Rethinking Global Governance: Cooperation in a World of Power

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We live in a highly integrated, highly interdependent world. Climate change affects all of us; carbon emissions in one country can have devastating global effects. Viruses know no international borders. For more than two hundred years, a basic lesson of economics has been that lowering trade barriers contributes to high standards of living by allowing for greater specialization and taking advantage of comparative advantage. Knowledge produced in one country can be of benefit to the whole world.[2]

While all these areas and many others demand global governance, the reality is that we live in a world with limited global cooperation. Policies are determined by domestic politicians, based on "national interest." The nation state remains the principal locus of political accountability. Moreover, some types of global governance can backfire when they privilege powerful countries (or special interests within them) instead of addressing common challenges. These and other considerations we discuss below imply that we should not be too demanding of global institutions—or perhaps more accurately, we can and should ask a great deal, but we should see these as aspirations of an ideal world; taking into account political realities, a more circumscribed, less ambitious global agenda may be preferable.[3] Accordingly, we advance here a framework for a minimal global governance architecture.

In what follows, we first outline some general principles that should govern the design of global governance and provide their justification. The next section discusses the reasons, both positive and

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[2] While the climate and public health have long been recognized as global public goods, knowledge too is a global public good. See J. E. Stiglitz, "Knowledge as a Global Public Good," Global Public Goods: International Cooperation in the 21st Century, Inge Kaul, Isabelle Grunberg, Marc A. Stern (eds.), United Nations Development Programme, New York: Oxford University Press, 1999, pp. 308-325.

[3] The theory of the second best provides, though, an important warning: seemingly moving towards the "ideal" framework may be welfare decreasing. Thus, some have argued that "good" regional trade agreements, which may be more achievable than corresponding global agreements, are desirable, in part as a stepping stone to the "ideal." Whether that is the case politically is debatable. Simply in terms of standard welfare economics, however, such agreements may entail more trade diversion than trade creation, and thus, even in standard models be welfare decreasing.

normative, for our minimal conception of global governance. In the remaining sections of the paper, we draw the implications of these ideas in a variety of arenas: IPR, trade, financial flows, monetary policy, investment agreements, management of debt. Our principles help guide us to areas where we should be hopeful of the possibility of good agreements (green lighted), areas where such agreements should be widely circumscribed (red lighted), and areas where we should proceed with extreme caution (yellow lighted).

Four general principles[4]

A minimalist global governance architecture should be based on the following principles.

First, international rules should generally allow countries to do as they please so long as they do not engage in explicitly beggar-thy-neighbor (BTN) policies or, in the case of systemically-large countries, impose significant costs on poorer countries. It is remarkable how many provisions of global agreements violate this principle: typically, the behavior of small developing countries has no impact on the global economy, yet this is an arena in which international agreements have had perhaps the most binding effects—precisely because the countries are small and powerless. Countries may engage in actions which the wisdom in the West suggests are foolish, but they bear the consequences. One may explain to them the foolishness of their ways, but there is no justification to forcing them to change their ways.[5] (The irony is that today, it is realized that many of the policies foisted on these countries were ineffective or even counterproductive.)

It would be impractical and undesirable for global governance arrangements to discipline all national policies that produce cross-border spillovers. The list of such policies can be very long, including many domestic regulations, investment policies, or social policies. For example, a country that invests more in

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[4] Some of these principles are more fully articulated in J. E. Stiglitz, *The Road to Freedom: Economics and the Good Society,* New York: W.W. Norton, 2024; D. Rodrik, "Putting Global Governance in its Place," World Bank Research Observer, vol. 35(1), February 2020; and D. Rodrik and S. Walt, "How To Construct A New Global Order," Oxford Review of Economic Policy, 2024, forthcoming.

[5] There is an important exception for countries receiving assistance, for then the donors may be concerned that the money they are giving won't have the hoped-for benefits in the absence of these "good" policies. This is not the intent, however, of many of the conditions imposed—some reflect the exercise of market power, recapturing for the donor country (or more accurately, special interests within the country) of some of the "surplus" for the recipient of the assistance. Some of the conditions may actually reduce the likelihood will have the hoped-for benefits (or in the case of loans, that the loans will be repaid); this is sometimes apparent only ex post, but often, it is so ex ante—justified by the donor countries, in some cases, as necessary to obtain the political support necessary for sustaining assistance. (Tied aid is an example.)

education (and therefore increases its comparative advantage in skill-intensive goods) harms the economic interests of other countries that compete with it in such goods. But we generally consider education policies to be an entirely domestic realm. A country that pursues industrial policies in the (possibly false) hope of acquiring new productive capabilities will hurt other nations' industries (as well as possibly its own). But it would be unwise to let international bureaucrats or other nations make the call as to whether these industrial policies are justified or not.

Hence our first principle restricts the presumption of international discipline, for most countries, to policies that have a specifically beggar-thy-neighbor nature. BTN policies are defined as those that provide benefits at home only to the extent that they impose costs on foreign countries. They are policies whose benefits are the direct and intended result of that harm. Applying import tariffs or export restrictions to extract monopoly rents from other countries, competitive devaluations under conditions of unemployment, or paper-profit shifting through tax havens are some examples.[6]

But countries whose policies have a disproportionate effect on the global monetary, financial, regulatory, or trade context should face a higher degree of accountability and responsibility, and ideally this should be so even under a "minimalist" global architecture, though the very arguments entailing political realism that force us to focus on this minimalist vision suggest that such accountability is unlikely to occur. As we discuss further below, these systematically-important countries would ideally have to accept some global oversight over policies that have significant and adverse effects on the economic prospects of lesser developed nations.

In that later discussion, we highlight that it may be difficult to divine "intent," noting, for instance, that countries may lower interest rates *with the intent of stimulating their economy;* they do not intend to do harm, but of course that is the effect, when the major mechanism by which that occurs is a lower exchange rate—and this may be so whether they are aware of this or not, and whether they admit it or

[6] BTNs are only a subset of policies that produce cross-border spillovers. Some years back China imposed export restrictions on rare earth elements, used in many electronics products such as mobile phones. China has a near-monopoly in the production of these minerals and the policy was clearly aimed at jacking up world prices. Undervaluing the value of the national currency to gain a competitive advantage "exports" unemployment to other countries. This practice, common during the Great Depression of the 1930s, is what prompted the British economist Joan Robinson to coin the term "beggar-thy-nation." "Pure" tax havens shift paper profits without attracting real physical investment. Some small nations such as Bermuda or the Cayman Islands maintain very low corporate tax rates to attract corporate headquarters. This results in substantial tax losses for other, higher-tax jurisdictions.

not.[7] Within countries, we regulate actions that harm others, whether the benefits of those actions are the direct and intended result of that harm. Intentions play no role; it is only the effects of actions that matter. A more expansive global governance would attempt to address externalities more generally.

Today, at least in one arena, this more expansive view is necessary: the intent of those using fossil fuels is to lower their energy costs; the climate change, harming everyone everywhere, is the unintended consequence. But their lowered cost of energy comes, of course, at the expense of the wellbeing of everyone in the planet.

A second principle is that there are marked variations among countries, so that any international agreement has to reflect these differences in circumstances. These differences may arise from different national preferences, historical trajectories, or economic conditions (such as levels of income). If we think of national regulations or standards as reflecting the provision of public goods, countries differ in their ideals with regard to the <u>type</u> of such public goods. Financial regulations, for example, may entail a tradeoff between promoting financial innovation and securing financial stability. When countries have different views about which point to select on the "optimum frontier," global harmonization of financial regulations may be sub-optimal. Similarly, different nations will put different weights on the contending goals of privacy, convenience, and innovation when regulating new technologies such as AI. We will emphasize below that an intellectual property framework that is appropriate for the U.S., at the frontier of innovation, is not likely well designed for a developing country. [8]

A third general principle is that global agreements should be consistent not only with global efficiency, but also with global fairness. A focus on global public goods and the avoidance of beggar-thy-neighbor, with due regard to differences across countries, is not enough. Addressing climate change or global health, for example, requires significant resources. Poorer nations should not be asked to pay for more than their fair share – especially, as in the case of carbon, it is the advanced economies that are

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[7] Another example: China's (and other countries') interventions in the exchange rate are intended to promote industrialization; they are not viewed by China as BTN policies, but they are viewed as such by the US.

[8] There is a more general literature on optimal design of jurisdictions, recognizing that even if there are economies of scale in the provision of public goods, heterogeneity in tastes implies that it may be desirable to have multiple jurisdictions, where the public goods provides (the set of regulatory standards set) differs amongst them. See, e.g. J. E. Stiglitz, "Devolution, Independence, and the Optimal Provision of Public Goods," *Economics of Transportation*, 4, pp. 82–94.

responsible for the bulk of the historical emissions. In both cases, the standard of global fairness would require significant resource and technology transfers from the North to the South.

By the same token, policies in large countries such as the U.S., can have significant adverse effects on developing countries. A minimal standard of fairness would require that such countries formulate their policies with due regard to negative spillovers, especially for poorer nations. Consider the setting of interest rates by the United States. Its monetary policy has large externalities on others. Volcker's raising interest rates to in excess of 20% precipitated the Latin American debt crisis, resulting in a lost decade. Volcker had been warned about the consequences, but his retort reportedly was that his mandate was ensuring the wellbeing of the American economy. Evidently, effects on others should be considered only to the extent that they reverberate back to the US.[9] Similarly, more recently, in response to the post pandemic inflation, the US has raised interest rates, with adverse effects on other countries, in some cases threatening new debt crises.

This principle also implies that developing countries and emerging markets should be wary about signing on to agreements that give them a small share of the surplus generated. This is especially so because of the high levels of uncertainty associated with the future evolution of the global economy. A small gain can easily be turned into a large loss. A tax agreement recently proposed by the OECD illustrates. The developing countries were offered a pittance, but in return they would have to give up rights to impose a digital tax, as well as other (poorly defined) "unilateral measures." Some countries signed on, thinking that something (some revenues) is better than nothing. But almost surely, with the growth of the digital economy, what they had agreed to forgo would be of increasing importance. There is a high likelihood that (were the OECD agreement ever to come into force, which currently appears unlikely), developing countries and emerging markets would actually be worse off, with the gains from the global agreement going largely to the advanced countries.

The final principle to which we want to draw attention is that economic arrangements have broad social and political consequences that must be considered. Economics does not stand outside society. International economic arrangements can produce redistributive effects across income groups or regions that could produce unforeseen consequences. Limitations on the autonomy of national policy

[9] These are not the only instances. QE (quantity easing) led to a flood of money entering other countries, pushing up exchange rates and undermining developing countries' competitiveness. When interest rates in the US subsequently rose, developing countries were then faced with an outflows-problem. Note that wider acceptance of prudential capital controls might ameliorate this problem, as developing countries might then be in a better position to manage inflows and avoid sudden stops.

makers can undermine political accountability and produce a backlash against mainstream political leaders, and increase support for right-wing, authoritarian populists. For example, capital market liberalization, allowing the free flow of money in and out of a country, has not only large and potentially adverse financial and economic consequences, but it also has political consequences. Wall Street can threaten to pull its money out of a country, should they elect someone that they do not approve of; voters will weigh this threat, and potentially vote against the candidate. This is not just a theoretical possibility. Twice when Luiz Inácio ("Lula") da Silva ran for the presidency of Brazil, financiers threatened to pull out their money, and voters were frightened over the economic consequences. Global agreements affect the policy space and democratic governance within a country.

So too, economic arrangements may shape individuals and social arrangements—a society where cooperatives play a more important role may lead to more cooperative individuals, neoliberal capitalism with its emphasis on the unwavering pursuit of self-interest may generate more selfish people and institutional arrangements which condone such behavior.[10]

Central Tensions in Global Governance

The locus of political activity and political accountability remains the nation state. Even in the EU, which has witnessed a significant transfer of policy-making powers to Brussels, Frankfurt, and Strasbourg, politics takes place mostly in the national capitals. This can be, and often is, seen as a hindrance to global economic cooperation and governance in the face of common challenges such as the provision of global public goods. Furthermore, the multiplicity of sovereigns creates jurisdictional discontinuities, which produce transaction costs and impede global economic integration (reducing efficiency). Now that import tariffs and capital controls have largely (but not entirely) receded into the background, it is differences in legal regimes and regulatory practices that are often the chief obstacles to a unified global economy.

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[10] This is a central theme of the recent literature on endogenous preferences, and how preferences are shaped by society and in turn help shape it. See Karla Hoff and J. E. Stiglitz, "Striving for Balance in Economics: Towards a Theory of the Social Determination of Behavior," *Journal of Economic Behavior and Organization*, Issue 126 (June), pp. 25–57; Allison Demeritt, Karla Hoff, and J. E. Stiglitz, *The Other Invisible Hand: How Culture Shapes Societies and Wellbeing,* New York: Columbia University Press, forthcoming. These ideas are in a long tradition. See, in particular, Karl Polanyi ,*The Great Transformation: The Political and Economic Origins of Our Time*," New York: Ferrar and Straus, 1944 (also Boston: Beacon Press, 2001, with a forward linking his work with globalization, by J. E. Stiglitz).

On the other hand, historically the nation state has played a significant and positive role in promoting economic development. The nation state is associated with curbing internecine violence, expanding social solidarity beyond local communities, mobilizing mass education, fostering industrialization, and the spread of representative political institutions. Moreover, if we accept that markets have to be embedded in non-market institutions (to provide regulation, to address market failures and so on), and that there is no single, universal mapping between markets and those institutions (due to historical contingencies and locally differing tradeoffs among contending values such as equity versus efficiency), there is a strong normative case for the nation state even in an age of globalization. From this perspective, nation states can be seen in a more positive light, as the sites of experimentation among diverse institutional forms of market economies. Institutional diversity at the global level and international economic integration are both valuable. An optimum set of global arrangements would not maximize one at the expense of the other, leaving ample policy autonomy for nation states.[11]

Moreover, the design of global governance must consider the tension between two forces. On the one hand, global governance can act as a framework to create a fair, just, and efficient world. This includes providing global public goods, limiting negative externalities, promoting positive externality generating activities, engendering the cooperation necessary to reap the potential rewards of globalization, creating a global the rule of law—a rules-based system where everyone (every country) is treated fairly. (This vision of global governance is one which sees it as protecting small and medium-sized countries from the arbitrary exercise of power by the powerful countries.) On the other hand, global governance can be a mechanism to exert power, and for the powerful to extract rents from the least powerful. There is a clear parallel between the first vision of global governance and the standard arguments for rule of law within countries—and the tensions we have identified globally parallel those existing within countries. Even though economists have traditionally championed "rule of law," the consequences depend critically on "whose rules," and for whom the rules are designed.[12]

The rhetoric surrounding global governance typically focuses on the first, while the reality more often seems linked to the second. Global agreements often center around forcing developing countries to do

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[11] This argument is developed in D. Rodrik "Who Needs the Nation State?" Economic Geography, 89(1), January 2013, 1-19. This discussion can also be seen as part of the broader issue of "jurisdictional design," which includes federalism within countries and boundaries between countries. See the earlier footnote.

[12] Feudalism could be thought of as having a particular rule of law, which favored the feudal landlords. The enclosure movements in England and Scotland were conducted under the veneer of the rule of law, but the laws were made by the lords and the landed, to enhance their interests.

things where there is no evident significant externality to justify such exertion of power; and doing little to circumscribe large countries from doing things (such as in their monetary policies) associated with which there may be large externalities. The absence of enforcement mechanisms means that typically when the US or EU violates a global regulation or norm, there are no consequences so long as the impacts are only or mostly on the less powerful; but when a small country does so, the consequences may be large. In practice, the rules-based system operates markedly differently from the way it is supposed to.

Good and bad outcomes

Some countries, most notably those in East Asia, have nonetheless managed to take advantage of globalization *on their own terms*. They have grown rapidly, so that the disparity between their incomes and that of the advanced countries has markedly decreased. They didn't obey the dictates of the Washington Consensus concerning what policies countries should adopt to maximize growth; and yet by and large they lived within the confines of the "rules of the game," largely written by (and for) the advanced countries.

But Africa's experience was otherwise: it experienced premature deindustrialization under the "structural adjustment" programs of the IMF and World Bank, and saw incomes stagnate for a quarter of a century—even worse than Latin America's lost decade.

Indeed, it is remarkable that three quarters of a century after the end of colonialism, old patterns of trade continue to prevail, with most developing countries producing commodities and raw materials, with the value added occurring within the advanced countries. This is not an accident. The rules of the game are designed to perpetuate this kind of neo-colonial economic order, for instance through escalating tariffs, where there are higher tariffs on goods with more value added. In the Uruguay Round of trade negotiations, establishing the WTO, the advanced countries got much of what they wanted; the developing countries got little—with the subsequent round, the so-called Development Round, supposed to rectify the imbalance.[13] But that round collapsed after 14 years of futile negotiations in December, 2015.

The End of the Neoliberal Order

[13] See, for instance, J. E. Stiglitz and A. Charlton, *Fair Trade for All*, New York: Oxford University Press, 2005

There's another reason why it's imperative to rethink global governance. Today's global architecture was created largely in an era of neoliberalism, where a certain set of ideas prevailed—for instance, that free trade and unfettered capital movements were desirable. (Some might claim that neoliberal arguments were simply a façade; they served the interests of the US and the EU, and the large corporations within them. When they proved inconvenient, they were quickly abandoned, exemplified by the US adoption of industrial policies during the Biden Administration.) But those ideas have now largely been discredited and the policies based on them are being rethought. The benefits of free trade seem less than was claimed, the costs, imposed especially on workers—lower wages, large adjustment costs, high levels of uncertainty and vulnerability—greater. So too for capital market and financial market liberalization.[14]

Towards a Minimal Global Governance Architecture

Today, the world is confronted with the possibility of a new cold war, a splintering into new groups, threatening not just global prosperity but the ability to address critical areas like climate change in which there *must* be cooperation. Yet it seems unlikely that the old order will be restored: the emerging markets and developing countries (and especially China and India) are unlikely to concede the power to write the rules of the game to the advanced countries (and particularly the US). But the US does not yet seem ready to cede its role and accept a multipolar world where the rules are written by a broader group of countries.

As a result, we have to rethink global governance. We need to move away from the usual first best normative framework, in which we ask, what kind of global governance would best enable us to address the key issues where we have to have cooperation, and one which would simultaneously create a fair and efficient global trade, finance, and knowledge architecture. We have to ask instead, what is the best we can do in the context of limits on the ability to circumscribe the powerful countries.

[14] Theory and evidence has long been skeptical of many of the neoliberal claims. See, for instance, D. Newbery and J. E. Stiglitz, "Pareto Inferior Trade," *Review of Economic Studies*, 51(1), January 1984, pp. 1-12 , showing that in the absence of good risk markets, everyone may be made worse off by free trade; J. E. Stiglitz, "Capital-Market Liberalization, Globalization and the IMF," *Oxford Review of Economic Policy*, Vol. 20, Issue 1, Spring 2004, pp.57-71 , showing that capital market liberalization may be welfare decreasing; J. E. Stiglitz, *Globalization and its Discontents,* New York: W.W. Norton, 2002; J. E. Stiglitz, *Globalization and its Discontents Revisited,* New York: W. W. Norton, 2017.

There are some areas like climate change and the control of pandemics where there has to be global cooperation; so too for key aspects of the international rule of law—and this is so even if there is imperfect cooperation. But given the "bad faith" that has been at the core of international governance, there is a compelling argument for constructing a "minimal global governance" agenda, which focuses on areas where the self-interest of the powerful suffices to engender their living up to the terms of the agreements. Given the absence of world government and lack of global enforcer, this may be the best that we can hope for in any kind of global governance regime. The case for a minimal global governance agenda is reinforced by the argument above regarding the benefits of institutional diversity.

Self-interest of nations

A realistic agenda for global governance has to be based on the national interests of individual countries, broadly conceived, if it is to be self-sustaining.

A complication arises from the fact that the concept of self-interest is ambiguous: what may matter is not the self-interest of the country as a whole but that of powerful interests within the country. Thus, one may well argue that it is in the unilateral self-interest of the US to abolish many tariffs, to reduce carbon emissions, and to push for agreements where others do similarly. But producers may have a different view (e.g. those in the fossil fuel industry), and it may be politically impossible to design compensation schemes which would induce them to go along with policies which are overall in the national interest. Thus, the voices that are heard in international trade negotiations are typically not those of the ordinary citizens, but of producers.[15] And after an agreement is made, it may be those interests which determine whether there will be compliance with the agreement.

At the same time, sometimes the overall gains to society are sufficiently large and broad that the special interests are overcome, possibly by some form of compensation. Indeed, sometimes agreements are seen as ways of restraining special interests, with the context of forging agreements being one in which there can be some coalescence of disparate weaker forces against the more powerful special interests.

Indeed, a curious aspect of many international agreements—reflecting this battle between special interests and broader national interests-- is that they compel countries to do what is in their own interests unilaterally (taking the country as a whole). Countries are better off getting goods at lower prices *even without the reciprocal response of the other countries,* or at least that would be the case if

[15] D. Rodrik, "What Do Trade Agreements Really Do?" Journal of Economic Perspectives, Vol. 32, No. 2, Spring 2018.

the government used monetary and fiscal policy effectively to maintain the economy at full employment. (There may be further advantages from expanding exports, allowing the country to take more advantage of comparative advantage. And reciprocity may be helpful in overcoming special interests in other countries resisting their doing what is in their national interest.)

More commonly, the way things go is just the opposite: Rather than trade agreements serving to restrain special interests in favor of the general interest, powerful special interests use international agreements, typically made in secret, with relatively weak public discussion, to tie the hands of government *in favor the special interests.* Thus, in recent negotiations over digital trade, the digital giants have been attempting to forge agreements which would circumscribe the ability of governments to impose regulations (concerning privacy, digital harms, competition—or even those that might be relevant for national security).

This provides another argument that one needs to be circumspect about the scope of international agreements.

We said at the beginning of this section that "A realistic agenda for global governance has to be based on the national interests of individual countries, *broadly conceived*, if it is to be self-sustaining." Especially for the large and powerful countries, international economic policy is part of their broader global strategy. Giving trade preferences or loans on concessional terms may be in the broader interests of a country as it seeks to form alliances, even if such policies make little sense from a narrowly defined economic perspective, and might be opposed by special interests within the country.

Externalities

Even in areas where there are large externalities, and *in principle* global cooperation would enable the achievement of better outcomes, cooperation may be difficult to achieve, simply because it is the large countries that exert negative externalities on others, and they won't/don't want to be circumscribed in their actions; and it is difficult if not impossible to get the cooperation of those adversely affected to compensate (bribe) the powerful countries not to exert their negative externalities (in a seeming Coasian solution.)

Towards a Minimalist Global Architecture

The preceding sections provided an argument for a minimalist global architecture. This section illustrates, in a variety of arenas, what such a system of global governance might look like. We begin with two arenas, climate change and public health, in which the costs of global cooperation would seem to be particularly low, and the benefits particularly large, where the special interests at play are seemingly limited, yet the kind of global cooperation needed for global wellbeing—or even that of the advanced countries—seems unachievable, reinforcing our minimalist perspective. Next, we turn to an arena in which a seemingly ambitious global reform agenda, that on multinational taxation, is having mixed results—but where both the successes and the failures are seemingly consistent with pursuing a minimalist agenda going forward. We then turn to an arena, investment agreements, in which the world seems to be moving towards the minimalist agenda. Next, we discuss what a minimalist trade agenda might look like. Finally, we turn towards an arena where there has long been a minimalist agenda—and that agenda has failed: debt.

In each arena, we note the disappointments of the current regime—the significant deviations from the principles enunciated at the beginning of this paper—are typically the result of the rules of the game having been set by the large and powerful countries, driven by the large and powerful companies within those countries. We suggest *some* elements of a minimalist agenda, but we make no pretense of being comprehensive.

Climate change and Special Drawing Rights

We begin with an example illustrating the challenges of global governance ahead. There is now almost universal agreement on the necessity of global action to deal with climate change, that most of the emissions going forward will come from developing countries and emerging markets, and that there is a very large need for additional finance if developing countries and emerging markets are to make the investments required to reduce emissions. The advanced countries have made meager promises, but then have failed to deliver on those promises.

There is an easy source of funds: the issuance of special drawing rights (SDR's) by the IMF. SDR's are essentially IMF-printed money, which so long as there is sufficient excess capacity in the global economy, are close to costless. Given the importance of climate change and the low/zero costs of SDR's, this should be a no-brainer. Yet there continues to be resistance, perhaps because the issuance of public money might reduce the returns of those in the financial sector. But a global agreement in this area would clearly be of enormous benefit—something that the international community should be working for.

Pandemics and IP Waivers

An important part of global governance concerns knowledge and intellectual property. Since 1995 TRIPS (trade-related intellectual property) has provided strong protections, the terms of which were largely set by the advanced countries—and by special interests within those countries (the pharmaceutical and entertainment industries). The provisions largely echoed those within the US and EU, and were designed more to maximize the profits of these sectors than to enhance the overall rate of innovation or the advancement of wellbeing even in the advanced countries.[16] A single regime was imposed on all countries, even though one would have thought that the differences in circumstances would call for differently designed intellectual property regimes.

Even so, the original agreement called for compulsory licenses for health, the importance of which was reinforced in the AIDS pandemic. The pharmaceutical industry resisted, and in the subsequent years embraced multiple dilatory strategies: every day entailed millions in profits—and the subsequent deaths and suffering was only collateral damage in their war to win as much profits for their shareholders as possible.

The issue came to a head with covid-19. There was urgency in developing the vaccines, therapeutics, and other covid-19 products and ensuring that they were widely distributed. No one knew how long the pandemic would last, how bad the consequences would be, or how it would mutate. What was clear was that the longer the disease festered, the more people would be hospitalized and die and the more likely a more dangerous or infectious mutation. Governments (especially that of the US) spent billions to rush the research and production, building on government supported basic research developing the mRNA platform. Sensing the urgency of the moment, South Africa and India requested a waiver of intellectual property: users would still have to pay royalties; the underlying legal framework would be unchanged. It was only that the urgency of the situation would not allow dilatory tactics. Nobel prize winners joined former political leaders and statemen from around the world in support of the waiver. President Biden was persuaded—but the grip of the drug companies over Germany, Switzerland, and the UK proved to be an insurmountable barrier. The waiver was never enacted.[17] And when it came to a

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[16] See, e.g. J. E. Stiglitz, Chapter tk in *Making Globalization Work,* New York: W.W. Norton, 2006.

[17] This is not the place to rehash the specious arguments that were put forward by the industry. For instance, they claimed that developing countries wouldn't have been able to produce the vaccines. But if they really believed that, then there was no reason to oppose the waiver. It would have been ineffectual, but impose no costs on the drug companies. The evidence, of course, was that several countries (including South Africa and India) had the

broader range of covid-19 products, like therapeutics, even the US decided to put corporate profits over the lives and wellbeing of those in the rest of the world.

The "minimalist" trade agenda would a) recognize that the appropriate intellectual property regime for each country depends on its circumstances—and in particular, the TRIPs regime is not one which advances the wellbeing of the global economy and society; b) there needs to be, at a minimum, automatic IP waivers in the presence of any pandemic declared by the WTO; and more broadly c) there needs to be compulsory licenses for technologies related to climate change.

Taxation of Multinational Corporations

An important aspect of globalization is multinational corporations operating in multiple countries. Ascertaining how taxing rights should be allocated has been vexing—the corporations strive to ensure that their income is attributed to jurisdictions with low tax rates. The system that has been in place for a century, the transfer price system, has proven itself particularly inadequate for the new digital technologies; but the deficiencies those exposed turn out to be far broader. The so-called transfer price system attempts to allocate profits to where the income arises, by pretending that there are "arms length prices" at each stage of production, even within a company—for a shirt without pockets and

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capacity to produce the vaccine. Eventually, one producer in South Africa was given a license, but it was subsequently discovered (through a freedom of information enquiry) that the secret license required most of the drugs produced be shipped to Europe. For a fuller discussion of the issues at hand, see, e.g. the Commission on Global Economic Transformation "The Pandemic and the Economic Crisis: A Global Agenda for Urgent Action," *Interim Report on the Global Response to the Pandemic*, Institute for New Economic Thinking, March 11, 2021. Accessible at: https://www.ineteconomics.org/uploads/papers/INET-Commission-Interim-Report.pdf; Arjun Jayadev, Achal Prabhala, and J. E. Stiglitz "Patents vs. the Pandemic," Project Syndicate, April 23, 2020; J. E. Stiglitz and L. Wallach, "Delays on WTO deal for COVID treatments are costing lives in Asia," *Nikkei Asia*, December 14, 2022; "WTO Cannot Continue as Barrier to COVID-19 Medicines," *Newsweek*, June 10, 2022; "The International Community Must Prioritize COVID Treatment and Test Access," *Scientific American*, November 14, 2022; and J. E. Stiglitz, "If Olaf Scholz is serious about progress, he must back a patent waiver for Covid vaccines," The Guardian, December 15, 2021.

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sleeves, for a shirt without pockets but with sleeves, with and without buttons, etc. Because such prices don't in fact exist, there is enormous scope for making up prices—almost the entire value of a shirt originates in Panama when the label "made in Panama" is sewn in. and by making up prices, profits can be shifted—say to a tax haven like Panama. The abuses of the system are legion: all of Apple's profits in Europe originating from a few employees in Ireland; evidently even as Starbucks expanded in England, it seemed to be making no profits (as the profits were drained out of the UK in various ways); drug companies would transfer patents to a low taxed jurisdiction, and attribute the profits to the patents—even though the research as done in the US.

Over the years, the multinationals worried about only two things: their freedom to move money around in the ways just described and not being taxed twice on their income. There thus arose a multitude of complex double taxation treaties—but interestingly, no agreements designed to ensure that profits would be taxed at least once.

As the world sank into the Great Recession, the need for more tax revenues became urgent, and the diversion of profits to the tax havens became increasingly irksome. Moreover, the digital giants appeared to be among those escaping paying their fair share of taxes—and a good and easy source of revenues. Thus, began the initiative within the OECD for improving the global tax regime, called BEPS—base erosion and profit shifting. It has had two pillars—one ensuring firms pay a minimum tax (15%, lowered through exceptions and exemptions, to something more like 12 to 13%, less than half the rate of taxation in Latin America), and the other allocating tax rights, but only for the largest firms, and only for a small portion of their profits, on a basis unjustified in any way, including by any coherent economic theory. In return, countries would have to forego imposing what were called unilateral measures, like digital taxes. The revenues that most developing countries could expect was miniscule, and when offset by the potential for growing digital taxes, almost surely negative for many developing countries. What had begun as an initiative to raise more revenues for developing countries, ensure that the multinationals pay their fair share of taxes, and simplify the taxation of multinational taxation had seemingly failed on all accounts, except one: guaranteeing that multinationals pay at least a (very low) minimal tax.

Of course, the OECD claimed it as an important *first step,* one which would *eventually* generate the desired results. But a more realistic way of looking at what happened is that American and European multinationals, and especially the digital giants, had gotten their way—in return for a minimal tax (which they would, in any case, would eventually have had to pay), and the potential of a small additional tax on a small portion of their income, they would be protected against additional taxation such as digital taxes.

There are many lessons. First, an important one in terms of global governance: the locus of global decision making needs to be in a venue where the voice of the developing countries and emerging markets is stronger than it is in the OECD, the club of the advanced countries. In this case, the G-24, a grouping of developing countries, put forward a coherent set of reform proposals, which was almost totally ignored in favor of those put forward by the advanced countries.

Second, a minimalist agenda, focusing on setting a minimum tax rate, the most egregious forms of base erosion, curtailing tax havens, reforming the double tax regime, and preserving rights to taxation may lead to a better global tax regime than a more ambitious agenda, such as that undertaken by the OECD.

Investment Agreements

Investment agreements began as a seemingly innocuous effort to protect investors against expropriation—or at least that was the claim. The reality was otherwise: investors could buy insurance against expropriation at low cost (through a branch of the World Bank Group and national insurers), and expropriations had become, in any case, rate by the time the investment agreements started to proliferate.

In practice, the agreements gave foreign investors more rights than domestic investors, protected investors against changes in regulations and taxes, and compensated them exorbitantly for any losses they might have incurred. Moreover, disputes were settled through a process of investor-state dispute settlement (ISDS) that involved highly paid private arbitrators, not subject to modern standards, e.g. concerning conflicts of interest and transparency, and without a framework of appeal. [18] By 2016, even the US was complaining—as the agreements started to be used against it; and the critical difference between NAFTA and the US-Mexico-Canada agreement that succeeded it was the elimination (for the

[18] For a fuller discussion of investment agreements and their limitations, see J. E. Stiglitz, "Regulating Multinational Corporations: Towards Principles of Cross-Border Legal Frameworks in a Globalized World Balancing Rights with Responsibilities," American University International Law Review, 23(3), pp. 451-558; and "Towards a Twenty-first Century Investment Agreement," Preface in Yearbook on International Investment Law and Policy 2015-2016, Lise Johnson and Lisa Sachs (eds.), pp. xiii-xxviii, Oxford University Press.

most part) of the ISDS provisions. Within Europe, too, there has been a move against these agreements, as it has become clear that they are likely to be a big obstacle to the green transition. [19]

Investment agreements are a clear manifestation of the power of powerful companies to advance their interests over that of the wellbeing of society more generally. Though it now appears unlikely that any new agreements will be signed, there is a legacy of a multitude of such agreements; a minimalist global architecture would work to terminate these agreements.

Trade Policy

It is easier to specify what should not be in a good trade agreement than what should be, and in the discussion below, we provide several examples—going beyond the usual dictum that regional trade agreements should only be adopted if trade creation exceeds trade diversion. Even within the old frameworks, there were strong arguments against demands for tariffication of quotas (doing so increases risk, which can have large social costs in the absence of good risk markets[20]) and escalating tariffs (which impede developing countries moving up the value chain[21]). But the principles enunciated earlier imply, for example: a) providing much more scope for countries to tailor their intellectual property regimes to their economic circumstances than TRIPs allows; b) not imposing digital rules until after there is greater clarity about the regulatory regime that is appropriate for each country; c) more generally, not circumscribing a country's regulatory framework unless there is compelling evidence that it was a "beggar thy neighbor policy," i.e. the regulations were explicitly designed to generate harm for other nations. Even then, as we have already noted, the burden of costs lies primarily with the country enacting these measures, especially when it is a small country. If a country decides to prohibit genetically modified foods, the citizens of the country may face higher prices and may suffer worse health outcomes, but those who suffer from the regulation are the citizens of the country. (There are important exceptions to this principle: a large country like the US could, for instance, set a regulatory standard that advantaged its producers, either of the product or the inputs into the product, and because of global economies of scale, such a standard would disadvantage producers elsewhere; the

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[19] See J. E. Stiglitz and Lori Wallach, Special-interest privileges threaten to derail Biden's ambitions for the Western Hemisphere, *The Hill* November 6, 2023

[20] See, e.g. J. E. Stiglitz and Partha Dasgupta, "Tariffs vs. Quotas As Revenue Raising Devices Under Uncertainty," *American Economic Review*, 67(5), December 1977, pp. 975-981.

[21] See, e.g. Charlton and Stiglitz, *op cit.*

regulatory standard can be seen as an anti-competitive act, one which at a minimum raised rivals' costs.)[22]

Possibly problematic in the current context are industrial policies—subsidies to encourage the development of particular industries, and particularly those aimed at enhancing the green transition. Reducing carbon emissions is a global public good. Accordingly, actions of countries a shift in production and consumption towards "green" should be welcome. But what if, at the same time, it "distorts" trade patterns, giving countries a comparative advantage, say, in the production of some green product? China seems to have created a marked advantage in the production of solar panels, originally through government subsidies, and eventually because of its acquired technological superiority and scale economies. Other countries have not been able to compete, and the US imposed countervailing duties—effectively worsening the country's ability to respond to climate change and increasing the US imposition of a carbon externality on the rest of the world. In our "minimal approach," we would argue that China's subsidies were globally welfare enhancing—the US could have responded to any potential job loss through monetary and fiscal policies, and the availability of cheaper panels unambiguously could have increased the wellbeing of the US and the world. Accordingly, these were hardly BTN policies.

The US IRA subsidies are also directed at enhancing green investment. Some of these were investments in non-tradeable sectors (like energy), whose impact on the global trade regime was only indirect, e.g. subsidized electricity. (From a standard perspective, the appropriate response to a firm generating a negative externality is to tax it—making sure that the price of the product reflects the full costs of production; not taxing an externality is as much a subsidy as a direct payment.) The stated objective of the measure is to green the economy, but in ways that do not cost jobs—i.e. that maintain and strengthen current competitive relations, based on the current implicit subsidy. The same is true of green subsidies to tradables, like electric batteries. In both cases, there is the possibility that jobs in the US might come at the expense of jobs in developing countries. This might make the IRA a BTN, even though that is not its stated goal. The minimalist trade agenda suggests that weighing the national and global benefits against the trade diverting effects of these subsidies is simply too much of an ask for a

[22] Again, in principle, good global governance would entail standards being set with global agreement; but in the negotiations, the large countries have a significant ability to impose their standards. Simply by setting the standards for their own country, they may be setting global standards. If developing and emerging markets could cooperate on a common bargaining stance, they might be able to achieve global standards that are more in their interests. While this is an example of the benefits of going beyond a minimalist agenda, these countries should have no delusions about the extent to which their voice will be heard.

global governance system ruled by power: inevitably, cases will be successfully brought against developing countries while developed countries will continue with their policies with little global discipline.

On the other hand, some of the provisions of the IRA, such as domestic sourcing requirements, are explicitly discriminatory vis-à-vis trade partners. If the US seeks to divert jobs that might be created elsewhere to the US, and is successful in doing so, with reportedly many firms who had been planning to create factories in other countries shifting their production to the US, the result would be a clear BTN practice. Of course, developing countries don't have the fiscal space to respond in kind—and even were they to do so, there would be significant adverse consequences for the global distribution of income, with corporate profits increasing at the expense of everyone else. And countervailing duties would be of limited benefit, since they would only affect imports into the country imposing them, not competitiveness in other countries.

There are similar trade-offs with the CHIPS program of subsidies for advanced technologies. To the extent that this program targets important market failures – such as innovation spillovers and national security externalities—there would be little reason for disciplining them through global rules, even if the benefits accrued primarily to the U.S. But the U.S. might also use the program as a source of geopolitical leverage over other nations, to alter their technology sourcing decisions and penalizing them for using Chinese technology, in which case it would be more objectionable. Relatedly, the U.S. has deployed a broad range of export controls on advanced semiconductors and equipment, purportedly for national security reasons. To the extent that these controls take aim at undermining the technological capabilities of China – as many observers believe they do – the policy would be a blatant BTN.[23]

These new industrial policies illustrate many of the tensions to which this paper has called attention. The US, it seems clear, is violating existing international agreements, with impunity. In the absence of a functioning appellate body, there is no way to hold it to account; but even if there were such a body, it would be a slow and drawn-out process. Countries could impose countervailing duties, especially in response to the explicitly BTN measures, but no one wants to open up a full-fledged trade war. So Europe, rather than challenge the subsidies, has decided to try to follow a similar course, impaired by its lack of fiscal space. But the developing countries and emerging markets have even less fiscal space. So

[23] See the discussion in D. Rodrik and S. Walt, "How To Construct A New Global Order," Oxford Review of Economic Policy, 2024, forthcoming.

the current system, one with *de facto* no rules, favors the rich countries over the poor. And the United States has made it clear that it is in no mind to have its industrial policies circumscribed, using, in part, as an excuse that China is violating the rules.[24]

But at the same time, the EU is attacking developing countries that attempt to use industrial policies—namely, Indonesia, which has used restrictions on the export of unrefined nickel. The policies have, at least according to some, worked remarkably well. And the EU may be able to use its power to impose costs on Indonesia for its attempts to develop. So again, the current system, one with *de facto* no rules, favors the rich countries over the poor.

What is clear is that some of the fundamental assumptions of the post-WTO trade order are no longer tenable. Green policies targeting climate-change mitigation cannot be neatly separated from trade policies, and often domestic political bargains will necessitate large countries adopting messy policies that are good for the climate but potentially problematic from a trade perspective. China's economic growth has not produced greater convergence between its economic model and that of the West; instead it has created greater geopolitical conflict and increased the importance of national security considerations over efficiency and comparative advantage consideration. Supply-chain resilience has become a critical objective for all nations. These, along with other challenges such as pandemic preparedness, imply that deep economic integration on the hyper-globalization model is no longer feasible. Markets on their own don't take adequate account of any of these concerns, and government interventions, including through subsidies and trade restrictions, may be warranted. Thus, there is no longer a presumption that any government intervention is an unwarranted (and unfair) trade intervention, and particularly one designed to gain a country an advantage over its trading partner.

This implies that the focus in trade has to move from stricter, common rules seeking policy harmonization to a more minimalistic approach that expands national policy space while avoiding the worst BTNs and ensuring the poorest countries are not systematically left in the cold.

Debt

[24] Of course, if that were the case, the US could have brought China to the WTO, except for the fact that the US itself had destroyed its ability to adjudicate such disputes.

Debt has always been a problem for the poor and for poor countries, but in the aftermath of the Pandemic and the War in Ukraine, and the post pandemic inflation, it is becoming a critical problem. A large number of countries are in debt stress, a few have gone over the brink. There is no international framework for resolving sovereign debt problems. There is nothing akin to the bankruptcy procedures that help overindebted individuals and corporations within each country restructure their debts—procedures which help protect households and jobs, and incentivize lenders from pushing excessive indebtedness.

It is not for want of trying. The UN General Assembly overwhelmingly approved the idea for the creation of such a framework in 2014, and followed this with a set of principles, again overwhelming endorsed by the General Assembly in 2015. The only problem was that a few key creditors (US and UK) voted against, and nothing happened.

The G-20 has recognized the problematic nature of current arrangements. In the beginning of the pandemic, and created the Debt Sustainability Initiative (DSI), to allow for suspension of debt payments for those in most distress. It proved ineffective, with private sector creditors refusing to participate, and debtors being reluctant to ask for debt suspension, lest it lead to a credit rating downgrade. Recognizing these limitations, this initiative was followed by the Global Sovereign Debt Roundtable, which seems equally ineffective. Most importantly, many countries don't just need a suspension of debt servicing; they need debt restructuring, often deep. There is a large literature showing that the cost of delay—"too late, too late"—can be enormous.[25]

Clearly, the minimalist architecture we have is too little—debt restructuring becomes a power game, in which the powerful financial interests overcome others. Too little of a rule of law results in a law of the jungle. Whether an international bankruptcy court of the kind recommended by the UN Commission

[25] See, e.g. Martin Guzman, J.A. Ocampo, and J. E. Stiglitz (eds.)*Too Little, Too Late: The Quest to Resolve Sovereign Debt Crises,* Initiative for Policy Dialogue at Columbia, New York: Columbia University Press, 2016.

established in the aftermath of the 2008 crisis[26] is achievable, a more modest mediation service[27], with the IMF providing benchmark calculations of how much restructuring is necessary if debt is to become sustainable, is perhaps not unrealistic.

Concluding Remarks

Much has been written about what "good" global governance entails—the cooperation required to produce global public goods and regulate global externalities, and to ensure that the outcomes are, in some sense, just and fair. While "reforms" in global governance are typically argued for as moving us towards that ideal, the reality is sometimes, perhaps often, otherwise: global agreements and institutions reflect the imbalances of global power among the major countries and deficiencies in democratic governance within the major countries, with what is being played out seemingly reflecting, to a large extent, the interests of the large and power players within the large and powerful countries. While within our democracies we have an imperfect system of checks and balances designed to curb the excesses of power, there is nothing comparable operating at the global level. To be sure, there are occasions when the voice of global civil society is heard; but those are more the exception than the rule—their inability to curb "vaccine apartheid" illustrates the limitations.

For the moment, a "good" system of global governance needs to take these realities into account. It may well be that normative discussions have value: the help define our aspirations, and aspirations can matter. But *real politik* means that we should be designing a global architecture that balances the benefits of the provision of global public goods and the regulation of global externalities with the risks of abuses from the exertion of power by special interests. We should be clear, too, that in today's world, those who are engaged in trying to construct a global architecture that benefits the rich and powerful companies in the rich and powerful countries have learned how to cloak their self-interest in the language of virtue. Giving unfettered license to the digital giants (whatever their social harms, whatever their market power) is an exercise in "free speech."

[26] The Stiglitz Report: Reforming the International Monetary and Financial Systems in the Wake of the Global Crisis, with Members of the Commission of Experts on Reforms of the International Monetary and Financial System appointed by the President of the United Nations General Assembly, New York: New Press, 2010

[27] See M. Guzman and J. E. Stiglitz, "A Soft Law Mechanism for Sovereign Debt Restructuring Based on the UN Principles,", FES International Policy Analysis paper with Initiative for Policy Dialog, October, accessible at http://library.fes.de/pdf-files/iez/12873.pdf

The seeming aspiration of a comprehensive and strong agenda for a fair and efficient global architecture has in many respects, led to a more dysfunctional global architecture: premature deindustrialization, deregulation of capital and financial markets, resulting in an increased incidence of deeper economic and financial crises, and increasing disparities between the richest and poorest within and between countries.

The minimalist global architecture that we have put forward is based on the presumption that the rich and powerful cannot be effectively constrained, and so that the weaker countries—developing countries and emerging markets—need to ask, what kinds of agreements and institutions work best *for them* knowing that when it is convenient for the rich and powerful to break the rules or subvert the institutions to work for their own interests, they will do so. And in the negotiations to create a better global architecture, the rich and powerful countries simply have more power: they can walk away from the negotiations. The result is that the outcomes will be more in the accord with the interests of the rich and powerful than what one might expect if one were constructing a "fair and efficient" system.

It may be possible that we are at a moment that we can do more: competition among blocs of countries, between say the US and its allies and China and its, may result in a kind of competition for the hearts and minds of those in the developing world that will circumscribe the worst, the most special interest driven, behavior that one could imagine. Then, too, one has to recognize that within democratic countries, there are strong movements in support of social and economic justice—not only within the boundaries of a country, but extending beyond the borders. Not everyone is as selfish and narrow minded as economists have typically portrayed them; Adam Smith believed that individuals pursued their *enlightened* self-interest, a concept far broader than the narrow vision typically assumed. The stronger the competition for the hearts and minds of those in the rest of the world, and the stronger movements of social and economic justice within the powerful countries, the greater the possibilities for moving beyond the minimalist architecture that we have described here.