regard, according to White, the 'Chamber was directly represented at twenty-nine official conferences from 1927 to October, 1932, at times with full voting rights, at other times in a consultative capacity'.¹⁰ What White does not discuss is the criteria upon which these various levels of influence were decided, and the politics behind the creation of these and their application.

Most noteworthy was the ICC's involvement with the World Economic Conference in May 1927, under the auspices of the League of Nations. The contribution of the ICC to the successful preparation for and conduct of the conference is obvious from the comments made in the Final Report of the conference and in the official commentary that was to follow.¹¹ Moreover, in the words of an anonymous chronicler:

The ICC submitted a celebrated 150-page report described by the legal secretariat as 'in some respects the most important document before the Conference'. Certain sections of the report could be regarded as the conceptual origin of the General Agreement on Tariffs and Trade: others gave virtual draft texts for conventions on specific issues. The Conference (the Chairman of which, George Theunis of Belgium, subsequently became President of the ICC) very largely accepted the report's recommendations. One significant result was the 1928 convention on import and export prohibitions – the world's first multilateral agreement on trade policy.¹²

This perception of influence very quickly became a source of irritation for other non-governmental organisations (NGOs). For example, the direct representation of the ICC on the Economic Consultative Committee of the League of Nations drew the following acerbic response from the International Co-operative Alliance in May 1930:

Our attention has been drawn to the extraordinary claims which have been publicly made that the organized private traders of the world had not only succeeded in entrenching themselves at Geneva in the authorities of the League on a basis of equality of voice and voting with the National Governments, but wielded such influence on behalf of their clients – the capitalist private traders – that they practically dominated the situation and were even able to repudiate their own National Governments.¹³

Nevertheless, this same pattern of activity held following the Second World War, with the ICC pressing for expansive monetary and trade regimes. Its support for the formal inauguration of the International Trade Organisation (ITO)

was made strongly dependent upon acceptance of the provisional agreement on commercial policy and trade restrictions (that is, the General Agreement on Tariffs and Trade [GATT]) reached during preparatory studies on the ITO charter).¹⁴ However, when the draft charter was put before the United Nations Conference on Trade and Employment (Havana, November 1947–February 1948), it became clear to many in the ICC – the only NGO granted the opportunity to address plenary sessions and discussion meetings – that it was not what they wanted. This recognition led the organisation to withdraw its support for the ITO charter and concentrate instead on building the GATT into a permanent organisation.

Despite its satisfaction at the still-birth of the ITO it is clear that the ICC had less influence during this period of postwar reconstruction than it had following the First World War. From this point on the key decisions were to be taken not by gentlemen ‘merchants of peace’, but by US planners, sometimes in consultation with their erstwhile allies. Thus, rather than being at the centre of the political ‘action’, in 1946 the ICC began its association with the United Nations (UN) when it was granted Category A consultative status with the UN Economic and Social Council (ECOSOC).¹⁵ Although of long duration, the relationship has, until recently, never been that good since the ICC very quickly became suspicious of the aims of the organisation which appeared by the 1960s to be focused on the development needs of the Third World in general and of post-colonial states in particular. As a consequence of this, and of its effective ‘relegation’ from the top table of international politics, the ICC turned its focus largely towards Europe following the signing of the Treaty of Rome in 1957, and into expanding its membership into Asia and Africa.

By this time, however, the organisation was clearly on the defensive in some respects as decolonisation continued apace and doubts began to surface regarding the role of multinational corporations (MNCs) in the development process, especially the potentially negative effects of their activities on the environmental and social fabric of the global community. Given that MNCs effectively provide both the *raison d’être* of the ICC and its very lifeblood (in the form of financial contributions to national committees and, more importantly, as the source of the expertise that underpins its political advocacy for, and practical assistance to, the business community), a major response was called for. This took the form of a whole series of debates and initiatives that dominated the ICC Congresses held from the late 1950s to the early 1970s, the high watermark of which was reached at the 1969 Congress in Istanbul which was given the title ‘International Economic Growth: The Role, Rights and Responsibilities of the International Corporation’.

Meanwhile, the ICC had established a presence at the inaugural UN Conference on Trade and Development (UNCTAD) held in Geneva, 1964, and also at UNCTAD II in New Delhi four years later. This presence, along with its continued efforts to promote trade liberalisation in the run-up to and aftermath of the Kennedy Round (1963–1967), resulted in a significant payday for the ICC in 1969 when the ICC-UN-GATT Economic Consultative Committee was formed to bring ‘together the heads of all principal UN agencies in the economic field, plus those of GATT and the OECD [Organisation for Economic Co-operation and Development], for two days of high-level discussions each year with leading ICC members’.¹⁶

Despite these successes, the influence of the ICC seemed to fade from the latter part of the 1970s, possibly as a consequence of the sustained pressure on international business during the 1960s, as well as the oil crises of the 1970s and the attendant call for a New International Economic Order.¹⁷ Nevertheless, during the Reagan/Thatcher era it became clear that the political climate had begun to favour the interests of business once more and by the 1990s the ICC faced the world with renewed confidence. In the middle of the decade Helmut Maucher – who was at that time Chairman of Nestlé and of the European Round Table of Industrialists – became President of the ICC. He immediately began a process of restructuring that saw the arrival of Maria Livanos Cattai (who had spent 19 years at the WEF, eventually becoming its Managing Director with overall responsibility for the annual meeting at Davos) as the new Secretary General and the re-branding of the ICC as the ‘World Business Organisation’.¹⁸ It is perhaps these two individuals who have been most responsible for the remarkable activism of the organisation over the past decade, a decade that has seen the ICC push to the forefront of international affairs as well as undergoing a thorough overhaul and expansion of its membership and interests.

This section opened with the observation that, broadly speaking, the ICC has been very active in times of turmoil and relatively quiet in times of prosperity and peace. If this is true, then in the contemporary era, one characterised by the absence of major wars and the dominance of neoliberal prescriptions and policies at all levels of governance, the ICC should now be sitting back and watching as global business reaps the cumulative rewards of individual endeavours. Why, then, is the ICC so active and so visible at this moment?

Setting aside the debate surrounding the transformative effects of globalisation – which may be creating a wholly new paradigm within which the role of business and the ICC might have to be understood in a very different manner – there are two answers to this question, each tied up with the other. The first is that, from the ICC’s perspective, the most propitious time to lock-in the neoliberal agenda is right now while conditions are so permissive. The second is that the anti-globalisation ‘backlash’, which is not solely the prerogative of radical activists but is also a feature of the broad shift in US foreign and domestic policy post-9/11, threatens to de-rail this opportunity and even to roll back gains that have already been made. As a consequence, opportunism and fear, in almost equal measure, provide the impetus behind both the many specific activities of the organisation and its overarching goal, which is to secure the place of business as a legitimate participant at the top table of the governance of international affairs. The following two sections detail how the ICC has attempted to secure its legitimacy through the assertion of its own democratic credentials whilst simultaneously casting doubt on those of other groups, and through a range of specific initiatives undertaken at all levels and in many sectors of the global political economy.

Contemporary structure and process

The ICC currently claims a membership of over 7,000 companies and business associations in more than 130 countries world-wide.¹⁹ It is headed by a Chairman

and Vice-Chairman both of whom are elected for two-year terms by its World Council – the membership of which comprises delegates from ICC National Committees – which usually meets twice each year. The World Council is the supreme authority of the ICC. The Chairman and Vice-Chairman are assisted by the Secretary General as head of the International Secretariat with oversight responsibilities for the work of the National Committees. Of the 44 Chairmen that have held office since 1919, 27 have been European, 10 have been from North America (excluding Mexico), 4 have come from the Asia-Pacific region (2 Indians, 1 Pakistani and the current incumbent, Yong Sung Park, a Korean), 2 from the Middle East (from Iran and Lebanon), and none from Africa. The remaining individual was a Brazilian. No woman has ever served as Chairman.²⁰

The Secretary General is appointed by the World Council on the initiative of the Chairmanship (which also includes the ex-Chairman, known as the ‘Honorary Chairman’) and on the recommendation of the Executive Board.²¹ The Executive Board, which is elected by the World Council, is usually made up of between 15 and 21 individuals (not including *ex officio* members) who serve for three years, with one third of the Board stepping down each year. There are currently 20 members on the Executive Board, including 10 from Europe, 5 from the Asia-Pacific region, 3 from the Americas and one each from Africa and the Middle East.

There are currently 90 National Committees (33 from Europe, 18 from Asia-Pacific, 16 from the Americas, 13 from Africa, and 10 from the Middle East). This represents a growth of 25 per cent over the total in May 2000, which was 72. In addition there are currently Direct Members (defined in Article 2.2 of the ICC Constitution as ‘corporations, companies, firms and other legal entities as well as individuals involved in international business activities’) in 33 countries which do not have National Committees.

The ICC Secretariat reports contemporary revenues and expenses of around 21 million euros, which supports the activities of about 130 staff at the Paris headquarters and a small number of representatives in London, New York, South America and Singapore. The ICA provides 62 per cent of total revenue, with the remainder comprised mainly of contributions from National Committees (13 per cent), publications, the ATA Carnet Scheme and business seminars.²² National Committees contribute to the Secretariat in proportion to the economic significance of the country they represent, which means that the US Council for International Business (USCIB) currently pays the most.

In 1997 ICC United Kingdom reported income of £499,182, most of which took the form of member subscriptions, while expenditure stood at £495,308 (including a £139,126 contribution to ICC headquarters in Paris, and £196,731 in salaries and pensions). In 2003 the quota paid to ICC headquarters by ICC UK had fallen to £128,953 which, in the light of a rise in overall income (£565,238) and expenditure (£631,349), possibly demonstrates the financial benefits accruing to National Committees of an expansion in the membership.²³

The structure of the ICC and the manner in which it conducts its business play a minor, though not insignificant, role in the organisation’s quest for legitimacy in an often hostile world. It enables the ICC consciously to liken itself to an intergovernmental organisation, drawing direct parallels between its governing World Council ‘and the general assembly of a major intergovernmental organisation’.

'The big difference' between them, according to the ICC, 'is that the delegates are business executives and not governmental officials'.²⁴ This sort of claim has a long pedigree within the organisation, beginning in its early days when, in style at least, it operated as a 'club' of wealthy transatlantic businessmen.²⁵ Its contemporary publicity continues to maintain this line – that membership confers 'many of the advantages of belonging to a prestigious club'.²⁶ Although inevitably open to the charge of elitism, claims of this nature are quite clearly designed to enhance the stature of the organisation and to draw a degree of legitimacy from close association with sovereign bodies.

However, the strategy does not stop there. Over the past few years, the ICC has consciously and explicitly challenged other representatives of civil society to match the levels of democracy, transparency and accountability it itself has achieved. For example, in a major speech delivered in September 1998 the then President of the ICC declared that 'the emergence of activist pressure groups risks weakening the effectiveness of public rules, legitimate institutions and democratic processes'. As a consequence, he went on to insist, these 'organizations should place emphasis on legitimizing themselves, improving their internal democracy, transparency and accountability'. Finally, if these groups failed to take these steps, 'rules establishing their rights and responsibilities should be considered'.²⁷

This echoed sentiments expressed in an ICC document handed to the Group of 7/8 Summit held in Birmingham in May 1998 which suggested that it 'would be useful for the UN and other intergovernmental bodies to establish rules to clarify the legitimacy and accountability of many new non-governmental organisations engaged in public policy dialogue which proclaim themselves to represent particular interests or significant sections of civil society'.²⁸ Meanwhile, the ICC was declaring the urgent need for reform of the UN and its family of organisations including a 'more substantive involvement of business', which would really mean the ICC since the 'ICC has confirmed and strengthened its position as *the* voice of business through a close working relationship with the WTO and constructive consultations with the UN Secretary General and the Heads of UN agencies'.²⁹

Contemporary activities

The Executive Board of the ICC holds a meeting each year specifically to establish a particular set of strategic goals for that year. In 2004 these were: to advocate the primacy of multilateral rules for the world economy, support further liberalisation of international trade and investment, and strengthen the prerequisites of a competitive market economy, including the rule of law; and simultaneously to strengthen the ICC as an organisation in order to make more effective use of its 'unique' position in the business world.³⁰ In 2005 they are: to push governments to reach a successful conclusion to the Hong Kong Ministerial of the WTO, scheduled for December 2005, and a successful conclusion to the current Round as a whole in 2006; to register with governments ICC's concern that counterfeiting and the theft of intellectual property have become a 'global crisis' that must be effectively addressed; to suggest to governments that long-term solutions to

climate change must be found and that business has an active role to play in finding those solutions; and to impress upon governments the importance of good national governance and the rule of law, the proper role of aid, and the need for an enabling environment to strengthen domestic enterprise and attract foreign direct investments.³¹ In order to promote these goals the ICC holds a series of Congresses and Conferences and creates specialist Commissions. It also convenes particular meetings and launches specific strategies in response to major challenges or opportunities that arise from time to time in the global political economy. Many of these opportunities, although by no means all, arise as a consequence of initiatives undertaken or supported by the UN.

The ICC holds a Congress of the members once every two years, upon the invitation of one of its National Committees. The most recent, held in Marrakesh in June 2004, had as its theme *Standing up for the Global Economy: Business, Trade, Development* and was described by the then Chairman as a 'pre-G8 reality check from the world business community' and by its current Secretary General as 'the ideal vehicle for projecting ICC's trade liberalization message'.³² This reflects a general concern of the organisation that lack of progress on world trade talks and other developments, including the renewed emphasis on security since the events of September 2001, are pointing towards a slowing of the global economy over the next few years.

More specifically, the Marrakesh Congress focused on four broad themes discussed in plenary session, and six key issues discussed at 'in-depth' sessions. The four broad themes were: 'Standing up for the global economy'; 'The new EU – museum or laboratory?'; 'Risks, instability and surprises'; and 'Multilateralism under assault – is the world economy in danger?'. This final plenary – a 3-hour marathon – was led by Jagdish Bhagwati (an academic champion of free trade currently serving – at Kofi Annan's invitation – as a member of the UN's High-level Advisory Group on the New Partnership for Africa's Development), Pascal Lamy (former EU Trade Commissioner) and Supachai Panitchpakdi (current Director General of the WTO and Secretary General designate of UNCTAD) amongst others, which suggests not only the ability of the ICC to attract high-profile figures to its meetings but also its desire to hear its own views confirmed – and even lauded.

The in-depth sessions dealt with such issues as the use of ICC trade tools and ICC dispute resolution; the threat posed to business by criminals and terrorists; the movement of goods across borders; the ownership of intellectual property; and technology and development. There were three meetings held under the auspices of each session, all of which appeared to follow a similar pattern – an overview of what might be termed 'philosophical' issues and two further sessions on more narrowly focused issues. Taking the intellectual property session as an example, the first session asked 'Does IP serve humanity?' and, as the title suggests, discussed wider themes associated with intellectual property rights, trade and development. The second session focused on use of the internet for criminal purposes (mainly counterfeiting and piracy or 'knowledge crimes'), reflecting growing ICC concerns with the uses, abuses and regulation of electronic commerce, particularly in the post-9/11 context. The final session, entitled 'Ways to make money out of IP', needs no explanation.

In the gap between the biennial Congresses there is a mandate to hold additional conferences, again at the invitation of National Committees, on themes of major importance to the ICC. One such, on International Audiovisual Law entitled 'Books, Movies and Remakes', was held in 2004 in Cannes at the same time as the annual film festival. Finally, specialist ICC Commissions, staffed by volunteers from member businesses, meet regularly to assess developments in relevant fields and to suggest policy stances in response (see Table 1).

It is no surprise that these Commissions focus on the marketing of the ICC and the services that it offers as a 'brand' in its own right. It is also no surprise that much of their work centres on technical and regulatory issues in each of the sectors at hand – with the emphasis almost always on the liberalisation of markets and the positive contribution that business makes to global society.³³ To take just one example, the work of the Commission on E-business, IT and Telecoms is currently focused around four main projects, which are: to lead business input to the second phase of the UN World Summit on the Information Society (Tunis, November 2005), and key international regulatory initiatives; to seek the removal of regulatory barriers to the deployment of new technologies and business models; to promote best business practice tools to help business capitalise on information and communication technologies; and to increase business and consumer awareness and trust in doing business online.

Working with the United Nations

Alongside the work of the National Committees (which target their activities at their host governments and national business communities), ICC Commissions, Conferences and Congresses, the ICC has put a great deal of energy into specific efforts to move closer to the centre of global and regional governance. The chief target of this effort has been the UN and its associated bodies.

It is fortunate for the ICC that during his tenure as UN Secretary-General Kofi Annan has been extremely supportive of the role that business can play in alleviating poverty, ending conflict and promoting development. This was the motivation for the launching of the 'Global Compact' between the UN and business in July 2000, an initiative that had the *qualified* support of the ICC from the moment Kofi Annan called for a closer partnership between the UN and business at the WEF meeting in Davos in 1999.³⁴ Indeed, even before the Davos speech the ICC had arranged the 'Geneva Business Dialogue' which was a series of meetings held over two days in September 1998 that featured a mix of seminars, plenary sessions and 'contact lunches' that brought together leading representatives of business and high-level representatives of a number of intergovernmental organisations 'so that business action, knowledge, experience and expertise become a part of the decision-making process for the global economy'.³⁵ The ICC's support for the Global Compact is qualified because what business really wants from it is, of course, a venue through which it can trumpet its own contribution to the nine (now ten) principles dealing with human rights, labour and environmental standards, whilst ensuring that the entire process is voluntary and that violators are free from punitive sanctions.³⁶

TABLE 1. Commissions of the International Chamber of Commerce, 2004–5

Commission	Purpose
Anti-Corruption	Encourage business self-regulation and influence initiatives and conventions on extortion and bribery
Arbitration	Pool ideas on issues relating to international arbitration and other forms of dispute resolution
Banking Techniques and Practice	Serve as a global forum and rule-making body for the international trade finance community
Biosociety	Provide a global business perspective on issues critical to the integration in society of modern biotechnology and the life sciences
Business in Society	Define the role of business in the context of globalisation and changing public expectations of companies
Commercial Law and Practice	Create global standards for international commercial contracts and give the business view on commercial rules developed by intergovernmental organisations
Competition	Ensure that modern business needs are taken into account when governments draw up competition laws and policies
Customs and Trade Regulation	Reduce barriers to cross-border trade that are related to customs policies and procedures
E-business, IT and Telecoms	Promote electronic business development and the integration of information and communication technologies
Environment and Energy	Express business positions on major environmental and energy issues. Take the lead for business at key intergovernmental negotiations
Financial Services and Insurance	Break down barriers to international business in financial services and insurance
Intellectual Property	Enable business to create and benefit from intellectual property internationally and overcome obstacles to that goal
Marketing and Advertising	Support high ethical standards in marketing through ICC codes and guidelines, and provide business comments on government actions
Taxation	Promote a fair international tax system that encourages cross-border trade and investment
Trade and Investment Policy	Break down barriers to international trade and investment so that all countries can benefit
Transport and Logistics	Promote intermodal transport and competitive, efficient transport markets

Source: ICC Annual Report 2004.

In addition to the Global Compact, which is an initiative very closely identified with Kofi Annan himself, the ICC is also cooperating with many of the constituent programmes of the UN as well as with a number of its specialist agencies. Examples of ICC activity at ‘big-impact’ events include roles for the ICC at the Conference on Financing for Development (Monterrey, Mexico), the World Summit on Sustainable Development (Johannesburg, South Africa) and the

ongoing World Summit on the Information Society. Examples of ICC collaboration with Specialist Agencies include work with the Food and Agriculture Organisation on genetically modified organisms, and the International Maritime Organisation on transport and piracy issues.

The ICC is also active within ECOSOC, UNCTAD, the UN Development Programme (UNDP) and the UN Environment Programme (UNEP) amongst others. To take one example from each, with ECOSOC the ICC has been involved in discussions on rural development, leading to the launching of the Public/Private Alliance for Rural Development. With UNCTAD, the ICC has published a number of investment guides to less developed countries (in partnership with governments, local business and foreign investors) aimed at stimulating inward investment. Participating countries include, for example, Bangladesh, Mali and Mauritania. With the UNDP a subsidiary organisation of the ICC, the World Chambers Federation, has been helping individual chambers of commerce to operate more efficiently with the expectation that these chambers will be more able to promote economic growth in their respective countries. Finally, with the UNEP the ICC has initiated an awards scheme for businesses that actively promote technologies and practices that enhance environmental protection.

Conclusion

Clearly, the ICC has been successful in gaining a place at, or near, the 'top table' of national, regional and global governance. This surely lends to the organisation a degree of legitimacy that is hard to dispute. Just how much legitimacy, and how much power, is a different question and one that is impossible to quantify. What is certain is that the ICC faces a sustained challenge to its legitimacy from the anti-globalisation movement. It is also troubled by the now ambivalent position of the US over globalisation, given that in the post-9/11 context the 'openness' associated with free trade is also a potential source of danger.

More narrowly, the ICC faces a number of ongoing and upcoming problems internal to the organisation itself that may well threaten its recent success. Perhaps the least of these is the fact that the current Secretary General, the formidable Maria Livanos Cattai, is due to step down from her position in mid 2005. Whether her as-yet unnamed successor will be able to move the organisation forward with the same drive, determination and ability is an open question.

More significant are a number of problems, all of which involve a legitimacy 'deficit' of one kind or another and all of which are shared with other elite 'clubs'.³⁷ The first is the difficulty of actually tracing the real influence of the ICC on governmental and intergovernmental policy making. It is all very well submitting documents to government leaders at high-profile meetings and being seen in the hallways and doorways of power. That is a very long way, however, from demonstrating a causal connection between these activities and changes in public policy. This leads to a second shared problem, which is that the louder an organisation such as the ICC trumpets its influence in international affairs, the greater is its exposure to counter-attack from the anti-globalisation movement and other representatives of civil society. A third and final shared problem follows from the almost exponential growth of the ICC (both geographically and in terms of

its technical and commercial operations), which threatens to undermine the social myth that membership confers the advantages of belonging to a prestigious ‘club’ whilst simultaneously underlining the fact that the internal workings of such clubs are dominated by their European and North American members. Helmut Maucher’s simultaneous Chairmanship of Nestlé, the ICC and the European Round Table of Industrialists in the mid 1990s gives only the faintest indication of the intricate web of connections that unites corporate Europe. These same ties are also evident in North America, the home of the most powerful ICC National Committee – the USCIB. As the figures highlighted earlier attest, this leaves precious little room at the top of the ICC for representation from those National Committees outside the North Atlantic area and, of course, for women.

These potential challenges to the legitimacy of the ICC will not silence it as an organisation. It is too important to business by virtue of its creation of ‘soft law’ and provision of private arbitration and a host of other services. The only certainty, therefore, is that the ICC will continue to act as a ‘voice’ for business, and that its voice will, occasionally, be drowned out by other voices expressing other priorities.

Notes

My thanks to Richard Bate and Andrew Hope of ICC UK and Claire Kilvert and Christian Serres at ICC Headquarters in Paris for supplying me with relevant information. Thanks also to the editors of *NPE* for their very helpful comments on a first draft. All errors remain my own.

1. All quotations are from the Preamble of the Constitution of the International Chamber of Commerce (ICC), revised on 5 December 2003. Unless otherwise specified all documents relating to the ICC are drawn from its website at www.iccwbo.org
2. See the extensive list of papers at www.iccwbo.org/home/menu_case_for_the_global_economy.asp
3. See ‘ICC Policy Recommendations for the Doha Development Agenda following the WTO Cancun Conference’; and Robert Taylor, Ron Katz & Lionel Walsh (eds), *The New Europe in the World Economy* (International Systems and Communications Limited, in association with the ICC, 2000).
4. Incoterms are definitions of frequently used contractual clauses and key words that have been internationally agreed upon for use in international trade.
5. See A. Claire Cutler, *Private Power and Global Authority: Transnational Merchant Law in the Global Political Economy* (Cambridge University Press, 2003).
6. In 1997 the then President of the ICC, Helmut Maucher, was prepared to say ‘Business has no political power and aspires to none’. Helmut O. Maucher, ‘Ruling by consent’, *Financial Times*, 11 December 1997.
7. George L. Ridgeway, *Merchants of Peace: Twenty Years of Business Diplomacy through the International Chamber of Commerce 1919–1938* (Columbia University Press, 1938), pp. 59–77.
8. *Ibid.*, pp. 144–55.
9. For overviews, see Ridgeway, *Merchants of Peace*, pp. 263–331; Lyman C. White, *International Non-Governmental Organizations: Their Purposes, Methods and Accomplishments* (Rutgers University Press, 1951), pp. 19–32; and Kurt Wilk, ‘International Organization and the International Chamber of Commerce’, *Political Science Quarterly*, Vol. 55, No. 2 (1940), pp. 231–48.
10. White, *International Non-Governmental Organizations*, p. 31.
11. League of Nations, *The World Economic Conference: Final Report* (League of Nations, 1927); and *The Economic Consequences of the League: The World Economic Conference* (Europa, undated), with an introduction by Sir Arthur Salter.
12. ICC, ‘World Peace through World Trade: ICC 1919–1979’, p. 3. See also White, *International Non-Governmental Organizations*, pp. 21–2; and Ridgeway, *Merchants of Peace*, pp. 217–59.
13. Cited in White, *International Non-Governmental Organizations*, p. 31.

14. See Steve Charnovitz & John Wickham, 'Non-Governmental Organizations and the Original International Trade Regime', *Journal of World Trade*, Vol. 29, No. 5 (1995), pp. 111–22.
15. In 1968 the labels for these categories were changed, but the ICC retained its place in the most influential of these—Category I—allowing it to circulate written statements to Council members, address Council committees and even address the full Council on the recommendation of the NGO Committee.
16. ICC, 'World Peace through World Trade', p. 20. It is not clear whether meetings of this sort continue to date, although the ICC claims to have 'consolidated its privileged access to senior government negotiators at the World Trade Organization by instituting annual working sessions with WTO ambassadors'. See 'What ICC Did for Business in 1997'.
17. For more detail, see Dominic Kelly, 'The International Chamber of Commerce as a Diplomatic Actor', Diplomatic Studies Programme Discussion Papers, Leicester, Centre for the Study of Diplomacy, No. 67, July 2000.
18. Frances Williams, 'The voice of business heard around the world', *Financial Times*, 29 December 1998, p. 2. Rather unflattering biographies of Maucher and Livanos Cattai have been published by the *New Internationalist* and can be found at www.newint.org/issue332/worldbeaters.htm and www.newint.org/issue370/worldbeaters.htm
19. An indicative list can be found at www.iccwbo.org/home/intro_icc/membership.asp
20. Most of these men represent big business rather than small and medium size corporations, including for example, the Wallenberg family. Indeed, when the current ICC Vice-Chairman, Marcus Wallenberg, becomes Chairman in 2006–7, it will be the third time a member of that family will have held the position.
21. This is a shift from 'President', 'Vice-President', 'Immediate past-President' and 'Presidency', effective 5 December 2003.
22. ATA Carnets are documents that permit the temporary duty-free import of goods for one year (for example, at Trade Fairs and Exhibitions).
23. Figures from ICC United Kingdom, *Annual Report and Accounts 1997 and 2003*.
24. ICC, *Annual Report*, 'The World Business Organization in 1998', p. 19.
25. However, by 1951 White was prepared to declare that the 'ICC's international congresses are considered a world parliament of business'. See White, *International Non-Governmental Organizations*, p. 20.
26. ICC document entitled 'Why Companies Should Join the ICC'.
27. 'The Geneva Business Declaration', Statement of Helmut O. Maucher, President of the International Chamber of Commerce, at the conclusion of the Geneva Business Dialogue, Geneva, 24 September 1998.
28. 'Business and the Global Economy', an ICC Statement on behalf of World Business to the Heads of State and Government attending the Birmingham Summit, 15–17 April 1998: Executive Summary.
29. 'The Geneva Business Declaration'.
30. ICC, 'ICC Strategic Priorities for 2004'. Dated 4 December 2003.
31. ICC, 'ICC'S Executive Board Meets to Set Business Priorities'. Dated 4 March 2005.
32. ICC, *Annual Report*, 'The World Business Organization in 2004', pp. 2 and 3 respectively.
33. One exception is of course intellectual property, an area where business is seeking more rather than less regulation and protection.
34. See Brian Hocking & Dominic Kelly, 'Doing the business: the ICC, the UN and the Global Compact', in: Andrew Cooper, John English and Ramesh Thakur (eds), *Enhancing Global Governance: Towards a New Diplomacy* (UNUP, 2001), pp. 203–28.
35. ICC, 'What is the Geneva Business Dialogue?'.
36. The ICC claims to have been instrumental in the creation of the 10th principle, which refers to the need to combat corruption.
37. For a discussion of the WEF case, see Jean-Christophe Graz, 'How Powerful are Transnational Elite Clubs? The Social Myth of the World Economic Forum', *New Political Economy*, Vol. 8, No. 3 (2003), pp. 321–40. See also Bastiaan van Apeldoorn, 'Transnational Class Agency and European Governance: The Case of the European Round Table of Industrialists', *New Political Economy*, Vol. 5, No. 2 (2000), pp. 157–81.

