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Global Order and the New Regionalism

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Regional Challenges to Global Governance

Miles Kahler

Regional institutions and initiatives have proliferated in the twenty-first century. This latest wave of regional innovation raises, in new guise, a long-standing conundrum for global order and U.S. foreign policy: When is regional organization a useful, even essential, complement to the ends of global governance—financial stability, an open trading system, sustainable development, robust protection of human rights, or the end of civil wars—and when does it threaten or undermine the achievement of those goals? The new regionalism presents the prospect for new benefits for global order as well as new risks. How those challenges and risks are addressed, by the United States and by other member states, will determine whether a fragmented global order or more effective global and regional governance emerge over the next decade.

Five authors examine these dilemmas across five issue areas: finance, trade, development lending, human rights, and peace operations.¹ In each issue area, regional actors and institutions have emerged that reopen and recast earlier debates about regionalism and its effects on global order. In four of the five issue areas, a single, established global institution contends with regional alternatives: the International Monetary Fund (IMF), the World Trade Organization (WTO), the World Bank, and the United Nations. In the domain of human rights, the newly redesigned UN Human Rights Council (UNHRC) does not enjoy a similar, central position; global human rights conventions set the normative frame for regional human rights commissions and courts. Each author suggests ways in which the new regionalism can be harnessed to serve global purposes and the contribution that U.S. policy can make to those ends.

REGIONAL INNOVATION IN THE TWENTIETH CENTURY

The founders of the post-1945 institutional order recognized both the benefits and the risks of regional organization for newly created global institutions. The UN Charter explicitly recognizes regional security arrangements in Chapter VIII, as long as their activities are “consistent with the Purposes and Principles of the United Nations.” The General Agreement on Tariffs and Trade (GATT), which became the central forum for global trade negotiations, set conditions for regional trade arrangements in Article XXIV. These two provisions exemplify persistent and competing estimates of the effects of regional institutions: useful adjuncts to world order when their purposes align with global institutions, potential threats if their principles diverge from global norms. The United States promoted European regional initiatives, first under the Marshall Plan and later in the European Economic Community (EEC), demonstrating U.S. recognition of the strategic and economic value of regional integration. In Asia, bilateralism dominated U.S. relations with its allies, and regional organizations during the Cold War remained few and weak.

Waves of regional institution-building occurred during the second half of the twentieth century. The EEC, founded in 1957, provided an initial (and ambitious) model of regional integration that

spurred similar efforts in the postcolonial developing world during the 1960s and 1970s. Regional economic arrangements, new regional development banks, and the Inter-American Commission on Human Rights (IACHR)—the first regional human rights organization outside Europe—were created. Creation of the European Single Market in the 1980s and the end of the Cold War produced a second period of regional activism. For the first time, the United States joined regional trade and economic arrangements—the North American Free Trade Agreement (NAFTA) and Asia-Pacific Economic Cooperation (APEC). Regional involvement in peace operations displayed a sharp upward inflection after the end of the Cold War. The eruption of civil wars during the 1990s in two regions with significant regional actors—Europe and Africa—increased demand for peacekeeping forces and led to a growing collaboration between the UN Security Council and regional organizations in fielding those forces.² In the domain of human rights, global human rights conventions displayed a steady increase from the 1960s; regions adopted human rights commissions and courts on a different timeline.³ For the European Court of Human Rights, the end of the Cold War produced an expansion of membership and a dramatic expansion in caseload; the Inter-American Court witnessed a similar growth in demand for its adjudication.⁴

THE LATEST WAVE OF REGIONALISM: IS THIS TIME DIFFERENT?

The latest wave of regional economic organizations can be traced to economic crises and the rising influence of the emerging economies in international politics. The Asian financial crisis produced a backlash in the region against the IMF and its policy prescriptions, as well as against the United States, which was seen as the prime mover of IMF policies. Although a full-fledged Asian Monetary Fund, proposed by Japan, was blocked, the Chiang Mai Initiative, an alternative source of financial support created by the Association of Southeast Asian Nations Plus Three (ASEAN+3), was organized with the support of China and Japan.⁵ Demands by the emerging economies for greater voice in the IMF and World Bank grew following the global financial crisis, labeled the North Atlantic financial crisis by spokesmen for the developing world. The largest emerging economies recovered quickly from the crisis and sustained levels of economic growth higher than those of the industrialized core. In their eyes, the United States and the European Union (EU) were no longer ideological leaders or economic motors of the global economy. The slow pace of reforms that would grant these economies larger vote and quota shares in the IMF and World Bank produced a search for outside options, specifically a strengthened Chiang Mai Initiative Multilateralization (CMIM) and new multilateral development banks (MDBs) such as the Asian Infrastructure Investment Bank (AIIB) and the New Development Bank (NDB or BRICS Bank). The eurozone crisis, which began in Greece in 2010, led the EU to create the European Stability Mechanism (ESM), the largest regional financial facility to date. The new role of European institutions during the crisis presented the IMF with challenges in collaboration under the troika arrangement.⁶

Increased bargaining power for the emerging economies has influenced recent regional developments in trade as well, even though industrialized countries, particularly the United States, and the EU, were prime movers in this domain. The United States, Japan, and the EU—in its successive enlargements—had adopted deeper integration (WTO-plus or WTO-extra) as a goal in their preferential trade agreements. As Chad Bown describes, this new agenda no longer concentrated on tariffs levied at national borders. Instead, trade agendas centered on removing nontariff barriers and achieving “regula-

tory coherence” through harmonization or mutual recognition.⁷ This agenda also matched the demands of major international corporations, which depended on regionalized production networks that required market access and predictable business environments.⁸ When this complex agenda stalled in the WTO’s Doha Round of multilateral negotiations, the United States and its major trade partners sought instead to introduce these issues separately and preferentially through new mega-regional agreements: the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP). Although some emerging economies embraced the deeper integration trade and investment agenda as part of larger reform programs (Mexico) or as a means of gaining advantageous market access (Vietnam), Brazil, China, and India stood apart, pressing for a return to global negotiations or joining less demanding regional agreements, such as the Regional Comprehensive Economic Partnership (RCEP).

Innovations occurred in both global and regional governance of human rights after 2000. A third regional human rights court, the African Court on Human and Peoples’ Rights, was initiated in 2004. Southeast Asia created its own less elaborate institutions in the ASEAN Intergovernmental Commission on Human Rights in 2009 and its human rights declaration in 2012. The International Criminal Court (ICC), which had no regional counterpart, and the redesigned UNHRC were the principal additions to global human rights institutions. At the same time, regional courts that had not dealt with human rights issues were, for the first time, drawn into rights review.⁹ After 2000, UN peace operations centered on Africa, which meant that collaboration with the African Union (AU) and other regional partners became even more important in larger coalitions that supported peace missions. Regional partners also played a more active role in generating new norms for peace operations that were often reflected in changing UN practices.¹⁰

The latest wave of regional organizations, like previous ones, resulted in part from demands from governments, nongovernmental organizations (NGOs), and multinational corporations that were often dissatisfied with existing global options. However, the new regionalism is not solely demand-driven; it is also the product of great powers and their strategies. Unable to reach an agreement on its new trade agenda at the WTO, the United States turned to mega-regional trade agreements to embed its preferred rules of the game in influential commercial collectives. At the same time, the United States defended the role of global institutions in which it exercised a predominant role. The EU used its project of widening and deepening regional integration as a platform for advancing preferred economic and security policies at the global level. China, the preeminent rising power, viewed regional institutions as a means to advance its leadership in Asia and against its rivals—the United States and Japan—to cement its claims to a larger role in global institutions and to realize national economic interests in building regional infrastructure. Each of these powerful actors advanced regional projects with potential risks for the coherence and stability of global governance institutions.

The latest regional advances also resembled in their unevenness earlier periods of regional institution-building. Europe remained the exception, with the most elaborated regional alternatives: the ESM is the largest regional financial arrangement (RFA), the EU is the largest regional trading bloc and has a unified commercial policy, and the European Bank for Reconstruction and Development is a major development bank. Europe participates in peace operations, including those outside the region. Its human rights court is open to individual petitioners and has the largest caseload of any regional human rights court. Despite its patchwork response to the eurozone crisis, of which the ESM was part, and the uncertainty created by the United Kingdom’s forthcoming departure from the EU, Europe’s regional organizations present opportunities and challenges for global order.

Asia also took center stage in building regional economic organizations. Spurred by competition between China and Japan and increasingly led by China, regionalism in Asia displayed a potential, as yet unrealized, to rival Europe in regional resources and economic weight. Outside economic issue areas, however, Asia's contrast with Europe was stark: no regional human rights court—only new and untested ASEAN human rights initiatives—and no regional organization that could partner with the United Nations in regional peace operations.

Regional projects in the Americas were concentrated in trade, development, and human rights, and even in those domains, less authority was delegated to regional institutions. The AU provided new African leadership on human rights and peace operations after 2000; subregional trade and economic arrangements in Africa also widened markets in a highly fragmented regional setting. Latin American financial arrangements were limited in resources and membership, however, and Africa had no RFA.

At the opposite end of the spectrum from Europe's elaborate regional edifice were South Asia—hampered by the long-standing rivalry between its two largest economies, India and Pakistan—and the Middle East, which offered only islands of regional cooperation, such as the Gulf Cooperation Council, in a rivalrous and conflict-ridden environment. Both regions lacked organizations with the scope and resources to either partner with or challenge global governance.

The unevenness of regional institution-building and integration raised difficult issues of equity for global governance. Should regions that provide institutional and financial support for global governance be rewarded for their initiative, or should regional organization and capabilities be viewed as substitute for tightly stretched global resources? How can global institutions collaborate effectively and equitably with regional organizations when capacity and resources are so unevenly distributed?

THE NEW REGIONALISM AND CHALLENGES FOR GLOBAL GOVERNANCE

Tension between global and regional institutions often played out in the past as a contest between the United States and the EU, which presented a powerful regional alternative to the global order. Despite fears of "Fortress Europe" in the 1980s and an inward-looking Europe after the end of the Cold War, the partnership between the United States and the EU persisted, and EU members played an outsize role in global governance.

Regional challenges may now become more acute. First, emerging economies, dissatisfied with the distribution of power in global institutions, and opponents of globalization, growing in influence in the industrialized countries, contest the effectiveness and legitimacy of global institutions. Although some observers view the performance of global governance during the global financial crisis as a demonstration that "the system worked," others see gridlock and limited capacity.¹¹ Even before the crisis, global economic institutions faced limited increases in their resources and growing competition from the private sector (source of a growing share of international financial flows) on one hand and from bilateralism in important domains, such as investment, on the other.¹²

Second, the contest over regional institutions and their relations with the global order is no longer one between the United States and the EU. These two major economic powers promoted mega-regional trade agreements. In other issue areas, however, those who aimed to reduce the dominance of the United States and the EU in global institutions led the regional challenges. Brazil, China, and India led demands for a reformed global order and sought to use regional options to shift global influence. New regional arrangements in which the United States was not a member—the AIIB, the CMIM, or

the Union of South American Nations—produced in Washington a perception of global norms and institutions under threat.

Finally, new regional organizations represented greater ambition in scale and scope. The ESM and CMIM could mobilize financial resources that rivaled those of the IMF in their regions. The two mega-regional trade agreements, if ratified, would cover the equivalent of 61 percent of world GDP, 19 percent of world exports, and 25 percent of outward foreign direct investment.¹³ Although the AIIB and the NDB do not match the World Bank or the ADB in scale, they are likely to have greater lending capacity than most other regional MDBs.¹⁴ Moreover, although competition with global institutions seemed most likely in economic domains, the AU displayed growing ambition in peace operations and mounted a normative challenge to the United Nations' definition of that domain.¹⁵ Only in the human rights issue area, where emerging powers were least active, was a regional challenge to global institutions absent.¹⁶

BENEFITS AND RISKS OF THE NEW REGIONALISM

Despite widespread perceptions of a looming regional challenge to global governance, the new regionalism also benefits the existing global order. The greatest prospective benefit is the contribution of additional resources—financial and organizational—for international ends when global institutions are tightly constrained. On paper, the nine largest RFAs described by C. Randall Henning could mobilize resources greater than those of the IMF.¹⁷ The AIIB and NDB promise development lending directed to closing large infrastructure gaps in Asia and the developing world, thus complementing the lending of established MDBs. Although regional organizations may contribute net new resources, several qualifications need to be attached to this apparent boon for global governance. Their resources may be directed to the narrower aims of their members rather than global purposes or may not be usable to the same degree as global resources. For example, few RFAs have been tested in a financial crisis, and it could be difficult to deploy their resources rapidly under conditions of stress. Moreover, a partial substitution effect may develop over time: resources dedicated to regional organizations and operations could discourage contributions to global institutions.

Specialization from an organizational division of labor is another potential benefit of new regional organizations and initiatives, if they coordinate their operations with those of global institutions. The IMF link that some RFAs attach to their financial assistance represents one type of specialization: the IMF provides analysis and program design (the substance of conditionality), and regional resources above a certain limit can only be tapped after an IMF program is in place. Despite the deadlock in WTO multilateral trade negotiations, dispute settlement at the WTO has been an acknowledged success, attracting both industrialized and developing economies for settlement of trade conflicts. Regional trade organizations have not fully replicated the mechanism at the WTO, which remains the favored site for resolving trade disputes. By concentrating on infrastructure lending, the AIIB and the NDB may also specialize and complement existing development institutions such as the World Bank. A functional division of labor also characterizes the human rights regime: global conventions with modest monitoring and enforcement powers define the universe of human rights, and regional human rights commissions, courts, and trade agreements enforce those rights. Because of their geographical proximity, regional peacekeepers can often deploy more rapidly and maintain their deployments more easily than UN peacekeepers.

Regional organizations possess additional advantages that are related to their specialized roles. They can mobilize local knowledge more effectively than their global peers, whether in development lending or peacekeeping. In part because of local knowledge and in part because of a policy mix closer to member preferences, regional organizations may benefit from greater legitimacy as well. Borrowing from RFAs is unlikely to be deterred by the same stigma attached to IMF programs. Regional peacekeepers are less likely to arouse memories of former imperial powers and their interventions.

Finally, competition itself could benefit both global and regional governance by encouraging innovation and experimentation. The mega-regional trade agreements and other plurilateral pacts are aimed at an expanded trade and investment agenda that could eventually be incorporated, in whole or in part, into multilateral agreements at the WTO. The AIIB and the NDB, by pledging organizations that will be “lean and green,” hold out the prospect for less cumbersome lending procedures implemented by a streamlined staff. Competition only brings benefits, however, when it occurs around measurable performance benchmarks embedded within principles and norms agreed by both global and regional organizations.

This list of potential contributions by regional organizations to global economic and political order is mirrored by risks. An agreed division of labor can easily become damaging fragmentation if agreement is not reached on specialization. The risks of fragmentation differ among issue areas. For example, fragmentation could produce lending by RFAs that is not coordinated with the IMF. In finance, the risks of uncoordinated action during a crisis are quite high: the credibility of both global and regional organizations might be undermined. These risks are amplified by the wide variance in RFA capabilities and their expectations of the IMF. The damage inflicted by lack of coordination was apparent early in the eurozone crisis, when the members of the EU at first attempted crisis management on their own before requesting IMF assistance. The crisis was managed through a cumbersome troika arrangement that compromised the IMF’s mandate in the eyes of many of its members.¹⁸

The costs of decentralized and uncoordinated action are lower in other issue areas. Fragmentation in the rules governing trade has produced the spaghetti bowl or “noodle bowl” of preferential trade agreements with different provisions, which increases transaction costs for private traders and negotiation costs for governments that often lack the bandwidth for multiple forums. In development lending, fragmentation caused by involvement of multiple actors—national aid agencies, NGOs, regional MDBs, and the World Bank—has been a feature for some time. Its costs are largely those of duplication and wasted resources, such as costs to taxpayers in member countries. Borrowing countries, which often have limited technical capacity, also face transaction costs while dealing with multiple agencies. Human rights, on the other hand, has enjoyed a stable division of labor: a growing menu of global conventions provides a legal framework within which regional actors—courts, commissions, and NGOs—can monitor and enforce rights.

Competition from regional organizations that undermines global “purposes and principles” has been a persistent concern when new regional institutions appear. Instead of inducing innovation and efficiency, competition could produce normative divergence and conflict over policy prescriptions. Consensus across global and regional institutions on those purposes and principles and development of an agreed division of labor could serve as guarantees against destructive competition. Without an IMF link or their own capacity for developing appropriate policy prescriptions for borrowing governments, RFAs could present a soft option that undermines IMF conditionality. U.S. opposition to the AIIB and NDB was framed around their potential for diluting environmental and governance standards developed by the World Bank and other MDBs. Although regional organizations have cooperated

with the United Nations in peacekeeping operations, they have also disagreed with the United Nations on aims and implementation, increasing the risk that conflicting signals will be sent to host governments and local populations.

Another risk of specialization is a narrowing of scope by regional actors, leaving important global public goods off their agenda. RFAs may contribute financially to crisis management, but they might not support equally important crisis prevention through surveillance, alerting governments in their regions to needed policy changes before a crisis erupts. The new regional development banks may contribute to filling the infrastructure gap in Asia and other regions, but they may leave aside the World Bank's larger global agenda, including global health, climate change, and good governance.¹⁹

A narrowing of scope is accompanied by a narrowing of membership: regional organizations are clubs that provide benefits to their members. Some benefits have positive spillovers for global order; members retain other benefits for their exclusive use. The new economic regionalism is largely a project of rich and middle-income countries. Many of the poorest countries and regions are excluded from membership. South Asia has no members in any of the regional projects described, apart from RCEP.²⁰ Africa figures prominently in regional human rights and peacekeeping, but it has no RFA, and it will not benefit initially from either the NDB or the AIIB. Global multilateral organizations, however skewed their distribution of power, offer voice to a nearly universal membership; regional organizations do not.

Finally, regional organizations are more likely to fall under the domination of one or more great powers. Although the United States and the EU continue to exercise substantial influence in the IMF, the World Bank, and other global institutions, the distribution of global and institutional power allows others to check their influence. In regional organizations, the largest powers may exert disproportionate and unchecked influence over institutions that are directed primarily to serve national foreign policy goals.

GLOBAL GOVERNANCE AND REGIONAL ORGANIZATIONS: INCREASING BENEFITS AND DECREASING RISKS

Both the UN Charter's phrase "consistent with the Purposes and Principles" and the relations between global and regional human rights organizations suggest one path to increasing the benefits of regional organizations without endangering the coherence of global governance. As Erik Voeten describes, little conflict occurs between global human rights institutions and conventions, on one side, and regional human rights commissions and courts, on the other. Although global treaties have shaped regional and national human rights law, global institutions have weak interpretive and enforcement capabilities. A relatively stable division of labor has emerged: regional courts, which have important roles in interpreting and enforcing human rights conventions, seldom compete with global institutions. A third feature reinforces this equilibrium: both China and the United States, which have led new regional economic organizations, do not participate in a regional human rights court. Although the normative consensus is more contested in peace operations, the major powers endorse the role of the UN Security Council as the preeminent institution in authorizing those interventions.

Such a stable arrangement cannot easily be transferred to other, more contentious issue areas where consensus on global norms is uncertain or a division of labor is harder to define. The mega-regional trade agreements, for example, are not simply a means of better enforcing WTO rules; they represent

clubs that advance a different and more demanding trade and investment agenda. The example of human rights, however, does suggest three avenues for reaping benefits and diminishing risks from regional organizations.

Reinforce the capacity and legitimacy of global institutions. Many twenty-first-century regional initiatives are symptomatic of discontent with global governance by powerful member governments. Global institutions underperform (the U.S. and EU view of the WTO), or fail the test of equity in decision-making (the emerging economies' view of the IMF and the World Bank), or are insensitive to local conditions in their operations (UN peace operations as viewed by some African countries). One means of leveling the playing field between global institutions and their regional competitors is to deal with the complaints that have made regional options more attractive. As Bown suggests, the new trade agenda embodied in mega-regional agreements negotiated outside the WTO could be brought back under the WTO umbrella through plurilateral agreements that are open to WTO members who accept their obligations. This strategy has been used since the negotiation of limited membership codes under the Tokyo Round and has continued with the Information Technology Agreement, first reached in 1996 and expanded at the Nairobi Ministerial Conference in December 2015, as well as negotiations for an agreement on environmental goods. Bown suggests additional steps that could reinforce the utility of the WTO for its members, including capacity-building for dispute settlement and trade policy monitoring.²¹ Increasing IMF resources devoted to precautionary facilities—resources available to members without negotiation of a formal IMF program—and reducing the stigma attached to IMF assistance would reduce one motivation for new RFAs. The World Bank's new Global Infrastructure Facility is a step by the bank toward satisfying the demand of its middle-income clients for infrastructure financing.

Establish consensus on “purposes and principles” to curb normative divergence, clearly define the division of labor, and prohibit competition of certain kinds. GATT Article XXIV was one of the earliest efforts to design such rules. Article XXIV guards against unwanted competition from preferential regional trade agreements by insisting that such agreements eliminate trade barriers on “substantially all the trade” among its members and prevents normative divergence from the dominant liberalizing norm of the GATT by forbidding increased trade barriers against nonmembers. Article XXIV also imposes a third requirement that reinforces the first two: transparency regarding the provisions of regional trade agreements.

The GATT example could be extended, although achieving consensus on purposes and principles and reaching agreement on a division of labor that would prevent destructive competition can be difficult. Henning suggests several steps that resemble an Article XXIV for the IMF and its new regional competitors, including a clear division of labor, restrictions on competition, and transparency.²² In the case of MDBs, such guidelines for appropriate competition have not been agreed, although the United States has made clear its strong opposition to any competition with the World Bank and other MDBs that would lower lending standards. As Hongying Wang describes, the AIIB and NDB have sent mixed signals regarding their acceptance of these standards, despite the AIIB's decision to cofinance its initial projects with existing MDBs.²³ Paul Williams recommends efforts to achieve broader consensus among global and regional actors on the limits of peace operations, a consensus that should be integrated into program requirements.²⁴

Although consensus-building and established rules would eliminate some of the friction between global institutions and their regional counterparts, efforts to design these rules confront two obstacles. If there is disagreement over the appropriate division of labor, no agreed arbiter exists. However, in the case of the IMF and RFAs, the Group of Twenty has begun to play that role, and it could expand its oversight to include other issue areas.²⁵ Arriving at an agreed line between allowed and disallowed competition is more difficult. Consider the case of the new MDBs: if they follow precisely the same practices as the World Bank and other MDBs, there is little reason for their creation. If they innovate in their lending practices—to the satisfaction of their borrowers—and gain more borrowers as a result, does such competition undermine the World Bank’s role, or is it simply a sign that the World Bank had not responded to the preferences of its developing country members?

A final means of increasing complementarity between global and regional governance is to establish formal and informal organizational links. Even if coordinated action is unnecessary, transparency on both sides reduces the risks of working at cross-purposes. The IMF link embedded in the operation of several RFAs is a more formal connection that acknowledges the preeminent role of the IMF in policy surveillance and program design. As RFAs develop their own surveillance capacity, whether in the European Commission or the ASEAN+3 Macroeconomic Research Office, closer consultation and coordination will be required to avoid conflicting policy advice to member governments.

Reforming the WTO’s successful dispute settlement system in light of the mega-regional and regional trade agreements and linking it to those agreements would reinforce the preeminence of the WTO in this domain and avoid competition in dispute settlement, hence decreasing uncertainty for governments and private actors in the trade regime.²⁶ Williams argues for an enhanced strategic partnership between the United Nations, which has more stable funding for peace operations, and the AU to reinforce consensus-building on the definition of peace operations. Despite a stable division of labor in the human rights regime, the Office of the UN High Commissioner for Human Rights has begun workshops with representatives of regional human rights organizations and initiated a multidimensional collaboration with the IACHR.²⁷

Links through personnel could also serve to harmonize purposes and practices across the global-regional divide. The exchange or secondment of staff between RFAs and the IMF, for example, would imitate the informal exchange that has occurred between the AIIB and the World Bank. The former has hired individuals with experience at the World Bank and other MDBs, including its president, Jin Liqun.²⁸ An exchange of individuals is one way to underscore compatibility of practices. Developing common standards and practices is another. In peace operations, common standards to ensure interoperability would serve to promote more effective collaboration between the United Nations and regional forces.²⁹

THE UNITED STATES: GLOBAL POWER MEETS REGIONAL ORGANIZATION

The U.S. government should endorse measures that sustain the role of global governance institutions and, at the same time, promote effective organizations for regional cooperation. In practice, however, U.S. policy toward regional organizations, particularly those of which it is not a member, has often appeared inconsistent and uncertain. Although the United States supported European integration, its posture toward other regional arrangements has been far more conditional, if not oppositional.³⁰ The

United States' response to China's launch of the AIIB, for example, has been widely criticized. After lobbying its allies to shun the new organization, the Barack Obama administration faced an embarrassing rush by European and Asian allies to join the AIIB in early 2015.

The AIIB debacle epitomized U.S. ambivalence toward regional organizations and demonstrated the need to clarify policy. While U.S. policy might endorse guidelines for increasing complementarity between global and regional institutions, the United States' national policy position will likely tilt toward global governance and institutions not only because of its global interests but also because its influence is larger in those organizations. In many regional organizations, U.S. influence is indirect at best. For example, the United States' influence in peace operations flows mainly through the UN Security Council and its strategic partnerships with AU members. U.S. membership in regional organizations has also varied across issue areas.

Given that U.S. influence is amplified in global institutions, an obvious prescription is to increase support of and association with those institutions. However, political support for such action has been waning in recent years. The most recent IMF quota increases, for example, languished in Congress for five years. As Scott Morris argues, the United States should also support virtually costless capital increases at the World Bank and other core MDBs where U.S. influence is the largest.³¹ U.S. support for WTO reforms could make the central global trade organization a more attractive vehicle for its members. The human rights regime is another prominent area of a lagging U.S. role. Although a major proponent of human rights, the United States has failed to ratify several global human rights conventions and the American Convention on Human Rights.³² It is not a member of a majority of judicialized human rights regimes: it opposed the creation of the ICC, perhaps the leading human rights innovation of this century, and has not joined the optional protocols of global human rights treaties.³³ U.S. domestic politics make greater support for global human rights conventions unlikely.

However, strengthening U.S. support for global institutions will not be enough to deter increasingly powerful regional alternatives. The United States should also consistently support an increase in the voting shares and influence of emerging economies in global institutions, when those increases are justified by organizational rules. The five-year delay by the U.S. Congress in approving the IMF's quota increase and governance reforms led emerging economies to seek regional options.

Another question is whether the United States should back only passive regional organizations that supplement the resources of global institutions or it should lend support to robust regional backstops to global governance, at the risk of encouraging competitors with global institutions. Since the members of regional organizations are unlikely to accept a role for their organizations that simply follows global cues in lockstep, the United States needs to define more precisely regional arrangements that offer more benefits than risks for the global order and develop strategies of influence that will move those organizations in more benign directions. The avenues presented earlier offer criteria for making those judgments: assessing the degree of competition that encourages efficiency rather than a race toward lower standards and allowing regional preferences to find organizational expression without undermining global principles and purposes. Finding additional means to interact with and influence regional organizations of which the United States is not a member will become increasingly important. For example, the United States can advance human rights through technical assistance at the regional and national levels with little reason to fear divergence from global norms. In a decentralized system, where interpretation of rights is important, the United States can also take the lead in promoting new interpretations of global rights.³⁴ The AU's involvement in peace operations also provides an opportunity for the United States to support a new source of funding for the AU, as well as new standards

for AU peace support operations.³⁵ In such cases, the United States can provide incentives that move regional organizations toward more complementarity with global norms and institutions. The United States can also ensure that regions lacking in organizational capacity or presence are not neglected or marginalized as major powers concentrate on their regional neighborhoods.

Increasing U.S. support for strengthened global institutions that share a well-defined policy and normative space with their regional counterparts may seem utopian, given the polarization in U.S. politics and public skepticism toward globalization and its organizational avatars. Under these circumstances, the Obama administration has turned to more explicit strategic justifications for supporting both global and regional institutions. Competition with China has been an underlying theme in both the campaign for TPP and initial opposition to the AIIB. Such justifications are hardly surprising or unprecedented: apart from their stated mandates, global and regional organizations have long served to promote broader foreign policy aims.³⁶ Making those goals explicit—and perhaps dominant—in defining support or opposition to these organizations encourages other governments to do the same. The United States should define the tradeoffs more carefully and weigh opposition to regional organizations that may support global and regional influence for other powers, such as China, against the positive economic and political benefits of those organizations. One guide has served the United States well since 1945: as long as a regional organization does not reinforce a coercive regional hegemony that restricts the autonomy of weaker states, regional organizations are best evaluated in terms of their effects on nonmembers, including the United States, and on the global order.

The United States can accept an emerging global order with diverse organizational structures, one in which regional organizations are useful pillars rather than sources of disturbance and fragmentation. Sustaining such an order, however, will require more consistent support for global constituents, a more accommodating attitude within those organizations toward emerging powers, and a well-articulated assessment of the benefits and risks of new regional entrants.

ENDNOTES

1. Miles Kahler et al., "Global Order and the New Regionalism," Council on Foreign Relations (CFR), September 2016, <http://cfr.org/regionalchallenges>.
2. Paul D. Williams, "Global and Regional Peacekeepers," Figure 3, p. 70, in Kahler et al., <http://cfr.org/regionalchallenges>.
3. These conventions are described in Beth A. Simmons, *Mobilizing for Human Rights* (Cambridge: Cambridge University Press, 2009), pp. 49–55. European human rights institutions were founded in the 1950s, in advance of many global human rights conventions; Latin American and African human rights courts were later created (in 1979 and 2004, respectively).
4. Erik Voeten, "International Human Rights Institutions: Competition and Complementarity," in Kahler et al., <http://cfr.org/regionalchallenges>.
5. John D. Cioricari, "Chiang Mai Initiative Multilateralization," *Asian Survey* 51, September/October 2011, pp. 926–952. ASEAN+3 linked the ASEAN economies of Southeast Asia to the Northeast Asian economies (China, Japan, South Korea) and their large foreign exchange reserves.
6. C. Randall Henning, "Global and Regional Financial Governance: Designing Cooperation," in Kahler et al., <http://cfr.org/regionalchallenges>.
7. Chad P. Bown, "Mega-Regional Trade Agreements and the Future of the WTO," in Kahler et al., <http://cfr.org/regionalchallenges>.
8. Richard Baldwin and Javier Lopez-Gonzalez, "Supply-Chain Trade: A Portrait of Global Patterns and Several Testable Hypotheses," National Bureau of Economic Research Working Paper 18957 (Cambridge, MA: National Bureau of Economic Research, April 2013).
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10. Williams, "Global and Regional Peacekeepers."
11. Daniel Drezner, *The System Worked: How the World Stopped Another Great Depression* (New York: Oxford University Press, 2014); Thomas Hale, David Held, and Kenneth Young, *Gridlock: Why Global Cooperation is Failing when We Need It Most* (Cambridge: Polity Press, 2013).
12. Bilateral and regional investment treaties, as well as investment protection provisions in free trade agreements, dominate the regulation of foreign direct investment. These agreements grew rapidly after the early 1990s and now number approximately three thousand.
13. Gary Clyde Hufbauer and Cathleen Cimino-Isaacs, "How Will TPP and TTIP Change the WTO System?," *Journal of International Economic Law* 18, no. 3 (2015): 679–696.
14. Hongying Wang, "New Multilateral Development Banks: Opportunities and Challenges for Global Governance," in Kahler et al., <http://cfr.org/regionalchallenges>.
15. Williams, "Global and Regional Peacekeepers."
16. Voeten, "International Human Rights Institutions," p. 59.
17. Henning, "Global and Regional Financial Governance."
18. *Ibid.*
19. Scott Morris, "Responding to AIIB: U.S. Leadership at the Multilateral Development Banks in a New Era," CFR, September 2016, <http://cfr.org/aiib>.
20. India is also member of the NDB, which is a multilateral rather than a regional institution.
21. Bown, "Mega-Regional Trade Agreements and the Future of the WTO."
22. Henning, "Global and Regional Financial Governance," pp. 24–25.
23. Wang, "New Multilateral Development Banks."
24. Williams, "Global and Regional Peacekeepers."
25. Henning, "Global and Regional Financial Governance," pp. 24–25.
26. Bown, "Mega-Regional Trade Agreements and the Future of the WTO."
27. These measures are described in detail at <http://www.ohchr.org/EN/Countries/NHRI/Pages/Cooperation.aspx>
28. Jin Liqun served as alternate executive director for China at the World Bank and as vice president and ranking vice president at the Asian Development Bank.
29. Williams, "Global and Regional Peacekeepers."
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31. Morris, "Responding to AIIB."
32. Simmons, *Mobilizing for Human Rights*, pp. 43–46, 57–58.
33. Voeten, "International Human Rights Institutions."
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Global and Regional Financial Governance: Designing Cooperation

C. Randall Henning

Across an increasing number of regions of the globe, states have created international financial facilities to preempt financial crises and, when crises strike, to reestablish financial stability. East Asia and Europe are leading examples of regions that have established one of these regional financial arrangements (RFAs). This trend raises the prospect that the world could one day be populated by series of “monetary funds” at the regional level—a European monetary fund, an Asian one, and so on—vying for influence over international finance with the incumbent multilateral institution, the International Monetary Fund (IMF). Although that is a distant and uncertain prospect, the world faces the challenge of coordinating the activities of these institutions as they are currently evolving.

The Group of Twenty (G20) and the institutions themselves are addressing this challenge under the agenda for the global financial safety net (GFSN)—the official multilateral, regional, bilateral, and plurilateral arrangements through which countries access international assistance in response to financial stress or a crisis. Some analysts use the term to include countries’ international reserves (a form of self-insurance), while other definitions include market-based instruments as well. Under all of these definitions, the GFSN is expanding in size and complexity. Critically, it is also in danger of becoming fragmented.

Regional financial arrangements are a central component of the GFSN. States in Latin America, Europe, East Asia, the Middle East, and North America created such arrangements to, among other reasons, not rely exclusively on the IMF for crisis finance. The nine largest RFAs pool a total of \$1,172.3 billion in resources, more than the total resources at the disposal of the IMF.¹ In most of these cases, however, the regional bodies are not endowed with the resources, personnel, and expertise necessary to conduct meaningful surveillance, identify vulnerabilities, recommend corrective action, design adjustment programs, and propose them to the regional members. Thus, many of these RFAs cooperate with the IMF in providing financial assistance to their members, despite having been formed as alternatives to the IMF.

However, only in few cases is the cooperation between the IMF and these RFAs seamless: the modalities of cooperation have not been developed, are in early stages and as yet untested, or profoundly contentious. Member states’ access to the resources devoted to RFAs thus remains uncertain. This uncertainty leads IMF staff to describe RFAs as the “least preferred” element of the GFSN, which, they argue, is increasingly fragmented owing to its decentralization and the lack of coordination of its parts.²

The same IMF report, while diagnosing the strengths and weaknesses of the RFAs, is relatively timid in defining the problems of cooperation and in proposing solutions. Should the RFAs be linked to the fund’s programs, as many of them are now, or should they be made more independent? If the former, how should that link be operationalized? Through what mechanism should conflicts over policy conditionality be resolved? The future of the safety net rests on whether it is as cohesive as financial markets are global or it decays into a fragmented set of regional equivalents to the IMF.

The European sovereign debt crisis has been a defining experience in cooperation among regional and multilateral financial institutions, thus inspiring a deeper consideration of the GFSN. The IMF worked with the European Commission and the European Central Bank in an arrangement dubbed the troika to design, review, and evaluate lending programs for member countries of the euro area that were stricken by the crisis during 2010 to 2015.³ Most of the rescue programs have been successful in returning governments' access to the private capital markets, but macroeconomic conditions in the euro area remain weak. The first two programs for Greece failed and the third has been bitterly conflictual—a searing experience for each of these institutions.⁴

The development of RFAs also poses a dilemma for U.S. government policies. The IMF has historically been the central—though not the only—pillar of U.S. policy in combating international financial crises. The United States is influential within the governing arrangements of the IMF compared to some other international economic organizations; indeed, this influence has sometimes motivated countries in other regions to develop alternative arrangements. On the one hand, RFAs could erode U.S. influence over the terms for financial assistance; on the other hand, they bring financial resources, local expertise, and ownership to the table. Should the United States oppose or support the development of these regional arrangements?

A brief word is in order about the concepts used here. When the mechanisms that coordinate different institutions break down, fragmentation occurs. Institutions work cohesively if coordination is effective: several of them can operate in a given area yet not fragment as long as protocols and informal mechanisms sustain and promote cooperation. Conversely, two institutions could be severely fragmented if they are not coordinated and consequently work at cross purposes. The distinction is important because it is a lack of coordination between regional and global institutions that threatens coherence; a greater number of institutions per se does not.

To make the most of these institutions, states should define the principles of engagement between the RFAs and the IMF more clearly and develop mechanisms for the coordination of these institutions. These institutions can compete as long as that competition is confined to information, analysis, and forecasting. Moreover, the United States should clarify the basis for its posture toward RFAs, actively support the agenda for inter-institutional cooperation, and continue its strong support of the IMF.

REGIONAL FINANCIAL ARRANGEMENTS: WHAT'S NEW?

Regional financial arrangements are heterogeneous, ranging in size, purpose, and relationship to the IMF. Table 1 summarizes ten RFAs by these characteristics. Just as the IMF has expanded the range of its lending facilities—from precautionary to long-term financing—regional arrangements have expanded their functions as well, with the European Stability Mechanism (ESM) exhibiting the greatest range of instruments. Some RFAs are motivated by dissatisfaction with the IMF, while others, such as the ESM, have been created to overcome shortcomings in the regional architecture. Geographical coverage is incomplete: some regions lack financial arrangements and thus rely exclusively on the IMF and other multilateral institutions for financial support.

Table 1. Relationship Between Selected Regional Financial Arrangements and the IMF

Name of Fund	Members	Purpose	Size	Relationship to the IMF
EU Balance of Payments Facility ^a	European Union (EU) members that have not adopted the euro	To provide medium-term financial assistance only to non-euro countries	€50 billion	Not formally linked to IMF programs but organized jointly in recent cases; members obliged to consult EU before approaching IMF
European Financial Stabilization Mechanism	All EU members	To address severe disturbances beyond members' control; available to all EU members	€60 billion	Activation "in the context of a joint EU/IMF support," but also reviewed for consistency with EU rules; linked as a matter of Council policy
European Stability Mechanism	Members of the euro area	To complement EU fiscal framework under strict conditionality; indispensable to safeguard the stability of the euro area as a whole and of its member states	€500 billion ^b	Technical and financial IMF participation to be sought "whenever possible"; while not legally necessary, linked as a matter of Council policy
Chiang Mai Initiative Multilateralization	Ten member states of ASEAN plus China, Japan, and South Korea	To address balance-of-payments and short-term liquidity difficulties; supplements existing international financial arrangements	\$240 billion	Beyond 30 percent of a country's allotment, disbursements linked to an IMF program
Arab Monetary Fund	Twenty-two Arab countries in North Africa and the Middle East	To, among others, correct payments disequilibria and currency stability through short- and medium-term credit facilities	\$2.8 billion	Ordinary loans usually accompanied by an IMF program; other types of assistance not necessarily linked
Latin American Reserve Fund ^c	Bolivia, Colombia, Costa Rica, Ecuador, Paraguay, Peru, Uruguay, and Venezuela	To support members' balance of payments with credits and guarantees; improve the conditions of international reserve investments	\$2.62 billion	No role for the IMF
North American Framework Agreement	Canada, Mexico, and the United States	To provide short-term liquidity support through 90-day central bank swaps renewal up to one year	\$9 billion	U.S. Treasury requires letter from IMF managing director
Contingent Reserve Arrangement	Brazil, Russia, India, China, and South Africa	To meet short-term balance-of-payments pressures through liquidity and precautionary instruments	\$100 billion	No role for the IMF

a. Formerly referred to as Medium-Term Financial Assistance, created in 1988.

b. Lending capacity; the ESM is capitalized at €704.8 billion.

c. Formerly known as Andean Reserve Fund (FAR), created in 1978; transformed to FLAR in 1989 to include other Latin American countries.

Eurasian Fund for Stabilization and Development ^d	Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia, and Tajikistan	To provide financial credits, loans and grants to ensure long-run economic stability of members and foster economic integration	\$8.5 billion	No role for the IMF
SAARC Swap Arrangement ^e	Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka	Address short-term liquidity or balance-of-payments difficulties; supplement international financing arrangements	\$2 billion	No explicit role for the IMF

d. Previously known as the Eurasian Economic Community Anti-Crisis Fund, established in 2009.

e. South Asian Association for Regional Cooperation.

Sources: Henning, “East Asian Financial Cooperation”; C. Randall Henning, “The Future of the Chiang Mai Initiative: An Asian Monetary Fund?,” Peterson Institute for International Economics, Policy Brief no. 09-5, February 2009; IMF, “Seminar on Regional Financial Safety Nets,” October 8, 2010, <http://www.imf.org/external/np/seminars/eng/2010/spr/100810.htm>; Toshiyuki Miyoshi et al., “Stocktaking the Fund’s Engagement With Regional Financing Arrangements,” Staff Report to the Executive Board, IMF, April 11, 2013; IMF, “Adequacy of the Global Financial Net,” Staff Report to the Executive Board, IMF, March 10, 2016, <https://www.imf.org/external/np/pp/eng/2016/031016.pdf>; R.R. Sinha, “Reserve Bank of India Announces SAARC Swap Arrangement,” Reserve Bank of India, May 16, 2012, http://rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=26475; Alpana Killawala, “RBI Announces the Extension of SAARC Swap Arrangement,” Reserve Bank of India, February 23, 2016, https://rbi.org.in/scripts/BS_PressReleaseDisplay.aspx?prid=36310.

East Asia: Chiang Mai Initiative Multilateralization and ASEAN+3 Macroeconomic Research Office

East Asia was not the first region to create its own financial facility, but the Chiang Mai Initiative Multilateralization (CMIM) is distinguished among RFAs by its origin in a backlash against the IMF, in the wake of the Asian financial crisis of 1997–1998.⁵ Regional financial cooperation was driven by the fervent interest of Southeast Asian countries and South Korea in developing alternatives to the IMF, combined with Japan’s initial desire to lead in the region. Japan, however, did not harbor the same animosity toward the IMF that some of its regional partners did and insisted that disbursements under the facility be conditioned on an IMF program. Marrying the objectives of Japan and Southeast Asia required a compromise under which the creditors would contribute financing, while the potential borrowers would accept the “IMF link.” This compromise, with a number of important issues remaining unresolved, established the base on which the relationship between the regional arrangements and the IMF evolved.

The Chiang Mai Initiative (CMI) was launched at a meeting of the finance ministers of the ten members of the Association of Southeast Asian Nations plus China, Japan, and South Korea (ASEAN+3) in Thailand in May 2000. Under its rubric, a series of bilateral swap agreements were negotiated among China, Japan, and South Korea (the “Plus Three”) and the emerging market countries in Southeast Asia. In response to the global financial crisis of 2008–2009, ASEAN+3 officials agreed to multilateralize their network of bilateral swaps into a commonly administered fund: the CMIM.⁶

Under CMIM, the members make a total of \$240 billion available for short-term liquidity in support of multilateral arrangements. The Plus Three contributes 80 percent, while the ten ASEAN governments contribute 20 percent of the total fund. The Plus Three decided that China and Japan would

have equal shares and South Korea would have half the share of the larger two.⁷ The five largest Southeast Asian states—Indonesia, Malaysia, the Philippines, Singapore, and Thailand—contribute \$9.1 billion each.⁸

Decisions on disbursements would be made by a two-thirds majority of weighted votes, with each country's share of total votes determined mostly by its quota contribution. Committing to this process marked an important threshold in regional cooperation: China and Japan, among the others, obligated themselves to contribute funds through a mechanism in which they each could, in principle, be overruled.

Countries are eligible to draw on the CMIM in proportion to their contributions, although the proportion depends on the size and development status of the member. The large ASEAN members can borrow two-and-a-half times their contribution and the small ASEAN members five times their contribution—several times their quotas at the IMF. However, crucially, the IMF link continues to apply: to activate more than 30 percent of their total allotment, members must conclude an agreement with the IMF, which, in the case of a regular standby arrangement, requires submitting to policy conditionality.

The U.S. Treasury had famously opposed the proposal of the Japanese Ministry of Finance to create an Asian monetary fund in 1997. A number of U.S. officials and commentators have expressed a strong preference for the IMF as the vehicle for financial assistance to crisis-stricken countries.⁹ The CMI was accepted in 2000 by the U.S. Treasury with the warning that “the devil is in the details,” and the U.S. government has repeatedly expressed the position that East Asian arrangements should link to the IMF.¹⁰

Nonetheless, many within the region would like to break the link and build the CMIM into a full-fledged Asian Monetary Fund. Doing so would require developing an indigenous capacity for gathering economic information, analyzing the vulnerabilities and prospects of members, and designing lending programs, including, inescapably, conditionality applied on the part of the region in lieu of the IMF.

To develop regional surveillance, the member states created the ASEAN+3 Macroeconomic Research Office (AMRO) in 2011.¹¹ The body is seated in Singapore and was upgraded to the status of a formal international organization under public international law in February 2016. The AMRO's stated purpose is to “contribute to securing the economic and financial stability of the region through conducting regional economic surveillance and supporting the implementation of the regional financial arrangement.” This involves assessing and reporting on members' macroeconomic conditions and financial soundness, identifying macroeconomic and financial risks and recommending policies to mitigate them, and supporting members in implementing CMIM, as well as other activities stipulated by its executive committee.¹²

In addition to upgrading AMRO, ASEAN+3 has launched a precautionary facility through CMIM. The precautionary line would, in principle, qualify members *ex ante* for up to two years for six-month financing for funds that were not linked to an IMF program and for one-year financing for funds that were linked. Combining the unlinked and linked portions, the five largest countries within ASEAN could each access up to \$22.76 billion. A country that drew liquidity support under a precautionary arrangement but then experienced a deepening of crisis could turn to the CMIM Stability Facility for financing with a three-year maturity.¹³

Owing to the link, activation requires extensive consultation and cooperation with the staff and management of the IMF. The deputies and working groups of ASEAN+3 continue to grapple with the

specific mechanisms through which regional and IMF officials would coordinate on requests for activation by a common member, the terms on which financing would be offered, and phasing of decisions and disbursements in any cofinancing contingency. Officials in the region and the IMF are conducting test runs on activating CMIM.

Two large questions loom over East Asian financial cooperation. First, it should be emphasized that CMIM has never been activated. Until it disburses, questions will linger over whether the member states of the region indeed have the political cohesion and technical mechanisms required to operationalize such assistance. The second question is whether intraregional rivalries will block further development of CMIM and AMRO—specifically, if conflicts over international security will spill over into the financial area. These two major uncertainties serve as the backdrop against how the IMF's relationship with these regional institutions will be defined.

BRICS: Contingent Reserve Arrangement

Brazil, Russia, India, China, and South Africa (BRICS) have established a precautionary facility and a short-term balance-of-payments facility under the Contingent Reserve Arrangement (CRA), which entered into force in July 2015 along with the New Development Bank.¹⁴ Together, the two facilities can provide to Brazil, India, and Russia up to the amount of their contribution to the CRA (\$18 billion) and to South Africa twice the contribution (\$10 billion). Of these amounts, 30 percent can be released without a parallel arrangement with the IMF, while the remaining 70 percent is linked to the IMF—proportions that match exactly those in effect within the CMIM at the time.

Decisions on qualification would be decided by five directors, appointed from the central bank staffs of each of the five members, constituting a standing committee and making decisions on qualification. The criteria by which the standing committee will assess the merits of qualification may not have been decided and have not been disclosed, but conditions for approval include submission of documents and data, *pari passu* treatment at a minimum, and the absence of arrears to the other BRICS countries and multilateral or regional financial institutions. In addition, members must be in compliance with surveillance and disclosure obligations of the IMF—Article IV, sections 1 and 3, and Article VIII, section 5, are specified.¹⁵ The reason for this provision is that the IMF Article IV reports are the best regular source of economic and financial information that the BRICS countries have about one another.

These countries experienced severe external financial pressure from 2015 to 2016, but the CRA has not been activated. The contingencies that the members face vary from problems associated with economic and financial sanctions in the case of Russia to severe recession and political risk in the case of Brazil. The BRICS countries' challenge to the IMF and other status quo multilateral institutions appeared more potent during the buoyant phase of the global financial cycle. Whether the group has sufficient common cause to deploy the CRA in difficult times remains the question.

Latin American Reserve Fund

The central banks of Bolivia, Colombia, Ecuador, Peru, and Venezuela created the Andean Reserve Fund (ARF) in 1978. The ARF was expanded in 1988 with the accession of Costa Rica and renamed the Latin American Reserve Fund (FLAR). It expanded further to include Uruguay in 2008 and Paraguay in 2014.

Capitalized at \$3.6 billion, FLAR has lent both three-year balance-of-payments loans and liquidity operations of one year or less—amounting to \$4.9 billion and \$4.4 billion, respectively—from 1978 to 2013. These amounts might be small, but they are larger than IMF support for the Andean countries during the 1980s, the decade of greatest activity for the facility.¹⁶ Over the life of the institution, Ecuador has been the greatest user, followed by Peru and Colombia.

FLAR stands out among RFAs in several respects. It maintains no link to the IMF, has never denied a loan request, and applies no policy conditionality like the IMF to its financial support. In its lending policies, the facility nonetheless appears to have been relatively orthodox, has been effectively accorded preferential status as a creditor by its members, and maintains a credit rating that is higher than the sovereign bonds of its members.¹⁷ Like its precursor ARF, FLAR is also nearly unique among RFAs in that it is created by and at the initiative of debtors.

One important question for the future is whether FLAR could be scaled up by expanding membership to the larger countries within Latin America—Argentina, Brazil, Chile, and Mexico—thereby creating a regional arrangement on par with those in East Asia and Europe. Although a number of experts have advocated this, the larger countries show little appetite for joining.¹⁸ Several factors could explain their reticence: governance by the one-country-one-vote rule, ideological cleavages within the region, and scarcity of reserves relative to other regions.¹⁹ The absence of the link to the IMF could also be responsible for their lack of enthusiasm. Although sometimes critical of the IMF, officials in other Latin American countries do not wish to be responsible for applying austerity to loans in IMF's absence.

European Stability Mechanism

The ESM was fully constituted as a public international organization and established permanently in September 2012. Euro area member states endowed it with €704.8 billion in capital, of which €80 billion was paid in tranches over the following years while the rest is subject to calls if needed. On this capital base, the ESM can borrow on the bond markets. The lending capacity is €500 billion, available through a broad set of instruments: loans, primary and secondary bond market purchases, and precautionary arrangements. Member states can also use the facility to recapitalize private banks. The ESM can be tapped “if indispensable to safeguard the stability of the euro area as a whole and of its Member States” and “under strict conditionality.”²⁰

The governance of the ESM parallels that of the IMF. The board of governors, constituted by the finance ministers of the Eurogroup, is the senior body. The board of directors, constituted by the finance deputies, prepares decisions for the governors and is chaired by the managing director. Unanimity is effectively required for decisions on capital increases, changes in financial instruments, and, notably, provision of assistance to members. Under the ESM's weighted arrangements, Germany controls 27 percent of total votes, France 20 percent, Italy 18 percent, and Spain almost 12 percent.²¹

The role of the IMF was written into the legal provisions for the ESM.²² The final text of the ESM treaty (Recital 8) incorporated the general obligation to “cooperate very closely” with the IMF. It added, “A euro area Member State requesting financial assistance from the ESM is expected to address, wherever possible, a similar request to the IMF.” The threshold of “whenever possible” is vague and, as a legal matter, leaves the door open to an ESM program that does not include the IMF if its cooperation cannot be secured. As a political matter, however, there is strong support for involvement

of the IMF among creditor countries. Given disagreements within the euro area over financial assistance, it is highly likely that a coalition of creditors will seek inclusion of the IMF as a partner in country programs.²³

In contrast to its posture toward Asian financial facilities, the U.S. government consistently supported the deepening of European integration in the wake of the euro crisis, including the construction of large financial facilities such as the ESM. At the outset of the crisis, the U.S. Treasury supported the inclusion of the IMF. However, as the crisis wore on, U.S. officials became keen for Europeans to avoid making the participation of the IMF a prerequisite for European financial assistance and stressed that the European Central Bank's Outright Monetary Transactions program should not be conditioned on IMF involvement.

The ESM benefits from the surveillance, analytical capacity, and expertise of the European Commission, the European Central Bank, and other European institutions. Some have advocated combining some of the resources of these institutions into a European Monetary Fund (EMF).²⁴ Such a scenario could possibly also obviate the need for the IMF's involvement in the programs for Cyprus, Greece, Ireland, and Portugal. One opportunity to consider movement in this direction is the five-year review of the ESM, at which point member states agreed to consider bringing the mechanism within the ambit of the formal treaty structure of the European Union (EU).²⁵ However, the political consensus that would be necessary to create an EMF is nowhere to be seen. Europe is more likely to soldier on with the functions of an EMF dispersed across the three institutions. According to Klaus Regling, the managing director of the ESM, the now well-practiced cooperation provides the functional equivalent.²⁶

THE IMF, THE EURO CRISIS, AND RISKS OF FRAGMENTATION

The IMF has now implemented the 2010 quota increase and reform that had been delayed for so long by the U.S. Congress. The increase raised total quotas to about \$660 billion. In addition to its quota resources, which are permanent, the IMF can borrow about \$253 billion through the New Arrangements to Borrow (NAB) and bilateral loan agreements in the amount of about \$400 billion. Borrowed resources can be loaned to members in need, but they are phased out if not renewed periodically.²⁷ In response to objections to countries about its handling of crises, the IMF has also expanded the range of facilities that it offers and increased access limits. It offers precautionary financing through the Flexible Credit Line (FCL) and the Precautionary and Liquidity Line. IMF officials have sought to develop relations with regional arrangements and maintain generally good relations with the IMF's largest shareholders, China being especially important for its future. So, the IMF is in generally good health at the moment.

But, in the meantime, the euro crisis has prompted a deep rethink of its relationship with regional arrangements and institutions.²⁸ During the euro crisis, the IMF contributed as a financing partner to five country programs and is presently considering contributing to a sixth.²⁹ It participated in the design and monitoring, but not its financing, of the Spanish banking program of 2012 to 2014. The IMF conducted regular Article IV surveillance of European countries and the euro area as a whole and published reports on fiscal policies and banking union in the euro area. It also lent to central and eastern European countries, inside and outside the EU.

Most of the country programs have been successful—using extinguishing the crisis and returning to market access as the measure of success—and troika institutions profess to have good cooperation

at the working level. But it is also fair to say that cooperation has been, at times, deeply frustrating for all of them and has placed support for the IMF among its members, particularly its non-European members, at considerable risk. Some areas of contention are listed below.³⁰

- *Initial consultations.* Although the rules of the EU are clear, confusion prevails among national officials on the sequence in which member states are obligated to consult EU institutions versus the IMF. Given the tendency to delay seeking external assistance until the last possible moment and to forum shop, confusion at this early stage can be costly in terms of the size of the total program once agreement is reached.
- *Division of labor.* While the institutions have comparative advantage in some areas of program analysis and design and comparative disadvantage in others, the division of labor was, at best, incomplete.³¹ Ultimately, each of the institutions was deeply involved across a broad range, if not the full range, of program issues.
- *Program design.* The institutions in the troika disagreed on many aspects of adjustment programs, including the fiscal path, deleveraging, structural reforms, privatization, and bank restructuring. European officials complained that the IMF did not take due account of the likely spillovers from, for example, imposing losses on private creditors within the euro area. Most vexing from the standpoint of the IMF was probably the fact that eurozone-wide policies that affected the viability of programs—such as the European Central Bank’s and banking regulation—lay outside the scope of conditionality.³²
- *Debt sustainability.* Whether to lend to a country whose debt is potentially unsustainable has been a long-standing and hard-fought question for the IMF. Debt sustainability has thus become a central feature of program analysis. Because euro area countries are embedded in the institutional edifice of the EU and its banking system, the European institutions, by contrast, exercised greater forbearance with respect to government debt. Thus, the IMF and the European institutions clashed repeatedly over how debt sustainability should be assessed—particularly in the case of Greece.
- *Regional governance.* Officials at the IMF lamented the style, pace, and effectiveness of decision-making within the Eurogroup, European Council, and European institutions generally as ill-suited to fighting fast-moving financial crises. Unanimity was either formally or effectively required for approval of programs and the creation of financial facilities, among other things. In many cases, country ratification required the explicit approval of national parliaments.

The fallout from the three successive programs for Greece has been particularly consequential for the IMF. The first Greek program was approved by the IMF despite widespread concern that Greece’s debt was not sustainable. To permit the loan under the access rules within the IMF, the executive board approved an exemption to the requirement that debt be certified as sustainable—known as the “systemic exemption”—for cases in which the stability of the international financial system was threatened. In this case, debt proved to be unsustainable and was restructured in 2012. It had also become clear that the first program had not prevented systemic contagion. Staff officials and non-European and even some European members of the executive board thus came to believe that the IMF had compromised an important principle with no compensating benefit, and the systemic exemption was closed in January 2016.³³ This means that a country whose debt is not clearly sustainable will, in principle, undergo a reprofiling or restructuring before the IMF can lend.

The closure of the exemption has at least two consequences for regional financial arrangements, one immediate and the other long-term. In the coming months, the IMF will decide whether to join the third Greek program as a financing partner. The closure of the exemption means that some kind of restructuring of official European claims on Greece would be necessary to clear the IMF financing. In the long term, the assessment of debt sustainability could well be a flashpoint in relations between the IMF and other RFAs. Regional neighbors can be expected to be more invested, financially and politically, in the economies of their neighbors and thus, like Europe, inclined to greater forbearance on debt than the IMF. Whether RFAs will in the future be willing to lend in cases where debt might be unsustainable without cofinancing from the IMF remains to be seen.

Differences between RFAs and the IMF can also be anticipated with respect to the other four areas on which the IMF and the Europeans have differed. The fact that the European institutions are associated with a monetary union while the other RFAs are not means that the lessons from Europe cannot be translated directly to the IMF's relationship to these regions. The monetary union has particular implications for program design: the size and duration of programs and internal—as opposed to external—devaluation. Nonetheless, while making allowances for the difference between monetary unions and freestanding cases, governance, program design, program initiation, and division of labor are likely to define the hot spots in relations between the non-European financial arrangements and the IMF in the future.

The heterogeneity of regions poses a particular challenge for the IMF. On inter-institutional cooperation, the role of the IMF will differ across regions, depending on regional institutions and circumstances, and the IMF needs to guard against treating countries differently across regions as a result. East Asian officials are acutely aware, and sometimes resentful, of what they perceive to be an indulgent posture adopted by the IMF toward the member states of the euro area. There is a limit to which the IMF can be stretched across different regional models without violating the principle of equal treatment, though that limit might yet be unknown. Any overarching framework that established the IMF's terms of engagement with RFAs would confront this problem.

RECOMMENDATIONS

In an effort to head off fragmentation of the GFSN, which could occur with the proliferation of RFAs, the G20 adopted a set of principles on cooperation between the IMF and the RFAs at the summit meeting in Cannes in November 2011.³⁴ The G20 principles are a significant step forward, recognizing areas of comparative advantage and identifying areas of mutual gains from cooperation. They state that institutions will make decisions on financing autonomously and are emphatic on one essential point: “RFAs must respect the preferred creditor status of the IMF.”

However, the principles are silent on transparency and, more importantly, are also nonbinding. It is hard to identify any bearing that the principles have had on the operations of the troika, for example, or the evolution of the IMF's relationship with non-European RFAs. So, while they represent an important step in the right direction, the principles do not yet realistically offer much protection against dysfunctional relations among the institutions.

To mitigate the threat of fragmentation, the RFAs and IMF should follow through on the letter and spirit of the principles more fully and the G20 should elaborate on them further.

Adopt Guidelines for Inter-Institutional Cooperation

The G20, IMF, and RFAs should explicitly adopt three broad guidelines that member states and these institutions should follow when considering the modalities of inter-institutional cooperation.³⁵ These guidelines place greater precision on some of the existing principles.

- *Transparency.* The IMF, once relatively cloaked, has become remarkably more transparent during the nearly two decades since the Asian financial crisis, but most RFAs lag behind it in this respect. Differences across facilities will tempt some parties to use the least transparent facility in a financial rescue. To facilitate public understanding and market credibility, regional financial facilities should be as transparent as the IMF. The terms of programs and governance of multilateral and regional arrangements, moreover, should be shared knowledge at both levels.
- *Specialization along comparative advantage.* Regional institutions have a comparative advantage in local knowledge and “ownership,” whereas the IMF has an advantage in universal risk pooling, cross-regional learning, and insulation from backlash against austerity. Both can benefit from specialization according to comparative advantage and exchange, as has been acknowledged in the principles. Because the characteristics of RFAs vary widely, the comparative advantage of the IMF is likely to differ across regions.
- *Prohibition against competition in critical areas.* Member states can be served by competition among institutions in some select areas, such as the provision of information, analysis, and forecasts. However, in other areas, such as terms of lending and policy conditionality, competition is corrosive and destabilizing. Left to their own devices, institutions will not necessarily compete only in the appropriate areas. Governments and institutions should establish clear understandings about where competition is acceptable and where it is not.

Cooperate on Precautionary Financing

Precautionary financing is an arena in which the principles could be put into practice. While most RFAs have created precautionary facilities, they do not have the technical or analytical means to review countries for qualification. (Although the ESM could be an exception, its members have shown a strong attachment to involving the IMF in its programs.) By contrast, the IMF does have the capacity for *ex ante* qualification for precautionary financing. Until regional and plurilateral facilities build their own capacity in this respect, they can effectively borrow the capacity of the IMF.³⁶ They should accept the IMF’s qualification of members for an FCL as sufficient for qualifying their own members for precautionary financing from within the region. This principle should hold under both regular qualification for FCLs at the IMF, as it is now conducted, and for prequalification, as has been proposed.³⁷

Review and Elaborate on G20 Principles

The International Financial Architecture Working Group of the G20 should take up the review of the principles for RFA-IMF cooperation in light of the recent experience with programs in Europe. Then, the group should elaborate on them in the following ways:

- *Region-wide policies.* As recommended by IMF staff, the G20 principles should provide guidance on the matter of region-wide policies essential for program success.³⁸ Region-wide policies will be less critical in areas without monetary unions than they have been in the euro area, but they will often

be relevant and become increasingly so over time. The principles could develop a clearer, collective sense on how to navigate cases where the IMF and RFA disagree on debt sustainability.

- *Inter-institutional representation.* The G20 should explicitly advocate that regional governing arrangements specify how they will decide on matters related to their cooperation with the IMF and how, as a regional arrangement, they will work with the multilateral institution.
- *Strength.* The G20 principles should be invested with greater normative force, rather than being simply nonbinding. In strengthening the principles, the G20's objective should be ambitious: to create the international financial equivalent of Article XXIV of the General Agreement on Tariffs and Trade.³⁹

Reinforce U.S. Support for International Financial Institutions and Cooperation

The United States has a strong interest in international financial stability, which derives from its global economic and security interests as well as the spillback on the domestic economy from crises abroad.

To enhance effectiveness of crisis prevention, the alacrity of crisis response, and some degree of influence over the terms of financial rescues, the United States has a strong interest in preserving the coherence of the financial safety net. The development of new financial facilities at the regional and plurilateral levels per se is not a threat, but fragmentation of the system would undermine U.S. interests. Therefore, first of all, U.S. policymakers should support the agenda of coordinating the IMF and RFAs, including inter-institutional agreements and the elaboration of the G20 principles as outlined above.

Second, the U.S. Treasury should adopt and articulate a consistent policy for RFAs and their relationship with the IMF. Such a policy need not approve of all regional arrangements, but it should lay out the principles that differentiate between acceptable and unacceptable RFAs. The U.S. Treasury's enthusiasm for European facilities and coolness toward Asian facilities, for example, should be explained by reference to the fact that Europe operates a monetary union that requires stronger mechanisms of mutual financial support than regions without monetary unions. The rationale should be made explicit in order to establish the objective basis for the difference and allay fears of bias. Whatever legitimate basis the U.S. government might have had for refusing to join the Asian Infrastructure Investment Bank (AIIB) and opposing others' participation, there was a widespread impression that this opposition was self-serving. Articulating a policy for RFAs that advances international financial stability as well as the enlightened interest of the United States would help the U.S. government avoid such setbacks in the future.

Finally, the world needs a robust IMF in order to sustain the coherence of the GFSN. U.S. partners' doubts about congressional support for the IMF has been one of the reasons for the development of RFAs as alternatives to the IMF. The long delay in congressional ratification of the 2010 quota increase and reform contributed to the decision on the part of some close partners to join the AIIB, over U.S. objections. The U.S. Congress should support the IMF strongly.

APPENDIX: G20 PRINCIPLES FOR COOPERATION BETWEEN THE IMF AND REGIONAL FINANCING ARRANGEMENTS

As endorsed by G20 Finance Ministers and Central Bank Governors, October 15, 2011

In November 2010, G20 Leaders also tasked G20 Finance Ministers and Central Bank Governors to explore “ways to improve collaboration between RFAs and the IMF across all possible areas.” Based on contributions by the EU and by ASEAN + 3 countries members of the G20, the following non-binding broad principles for cooperation have been agreed. Also, collaboration with the IMF should be tailored to each RFA in a flexible manner in order to take account of region-specific circumstances and the characteristics of RFAs.

1. An enhanced cooperation between RFAs and the IMF would be a step forward towards better crisis prevention, more effective crisis resolution and would reduce moral hazard. Cooperation between RFAs and the IMF should foster rigorous and even-handed surveillance and promote the common goals of regional and global financial and monetary stability.
2. Cooperation should respect the roles, independence and decision-making processes of each institution, taking into account regional specificities in a flexible manner.
3. While cooperation between RFAs and the IMF may be triggered by a crisis, ongoing collaboration should be promoted as a way to build regional capacity for crisis prevention.
4. Cooperation should commence as early as possible and include open sharing of information and joint missions where necessary. It is clear that each institution has comparative advantages and would benefit from the expertise of the other. Specifically, RFAs have better understanding of regional circumstances and the IMF has a greater global surveillance capacity.
5. Consistency of lending conditions should be sought to the extent possible, in order to prevent arbitrage and facility shopping, in particular as concerns policy conditions and facility pricing. However, some flexibility would be needed as regards adjustments to conditionality, if necessary, and on the timing of the reviews. In addition, definitive decisions about financial assistance within a joint programme should be taken by the respective institutions participating in the programme.
6. RFAs must respect the preferred creditor status of the IMF.

ENDNOTES

1. See IMF, "Adequacy of the Global Financial Safety Net," Staff Report to the Executive Board (Washington, DC, March 10, 2016), pp. 14 and 18, <http://www.imf.org/external/np/pp/eng/2016/031016.pdf>.
2. *Ibid.*, pp. 19–20.
3. To this cluster of institutions that managed the euro crisis programs, we should add the European Council, Council of the European Union, European Stability Mechanism, and Single Supervisory Mechanism.
4. C. Randall Henning, *Tangled Governance: International Regime Complexity, the Troika and the Euro Crisis* (Oxford: Oxford University Press, forthcoming 2017).
5. The origin of these arrangements is analyzed in William W. Grimes, "Japan Confronts the Global Economic Crisis," *Asia-Pacific Review* 16, no. 2, pp. 188–200; Saori Katada, "Why Was the CMI Possible?" (paper presented to the FLASCO-ISA conference, Buenos Aires, Argentina, July 22–25); and C. Randall Henning, "East Asian Financial Cooperation," *Policy Analyses in International Economics*, no. 68 (Washington, DC: Peterson Institute for International Economics, September 2002), among others.
6. I prefer to reserve the term "multilateral" to refer to the global level and to describe the IMF and World Bank as "multilateral institutions," but defer to Asian usage with respect to their arrangements.
7. Hong Kong was included for the first time in these arrangements in 2009. Its \$8.4 billion contribution is folded into China's overall contribution of \$76.8 billion.
8. The smaller ASEAN members make contributions ranging from \$60 million, in the cases of Brunei and Laos, to \$2 billion, in the case of Vietnam.
9. Edwin M. Truman, "The G-20 and International Financial Institution Governance," Peterson Institute Working Paper 10-3 (Washington, DC: Peterson Institute for International Economics, September 2010); Morris Goldstein, "The Role of the IMF in a Reformed International Monetary System" (paper for the conference on "The Future of the International Financial System," Bank of Korea, Seoul, South Korea, May 26–27, 2011).
10. Edwin M. Truman, speech delivered on the occasion of the launch of the Chiang Mai Initiative in Chiang Mai, Thailand.
11. ASEAN Finance Ministers, Joint Media Statement of the 14th Meeting, Nha Trang, Vietnam, April 8, 2010, paragraph 14, <http://www.aseansec.org/24491.htm>; and ASEAN+3 Finance Ministers, joint media statement, Tashkent, Uzbekistan, May 2, 2010, http://www.aseansec.org/documents/JMS_13th_AFM+3.pdf.
12. "Agreement Establishing ASEAN+3 Macroeconomic Research Office ("AMRO")," September 22, 2015, http://www.amro-asia.org/communiques_keydocuments.
13. See the ASEAN+3 May 2012 finance ministers' statement, www.amro-asia.org/wp-content/uploads/2012/05/120503AFMGM+3-JS.pdf. The criteria by which qualification would be assessed are identical to the five criteria for the precautionary and liquidity line of the IMF, which are somewhat more relaxed than for the IMF's FCL ("sound" versus "very strong"), although the thresholds that define the standard remain unclear.
14. "Treaty for the Establishment of a BRICS Contingent Reserve Arrangement—Fortaleza, July 15," July 2014, <http://brics.itamaraty.gov.br/category-english/19-press-releases/220-treaty-for-the-establishment-of-a-brics-contingent-reserve-arrangement-fortaleza-july-15>.
15. *Ibid.*, Article 14 (b) (v).
16. Daniel Titelman, "Subregional Financial Cooperation: The Experiences of Latin America and the Caribbean," in José Antonio Ocampo, ed., *Regional Financial Cooperation* (Washington, DC: Brookings Institution Press, 2006); José Antonio Ocampo and Daniel Titelman, "Regional Monetary Cooperation in Latin America," Asian Development Bank Institute Working Paper Series no. 373, August 2012.
17. A country's application for balance-of-payments support must include a report on the measures that it has or will adopt to "reestablish the equilibrium in the balance of payments." Contingent and liquidity funding require assurance of repayment or a certified guarantee that satisfies FLAR. See <https://www.flar.net/ingles/contenido/contenido.aspx?catID=293&conID=5715>.
18. See, for example, Guillermo Perry, "The Future of FLAR: A Latin American Monetary Fund as a Lender of First Resort?" in *35 Años FLAR* (Bogota, Colombia: Latin American Reserve Fund, 2013).
19. As of early 2016, foreign exchange reserves of Latin American countries totaled about \$720 billion, of which Brazil held about \$350 billion and Mexico \$166 billion. The FLAR members held about \$148 billion, collectively.
20. "Treaty Establishing the European Stability Mechanism," Article 3. On the establishment of the ESM, see also Ledina Gocaj and Sophie Meunier, "Time Will Tell: The EFSF, the ESM, and the Euro Crisis," *Journal of European Integration* 35, no. 3, March 2013, pp. 239–253.
21. See, for example, Alessandro Leibold, "Making the European Stability Mechanism Work," Lisbon Council Policy Brief, Brussels, February 2012; European Stability Mechanism, "Frequently Asked Questions on the European Stability Mechanism," July 28, 2014.
22. The evolution of the fund's role over successive drafts of the ESM treaty is reviewed by Henning, *Tangled Governance*, chapter 8.
23. *Ibid.*, chapters 1 and 10.

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24. Proponents include the German Minister of Finance Wolfgang Schäuble, and, among others, Jean Pisani-Ferry, Andre Sapir, and Guntram B. Wolff, “EU-IMF assistance to euro area countries: an early assessment,” *Bruegel Blueprint* 19, June 16, 2013, <http://bruegel.org/2013/06/eu-imf-assistance-to-euro-area-countries-an-early-assessment/>.
25. As an intergovernmental treaty, the ESM presently stands outside the EU legal framework.
26. See, for example, “Europe Can Handle Future Crises without IMF—Bailout Fund Chief,” *Reuters*, August 28, 2015.
27. In addition, the fund can issue Special Drawing Rights.
28. The European institutions have also undergone a rethink over the troika and, even if the region remains politically committed to fund inclusion, their conclusions can affect their relationship with the IMF. See, for example, European Stability Mechanism, *2014 Annual Report*, June 2015.
29. Among the many books on the euro crisis itself, see James A. Caporaso and Martin Rhodes, *Economic and Political Dynamics of the Eurozone Crisis* (Oxford/New York: Oxford University Press, 2016); Mathias Matthijs and Mark Blyth, eds., *The Future of the Euro* (Oxford: Oxford University Press, 2015); and Jean Pisani-Ferry, *The Euro Crisis and Its Aftermath* (Oxford: Oxford University Press, 2014).
30. For a more comprehensive review, see Henning, *Tangled Governance*.
31. See, for example, IMF, “Crisis Program Review,” IMF Staff Paper, November 9, 2015, p. 2.
32. *Ibid.*, pp. 57–60.
33. IMF, “IMF Executive Board Approves Exceptional Access Lending Framework Reforms,” press release no. 16/31, January 29, 2016.
34. See G20-G8 France, “Cannes Summit Final Declaration — Building Our Common Future: Renewed Collective Action for the Benefit of All,” November 2011, Annex 1, <https://www.oecd.org/g20/summits/cannes/Cannes%20Declaration%204%20November%202011.pdf>.
35. C. Randall Henning, “Coordinating Regional and Multilateral Financial Institutions,” Peterson Institute Working Paper 11-9, March 2011.
36. The case for this proposal is made in Henning, “The Global Liquidity Safety Net: Precautionary Facilities and Central Bank Swaps,” in C. Randall Henning and Andrew Walter, eds., *Global Financial Governance Confronts the Rising Powers* (Waterloo, Canada: Center for International Governance Innovation, 2016), pp. 119–150. Twelve countries are identified that would likely qualify, or come very close to qualifying, by the standards that the IMF applies to FCL qualification.
37. Under prequalification, the IMF could compile and maintain a list of countries to which FCL access could be granted if the country in question placed an official request. See Truman, “The G-20 and International Financial Institution Governance,” and Raghuram G. Rajan, “Competitive Monetary Easing: Is it Yesterday Once More?” (speech delivered at the Brookings Institution, Washington, DC, April 10, 2014).
38. IMF, “Crisis Program Review,” Box 5, p. 60.
39. See Henning, “East Asian Financial Cooperation.”

Mega-Regional Trade Agreements and the Future of the WTO

Chad P. Bown

The major economies have shifted trade negotiating emphasis toward mega-regional agreements. In particular, the emergence of three sets of negotiations—the Trans-Pacific Partnership (TPP) agreement among Australia, Canada, Japan, Mexico, the United States, and seven other countries; the Transatlantic Trade and Investment Partnership (TTIP) negotiations between the United States and the European Union (EU); and China’s pursuit of the Regional Comprehensive Economic Partnership (RCEP) negotiations—raises a host of short- and long-term questions for the multilateral trading system and the World Trade Organization (WTO).¹

The foundation established by the General Agreement on Tariffs and Trade (GATT) and WTO, a multilateral system for trade, has remained largely unchanged since 1995. However, understanding the first wave of regional trade agreements (RTAs) that the United States and the EU developed in the 1990s provides context for the innovative elements of the forthcoming mega-regional agreements. In particular, for both the TPP and TTIP agreements, the desire to write new rules is an important driver of the negotiations. The new rules cover topics that include public health and product safety standards, labor and the environment, international investment, digital trade and e-commerce, and state-owned enterprises.²

These new RTAs have costs and benefits, and the mega-regionals pose a potential new threat to the multilateral system. However, direct steps can be taken to minimize such concerns. First, the return to plurilateral and critical mass agreements is a way to bring some of the mega-regionals’ new rules and issues into the system. Second, reforms to the WTO’s dispute settlement procedures are needed to further strengthen and sustain what is perhaps its most prominent function. Importantly, the United States, the EU, and the other countries should support the relevance of the multilateral system despite the allure and trappings of the mega-regional agreements.

THE NEW REGIONAL LANDSCAPE

The GATT was established in 1947, and it shepherded the multilateral trading system until it was replaced by the WTO in 1995. Over their history, the GATT and WTO have provided three critical functions to the international system.

First, they have established a negotiating forum for countries to routinely convene, write basic rules for the trading system, and negotiate over country-specific commitments to liberalize trade and improve market access. Second, they have established a forum to resolve disputes. The WTO legal process allows for each interested country to make its case, and the WTO provides impartial, third-party adjudicators that generate legal rulings and determine compensation in the event of noncompliance. Third, they have established a technical administrative forum and process by which countries make and then report changes to their policies that affect trade. This reporting standardization provides transparency and leads to the efficient dissemination of information globally.

These fundamental institutional pillars of the current WTO evolved over decades but have been largely in place and unchanged since 1995. The second and third functions, in particular, have worked well over the intervening two decades. However, the lack of a coherent WTO legislative function has resulted in little change to the institutional framework and rules, despite a number of new negotiating interests arising from within the trading system's major actors.

The First Wave of Deeper Agreements in the 1990s

Beginning in the early 1990s, the United States and the EU began to negotiate RTAs—each with different countries—that were deeper than the shallow integration approach of the GATT, which had mostly limited its disciplines to border barriers such as import tariffs.³ For the United States, for example, this began with the Bill Clinton administration's side agreements on the environment and labor, which accompanied the 1994 North American Free Trade Agreement (NAFTA) with Canada and Mexico.

These additional commitments found in RTAs have come to be known as either WTO-plus or WTO-extra provisions. The WTO-plus builds upon provisions already undertaken multilaterally: import tariffs are the best example. Countries commit through the WTO to a certain maximum upper limit for their tariffs, and their additional commitment (WTO-plus) under the RTA involves lowering tariffs even further, albeit only to selected partners. WTO-extra commitments, on the other hand, are RTA provisions for which there is no WTO counterpart. These currently include labor and environmental standards.

There are interesting differences between these earlier U.S. and EU RTAs.⁴ The EU tended to negotiate more WTO-extra provisions into its RTAs; nevertheless, most were not enforceable through the agreements' dispute settlement procedures. Since such provisions were not part of the WTO, they were not enforced there either. Although the United States negotiated fewer such commitments, it had more enforceable commitments in its RTA provisions. Nevertheless, even among the enforceable U.S. provisions, not all of them have actually been rigorously enforced. The recent Guatemala labor dispute under the Dominican Republic–Central America Free Trade Agreement is the only dispute to date in which the United States has attempted to enforce a trading partner's labor standards through RTA dispute settlement.

Mega-Regional Agreements in the Twenty-First Century

A number of political-economic forces have contributed to the push toward the mega-regional agreements arising today.⁵ One factor is the interest of multinational firms in global supply chains—the process by which firms organize their production across numerous countries—which causes the firms to lobby for new types of agreements to address their concerns.⁶ This includes additional legal protection for their foreign investment as well as further reductions to the costs of shipping goods across multiple national borders. Firms want to produce goods that can be certified for multiple markets; they have thus also urged policymakers to improve coordination of product regulations historically set independently across different markets.

Second, the rise of China as a major power also triggered geopolitical and national security interests, especially in the United States. This contributed to a shift in negotiating emphasis toward the Asia-Pacific region, further spurring efforts for the TPP in particular.

Mega-Regional Agreements and Market Access

The aggregate market access implications arising from traditional tariff cuts under the potential TPP and TTIP are anticipated to be modest, despite nearly 60 percent of world GDP and 40 percent of world exports arising from the TPP and TTIP countries.⁷ The United States already has free trade agreements with six other TPP countries (Australia, Canada, Chile, Mexico, Peru, and Singapore); many of the other TPP countries also have preexisting RTAs with one another. Furthermore, the TTIP involves economies starting from relatively low applied tariffs; in sectors in which the United States or the EU has maintained high border taxes (e.g., footwear, textiles, and apparel), the other may not be a viable export source driving potential increases in comparative advantage-based trade.

To the extent that economic models predict some potentially sizeable aggregate gains to well-being arising from these agreements, the increases typically result from assumed reductions in nontariff barriers. Many of these reductions are due to the new rules and disciplines described below. However, nontariff barriers are more challenging to measure; thus, it is also more difficult to accurately predict the effects of their potential reductions.

New WTO-Plus and WTO-Extra Provisions and Their Enforceability

The TPP and TTIP are less motivated by gains resulting from tariff reductions as opposed to those arising from new rules to coordinate reductions to perceived nontariff barriers to trade. The agreements would make enforceable some already established rules that were not enforceable under earlier RTAs. They also bring some new issues into major RTAs for the first time.

The TPP updates some provisions found in previous U.S. RTAs like NAFTA by making them enforceable through RTA dispute settlement. Important examples include labor and environmental standards. The growth of the internet since 1995 has brought digital trade and electronic commerce directly into the mega-regional agreements. The prospect of future accession to TPP by economies that embrace state capitalism, such as China and Russia, led to the incorporation of disciplines on state-owned enterprises (SOEs). Other relatively new provisions now enforceable through TPP include government procurement—for which there exists only a plurilateral agreement—and transparency and anticorruption.

Some new TPP provisions, including competition policy and regulatory coherence, are not yet enforceable through dispute settlement. Provisions on regulatory coherence build from the U.S. model that has established a federal-level office of information and regulatory affairs (OIRA) to rationalize the standards otherwise set in a vacuum by individual U.S. regulatory agencies. To increase cooperation and reduce the chance that such standards develop into unintended nontariff barriers to trade, the provisions encourage regulators of all TPP countries to follow the U.S. model, conduct cost-benefit analyses or regulatory impact assessments, and allow for public comment before implementing policy changes. A proposed committee on regulatory coherence would encourage cooperation and information sharing on best practices among regulators across countries.

Regulatory coherence has arisen as an even more important topic for the ongoing TTIP negotiations between the United States and the EU. The TTIP has been lauded as an attempt to deal with the evolving regulatory divergence between standards introduced in Washington and those in Brussels.⁸ Establishing not only rules but also an institutional process for regulatory cooperation between two high-standards economies will have important long-term implications for product standards globally, including for those goods produced and consumed well outside these two markets.⁹

New Rules on Dispute Settlement Over Trade and Investment

The TPP and TTIP also have the potential to substantially affect the process by which countries resolve bilateral frictions over trade and foreign investment.

Consider disputes over international trade. Despite many RTAs having their own dispute settlement provisions, most formal disputes arising since 1995 between RTA partners have been adjudicated at the WTO. Canada, Mexico, and the United States, for example, routinely file disputes against one another in Geneva, even though in-house NAFTA provisions exist to adjudicate their potential grievances. They are not alone: roughly 15 percent of all WTO disputes have involved members of an existing RTA using the WTO to resolve their bilateral trade disagreements.

Also telling is that more than two-thirds of all WTO disputes initiated from 1995 to 2016 involved at least one future TPP member as either the complainant or respondent.¹⁰ Furthermore, nearly 15 percent of initiated WTO disputes involved one future TPP country using the WTO to challenge another future TPP country. When taking account of the EU—another of the WTO’s most common litigants—the combined membership of the TPP and TTIP make up most of the WTO’s historical caseload.

One implication is that any effect of these new agreements—whether increasing or decreasing the number or types of disputes being litigated in Geneva—could substantially alter a WTO system that currently works.

On trade, the TPP dispute settlement procedures appear to elevate the WTO’s system to primacy by design. While a handful of WTO-extra provisions are only enforceable through TPP dispute settlement—for example, labor and environment—the TPP concedes most areas of traditional, market access emphasis to dispute-management by the WTO, including cases relating to antidumping and safeguards, and also likely those involving public health and product standards. Furthermore, unlike the WTO, there is no possibility of appeal for any disputes under the TPP’s system, and there is no TPP secretariat or staff that would provide the same sort of support that assists jurists. Under the WTO, appeals and secretariat staff help contribute to the stability of the system by ensuring that consistent legal decisions are made over time.

Under TTIP, one of the biggest proposed changes involves overhauling the rules for dispute settlement attached to the agreement’s investment provisions. Currently, whether under the investment provisions of RTAs or through separate bilateral investment treaties, there is a separate and much less transparent process by which investors (e.g., firms) can bring cases directly against foreign states for arbitration under investor-state dispute settlement (ISDS). The European Commission has proposed a significant modification to ISDS after experiencing substantial domestic political backlash at the onset of TTIP negotiations.¹¹

The European Commission proposal for investment draws from the WTO’s system for resolving trade disputes along important dimensions. This includes both establishing a publicly appointed set of judges to hear disputes and to allow an appeals process to review and potentially modify first-stage decisions. However, even the commission proposal would not fundamentally alter the right of investors to initiate disputes against states without first convincing their governments to litigate on their behalf, as is the case under the trade dispute settlement procedures of the WTO and most RTAs, including the TPP.

RISKS AND BENEFITS OF MEGA-REGIONAL TRADE AGREEMENTS

Not surprisingly, there are divergent views on the economic implications of RTAs, especially those that have already been implemented. One source of divergence involves drawing lessons from the effect that RTAs have had on subsequent policy decisions: whether RTAs are stumbling blocks or building blocks toward additional or future multilateral liberalization. Economic theory has long predicted that it could go either way. The reality from historical episodes, unfortunately, is not much clearer. In some important cases, multilateral liberalization has followed the formation of RTAs, but in others, RTAs created impediments that resulted in less subsequent multilateral liberalization.¹²

For TPP and TTIP, the answer to whether these agreements would be stumbling blocks or building blocks is even more unpredictable. Most of the predicted changes to economic activity arising from these agreements is due to how they address nontariff barriers through their new rules.

Another source of divergence involves whether deep integration issues should be brought into trade agreements at all. Here, the more primitive concern goes back to understanding the underlying purpose of the trade agreement.¹³ Many deep integration issues require that governments give up an increasing amount of their policy space. For the shallow integration negotiations of the past, which were only over tariffs, giving up policy space made sense on economic efficiency grounds. From a global perspective, tariffs are never a first-best policy, and reining them in simply prevented countries from imposing international externalities on one another. The same cannot be said for most behind-the-border policies being negotiated in these deep agreements. From a global perspective and if set properly, domestic taxes, subsidies, and regulations are frequently the first-best policy to address local externalities and market failures without introducing major, secondary side effects.

The concern is that the haste of negotiators to conclude deep agreements could impose ill-conceived constraints on domestic regulators' access to such policies.¹⁴ This could feed back into inefficient levels of domestic regulation. This is unsustainable in the long term and could result in failed trade agreements. But then this would eliminate the cumulative, global efficiency gains that have been painstakingly achieved through seventy years of cooperative, albeit shallow, trade agreements, such as the GATT/WTO, that limited their focus to reining in tariffs.¹⁵

POLICY RECOMMENDATIONS FOR THE TRADING SYSTEM

The idea that RTAs might undermine the GATT/WTO system is not new; indeed, some of the concerns regarding regional agreements date back to the classic work of Jacob Viner (1950) on the inefficiencies of "trade diversion." Yet, the explosion in the number of RTAs since the early 1990s is unparalleled to that in earlier eras, and the depth of these RTAs is also increasingly complex.

The WTO's Response to the Rise of Regional Trading Arrangements

Unfortunately, while the WTO membership appears to increasingly recognize that some problems associated with RTAs will plague the multilateral system, the WTO has taken few concrete steps thus far to address the competition introduced by RTAs.¹⁶

The WTO has been proactive in only a few initiatives. One involves creating a notification process and database for cataloguing RTAs. Also, WTO staff have worked to further characterize RTA provisions beyond the prior work of academics, perhaps in case the membership provides the WTO the

directive to do something more about it.¹⁷ Furthermore, the WTO secretariat's economics research staff has brought the risks of RTAs to the attention of the membership by devoting its annual flagship to the topic. The reality, however, is that WTO efforts to date have been relatively minimal. While some of that is the mandate of the members, the WTO's response is also frequently consistent with incentives for self-preservation.

From the beginning, the GATT explicitly permitted the formation of free trade areas and customs unions. The only requirement was that the agreement covered substantially all trade and did not result in increased trade barriers against RTA nonmembers. Should the WTO do more to confirm that actual RTAs cover substantially all trade? For the WTO, of course, this is not incentive-compatible. The more trade covered by preferential tariffs under the RTA, the less relevant becomes the WTO through its most-favored nation tariffs. Thus, the WTO would not want to enforce provisions that diminish its own relevance over tariffs.

Moreover, if governments find that an RTA led to an increase in barriers against nonmembers, they can inevitably take it upon themselves through formal GATT/WTO dispute settlement to address the issue. Examples of such disputes have arisen after the expansions of the European Economic Community, as well as the formation of Mercosur and other RTAs.¹⁸

A recent concern is that RTA members may be getting around the technical rules of the WTO by imposing new nontariff barriers on outsiders—relative to what they impose on RTA insiders—that are subtle and are less likely to be successfully litigated under the claim that they arose because of the RTA.¹⁹ This is an area in which the WTO could and should be doing more.

Specifically, more analysis is needed to better understand and showcase potential conflicts that RTAs introduce with multilateral commitments, even if they are not direct violations of the WTO agreements. New analysis, however, requires new data collection. The WTO's integrated database on import tariffs not only does not contain information on preferential tariffs arising under RTAs but it also contains little to no information on nontariff barriers, especially those that may arise under the deep provisions of RTAs and discriminate against excluded countries.

A Framework to Bring New Issues into the Multilateral System

The rise of mega-regional agreements indicates that major economies have the appetite to negotiate a more expansive set of disciplines over new issues, to lock them in under trade agreements, and to potentially make them enforceable through dispute settlement.

There are many reasons why new provisions have not made it to the WTO. A number of developing countries perceive that they are still owed something due to the Uruguay Round not leading to the positive outcomes that they had anticipated. The failure to conclude a Doha Development Round that would be to their liking and the fact that the WTO negotiations are consensus-based, that there are more than 160 members, and that the WTO agreements are all in the form of a single undertaking together imply that minorities of countries have been able to block multilateral progress.²⁰

The WTO's single undertaking approach is recent and one that resulted from the Uruguay Round of negotiations (1986–1994). But it is not the only way that the multilateral system has functioned. Indeed, under the two immediately preceding multilateral sets of negotiations—the Kennedy Round (1964–1967) and the Tokyo Round (1973–1979)—the results were not a single undertaking. Each round also included a set of plurilateral agreements—referred to at the time as codes—that only subsets of GATT countries signed up to and to which their disciplines applied.

These Kennedy and Tokyo Round codes included what were at the time a number of new nontariff measures affecting trade, including antidumping, subsidies and countervailing measures, standards or technical barriers to trade, government procurement, import licensing, customs valuation, bovine meat, dairy, and trade in civil aircraft. The codes were initially established mainly among clubs of high-income countries. In many cases, it was not until the WTO's 1994 single undertaking that the provisions became fully integrated and enforceable in the multilateral system.²¹

Today, the WTO does retain a legal mechanism to allow its members to further develop additional plurilateral agreements.²² If new rules are not needed, all that is required is for a core group of major economies to come together and agree to lock in nondiscriminatory—to the full membership—liberalization commitments in a particular sector. This can also arise through what are referred to as critical mass agreements (CMAs).

One important example of a CMA was the Information Technology Agreement (ITA) of 1997. Under the ITA, a group of major economies locked in tariffs at zero for an expansive set of IT-related products covering billions of dollars in annual trade. The 1997 ITA was subsequently updated by a group of countries that agreed to add another 200 IT products to the zero-tariff list, as announced at the Nairobi WTO Ministerial Conference in 2015.

Negotiations in other sectors have also begun, including a potential trade-in-services agreement (TiSA) and an environmental goods agreement.²³ However, the TiSA negotiations, for example, do not yet include all major powers, as China and India are not yet involved.

A priority for the multilateral system should be to analyze which new issues arising under the TPP and TTIP could and should also be plurilateralized. Beyond sector-specific agreements, this would address rules and processes and include not only labor and environmental standards but also regulatory coherence and how to integrate communication and decision-making by domestic regulators across countries with respect to public health and product standards.

The United States and other countries pushing the mega-regional agenda also seek forums to discuss other issues largely blocked from multilateral talks. This includes the internet and e-commerce, data, privacy, and new issues involving intellectual property rights. Given the rising importance in global trade of China and Russia—economies whose WTO accession negotiations started from non-market origins—provisions over SOEs and new transparency rules on subsidies are a priority. Finally, the European Commission's recent ISDS proposal and interest in a long-term investment court system suggest that it may be time to revive multilateral investment treaty negotiations. These had been put on hold first in the 1990s and then after the failed 2003 WTO Ministerial Conference in Cancún.

On the normative question of whether and how deep integration issues should ultimately be brought into the WTO, doing so may constrain domestic policy space, the downside of which may be an inability for domestic policymakers to regulate efficiently in response to political, economic, and societal shocks at home. This concern needs to be weighed against a better understanding of what international externality or international coordination failure is leading countries to take on binding commitments for that particular issue in the first place.

Sustaining the Preeminence of the WTO's Functioning Dispute Settlement System

One clear policy implication arising from the new RTAs is that introduction of competition among different trade agreements in the area of dispute settlement will not work. Two different trade agreements covering the same economic (market access) jurisdiction with competing court systems would

inevitably render inconsistent legal rulings. Such fragmentation of international trade law and jurisprudence would increase policy uncertainty that would discourage firms from investing in international commerce. It would also increase the challenges facing the domestic policymakers that seek to craft regulations consistent with their international obligations. From what is known about the mega-regional agreements to date, it seems that they strive to avoid this fate.

However, more could be done to strengthen the multilateral WTO dispute settlement system in light of new pressures potentially introduced by increased trade arising under the mega-regional agreements. More trade suggests that even more of the basic WTO disciplines will suddenly become relevant in bilateral relationships and could lead to unavoidable trade frictions that will require WTO dispute settlement to clean up.

Concrete items to be moved up the list for WTO secretariat reform include not only additional resources but also a reprioritization of existing resources given these new needs. This includes addressing a number of WTO secretariat staffing issues in the area of dispute settlement. Appellate body jurists should be moved from part-time to full-time schedules, both due to the increasing workload and to improve transparency and prevent conflicts of interest. Furthermore, the first-stage panelists involved in WTO disputes also all currently have other jobs, given the WTO's funding model, and can only devote some of their time to the task of adjudication. The permanent, full-time staff of the WTO secretariat that supports the jurists on dispute settlement is also relatively small. There are also few PhD economists in the WTO, despite the fact that they are needed to assist in litigation that is increasingly data-intensive and heavy in empirical evidence.²⁴ Each of these elements contributes to a dispute resolution process that proves too slow for some commercial interests. A fix would enhance support and trust in the multilateral system.

Furthermore, discussions could be launched, even if only on a plurilateral basis to start, to bring investment disputes into a WTO-like system. In the long term, more exploratory analysis is needed that would examine the tradeoffs of bringing them into a scaled-up WTO dispute settlement system. This is clearly on the radar of the European Commission, which also included in their TTIP ISDS proposal of 2015 that "in parallel to the TTIP negotiations, the Commission will start work, together with other countries, on setting up a permanent International Investment Court. The objective is that over time the International Investment Court would replace all investment dispute resolution mechanisms provided in EU agreements, EU Member States' agreements with third countries and in trade and investment treaties concluded among non-EU countries."

CONCLUSION

Consider a final motivation for the United States, EU, China, and other major parties to make the WTO even more resilient to the potentially growing influence of the mega-regional agreements: transparency. The WTO is also increasingly important because it enhances transparency by disseminating information on trade policy changes that are expected to affect trading partners' market access. This information is required not only for commercial market participants but also for domestic policymakers.

In 2008, the global economy became embroiled in the largest and deepest economic crisis since the Great Depression, presenting the WTO system with its first major stress test. Shortly after the economic contraction began, trade flows collapsed simultaneously all over the world. However, at the

time, the cause of the trade flow collapse was unknown. The depth and global proliferation of the Great Recession from 2008 to 2010 sparked fears that protectionist forces might still be forthcoming.

The WTO secretariat itself was admittedly ill prepared in 2008 to immediately respond to the information problem of whether protectionism—and flows of new trade barriers—had changed considerably with the onset of the crisis. Independent efforts by the World Bank and Global Trade Alert sparked competitive pressures that spurred the WTO, through emergency actions under its Trade Policy Review Body, to provide more frequent, detailed, and more independent data on changes to trade policy taking place across its member countries.²⁵

Nevertheless, the Great Recession episode also highlights that the WTO system itself has become essential during times of crisis. Even the external monitoring efforts of the World Bank and Global Trade Alert were only possible during the crisis because of trade policy reporting requirements demanded by the WTO. Countries had committed to undertake and implement—long before the crisis—this sort of reporting simply because the WTO agreements required them to do so.

Put another way, while the WTO secretariat may have been slow to react during the crisis, there was no reaction at all by the major RTAs in place at the time. It is almost inconceivable that trade policy monitoring efforts would have arisen under the EU, NAFTA, Mercosur, or any other prominent RTA. Furthermore, even if something were to have arisen eventually, it would have been regionally fragmented in nature. Future trade policy monitoring at a global level hardly seems within the mandate of any of the new mega-regional agreements, including the TPP and TTIP. There is thus a continued demand for this other critical functionality of the WTO.

ENDNOTES

1. The other seven countries involved in the TPP agreement are Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam. The countries involved in the RCEP negotiations include the ten member states of the Association of Southeast Asian Nations (Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand, and Vietnam) and the six countries with which ASEAN has hub-and-spoke free trade agreements (Australia, China, India, Japan, South Korea, and New Zealand).
2. Unfortunately, less will be said in this piece regarding a potential RCEP agreement, given the lack of negotiating progress to date. While important, given the size of China and the potential number of countries involved, all that is known is that its path would seem more driven by earlier regional agreement negotiations that focused mostly on tariff reductions, as opposed to the negotiations of new rules of the sort contained in the TPP or TTIP as described here.
3. The EU became an increasingly deep-integration agreement over time, proceeding from a six-country pact over steel in the 1950s to a customs union to steps toward internal factor market integration by the 1990s. However, the result of the UK referendum on exiting the EU (Brexit) in June 2016 raises fundamental questions about EU integration and whether it may have been too deep or not deep enough, or have otherwise suffered from some flaw of institutional design.
4. These conclusions are drawn from the study by Horn, Mavroidis, and Sapir on U.S. and EU RTAs arising before 2008. Japan also began negotiating a number of RTAs of its own in the 2000s, including deals with Chile, Mexico, and Peru. See Henrik Horn, Petros C. Mavroidis, and André Sapir, "Beyond the WTO? An Anatomy of EU and US Preferential Trade Agreements," *The World Economy* 33, no. 11, November 2010, pp. 1565–1588.
5. Mansfield and Milner provide a book-length treatment of the political-economic determinants of RTA formation, with a particular emphasis on variation explained by domestic political forces. See Edward D. Mansfield and Helen V. Milner, *Votes, Vetoes, and the Political Economy of International Trade Agreements* (Princeton, NJ: Princeton University Press, 2012).
6. The fact that global supply chain activity has affected trade policy negotiations is not new. Indeed, Blanchard, Bown, and Johnson provide evidence that such influences even affected the tariffs set by high-income and emerging economies over the period 1995 to 2009. See Emily J. Blanchard, Chad P. Bown, and Robert C. Johnson, "Global Supply Chains and Trade Policy," National Bureau of Economic Research (NBER) Working Paper no. 21883, January 2016.
7. The Peterson Institute for International Economics (PIIE) and Schott and Cimino-Isaacs provide a textual assessment of the TPP and economic model-based estimates of anticipated changes in market access in important sectors and countries due to the agreement. See PIIE, *Assessing the Trans-Pacific Partnership, Volume 1: Market Access and Sectoral Issues*, PIIE Briefing 16-1, February 2016; Jeffrey J. Schott and Cathleen Cimino-Isaacs, eds., *Assessing the Trans-Pacific Partnership, Volume 2: Innovations in Trading Rules*, PIIE Briefing 16-4, March 2016. For estimates resulting from a potential TTIP, see Peter Egger, Joseph Francois, Miriam Manchin, and Douglas Nelson, "Non-Tariff Barriers, Integration and the Transatlantic Economy," *Economic Policy* 30, no. 83, July 2015, pp. 539–584.
8. As motivation, see the Barack Obama administration's 2012 Executive Order, "Promoting International Regulatory Cooperation," May 1, 2012, <https://www.whitehouse.gov/the-press-office/2012/05/01/executive-order-promoting-international-regulatory-cooperation>.
9. Sheargold and Mitchell analyze the TPP regulatory coherence chapter in Elizabeth Sheargold and Andrew D. Mitchell, "The TPP and Good Regulatory Practices: An Opportunity for Regulatory Coherence to Promote Regulatory Autonomy?" *World Trade Review*, February 2016. Alemanno (2015) explores the Regulatory Cooperation Chapter of the TTIP negotiations from the EU's perspective (elements of their proposed approach have been made public), including formation of a Regulatory Cooperation Body, an institutional mechanism to operationalize cooperation by regulators on both sides of the Atlantic. See Alberto Alemanno, "The Regulatory Cooperation Chapter of the Transatlantic Trade and Investment Partnership: Institutional Structures and Democratic Consequences," *Journal of International Economic Law* 18, no. 3, 2015, pp. 625–640. For other explorations of issues of regulatory coherence in a potential TTIP, see Bernard Hoekman, "Fostering Transatlantic Regulatory Cooperation and Gradual Multilateralization," *Journal of International Economic Law* 18, no. 3, 2015, pp. 609–624; Simon Lester and Inu Barbee, "The Challenge of Cooperation: Regulatory Trade Barriers in the Transatlantic Trade and Investment Partnership," *Journal of International Economic Law* 16, no. 4, December 2013, pp. 847–867; and Thomas J. Bollyky, "Better Regulation for Freer Trade," Council on Foreign Relations, June 2012, <http://www.cfr.org/trade/better-regulation-freer-trade/p28508>.
10. These statistics draw from Chad P. Bown, "Dispute Settlement, the Trans-Pacific Partnership, and the WTO," April 2016, which also explores the arguments presented in this subsection in much more detail. For a general introduction to WTO dispute settlement, see Chad P. Bown, *Self-Enforcing Trade: Developing Countries and WTO Dispute Settlement* (Washington, DC: Brookings Institution Press, 2009) and Christina Davis, *Why Adjudicate? Enforcing Trade Rules in the WTO* (Princeton, NJ: Princeton University Press, 2012). For an introduction to the TPP's dispute settlement provisions, see Jennifer Hillman, "Dispute Settlement Mechanism," in Schott and Cimino-Isaacs, eds., *Assessing the Trans-Pacific Partnership, Volume 2*. Mavroidis and Sapir notably consider a potential TTIP agreement and argue that it could lead to fewer disputes between the United States and EU. See Petros C. Mavroidis and André Sapir, "Dial PTAs for Peace: The Influence of Preferential Trade Agreements on Litigation between Trading Partners," *Journal of World Trade* 49, no. 3, 2015, pp. 351–372.

11. For background on the proposal, see European Commission, “Commission Proposes New Investment Court System for TTIP and Other EU Trade and Investment Negotiations,” European Commission Press Release Database, http://europa.eu/rapid/press-release_IP-15-5651_en.htm, September 16, 2015. For an analysis of the proposal, see Stephen Kho, Matthew Bate, Alan Yanovich, Brendan Casey, and Johann Strauss, “The EU TTIP Investment Court Proposal and the WTO Dispute Settlement System: Comparing Apples and Oranges?” Mimeograph, April 2016.
12. Stumbling block evidence that RTAs negatively affected the multilateral tariff liberalization that the United States and EU undertook during the Uruguay Round is provided, respectively, by Nuno Limão, “Preferential Trade Agreements as Stumbling Blocks for Multilateral Trade Liberalization: Evidence for the U.S.,” *American Economic Review* 96, no. 3, 2006, pp. 896–914, and Baybars Karacaovali and Nuno Limão, “The Clash of Liberalizations: Preferential vs. Multilateral Trade Liberalization in the European Union,” *Journal of International Economics* 74, no. 2, 2008, pp. 299–327. Building block evidence that Latin American free trade areas led to additional unilateral liberalization during the 1990s is provided by Antoni Esteveordal, Caroline Freund, and Emanuel Ornelas, “Does Regionalism Affect Trade Liberalization toward Nonmembers?” *Quarterly Journal of Economics* 123, no. 4, 2008, pp. 1532–1575. Surveys of the economic literature include Caroline Freund and Emanuel Ornelas, “Regional trade agreements,” *Annual Review of Economics* 2, no. 1, 2010, pp. 139–166; Nuno Limão, “Preferential Trade Agreements,” in Kyle Bagwell and Robert W. Staiger, eds., *The Handbook of Commercial Policy* (Netherlands: Elsevier, forthcoming).
13. A more complete articulation of these concerns can be found in Kyle Bagwell, Chad P. Bown, and Robert W. Staiger, “Is the WTO Passé?” *Journal of Economic Literature*, forthcoming. See also Kyle Bagwell and Robert W. Staiger, “Will International Rules on Subsidies Disrupt the World Trading System?” *American Economic Review* 96, no. 3, 2006, pp. 877–895, which suggests that current WTO rules limiting subsidies in particular may be excessively stringent.
14. Consider, for example, the difficulty confronting TTIP negotiations of incompatible automobile safety standards imposed by two arguably high-standard economies. See Caroline Freund and Sarah Oliver, “Gains From Harmonizing U.S. and EU Auto Regulations under the Transatlantic Trade and Investment Partnership,” PIIE Policy Brief 15-10, June 2015. The United States demands standards to protect passengers, due to the incidence of high-speed collisions. On the other hand, the EU puts a premium on protecting pedestrians due to the incidence of city-based collisions. See National Public Radio, “Why Cars From Europe and the U.S. Just Can’t Get Along,” Planet Money, Episode 533, April 18, 2014. It may simply be impossible technologically to design one standard to meet the equally important local conditions specific to each market.
15. One open research question is again motivated by Brexit, and whether certain elements of the EU arrangement led to sufficiently large regulatory inefficiencies for the UK relative to its preferences so as to contribute to the June 2016 referendum vote to leave the RTA.
16. The WTO announced on April 16, 2016, “WTO members revived this week long-standing talks to deepen the WTO’s scrutiny of RTAs in line with instructions laid out by ministers last December. Provisions in the recent Nairobi Ministerial Declaration, said the new committee chair, could pave the way for a more constructive review of how these deals affect the wider multilateral trading system.” See WTO, “Members Renew Attempts to Deepen WTO Scrutiny of Regional Trade Agreements,” April 8, 2016, https://www.wto.org/english/news_e/news16_e/rta_08apr16_e.htm.
17. For the WTO Regional Trade Agreements Information System, see <http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx>. For the WTO Database on Preferential Trade Arrangements, see <http://ptadb.wto.org/default.aspx>. For the annual flagship, see WTO, *World Trade Report 2011: The WTO and Preferential Trade Agreements: From Co-Existence to Coherence* (Geneva: WTO, 2011). On the expansion of characterization of RTA provisions across more agreements, see Claude Chase, Alan Yanovich, Jo-Ann Crawford, and Pamela Ugaz, “Mapping of Dispute Settlement Mechanisms in Regional Trade Agreements: Innovative or Variations on a Theme?” WTO Staff Working Paper, No. ERSD-2013-07, 2013, which builds upon Horn, Mavroidis, and Sapir, “Beyond the WTO?”
18. See, for example, the list of formal GATT and WTO disputes presented in Bown, “Dispute Settlement, the Trans-Pacific Partnership, and the WTO,” Table 5.
19. While only one example, there is some evidence from antidumping use that, conditional on a country implementing new, import protection of some form, RTA members are more likely to increase their antidumping use on RTA outsiders relative to RTA insiders. See Thomas J. Prusa and Robert Teh, “Protection Reduction and Diversion: PTAs and the Incidence of Antidumping Disputes,” NBER Working Paper No. 16276, August 2010. Discriminatory policy application may also arise via the imposition of a safeguard that can discriminate between RTA insiders and outsiders. For examples, see Chad P. Bown, Baybars Karacaovali, and Patricia Tovar, “What Do We Know About Preferential Trade Agreements and Temporary Trade Barriers?” in Andreas Dür and Manfred Elsig, eds., *Trade Cooperation: The Purpose, Design and Effects of Preferential Trade Agreements* (Cambridge, UK: Cambridge University Press, 2015), pp. 433–462.
20. The only multilateral agreement negotiated since the establishment of the WTO has been the Trade Facilitation Agreement (TFA), which was concluded in Bali in 2013. As of the time of writing, the TFA is still awaiting ratification from a sufficient share of the WTO membership to enter into force.
21. The WTO period did continue with two plurilateral agreements, which had first been negotiated before the Uruguay Round. One plurilateral agreement that has continued under the WTO is the government procurement agreement, which was recently updated. Another example is the Civil Aircraft Agreement. The plurilateral Bovine Meat and Dairy Agreements were terminated in 1997.
22. This is Article II.3 of the agreement establishing the WTO. For a discussion, see Bernard Hoekman and Petros C. Mavroidis, “Embracing Diversity: Plurilateral Agreements and the Trading System,” *World Trade Review* 14, no. 1, 2015, pp. 101–116; Bernard

Hoekman and Petros C. Mavroidis, "WTO 'À la Carte' or 'Menu du Jour'? Assessing the Case for More Plurilateral Agreements," *European Journal of International Law* 26, no. 2, 2015, pp. 319–343.

23. Indeed, plurilateral agreements under the WTO are not a new idea. As soon as the Cancún Ministerial breakdown in 2003, when it became clear that the initial 2001 Doha agenda might leave countries at a long-run impasse, analysts began increasing calls for consideration of a "variable geometry" or "club of clubs" approach to keep the WTO system relevant in the new issues that were not under consideration of the Doha agenda. See, for example, the discussions in Robert Lawrence, "Rulemaking Amidst Growing Diversity: A 'Club of Clubs' Approach to WTO Reform and New Issue Selection," *Journal of International Economic Law* 9, no. 4, 2006, pp. 823–35; Philip I. Levy, "Do We Need an Undertaker for the Single Undertaking? Angles of Variable Geometry," in Simon Evenett and Bernard Hoekman, eds., *Economic Development and Multilateral Trade Cooperation* (London: Palgrave Macmillan, 2006), pp. 417–437.

24. For a discussion, see Chad P. Bown, "The WTO Secretariat and the Role of Economics in DSU Panels and Arbitrations," in Chad P. Bown and Joost Pauwelyn, eds., *The Law, Economics and Politics of Retaliation in WTO Dispute Settlement* (Cambridge, UK: Cambridge University Press, 2010), pp. 391–433.

25. For a discussion, see Chad P. Bown, "Introduction," in Chad P. Bown, ed., *The Great Recession and Import Protection: The Role of Temporary Trade Barriers* (London, UK: CEPR and World Bank, 2011), 1–51; Daniel Drezner, *The System Worked: How the World Stopped Another Great Depression* (Oxford, UK: Oxford University Press, 2014).

New Multilateral Development Banks: Opportunities and Challenges for Global Governance

Hongying Wang

The relationships between regional and global institutions and among regional institutions are important and controversial in global governance. In the 1990s, with the deepening of European integration, the creation of the North American Free Trade Area, and various regional cooperation initiatives in the Asia-Pacific region, scholars and policymakers wondered if these regional blocs would fragment the global governance framework. Today, regional and other types of sub-global schemes are on the rise again.

In development cooperation, there is one global institution—the World Bank Group (WBG), consisting of several lending arms—and many regional institutions. In fact, there are over 250 multilateral development agencies, including more than twenty multilateral development banks (MDBs).¹ In the past, the relationship among different MDBs was discussed by various groups from time to time, but the salience of this issue has grown exponentially in the last two years following the creation of two new MDBs—the New Development Bank (NDB) and the Asian Infrastructure Investment Bank (AIIB). The NDB is a joint venture among the BRICS countries (Brazil, Russia, India, China, and South Africa), which seeks to support infrastructure and sustainable development in the developing countries. The AIIB, initiated by China and jointly founded by fifty-seven member countries from Asia and elsewhere, focuses on mobilizing resources to invest in infrastructure in Asia. While some observers see the new MDBs as new sources of financing and potentially better models of development cooperation, others are worried that they may undermine the WBG and traditional regional MDBs.

It is too early to know how the NDB and the AIIB affect the existing global framework of multilateral development financing because both are new institutions. However, the two banks have created their basic structures and rules, prepared the ground for their first investment projects, and interacted with other actors in international development financing. These early signs provide the basis of a preliminary assessment of the likely impact of these new institutions.

THE NEW REGIONAL LANDSCAPE OF MULTILATERAL DEVELOPMENT BANKS

MDBs are international institutions that provide financial support and professional advice for economic and social development in developing countries. Toward the end of World War II, allied countries gathered at Bretton Woods to create a new international financial order. As a pillar of the new system, the International Bank of Reconstruction and Development (IBRD) was created to help Europe rebuild after World War II. Later, IBRD shifted its focus to developing countries. Today, owned by 188 member countries and as a member of the WBG, IBRD provides loans and other development

assistance primarily to middle-income countries. Since the creation of IBRD, more MDBs have emerged, roughly in three waves.

The first wave happened during the era of decolonization from the mid-1950s to the mid-1970s. The International Finance Corporation (IFC) was created in 1956 to partner with and mobilize private sector investments for development. As a member of the WBG, IFC offers debt and equity financing services to private businesses and projects in developing countries. The International Development Association (IDA) was established in 1960 to complement IBRD in the WBG. It aims to help the world's poorest countries by making grants or concessional loans (long-term loans with low or no interest). While IDA provides development assistance on concessional terms, largely financed by the governments of member countries, both IBRD and IFC are self-sustaining and raise most of their funds in private financial markets.

Outside the WBG, a number of regional development banks were established in this era, including the Inter-American Development Bank (IDB), the African Development Bank (AfDB), the Asian Development Bank (ADB), the Andean Development Corporation (CAF), and the Islamic Development Bank (IsDB). Most of the major regional MDBs, such as IADB, AfDB, and ADB, are quite similar to IBRD in their governance and operations; however, CAF and IsDB have some unconventional characteristics. In contrast to traditional MDBs typically dominated by Western donor countries, CAF is primarily owned and controlled by borrower countries in Latin America and the Caribbean. Unlike most other MDBs, it accepts deposits and obtains loans and credit lines from central banks, commercial banks, and export credit agencies if they are related to projects financed by CAF. Similarly, IsDB consists of non-Western countries—all members of the Organization of Islamic Cooperation—and it takes deposits as a way to mobilize financial resources. Moreover, IsDB aims to assist Islamic communities according to sharia.

A second wave of MDBs took place from the early 1990s to the early 2000s in response to developments in Europe. The European Bank of Reconstruction and Development (EBRD) came into being in 1991, following the collapse of the communist regimes in central and eastern Europe. Established to help promote market-oriented economies in those countries, EBRD is unique among development banks in its political mandate of only assisting countries that are multiparty democracies. Another European institution, the European Investment Bank (EIB), created in 1958 under the Treaty of Rome, expanded in 2000 to become the EIB Group. As a long-term lending institution designed to facilitate European integration, the EIB focuses on Europe but also makes a portion of its investment outside the region, prioritizing infrastructure, sustainable development, and private sector development.

The creation of the NDB and the AIIB represents the third and latest wave of MDBs. These new banks have arisen at a time of power shift in the international system from industrialized countries to emerging economies. Since 2000, the BRICS countries' share of world gross domestic product has grown from 8 percent to 22 percent, while the Group of Seven's share has declined from 65 percent to 45 percent. Unlike most traditional MDBs, the NDB and the AIIB are led by the emerging economies, with China playing a particularly prominent role.

To assess the benefits and risks posed by the NDB and the AIIB for the existing institutions and framework of multilateral development financing, it is important to understand what has brought them into being and how much financing they will likely provide for the foreseeable future.

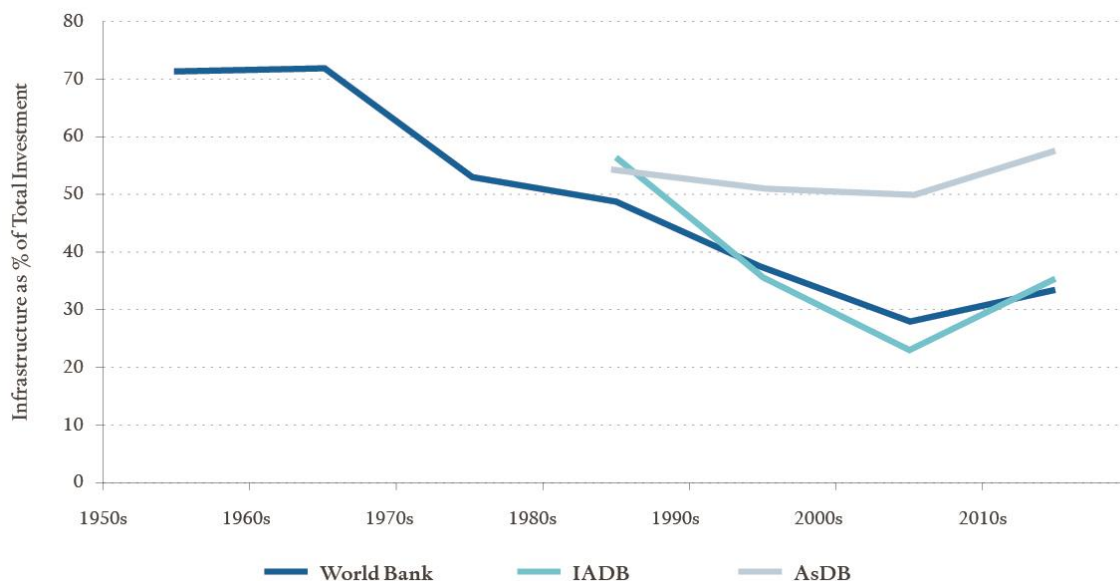
The NDB and the AIIB: Motivations and Scale

The official rationale for creating the NDB and the AIIB points to the urgent need of infrastructure investment in the developing world. There is a strong consensus among international development institutions that infrastructure is vital for developing countries to realize their growth potential. It is also widely recognized that investment in infrastructure tends to be undersupplied in the marketplace because of its long-term nature and high risks. A commonly cited study estimates the gap between the current spending and the necessary investment to range from nearly \$1 trillion to \$1.5 trillion a year.²

Compared with other types of infrastructure investors, such as private investors and national development banks, MDBs have several advantages. First, because these banks—backed by sovereign governments—have high credit ratings, they can raise capital relatively cheaply in the marketplace. Therefore, they are able to extend loans on attractive terms. Second, unlike many private investors, these banks can afford to make long-term investments. Third, MDBs tend to be equipped with strong technical capacities, years of experience, significant regional presence, and local knowledge, which enable them to better deal with the risks of infrastructure projects in different areas of the world, especially in developing countries.

In the early years, traditional MDBs prioritized infrastructure investment, but they moved away from this priority in the 1980s and 1990s. The World Bank used to direct 70 percent of its lending to infrastructure in the 1950s and 1960s, but by 1999, infrastructure financing had dwindled to 19 percent of its lending. The IADB made 70 percent of its lending to infrastructure projects in 1981, but that figure fell to 10 percent in 2003. The ADB's infrastructure investment declined less dramatically, but until the early 2000s, the trend was downward as well.³

Figure 1. Infrastructure Investments by MDBs, 1950–2013



Source: Chris Humphrey, "Developmental Revolution or Bretton Woods Revisited? The Prospects of the BRICS New Development Bank and the Asian Infrastructure Investment Bank," ODI Working Paper 418, p. 4, <http://odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/9615.pdf>.

Figure 1 shows these trends, as well as that within the last decade, investment in infrastructure by the largest traditional MDBs has bounced back to some degree. From 2004 to 2013, the eight largest MDBs spent a combined average of \$38 billion annually on infrastructure. While the World Bank has invested the most in absolute terms, that investment actually accounts for a small share of its total investment—about 30 percent, much lower than the 60 percent made by the EIB or the 52 percent of the ADB.⁴ In any case, the nearly \$40 billion current annual spending by the major MDBs on infrastructure is about 10 percent of the global spending on infrastructure.⁵ That is a tiny portion of the trillion-dollar-plus annual infrastructure financing gap. In this context, it is not surprising that the emerging economies have gotten together to launch new MDBs to meet their needs in this area.

Another factor underlying the creation of the NDB and the AIIB lies in the desire of emerging economies to reform the existing system of financial governance. Developing countries have long been critical of the World Bank and other traditional regional MDBs for underrepresenting them and for imposing the priorities and values of Western donor countries. With growing economic power, the emerging economies have sought to increase their voice at international financial institutions. In 2010, agreements were reached at both the IMF and the World Bank to shift votes from the developed to the developing countries, especially to emerging economies. However, the so-called voice reform was not implemented in a timely fashion. The World Bank recognizes that, despite previous rounds of reform, many countries are still significantly underweighted with respect to their economic size, including three BRICS countries—China, Brazil, and India.⁶ At the IMF, the reallocation of votes was held up by the United States until the end of 2015.

In the years leading up to the creation of the NDB and the AIIB, the emerging economies grew increasingly impatient with the slow pace of reform at international financial institutions. Take China for example: On the one hand, Chinese officials continued to call for these institutions to carry out their promise of greater inclusiveness and better representation of developing countries.⁷ On the other, they began to see alternative institutions as a way to apply “reverse pressure” (*daobi*) on these institutions to act.⁸ A central theme in the official and popular Chinese discourse about the new MDBs is their function in increasing the “right to speak” (*huayu quan*) for China and other developing countries at the global level.⁹

Besides filling the infrastructure gap and stimulating reform of the global financial system, the new MDBs have also been driven by the national interests of the emerging economies. Again, China provides the most obvious illustration. In recent years, China has made infrastructure development a priority of its investment overseas, pouring large sums of money into building power plants, railways, highways, ports, and airports in Africa, Asia, and Latin America.¹⁰ In 2013, the Chinese government unveiled its One Belt, One Road (OBOR) initiative, aimed at building networks of connectivity to expand Chinese trade and investment overseas. A land-based Silk Road Economic Belt goes westward from China through Central Asia to Europe, while a Maritime Silk Road extends southward through the Indian Ocean to Africa before turning north to meet the land-based Silk Road. As a leader in the NDB and the AIIB, China can direct some of these institutions’ financial resources to its favorite projects. In fact, in June 2016, AIIB board of directors approved the bank’s first four projects, all of which are power, transportation, and urban development projects along the OBOR route.

The NDB and the AIIB can also be instruments for emerging economies to reduce their dependence on the U.S. dollar. Although both banks have used the U.S. dollar for their initial capitalization and their first loans, they plan to increase the use of local currencies over time. China, in particular, hopes to use both banks to expand and promote the internationalization of the renminbi. As of June 2016,

the NDB was set to issue its first renminbi-denominated bonds worth 3–5 billion yuan (or \$460–767 million). The bank expects to issue more bonds denominated in currencies of BRICS countries in the future.¹¹

The NDB and the AIIB are entering an already crowded area of global governance; their potential influence depends partly on their scale relative to the other MDBs. The NDB has \$50 billion in initial capital subscription, with 20 percent paid in and 80 percent callable. In early 2016, the BRICS countries paid up the first installment of \$750 million. The AIIB, with \$100 billion in authorized capital, also specifies that 20 percent will be paid-in capital and the rest callable.

Over time, the shareholder equity will likely grow as banks add the returns of their investments to reserves, but a more important source of lending for MDBs is borrowing from private capital markets. Backed by many sovereign governments, MDBs can typically borrow easily and cheaply, which enables them to lend on generous terms and still remain sustainable and even profitable. Just how easily and cheaply a bank can borrow depends critically on its credit rating.

The three dominant credit rating agencies—Moody's, Standard & Poor's, and Fitch—evaluate the creditworthiness of borrowers in international capital markets. As a recent study reveals, their methodologies tend to underestimate MDBs' financial strength and seem to be particularly unfavorable to MDBs not led by Western industrialized countries. MDBs made up mostly of borrower countries can hardly ever obtain an AAA rating from these agencies, regardless of their record of repayment.¹²

For the NDB, this could seriously limit its scale of operations in the initial years. Among the member countries, only China has an AA- rating, while all the others have ratings below or bordering investment grade. Thus, the NDB faces challenges in getting a high rating that would enable it to borrow low-cost capital in the international financial market. As noted above, the NDB has announced that its first bond issuance will be in China's onshore interbank bond market and will be denominated in the renminbi. This has been helped by the NDB's AAA rating by two Chinese credit rating firms: China Chengxin Credit Rating Group and China Lianhe Credit Rating.¹³

Compared with the NDB, the AIIB is in a more advantageous position in this regard. Its membership includes a large number of non-borrower, developed countries, which will help it obtain a good credit rating. In September 2015, AIIB President Jin Liqun asked the three aforementioned credit rating agencies to treat the bank fairly, indicating that he thought AIIB deserves an AAA rating.¹⁴ Like the NDB, the AIIB is also prepared to turn to China's capital market if borrowing from the international financial market becomes too costly. According to Jin, the bank could easily raise between \$20 billion and \$30 billion in China at favorable rates.¹⁵

A recent study examines a variety of scenarios for the growth of equity and potential loan portfolio of the two new banks. It predicts that the NDB's loan portfolio will grow slowly to about \$45–\$65 billion in the first ten years and that AIIB's loan portfolio will reach \$70–\$90 billion in that period.¹⁶ Table 1 compares these estimates with the estimates for the World Bank (represented by IBRD) and other major regional MDBs. For the foreseeable future, the investment capacity of the NDB and the AIIB will reach a level similar to that of ADB, surpassing CAF and AfDB but falling below the World Bank and even the IDB.

Table 1. Development Banks' Estimated Loan Portfolios in 2025 (in billions USD)

MDBs	Equity (2013)	Estimated Loan Portfolio (2025)
IBRD	42.7	219.2
IADB	22.6	120.4
ADB	17.1	73.1
AIIB	-	70–90
NDB	-	45–65
CAF	7.8	28.5
AfDB	8.9	28.2

Source: Based on and reconfigured from Chris Humphrey, “Developmental Revolution or Bretton Woods Revisited? The Prospects of the BRICS New Development Bank and the Asian Infrastructure Investment Bank,” ODI Working Paper 418, <http://odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/9615.pdf>.

POTENTIAL BENEFITS AND RISKS OF THE NEW MDBS

Compared with trade, where regional blocs can undermine an open global system, and monetary cooperation, where coordinated responses are required to deal with contagious financial crises, in the area of development financing regional and even subregional compartmentalization was not a major threat. For decades, the World Bank and various regional development institutions worked side by side and often collaborated on development strategies and projects. Cofinancing between the World Bank and other MDBs was an important part of their lending, serving as an instrument of aid coordination rather than a simple way to pool resources.¹⁷ There was no serious normative conflict among the different MDBs. In fact, most of the regional development banks are organized and governed in similar ways as the World Bank and subscribe to similar values and priorities of development assistance. They can be seen as “regional copies of the World Bank.”¹⁸

This is not to say that there was no debate over the relationship among different development banks, especially between the regional and the global development banks: coordination was a central concern. For instance, a report published by the World Bank in 1996 noted that if regional development banks, the World Bank, and other international financial institutions did not coordinate well with each other, “their combined presence could become wasteful and self-defeating, causing duplication and overlap, reducing effectiveness, and blunting responsiveness to country needs.”¹⁹ On the other hand, “a pre-determined division of labor among MDBs across all countries of operation could lead to rigidity and inertia, breeding, in turn, inefficiency and obsolescence.”²⁰

By the early 2000s, some critics argued that the juxtaposition of the World Bank and the regional development banks did not provide adequate value added. Three radical proposals emerged to optimize the MDB system. The first proposal was for different banks to seek wide-ranging harmonization and coordination, which was the position of most MDBs. Second, some of the banks would like to go their own way and develop niche functions. The third proposal would have the World Bank withdraw first from Asia and Latin America and later from Africa.²¹

In the last few years, regional development banks have gained more favorable attention. Advocates for a greater role for regional banks argue that they have advantages over the World Bank due to their local knowledge and networks, as well as their better representation of countries in the region. But even these supporters for enhancing regional MDBs are aware of the potential conflict among the MDBs and between them and the World Bank, calling for “regulated competition” and avoidance of too much duplication of services.²²

The controversy surrounding the establishment of the new MDBs, especially the AIIB, has been much more intense than any previous discussions about regional banks and their relationship with the World Bank. Moreover, the anxiety about these new banks has gone well beyond the development organizations, involving governments, pundits, and the public. Among the more memorable reactions was the comment by former U.S. Treasury Secretary Lawrence Summers in early April 2015, following the avalanche of countries applying to join the AIIB despite U.S. opposition: “This past month may be remembered as the moment the United States lost its role as the underwriter of the global economic system.”²³ Now that the NDB and the AIIB are officially established and have begun to operate, it is time to take a closer look at what benefits and risks they might bring to international cooperation on development.

Potential Benefits of the New MDBs

The most obvious benefit that the NDB and the AIIB can bring is additional investment in infrastructure development in the developing countries. As mentioned earlier, in recent decades, the World Bank has greatly reduced its investment in infrastructure, instead devoting more attention to poverty reduction, good governance, refugees, climate change, and other issues broadly defined as development. By mobilizing finance and expertise for infrastructure development, the NDB and the AIIB can complement the World Bank in supporting different dimensions of development. Indeed, this is the expressed intention of the two MDBs. According to the NDB’s articles of agreement, “The Bank shall mobilize resources for infrastructure and sustainable development projects in BRICS and other emerging economies and developing countries, complementing the existing efforts of multilateral and regional financial institutions for global growth and development.”²⁴ Likewise, the articles of agreement of the AIIB state that it “will complement the existing multilateral development banks, to promote sustained and stable growth in Asia.”²⁵

So far, there are signs that the new and traditional MDBs are cooperating well. Three of the four projects announced by the AIIB are jointly funded with the World Bank, ADB, the United Kingdom’s Department for International Development, and EBRD. Going forward, the new and old MDBs are likely to continue to work with one another in development financing. In May 2016, the AIIB and the ADB signed a memorandum of understanding regarding jointly financing sustainable development projects.²⁶ At the same time, the AIIB and the World Bank signed their first cofinancing framework agreement.²⁷

Another potential benefit of the new MDBs is that they bring a strong impetus for reform in multilateral development financing. By providing developing economies with credible alternatives of development financing, the new banks put pressure on the World Bank and older regional banks to reform their governance structure, investment priority, and operational rules. At the World Bank and major regional MDBs, wealthier members often have more decision power because they make greater financial contribution to the banks. In contrast, the NDB allocates its shares and votes equally among the five member countries. The equality among the member countries is also manifested in the composition of the board of governors, board of directors, and senior management. The egalitarian governance framework of the NDB gives the bank a democratic flavor that few other banks have. For the World Bank, this new model of governance serves as a reminder that to maintain its legitimacy in a rapidly changing world, where emerging economies are increasingly demanding to be heard and respected, business as usual could be unsustainable.

In addition, both the NDB and the AIIB aspire to be leaner and more efficient than the World Bank. Each has a nonresident board of directors that meets periodically during the year to make the necessary decisions. In comparison, the World Bank maintains a resident board of directors, which is said to cost \$70 million annually.²⁸ The NDB and the AIIB also promise to keep their staff small, in sharp contrast with the WBG, which has more than ten thousand employees in more than 120 offices around the world. NDB President K.V. Kamath has criticized traditional MDBs for being “too rigid, inflexible, and slow.”²⁹ With a smaller staff and a nonresident board, the NDB and the AIIB can potentially offer a more efficient model of operation than the World Bank, including faster approval of projects and less tension between the professional staff and the board of directors. This new model may stimulate change in the World Bank, pressuring it to cut costs and improve efficiency.

Finally, emerging economies’ plan to establish their own MDBs to support infrastructure development may well have played a role in reviving the World Bank’s interest in this area. In 2014, the World Bank launched a Global Infrastructure Facility (GIF). With an initial fund of \$100 million, the GIF seeks to coordinate the efforts of MDBs, private sector investors and financiers, and governments in infrastructure investment. It suggests that competition from the NDB and the AIIB can be beneficial to the developing countries by making the World Bank more responsive to their needs.

Potential Risks of the New MDBs

The main concern about the new MDBs expressed by international development organizations and the U.S. government is that these new institutions will play by rules different than those of the World Bank and other regional MDBs. If that is the case, these new banks may undermine the existing standards, goals, and values that traditional MDBs seek to promote.

Officials at the NDB and the AIIB have repeatedly proclaimed that they will follow commonly accepted rules of multilateral development financing. For instance, according to NDB Vice President Leslie Maasdorp, the new bank will “learn from the cumulative experiences and best practices developed over many decades by all the existing multilateral development banks.”³⁰ Likewise, Jin Liqun of the AIIB states that the bank “will strive to combine the many strengths of the existing multilateral development banks with best practice from the private and commercial sector,” and that it will adhere to the principles of transparency, openness, independence, and accountability.³¹

Indeed, the NDB and the AIIB have acted in this spirit in their initial institution-building. For instance, the NDB has staffed its senior management with people experienced in traditional international financial institutions: Kamath worked at ADB for several years, Vice President Paulo Nogueira Batista Jr. worked at the IMF, and Vice President Zhu Qian was until recently a vice president of the World Bank. Similarly, Jin's appointment as the head of the AIIB reassured international observers: he worked at the World Bank in the 1980s and served as a vice president of the ADB. They have also noted with approval the early hiring of Natalie Lichtenstein, a former assistant general counsel of the World Bank, and Stephen Lintner, a former senior advisor on quality assurance at the World Bank. Earlier this year, the AIIB appointed Joachim von Amsberg, a twenty-five-year veteran and vice president for development finance at the World Bank, as its vice president in charge of policy and strategy. In fact, it has been reported that the AIIB drafted its operations manual by revising the World Bank and ADB versions.³²

On the other hand, officials at the NDB and the AIIB have carefully pointed out that they are not going to abide by all the existing rules. In fact, following his statement about learning from existing banks' best practices, NDB's Maasdorp added, "Beyond drawing on best practices, the NDB will aim, in a modest way, to build what is described in our founding principles as 'next practices.'"³³ Commenting on the AIIB, China's Minister of Finance Lou Jiwei stated: "The multilateral development organizations such as the World Bank and the Asian Development Bank are under constant reform, a proof that there is only the 'good practice' instead of the so-called 'best practice.'"³⁴

First, the NDB and the AIIB reject the use of development financing as leverage to promote social and political change in borrowing countries. Commenting on the NDB, Lou said, "This bank will place greater emphasis on the needs of developing countries, have greater respect for developing countries' national situation, and more fully embody the values of developing countries."³⁵ Sources familiar with the AIIB have also indicated that the bank's lending will not come with conditions of privatization and deregulation, which used to be typical of MDB lending.³⁶ According to AIIB President Jin, the bank will choose its investment projects on the basis of financial costs and returns and risk assessments.³⁷

Second, the NDB and the AIIB seem to diverge from the World Bank and other traditional MDBs on safeguards when it comes to investing in infrastructure. Over the years, in response to protests and demands by numerous groups, the World Bank and other traditional MDBs have developed standards aimed at minimizing the harm of projects to vulnerable people and the environment. While both NDB and AIIB stress that they intend to follow high standards in social and environmental protection, there are signs that their approach to safeguards may be quite different from that of the World Bank. In September 2015, the AIIB publicized its first-draft Environmental and Social Framework. Many nongovernmental organizations (NGOs) inside and outside China are highly critical of its lack of details and enforcement mechanisms and the notably short and superficial consultation process.³⁸ The NDB has received even harsher criticisms in this regard: it has neither published the details of its environmental and social safeguards nor has it consulted various groups in the process of making these safeguards.³⁹ The leniency of the new MDBs toward infrastructure projects that may have negative social and environmental consequences could make them more attractive to some borrowers, who prioritize faster and lower-cost financing. This could undermine the ability of other MDBs, including the World Bank, to uphold their standards.

One example is the new MDBs' attitude toward financing coal-fired power plants. In 2013, the United Kingdom and the United States announced that they would oppose MDB financing of coal-fired power plants except in rare cases. Other developed countries have also moved in this direction in

an effort to fight climate change. Since these donor countries are important members of the World Bank and of many regional MDBs, their position has led to drastic reduction in those banks' lending to such projects. Data from the Natural Resources Defense Council indicates that MDB financing for coal-fired power plants dropped from \$12.2 billion between 2006 and 2010 to \$1.5 billion between 2011 and 2014.⁴⁰ When asked about AIIB's position on financing such power plants, its president suggested that the bank could consider doing so, arguing that in poor areas this may be the only viable way to get power and that access to electricity is a human rights issue.⁴¹ Some industry analysts believe that AIIB will boost the power sector in Asia, including coal-based power production.⁴²

Another potential risk of the new MDBs relates to China's outsize role in them. The NDB has an egalitarian governance structure, but the reality is that, with its economy and its foreign reserves larger than that of the other BRICS countries combined, China exerts enormous influence over the other members. In the AIIB, where voting rights are largely determined by economic power and financial contribution, China has 26.06 percent of the votes, with India and Russia following with 7.51 and 5.93 percent of the votes, respectively. China's share in the AIIB is much greater than the share of the United States in the World Bank, which stands at 16.65 percent. With both banks headquartered in China and issuing their first bonds in that country, Chinese supremacy in these institutions is inevitable.

With such dominance in the NDB and the AIIB, China is in a position to use these two MDBs to pursue its own foreign policy goals. As noted earlier, all four projects recently approved by the AIIB are along the route of China's ambitious OBOR initiative. If the selection of future projects follows this pattern, the new MDBs may end up serving China's ambitions more than the needs of other developing countries. As China expands its economic ties with neighboring countries and beyond, it is likely to gain greater political influence as a result.⁴³

Moreover, China's leadership role in the NDB and the AIIB will likely mean influence of the Chinese development model in their operations. For instance, China Development Bank (CDB) has been successful in financing various infrastructure projects in China and elsewhere in the world. The efficiency and financial returns of these projects have often come at the expense of the environment and society. A detailed report by the NGO Friends of the Earth reveals that CDB has financed various green initiatives of the Chinese government and the overseas expansion of Chinese companies in renewable energy. However, CDB is also a major financier of projects with environmentally and socially harmful consequences, particularly in the extractive industries and large-scale infrastructure. Its safeguards are insufficient to protect the environment and local communities. It also lacks transparent, sector-specific environmental and social policies and grievance mechanisms.⁴⁴

RECOMMENDATIONS

The emergence of the NDB and the AIIB bring both opportunities and challenges for international development institutions and for the United States. Wise policy choices will help maximize the benefits and minimize the risks.

Recommendations for International Development Institutions

Traditional MDBs have shown a welcoming attitude toward new MDBs. They have responded quickly and constructively to the cooperative gestures made by the NDB and the AIIB. Cooperation between

old and new MDBs is already happening through the flow of knowledge and personnel, as well as project cofinancing. The positive approach taken by international development institutions toward new MDBs has set the right tone for cooperation and sends the right signal to emerging economies. This should be continued and strengthened.

Beyond maintaining this general atmosphere, four areas stand out as particularly important for further cooperation. First, compared with the NDB and the AIIB, the World Bank has a much broader development agenda, ranging from poverty relief and good governance to fighting climate change and assisting refugees. Even though the World Bank has shown an increased interest in infrastructure development in the past few years, its lending in this area will be limited by its other missions. It is possible and desirable to develop a general form of division of labor among the different MDBs to avoid redundancy and to address competing development needs.

Second, as the World Bank and the new MDBs admit, their resources are insufficient to fill the global infrastructure investment gap. They need to use their limited capital to facilitate private investment in infrastructure development. The GIF, created by the World Bank, is designed to integrate the efforts of public and private actors in infrastructure investment, with private sector partners holding over \$12 trillion in assets under management. Having the NDB and the AIIB as formal or informal partners can make this platform a regular channel of coordination between these new MDBs and other investors.

Third, investing in infrastructure according to high social and environmental standards can be time-consuming and costly in the short term. In fact, a more relaxed set of standards may be a major reason the founders of the NDB and the AIIB feel confident they can build infrastructure faster and more cheaply than the World Bank and other MDBs. If the NDB and the AIIB adopt more lenient standards, this can pressure the World Bank to lower the standards it has developed over many years. Indeed, in the last few years, the World Bank has been reviewing its safeguard policies. When the first draft of the World Bank's new policy, "World Bank Environmental and Social Framework: Setting Standards for Sustainable Development," was published in July 2014, many development NGOs and even UN agencies criticized it for having lowered the bank's standards on the environment, labor, resettlement, and indigenous peoples.⁴⁵ To avoid "a race to the bottom" on social and environmental governance, international development institutions need to work together with new donors, including the new MDBs. By cofinancing projects with the NDB and the AIIB, the World Bank and other traditional MDBs can ensure their safeguards are applied to those projects, but they also need to agree on a set of common standards to which the old and new MDBs will adhere in their own operations. Such standards are likely to be a compromise that incorporates the concerns and values of the traditional MDBs and the emerging powers.

Fourth, the new MDBs and the World Bank, as well as other traditional MDBs, can cooperate in credit rating reform. The current credit rating system, dominated by the big three agencies, restrains the operations of the MDBs and adds unnecessary costs of borrowing for the new MDBs. This is an area where the NDB and the AIIB have serious concerns. There have been talks about creating a BRICS credit rating agency. Meanwhile, the World Bank and other traditional MDBs should also have an interest in reform in this area. Many of them have been conservative in their investments to avoid the risks of losing their good credit rating.⁴⁶ A more appropriate methodology of credit rating will allow many MDBs to expand their lending without significantly increasing shareholder capital. That will benefit many MDBs and development financing in general.

Recommendations for the U.S. Government

The U.S. government has taken a cautious approach to the new MDBs. After a failed attempt to prevent its allies from joining the China-led AIIB in spring 2015, the United States has moderated its rhetoric but it remains outside the bank, along with Canada and Japan. This policy has not been productive in that it has not stopped the establishment of the AIIB, nor is it likely to change the direction of the bank. It is in the long-term interest of the United States to work with the new MDBs rather than against them. Although the Barack Obama administration is not in a position to officially join the AIIB under China's invitation, if only because U.S. Congress is unlikely to authorize the necessary capital commitment for bank membership, it is possible for the United States to develop a less formal affiliation with the bank, perhaps as an observer. This will enable the United States to have firsthand knowledge of the bank's operations and gain some direct influence on the bank.

The U.S. government should also encourage Canada and Japan to join the AIIB. On one hand, this gesture will help offset the effect of earlier U.S. effort to discourage its allies from joining the new bank and reestablish the United States as an open-minded and cooperative international actor. On the other, with new members—especially Japan, a major Asian economy—China's voting shares in the AIIB will be reduced. When the Japanese government debated whether to join the bank in April 2015, it estimated that Japan would account for 14.7 percent of the total voting shares if it did.⁴⁷ Currently, European countries plus Australia make up about 20 percent of the votes in the AIIB. If Japan becomes a member, the combined voting share of the developed countries will exceed that of China significantly. This will serve to counter China's powerful role in the bank.

Lastly, the U.S. government should take a more optimistic view of the new MDBs. The NDB and the AIIB have ushered in a third wave of MDBs at a time when traditional donors, such as the United States, are placing less emphasis on multilateral aid for fiscal and political reasons. This new dynamism in global public goods provision, brought about by the emerging economies, is encouraging. Moreover, while the United States is right to be concerned about the implications of China's rising influence in the world, China's activism in the NDB and the AIIB should not be its big worry. Rising powers acting under multilateralism are far less dangerous than those going their own way outside international institutions.

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International Human Rights Institutions: Competition and Complementarity

Erik Voeten

The relationship between global and regional human rights institutions is an issue distinct from trade, development lending, and finance. In the latter issue areas, there are strong global institutions in which the United States exerts great influence: the World Trade Organization (WTO), World Bank, and the International Monetary Fund. The dominance of those global institutions is being challenged by regional institutions that provide similar functions. This raises concerns about forum shopping, fragmentation, the formation of clubs, and the ability to deliver global public goods. Moreover, the United States worries that the new regional institutions in development and finance may weaken its influence.

By contrast, in human rights, the global regime is relatively weak. The United States is not a member of most judicialized regimes, such as the International Criminal Court (ICC), and the various optional protocols of global human rights treaties. Europe, the Americas, and more recently Africa have strong regional human rights courts that are unparalleled at the global level. The global United Nations Human Rights Council (UNHRC) is a political institution that has no regional counterpart and few tools to shape practices. U.S. influence is channeled mostly through institutions that do not have a specific human rights mandate, such as the UN General Assembly and the UN Security Council.

To understand complementarity and competition between global and regional arrangements in the human rights arena, four kinds of institutions need to be distinguished:

- *First, treaties and conventions that define rights, in which global institutions have traditionally played a focal role.* States can choose to ratify these treaties and conventions and grant their citizens domestic avenues for claiming their rights. Yet, the role of global institutions masks cross-regional and intra-regional variation in how exactly these rights should be interpreted. A centralized judicial institution to strengthen coordination is not a good approach to this issue.
- *Second, judicial and semi-judicial institutions that interpret and enforce rights commitments at the international level, created or strengthened especially in the 1990s.* These include the aforementioned regional courts and the semi-judicial UN bodies that are connected to the core global treaties. The United States is outside this judicialized part of the rights regime. Contentious politics about these institutions exist almost entirely at the regional and, especially, national levels. Competition and forum shopping rank low on the list of concerns about global and regional judicial institutions.
- *Third, the UNHRC, a global political human rights body that does not have a regional competitor.* Its main activities are peer review and votes to shame perceived offenders. The United States, after sitting out a term, has become increasingly active in this body.
- *Fourth, the human rights component of the decisions of international bodies—including the UN Security Council and the European Union (EU)—that have traditionally focused on other issue areas.* Preferential trade agreements (PTAs) among the EU, the United States, and less developed countries now routinely include human rights provisions.¹ This is an increasingly important component of international rights enforcement and an area where global and regional institutions sometimes

clash due to different interpretations of human rights. These institutions provide more opportunities for effectively addressing rights, but this requires interagency cooperation.

GLOBAL AND REGIONAL EFFORTS TO LEGALIZE HUMAN RIGHTS

The most famous human rights document, the 1948 Universal Declaration of Human Rights (UDHR), is a nonbinding convention. It was the product of negotiations among governments with incompatible ideologies. Some elements of the declaration look like they were taken directly from the U.S. Bill of Rights, but the declaration also reflects socialist ideas such as rights to social security, desirable work, trade union membership, rest and leisure, and an adequate living standard.

The definitions of rights in the declaration has fundamentally shaped legally binding global human rights conventions, such as the 1966 International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Especially in the 1990s, these core human rights treaties were supplemented with new conventions governing the rights of persons with disabilities, migrant workers, human trafficking victims and survivors, and indigenous peoples, among others. These treaties, conventions, and declarations create international legal obligations if states choose to ratify them.

In trade, PTAs often fill in gaps that are not regulated by the global regime.² Indeed, PTAs need to go beyond WTO commitments. The difficulties in reaching new global agreements—with unanimity rule—may well be responsible for the eruption of specialized regional or cross-regional trade agreements.³

By contrast, the menu of rights offered at the global level is much broader than what any regional institution or state can reasonably enforce.⁴ Regional organizations and states choose which rights they prefer to give more teeth. States can voluntarily ratify treaties, issue reservations, and choose to accept optional protocols that grant some interpretive and monitoring authority to a global body. Some of these elements are incorporated in trade agreements such as the WTO's government procurement agreement, but the whole human rights system is organized like this.

The rationale for this arrangement is that what matters is not reciprocal enforcement but the willingness of states to publicly commit to a set of rights norms.⁵ Ratification triggers national and international accountability mechanisms that may induce governments to alter their behavior. Governments may send more credible signals if they ratify costly treaties, such as optional protocols. The voluntary nature of human rights commitments is central to the way the system is supposed to work.

Customary international law (CIL) contains some human rights norms that all states need to abide by, regardless of whether they have ratified treaties; it is the “general and consistent practice of states followed by them from a sense of legal obligation.”⁶ Such norms can be influential when national and regional courts apply them or because they are otherwise institutionalized. For example, several customary norms of international humanitarian law are embedded in military manuals.

The lineage of the major regional human rights conventions is directly traceable to the UDHR and global treaties. The preamble of the 1953 European Convention on Human Rights (ECHR) acknowledges this heritage in its first sentence while also emphasizing the distinct European focus in interpretation and selection of rights.⁷ Similarly, the American Convention on Human Rights and the African Charter on Human and Peoples' Rights both cite the UDHR in their preambles and directly copy its sets of rights, while highlighting specific rights and interpretations in accordance with regional preferences. The Human Rights Declaration of the Association of Southeast Asian Nations (ASEAN) copies

most of its language from the ICCPR and the UDHR while emphasizing ASEAN values, which include strict adherence to noninterference in the domestic affairs of other states.⁸

The Universal Declaration and other global treaties have also shaped the way human rights are incorporated into national constitutions and laws.⁹ Some constitutions even absorb the entire UDHR.¹⁰ The incorporation of international human rights law can work in two ways.¹¹ In monist legal systems, a treaty automatically becomes part of domestic law when a government ratifies it. In dualist states, governments must adopt domestic legislation to translate their international legal obligations into national law. An example is the now controversial 1998 Human Rights Act in the United Kingdom (UK), which adopted the ECHR into British law. Many governments fail to take this step and ratify human rights treaties mostly as window dressing. Again, other states incorporate swaths of international human rights law into domestic law or even the constitution without meaningful mechanisms to enforce any of them. One extreme example is the North Korean constitution, which protects freedom of speech.

The coordinating role of global instruments like the UDHR masks deep disagreements over the interpretation of rights, hierarchies of rights, relative emphasis, and the extent to which international bodies should be interventionist in their pursuit to protect citizens from their governments. Lesbian, gay, bisexual, and transgender rights are considered integral to civil liberties in some countries, while consensual, same-gender sex is a crime deemed worthy of capital punishment in other countries. Near universal reverence for the UDHR should not be confused with acceptance of its contents or agreement on interpretation. The UDHR serves as a focal point around which expectations about linguistic definitions of rights converge, but there is enormous variation in enforcement and interpretation.

GLOBAL AND REGIONAL EFFORTS TO JUDICIALIZE HUMAN RIGHTS

Efforts to create international courts that interpret and enforce the rights created through global and regional treaties are old, but they really took off in the 1990s. The European Court of Human Rights (ECtHR) was created in 1959, but its caseload exploded in the 1990s: it issued 830 judgments before 1990 and has issued about fifty thousand since. The court expanded its membership, and Protocol XI, which was adopted in 1994 and went into force in 1998, made it easier for cases to reach the court. About eight hundred million residents of forty-seven Council of Europe (CoE) countries can directly apply to the ECtHR. Before, cases were filtered by a committee. The court now gets approximately sixty thousand applications a year, and it can order states to give individuals remedies, such as financial compensation or retrials, and demand general remedies, including new legislation that should prevent future abuses.

By contrast, applicants cannot directly bring their cases to the Inter-American Court of Human Rights (IACtHR). Instead, the Inter-American Commission on Human Rights first examines each individual petition. There are around two thousand individual petitions a year but only about a dozen or so judgments each year. Still, that is a considerable increase compared to the 1980s, when there were only a handful of cases each year.

The African Court on Human and Peoples' Rights only issued its first judgment on the merits in 2013 after being created in 2007. It operates on similar principles as the IACtHR and the old ECtHR. It is too soon to pass judgment on this court; it took the ECtHR four decades to develop into a full-time court.

Asia does not have a human rights court. The only regional human rights organization, the ASEAN Intergovernmental Commission on Human Rights (AICHR), is not a judicial or semi-judicial body. There is no regional law to enforce.

There is no comparable global human rights court. All the core global human rights treaties have a semi-judicial body that monitors implementation, most of which have been created since 1990. The individuals on these bodies are mostly lawyers, but they do not have the power to issue legally binding judgments. Typically, they offer advisory conclusions based on self-reporting by governments. This self-reporting can be a useful exercise, as it forces governments to systematically take stock of practices in a given issue area.¹² The perpetrators of human rights violations are frequently not central government actors but the police, judicial actors, or prison authorities.¹³ Sometimes governments are well aware of these issues and lack the desire and/or capacity to do anything. Yet, self-evaluation and recommendations from experts could improve practices on the margins, at least sometimes.¹⁴

Some treaties have optional protocols that go further, if governments ratify them. For example, the UN Human Rights Committee is a part-time, semi-judicial body that evaluates individual complaints that a government has violated the ICCPR. Governments must report on the steps they take to remedy a violation. Yet, the committee does not have enforcement capabilities; it does not form a competitor to the regional courts. Many of its most influential decisions concern liberal democracies that are not subject to a regional court.¹⁵

The 2006 Optional Protocol of the Convention Against Torture (CAT) allows rapporteurs to inspect facilities, including prisons, and report to the UN Committee Against Torture. The committee cannot issue legally binding judgments against states and does not consider individual complaints. The protocol was directly inspired by the European Committee for the Prevention of Torture, which had followed this model since 1987. This is an example of a regional model diffusing to the global level.

This system does not create consequential competition between global and regional bodies. Regional courts occasionally adopt judicial interpretations that are at odds with those of global bodies.¹⁶ There may be some forum shopping. For an individual, filing a complaint with a UN committee is usually not a good substitute for filing a claim with a regional court. But there could be instances in which it is difficult to get access to a regional court or global norms appear more receptive to a case than regional norms. An example is a recent case in front of the UN Human Rights Committee involving access to abortion in Peru.¹⁷

There can also be forum shopping in the context of interstate human rights disputes, which are somewhat rare but can be important especially in the aftermath of militarized conflict. For example, Georgia and Ukraine have filed cases against Russia in both the ECtHR and the International Court of Justice. Moreover, Ukraine has sought to involve the ICC to prosecute potential war crimes. These are cases about different legal issues, and the courts all offer different remedies (e.g., monetary compensation, imprisonment), but there is some overlap. Inarguably, competition between regional and global judicial institutions ranks high among the many problems facing the international human rights regime.

Politics around regional human rights courts are contentious. For example, there is serious possibility that the UK may exit the ECtHR regime over controversial rulings on prisoner voting rights, the extradition of suspected terrorists, and, more generally, an anti-European backlash that culminated in the Brexit referendum.¹⁸ In Latin America, several Caribbean states left the IACtHR after rulings on the death penalty and Venezuela's denouncement of the Inter-American Convention in 2013.¹⁹

There is also competition between national and international courts. Regional courts require applicants to exhaust domestic remedies, and so in most cases in which an international court finds a violation, the ruling is directly counter to a national court ruling. Most times, national courts accept ECtHR judgments.²⁰ But there are still problems with implementation, and the threat of noncompliance could influence ECtHR judgments.²¹ For example, the court's Grand Chamber reversed a unanimous chamber judgment on crucifixes in Italian classrooms after thirteen member states filed third-party objections to the initial ruling.²² Courts in Latin America frequently resist the IACtHR's interpretations.²³

Broad consensus on the language expressed in global human rights treaties masks enormous variation in beliefs on how these rights should be interpreted. This is also what makes a global human rights court so difficult to imagine. Variations in just what freedom of speech, freedom from torture, gender equality, privacy, and other abstract rights mean are enormous across societies. Moreover, repression and restrictions on freedom are central to the way many abusive governments maintain power. What one government may call repression another views as necessary to maintain security: common interpretations are not easily arrived at between, or even within, states.

INTERNATIONAL CRIMINAL LAW

International criminal law differs from human rights law in important respects. The role of an international criminal tribunal is to hold individuals, rather than states, accountable for war crimes and crimes against humanity. Efforts to judicialize international criminal law took off in the 1990s, with the creation of the International Criminal Tribunals for Rwanda and Yugoslavia, as well as the special tribunals for Cambodia and Sierra Leone. These are not regional courts but international efforts to provide justice in the aftermath of a specific conflict. The courts had to be created on a case-by-case basis by the UN Security Council. This led to multiple concerns—such as unequal resources for different conflicts, the possibility that political concerns could block exercises of justice, and the lack of a deterrent effect—among criminal justice advocates.

The issue of exactly how much control the UN Security Council should have was perhaps the biggest stumbling block in negotiations over the Rome Treaty that eventually created the ICC.²⁴ The ICC currently has three ways to get jurisdiction. First, a government can ask the ICC to investigate a situation, as in the Ugandan case. Second, the UN Security Council can refer a situation to the ICC that would normally fall under its jurisdiction. Examples are Sudan and Libya, which have not ratified the Rome Treaty. Third, the ICC's independent prosecutor can launch investigations into a situation in a member country. The investigation, in 2010, into Kenyan election violence that led to the indictment of President Uhuru Kenyatta is the most pertinent example.

The United States was especially concerned about the third route.²⁵ The United States feared that the prosecutor might face political pressure to investigate U.S. military personnel stationed abroad. Indeed, the United States pressured countries into signing bilateral agreements not to extradite U.S. military personnel to The Hague.²⁶ By contrast, the governments who pushed most for the ICC, the so-called like-minded countries, believed that a court beholden to power politics would lack credibility and legitimacy.

The UN Security Council can suspend certain ICC investigations, has granted blanket immunity to UN peacekeepers, and can instigate investigations. This still leaves the UN Security Council with substantial control over the ICC's jurisdiction even though three of its five permanent members have not ratified the Rome Treaty and have no intention to do so. The ICC also depends on the cooperation of

political actors in other ways, such as in apprehending indicted war criminals. For example, the United States sent troops to help find Ugandans indicted by the ICC. Clearly, the ICC operates in a world of power politics.²⁷

That said, the ICC has acted rather independently within these parameters. Even when the UN Security Council refers a situation, it does not control what the ICC does with its newfound authority. For example, Security Council member states probably did not foresee that the ICC would indict Sudanese President Omar al-Bashir.²⁸ As such, there is some competition among different global institutions.

There is no regional competitor for the ICC. A foundational principle is complementarity: the ICC is a court of last resort that only steps in if national authorities fail to hold fair trials.²⁹ Indeed, the potential for ICC's success depends greatly on its ability to spur national legal reforms.³⁰ In that sense, it also helps coordinate states on similar standards.

This does introduce some competitive elements. The ICC questioned the standards by which Muammar al-Qaddafi's son Saif was to be tried in Libya. Eventually the ICC relented, after receiving assurances about the fairness of the trial. The ICC prosecutor's initiative to investigate Colombia if it would not hold trials loomed over Colombian peace negotiations. Still, national-level enforcement is strongly preferred.

African countries have long expressed concern with the fact that all actual ICC prosecutions—are opposed to investigations—are targeted at Africans for crimes committed in Africa. Perhaps the question is why there should not be a regional court that would be immune from such allegations. One answer is that such a court would not be considered to be as credible as the ICC. Yet, the question of why judicialization in human rights law has primarily taken a regional form but a global form in criminal law has not yet been sufficiently answered in the academic literature.

THE UN HUMAN RIGHTS COUNCIL

The UNHRC is an intergovernmental body of forty-seven member states elected to three-year terms from the UN General Assembly. The UNHRC, as the UN Commission on Human Rights (UNCHR) before it, can vote to shame a country for failure to uphold international rights commitments. This process is inherently political. The actual rights records of countries matter but so do power politics and political ideology.³¹ China, Pakistan, and Saudi Arabia are somehow always able to escape scrutiny.

The most important innovation in the UNHRC over the much-maligned UNCHR, defunct since 2006, is the universal periodic review (UPR). The UPR is a peer-review process by which governments periodically comment on one another's rights records. Predictably, this process is also highly political: governments reserve the most severe criticisms for their foes and sometimes lavish praise on their political, military, and trade partners.³²

It is a mistake to evaluate the UNHRC as an impartial body that holds governments accountable: it is political by design. As the late UN High Commissioner for Human Rights Sergio Vieira de Mello put it: "Let's be frank. Most of the people in this room work for governments. That is politics. For some people in this room to accuse others of being political is a bit like fish criticizing one another for being wet."³³

If the activities of such an inherently political institution matter, it is because of their political nature rather than despite it. For example, a shaming vote by fellow governments reveals that a rights-violating country is unable to fend off criticism, which makes it vulnerable to withdrawals of multilateral aid.³⁴ While governments receive fewer criticisms from military, trade, or political partners in UPR reviews, when such critiques are made, they are much more likely to be accepted.³⁵ Moreover, governments that are elected to the UNHRC are more likely to keep their promises to ratify human rights treaties than governments that fail to get elected.³⁶ The political judgments of other governments are consequential. Nongovernmental organizations attend UNHRC meetings in Geneva not to find out whether Saudi Arabia violates rights but to see if, and how strongly, its main allies, including the United States, are willing to condemn it for doing so.

The UNHRC does not compete or even interact much with regional institutions. Reports or recommendations from the committees that monitor the various global human rights treaties sometimes inform the activities of the UNHRC. There are no regional political institutions whose prime objective is to shame countries for their failure to abide by human rights agreements, although general-purpose regional organizations sometimes do so in response to specific events. Perhaps regional peer-review exercises are too disruptive for diplomatic relations in a way that independent court judgments are not. One could also argue that shame may be more effective when it is doled out at the international level. Either way, there is no reason to expect regional competitors to the UNHRC.

HUMAN RIGHTS IN NON-HUMAN RIGHTS INSTITUTIONS

Perhaps the most important development in recent years is the degree to which human rights have penetrated institutions that were not traditionally concerned with rights. Human rights concerns now influence international cooperation on economic and security issues. The most obvious examples are UN General Assembly and Security Council resolutions on human rights, many of which are strongly pushed by the United States.

The advent of regional judicial institutions with the ability to perform rights review creates global-regional competition. Two recent decisions by the Court of Justice of the European Union (CJEU) are good examples. EU treaties did not traditionally incorporate rights; this changed with the incorporation of the Charter of Fundamental Rights into the Treaty of Lisbon in 2009. This, in turn, grants the CJEU the opportunity to evaluate whether EU or national laws are consistent with fundamental rights.

In *Kadi v. Commission*, the CJEU found that the EU's implementation of a binding UN Security Council resolution regarding terrorism financing violated the rights of EU citizens because there was no effective judicial review of Security Council decisions to freeze bank accounts.³⁷ The CJEU was careful to point out that it did not, and could not, overturn a Security Council resolution. Yet, the UN Security Council had to overhaul its practices for providing remedies to those who claimed their inclusion was in error. There is no judicial review of UN Security Council resolutions. In some way, a regional court exercised a rights-based review of the Security Council's semi-legislative activities.

In another judgment, the CJEU found that the Safe Harbor agreement, a major agreement between EU and the United States on internet governance, violates the privacy rights of European citizens.³⁸ The court expressed concern that data stored on U.S. servers could be subject to National Security Agency spying without the kind of judicial oversight guaranteed by the Fundamental Charter. The commercial implications are enormous, given that the business models of many U.S. firms depend heavily on the ability to transport data across borders. The United States and the EU may find a new

agreement that would meet with the CJEU's approval. The broader point is that international agreements involving the EU should consider the possibility of rights review by a regional court with legally binding authority.

In other institutional settings, the entrance of human rights has been fiercely resisted. Human rights are frequently inserted into PTAs, but the WTO's dispute settlement bodies have stayed shy of them. Some rulings have rights implications. For example, the China publications case cuts into censorship practices.³⁹ Still, the appellate body has resisted calls to directly apply human rights law, for example, to those norms that have become part of CIL.⁴⁰

Regional judicial bodies, however, have not been so restrained. For example, the Economic Community of West African States court was originally designed to resolve economic disputes but has essentially become a human rights court. There has been backlash in some places. For instance, the South African Development Community (SADC) Tribunal upheld suits by white farmers who challenged land seizures in Zimbabwe on a human rights basis.⁴¹ As a direct consequence, the tribunal saw its jurisdiction to review complaints from private litigants stripped by SADC's political body.

Similarly, in the 1990s, national courts in Western countries increasingly started to examine human rights violations committed elsewhere.⁴² This sometimes made national courts political actors that interfered with foreign policy. For example, Spain's courts indicted U.S. and Chinese government officials for alleged war crimes violations perpetrated outside Spain against non-Spanish citizens, under the theory of universal jurisdiction. Spain's legislature limited the ability of Spanish courts to do so, essentially shelving most international cases.⁴³ In the United States, individuals won civil claims against businesses for human rights violations committed abroad under the 1789 Alien Tort Statute, until the Supreme Court mostly shut down that route in 2013.

Rights review is decentralized. The extent to which and in what setting international acts should and can undergo rights review thus remains a politically and legally contentious issue, and one that is difficult to control.

CONCLUSION AND RECOMMENDATIONS

The international human rights regime is dysfunctional in many ways but competition between regional and global institutions does not rank high among the problems. This does not mean that the system is not fragmented. For example, although there is a great deal of agreement on the definition of rights, there is a lot of variation in the interpretation of what these rights mean.

This is not a problem that can or should be addressed by a centralized global judicial body. Indeed, it is not clear to what extent some fragmentation on interpretation is a problem. International human rights cooperation does not primarily regulate externalities from transnational interactions, although there is some of that (e.g., refugees). The regime attempts to influence how governments treat their residents. Obviously, the regime would do little good if governments interpreted their international legal obligations in ways that are opposite to the intentions of the treaties. Yet, small differences of interpretation are not problematic per se. The regime does not solve a coordination problem with highly intrusive centralization. Moreover, there would be no political support for this. Variation in interpretation reflects cultural and political differences among countries. Over-legalization and centralization at the global level could backfire.

Some critics argue that the global human rights system should focus on a few core rights that it can actually enforce.⁴⁴ The idea is: “Respect for human rights around the world would likely be stronger if human rights law had stuck to a narrower and more clearly defined group of rights.”⁴⁵

This is a fallacy: there is, if not more, just as much controversy over what anyone would place as core human rights as over the new “fancy” rights that get critics excited. It is unclear what the basis is for believing that if there were no treaty on disabilities, there would be less torture in the world. It is important to appreciate the strengths of the global system, its ability to set an agenda, its weaknesses, and its limited ability to enforce rights through legal actions. Regional institutions have advantages in this regard, given higher degrees of homogeneity and stronger interdependencies. But recent controversies have shown that these advantages should not be exaggerated. Europe, in the CoE definition, is a diverse place, but forging homogenous norms there is by no means easy. This should not discourage efforts, but it does illustrate the hurdles a strong legalized global institution would face.

Human rights treaties and institutions can nudge countries where governments already have some intention to reform, where civil society actors are making sufficient inroads that they can hold governments accountable, or where governments are highly susceptible to the outside influence of wealthy liberal democracies. The transition from communism in eastern Europe is an example where all three factors held and where international institutions, especially the EU and ECtHR, have done a great deal to improve rights.⁴⁶

The main principle underlying reforms is that rights institutions should be designed to help where they can matter most. This implies that there is an appropriate role for political control over judicial institutions. Allowing direct individual access to a regional court with great formal authority would accomplish little if national authorities were unwilling and had few incentives to accept the court’s judgments. International human rights institutions can nudge ongoing transitions, but they cannot function in a social and political vacuum.

The lack of centralization and the centrality of independent judicial institutions mean that the human rights regime is not always easily susceptible to design. For example, handing the CJEU the authority to perform *de facto* rights review is likely to have unforeseeable consequences, as does involving national courts. In that sense, human rights is not an easily controllable issue and will continue to invite a great deal of political controversy.

This sometimes frustrates the U.S. government, such as when the CJEU adopts a different view on privacy rights than what is common in the United States or when the ECtHR prohibits extradition of terrorism suspects to the United States for fear of torture. Of course, U.S. courts have long frustrated others in similar ways. There is quite little the United States can and should do to obstruct independent courts from performing rights review.

The United States is currently outside the main judicialized institutions and will have limited ability to reform them. Ratifying new human rights treaties seems an unlikely prospect after the defeat of the Convention on the Rights of Persons with Disabilities in the U.S. Senate. One sticking point for the United States has been the presence of semi-judicial bodies. For example, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) treaty was labeled the “anti-Mother’s Day treaty” by domestic activists in response to comments in the CEDAW Committee, and interpretations by the Committee on the Rights of the Child have similarly attracted the ire of conservatives.⁴⁷

The rise of populism in much of the Western world will make global interference and interpretations even more sensitive. For example, in the Netherlands, a letter by a UN official over a racist practice in a national holiday (“Black Pete”) caused great consternation and became a handy tool for populist mobilization. It eventually stirred a debate over the practice and seems to have led to some shifts. Controversy is not always bad, but it is not clear that UN human rights institutions are sufficiently robust to withstand more widespread backlash.

Globally, the United States should not overestimate shaming and coercion or underestimate technical assistance, the creation of model laws, self review, and other forms of cooperative endeavors. If the role of international institutions is largely to help and nudge willing governments along, then these types of activities are useful and relatively cheap to invest in. However, the United States should be aware of the limitations to communicating just with foreign ministries, which often have limited control over rights practices. Directly involving justice ministries and other agencies of the state might increase chance of success.

Additionally, the U.S. government should selectively use international institutions to put pressure on rights-abusing countries that are asymmetrically dependent on the United States, such as Myanmar and Sri Lanka. Institutions, especially economic ones, are also useful for the United States to reward countries willing to improve. It is one thing to lift sanctions and quite another to create PTAs or work to provide access to the WTO, which grants a country virtually irreversible access to U.S. markets and severely curtails the ability of the United States to impose sanctions for human rights violations. Obviously, such carrots should only be offered on condition of costly and indisputable rights improvements, including the creation of credible constraints on executive power—the most reliable institutional correlate of rights improvements.

The use of non-human rights institutions to advance rights faces a number of obstacles, including interagency cooperation and coordination. The U.S. Department of State’s Bureau of International Organization Affairs is the primary interlocutor for UN institutions but not for most economic institutions. There is clear resistance to letting rights issues dominate economic agendas; the inclusion of Vietnam in the Trans-Pacific Partnership (TPP) is a good example of this. Indeed, the pressures could go in the other direction. For example, the State Department’s 2015 Trafficking in Persons report was criticized for upgrading Malaysia, a prospective TPP partner, even though there was no evidence of progress.⁴⁸

Finally, interpretations of rights norms vary. Interpretation by a centralized judicial institution might lead to backlash, but interpretations are malleable. The United States can help develop or advance interpretations that become focal points or that even persuade others. Perhaps the most poignant example is the way international humanitarian law shapes the use of drones. There is still little transparency on this front, although there have been some noticeable improvements recently. Shaping rights interpretations is yet another domain for low-cost leadership by the United States.

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Global and Regional Peacekeepers

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Today, like most periods, is a time of crisis and potential flux in peace operations. At the United Nations, major high-level reviews have recently analyzed the state of peace operations, the roles of new technologies in peacekeeping, the global peacebuilding architecture, and the poor state of implementing the women, peace, and security agenda.¹ Debates about how best to implement their recommendations continue. The global-regional axis is not the only dimension along which such debates are playing out, but it is an important dimension, particularly in relation to Africa.

But UN-regional relations are complicated. The UN Charter does not define what it calls “regional arrangements,” and these organizations come in many different sizes and serve a wide variety of purposes, not all of which include conducting peace operations.² Moreover, even in the peace and security realm, there is no uncontested standard against which a regional organization should be measured. In sum, few generalizations about the world’s regional organizations hold.

When it comes to peace operations, there is not a uniform relationship between regional and UN organizations. In part, this stems from the huge variation across the world’s regional arrangements, many of which have little experience with peace operations and hence have not formed part of this debate. UN-regional relationships thus vary considerably, depending on the regional organization in question and the threat to international peace and security under consideration.

However, the UN Security Council remains the single most authoritative institution on issues of international peace and security across the globe, including peace operations. The United Nations has conducted more peacekeeping operations than any other party—seventy-two between 1948 and 2016—and has deployed, by far, the largest number of peacekeepers. This reflects the relatively high levels of legitimacy the United Nations can generate for its missions and the fact that the United Nations is one of the few international organizations that can sustain its operations in the field due to its effective, if not perfect, system of financial support.

The United Nations has never had a monopoly on peacekeeping. Between 1946 and 2016, for instance, thirteen regional organizations conducted sixty-five peace operations (see Appendix A).³ Not only has the United Nations’ primacy sometimes been challenged but it has also frequently relied upon partnerships with regional arrangements to maintain international peace and security and solidify its own legitimacy. Particularly, since the end of the Cold War, the flow of international norms relating to peace operations has not all been one way from the United Nations down to regional arrangements. Instead, some regions have played an important role in shaping the debate. For example, Western policies related to liberal market democracy and military doctrine have heavily influenced the shape of UN peace operations, although they have generated pushback in some parts of the world.⁴ On other occasions, as in Somalia and Sudan, the mantra of “African solutions for African problems” influenced the United Nations’ approach to peace operations, although in both cases, the results were far from successful.⁵

Today, the nature of peace operations remains hotly debated at the United Nations and across the world, with considerable attention on how best the United Nations can support regional operations, especially in Africa. The United States has occupied an important place in these debates. As the largest financial contributor to UN peace operations and a major supplier of training and equipment to regional forces, it is well-placed to influence constructive reforms at both global and regional levels.

THE NEW REGIONAL LANDSCAPE: SEVEN RECENT TRENDS

In discourses about peace operations, regionalization is commonly understood in both empirical and explicitly normative terms. Empirically, it denotes the increasing participation of regional organizations in peace operations. In normative terms, it refers to the idea that each region of the world “should be responsible for its own peacemaking and peacekeeping, with some financial and technical support from the West but few, if any, military or police contingents from outside the region.”⁶

As a shorthand descriptor for what is happening across the contemporary peacekeeping landscape, “regionalization” is misleading in several respects. First, regional organizations are not the only important actors in peace operations; the United Nations, coalitions, and states individually play significant roles as well. Moreover, when regional organizations deploy peace operations, such forces are usually a coalition of willing members within the organization, not all the members equally. Second, regionalization is occurring unevenly across regions. While some regions are willing and able to conduct peace operations, others have the will but lack the relevant capabilities; some dislike the idea of conducting military operations but are keen to undertake political and observer missions; still other regional organizations have no desire to perform collective peace operations of any sort; and some parts of the world have no significant regional arrangements at all. Third, not all regional arrangements confine their activities to their own region; for example, some Western regional organizations, such as the European Union (EU) and North Atlantic Treaty Organization (NATO), operate well beyond their own neighborhoods. These are the exceptions rather than the rule in the domain of regional peace operations.

To describe today’s peacekeeping landscape as simply increasing regionalization is therefore inaccurate. Rather, seven interrelated trends can be identified that amount to a more complex reality.

The United Nations remains the most important peacekeeper. The United Nations remains the dominant peacekeeper across most of the world’s regions and clearly the single most important peacekeeping actor. Since 1946, there have been seventy-two UN-led peace operations authorizing the deployment of over 415,000 uniformed personnel. Overall, the United Nations has a good track record of fulfilling its core peacekeeping tasks and has a financial system that can sustain its operations.⁷ The United Nations currently fields sixteen peacekeeping operations, as well as another two dozen or so special political missions that are usually managed by the UN Department of Political Affairs. These operations involve over 100,000 uniformed personnel, including troops, police, and military experts, and approximately 20,000 civilian staff. The United Nations, thus, currently deploys more soldiers and police personnel than any other actor in world politics. However, the United Nations has never exercised monopoly on conducting or authorizing peace operations, and its operations have often coexisted or explicitly interacted with peace operations led by other actors, including regional organizations.⁸ The United Nations has conducted more peace operations than regional organizations have in both Asia and the Middle East; in other regions of the world, it is matched by regional organizations

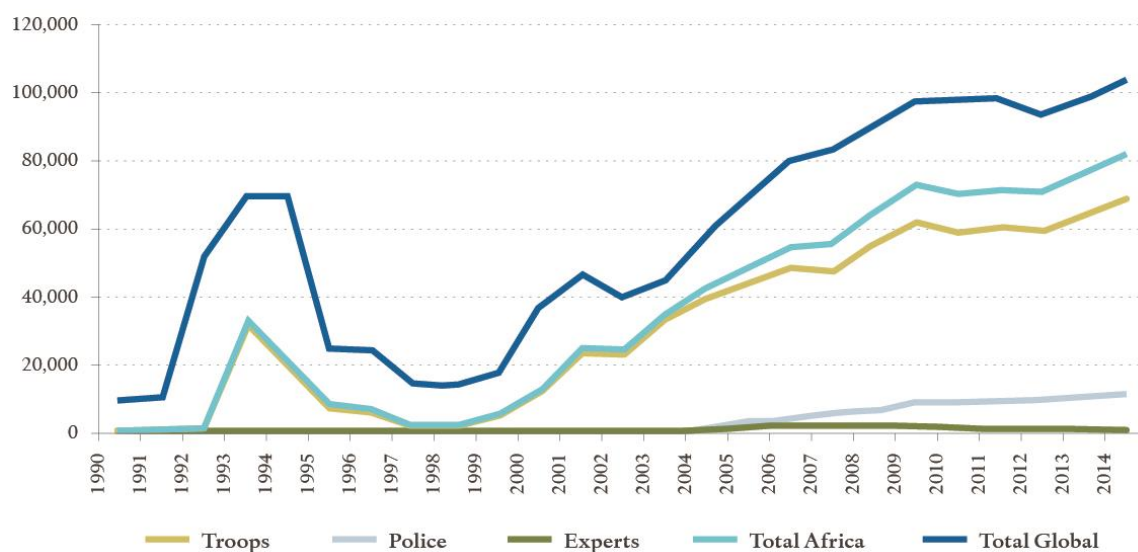
(see Figure 1). Since the end of the Cold War, most of the UN peacekeepers have been deployed in Africa, at some points reaching as much as 80 percent of the global total (see Figure 2).

Figure 1. Number of Regional and UN Peace Operations by Region, 1946–2016

	Africa	Americas	Asia	Caucasus	Europe	Middle East (Including Egypt)	Pacific
Regional missions	39	9	2	2	8	4	1
UN missions	33	7	10	1	10	11	0

Source: Compiled by author.

Figure 2. UN Uniformed Peacekeepers Worldwide and in Africa

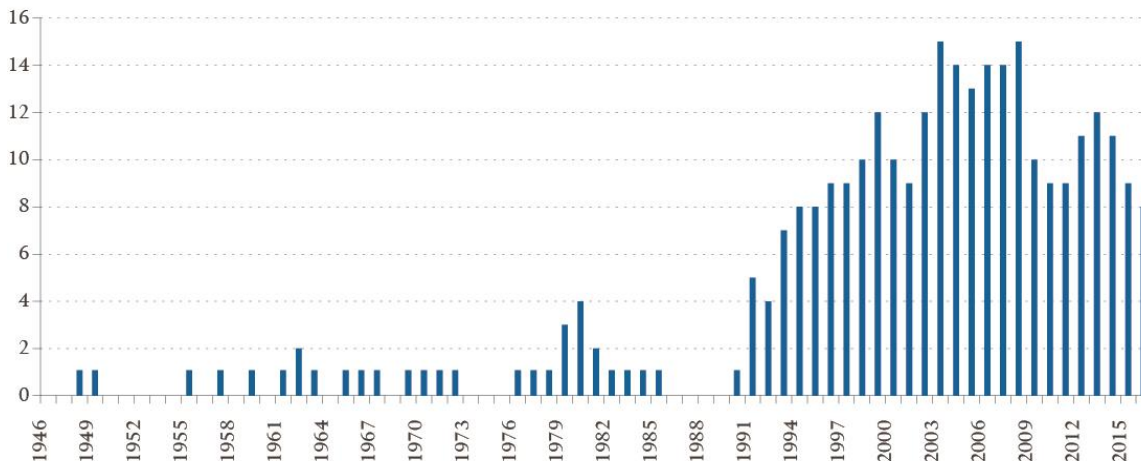


Source: Compiled by author from the IPI Peacekeeping Database.

More peace operations are being conducted by regional organizations, especially now by the African Union and EU. More regional arrangements are getting involved in peace operations and have conducted greater numbers of missions. This trend has become particularly pronounced since the end of the Cold War (see Figure 3). Of the sixty-five regional peace operations conducted since 1946, forty-eight—roughly 74 percent—took place after 1989. It is also notable that most of these post–Cold War missions were larger than their Cold War counterparts. Since the late 1990s, there have regularly been more than ten regional peace operations in any calendar year. During the twenty-first century, the African Union (AU) and EU have conducted far more peace operations than any other regional organization. The AU has dramatically altered the pace, tempo, and ambition of its predecessor—the Organization of African Unity (OAU), which conducted about a dozen small observer and monitoring operations but was neither willing nor able to conduct larger multidimensional operations. The EU’s peace operations stemmed from the organization’s attempts to develop a common foreign and security policy after the general impotence it faced when trying to respond to the wars of Yugoslav succession in

the 1990s. Notably, the EU's peace operations deploy out of area, which is rare for regional organizations, most of which focus their activities in their own neighborhoods.

Figure 3. Number of Regional Peace Operations Since 1946



Source: Compiled by author (See Appendix).

Not all regional arrangements conduct peace operations. The sixty-five operations listed in Appendix A were carried out by thirteen different regional organizations. This means that some regional organizations, including those involved in other conflict management activities, have chosen not to conduct peace operations.

The regional arrangements that participate in conflict management activities vary in their approaches across at least six dimensions: they see different types of conflicts as security challenges; they accord different levels of significance to conflict management initiatives; they differ in the relative emphasis they give to particular parts of the conflict management enterprise (e.g., prevention, mitigation, reconciliation, or postwar peacebuilding); they use different types of institutional frameworks for dealing with conflict issues; they vary in terms of the instruments and techniques they prefer to use as part of their conflict management repertoire; and the geographic scope of their activities is highly uneven, with most staying within their own region but a few operating out of area.⁹

Scholarly literature has offered four sets of explanations for this regional variation but has not come to a consensus on the relationship among them. The first set of explanations focuses on the exercise of political power, especially the roles played by internal and external hegemony.¹⁰ The second cluster emphasizes domestic factors, particularly the ways in which the political character of regimes can affect regional choices and domestic coalitions can shape regional preferences.¹¹ A third set of explanations points to ideational factors, particularly the ways in which regional approaches to conflict management are shaped by shared security cultures that predispose their members to certain actions and policies.¹² The fourth set revolves around collective capacity issues, since regional organizations can conduct conflict management initiatives only if they have relevant resources and capabilities.¹³ Hence, organizations populated by richer states with more developed power projection capabilities are more likely to be proactive in managing conflicts than poorer, less well-equipped states. For a regional organization to conduct peace operations, it needs to conceive of such activities as legitimate, persuade

some of its members to participate in particular crises, and develop the appropriate material capabilities.

The UN Security Council has used its authority more frequently to support regional peace operations. In recent years, it has become more likely that the UN Security Council will authorize regional peace operations. According to the list in the appendix, it was not until 1995 that the UN Security Council authorized a regional peace operation: NATO's force in Bosnia, the Implementation Force (IFOR).¹⁴ Since then, the UN Security Council has authorized just over 40 percent of regional peace operations. This suggests that in the post-Cold War era, regional organizations undertaking peace operations increasingly value the additional legitimacy—and sometimes legality—that comes with receiving authorization from the UN Security Council. Moreover, this means most of the peace operations conducted by regional organizations since the end of the Cold War have generally conformed with the rules of the UN system rather than tried to break or bypass them.

Debate over the principal purposes of peace operations continues, and some regional voices are crucial in this debate. The multifaceted mandates assigned to many contemporary peace operations have blurred the lines between activities traditionally kept distinct.¹⁵ Numerous contemporary peace operations, especially some of those conducted in Africa, have involved complicated mixtures of war fighting, stabilization, counterinsurgency, counterterrorism, atrocity prevention, state-building, and regime-consolidation tasks—particularly in the Central African Republic (CAR), the Democratic Republic of Congo (DRC), Mali, and Somalia, where the United Nations and AU have explicitly designated enemy groups. Most of these tasks far outstrip the principles and guidelines on which UN peacekeeping is currently based.¹⁶ Consequently, much debate has occurred concerning the need to clarify the limits of peace operations and how to distinguish them from other tasks. Not surprisingly, different regional organizations have adopted different approaches or philosophies on this issue. Arguably, the most important regional input of late has been the attempts by the AU to define the philosophy behind what it calls peace support operations, which are not seen as beholden to the established UN principles and guidelines for peacekeeping.¹⁷ Particularly with regard to the use of military force, the United Nations has generally remained rather conservative, whereas the AU has taken a more assertive position, including a willingness to forcibly make peace in active war zones by designating particular groups as enemies of the mission. Finally, it is worth noting that some regional organizations have developed counterterrorism and/or war fighting mechanisms rather than mechanisms to conduct peace operations per se (e.g., the Shanghai Cooperation Organization).

Africa remains the region with the most intense global-regional collaboration on peace operations. It is often forgotten that more than fifty new peace operations have been deployed across Africa since 2000. Moreover, more than half of all regional peace operations since 1946 have taken place in Africa. Since the end of the Cold War, the relative frequency of regional peace operations in Africa has become even more pronounced, with nearly 73 percent—thirty-five out of forty-eight—of all regional peace operations taking place on the continent. Indeed, it is striking that the last fifteen peace operations conducted by regional organizations, dating back to 2004, have all taken place in Africa. Africa has also been, by far, the site of most UN peacekeepers deployed after the Cold War.¹⁸

The UN-AU collaboration on peace and security has a long history dating back to at least 1965.¹⁹ The basis for such collaboration is mutual recognition of several important facts. First, over the last

decade, the majority of the UN Security Council's agenda has been occupied by peace and security challenges in Africa. Second, both institutions recognize that the UN Security Council has the primary—but not exclusive—responsibility for maintaining international peace and security, including in Africa.²⁰ Third, both institutions acknowledge that, alone, neither can cope with the multitude of peace and security challenges on the continent. Both institutions now also recognize that while the AU is an important source of political authority for conflict management in Africa, it lacks the necessary material and financial capabilities to take decisive action alone to resolve these problems, as was highlighted by the ongoing crisis in Mali.²¹ On the basis of these shared insights, pragmatic and context-specific forms of collaboration between the United Nations and AU have evolved as part of the creation of the new African Peace and Security Architecture (APSA).²² In 2006, the United Nations established a ten-year capacity-building program to assist in this endeavor. Individual members of the UN Security Council also helped develop the APSA through various mechanisms, most notably the U.S. Global Peace Operations Initiative and the EU's African Peace Facility, both of which started in 2004.

Several patterns have emerged on the continent: the number of peacekeepers, missions, and budgets has risen consistently; partnership peacekeeping has become the norm; and African states and the AU play increasingly important roles in various peace operations, both those conducted by the United Nations and regional organizations.²³

In Africa, partnership peacekeeping has become the norm, including between global and regional peacekeepers. Partnership peacekeeping involves collaboration among various multilateral and bilateral actors and institutions to deploy one or more peace operations in the same theater.²⁴ The most important and sustained partnership has been that between the United Nations and AU. However, the EU and several bilateral partners, notably France, the United States, and several other European states) have also played significant roles in fielding contemporary peace operations in Africa. Much of this work has been carried out under the framework of the APSA, of which the deployment of African-led peace operations is a central part.²⁵

The African context of partnership peacekeeping is further complicated by the existence of numerous so-called subregional organizations, usually now referred to as Africa's Regional Economic Communities (RECs).²⁶ While the UN Charter does not distinguish between a continental regional arrangement, such as the AU, and subcontinental regional organizations, such as the African RECs, their centrality to the APSA has, at times, complicated the United Nations' tasks related to some specific peace operations where the AU and relevant RECs do not always share the same policies. Officially, the relationship between the AU and RECs is supposed to be guided by the principles of subsidiarity, complementarity, and comparative advantage, but they have been defined in highly ambiguous terms and consequently often generate practical problems in implementing specific responses to particular crises in Africa.²⁷

In sum, the United Nations remains the largest provider of peace operations and peacekeepers, but regional organizations have become important actors since the end of the Cold War and, particularly, in the past decade. Regional organizations exhibit considerable diversity in their involvement in peace operations. The AU and EU are most active, but some organizations play no role in this sector. Consequently, the United Nations has developed innovative mechanisms to support regional peace operations. In the past decade, most peace operations and UN support have centered on Africa, where partnership peacekeeping has become the norm.

OPPORTUNITIES AND RISKS OF REGIONALIZATION IN PEACE OPERATIONS

Two fundamental characteristics of the UN system have encouraged regional organizations to undertake peace operations. First, Chapter VIII of the UN Charter encourages “regional arrangements” to be proactive in peacefully resolving conflicts that occur within their neighborhoods, but it forbids them from taking enforcement measures without authorization from the UN Security Council. Second, the United Nations’ lack of standing armed forces has meant that it often needs to delegate other actors to undertake peace operations on its behalf, especially those involving large-scale enforcement activities. The growing number of regional organizations conducting peace operations has thus provided the United Nations with an expanded set of options. But beyond these charter provisions, it is not always clear what practical support the United Nations should provide regional peace operations, and how. The UN Security Council’s inconsistent involvement in regional operations, especially in Africa, also confused the issue.²⁸

As a result, the United Nations developed ad hoc approaches to collaboration with regional organizations. The three most common are:

- *Parallel operations*, in which a UN and regional peace operation collaborate simultaneously in the same theater, for example, UN Interim Administration Mission and Kosovo Force (KFOR) in Kosovo, UN Multidimensional Integrated Stabilization Mission and the European Union Force RCA (EUFOR RCA) in CAR.
- *Sequential operations*, in which UN and regional peace operations deploy in sequence, usually in a regional-to-UN transition, such as the African-led International Support Mission to Mali (AFISMA) to the UN Multidimensional Integrated Stabilization Mission in Mali, but less frequently in a UN-to-regional transition, such as UN Protection Force to IFOR in Bosnia.
- *Support packages*, in which the United Nations provides various forms of support, usually logistical and financial, to a regional peace operation, such as the heavy and light support packages to the AU Mission in Sudan and the UN Support Office for the AU Mission in Somalia (AMISOM).

Overall, these models of partnership have worked reasonably well inasmuch as they facilitated flexible and pragmatic responses to various crisis zones. Nevertheless, they also revealed weaknesses and limitations.

Potential Advantages of Regional Peacekeepers²⁹

In 1992, UN Secretary-General Boutros Boutros-Ghali argued that “in this new era of opportunity, regional arrangements or agencies can render great service if their activities are undertaken in a manner consistent with the purposes and principles of the charter, and if their relationship with the United Nations, and particularly the Security Council, is governed by Chapter VIII.”³⁰

In some conflicts, regional organizations can provide enhanced legitimacy and sensitivity borne of a greater working knowledge of the relevant circumstances. Moreover, their geographical proximity allows regional actors to deploy and supply peacekeepers relatively quickly. In the extreme case of the former Soviet Union, the Russian troops that became part of the Commonwealth of Independent States (CIS) peace operation in Abkhazia, Georgia, were already present in the country because they had not withdrawn from the Soviet garrisons. In Somalia, after 2007, for instance, AMISOM struggled to field sufficient forces until the neighboring states were called upon to deploy troops. In CAR and

Mali in 2013, AU peace operations consisting primarily of states from the subregion deployed before the UN missions took over.

Another potential benefit is that regional organizations can bring additional resources to peace operations beyond those available from the United Nations. Indeed, in some cases, regional peace operations may be the only realistic option in conflicts where the United Nations has declined to deploy peacekeepers. In this sense, regional arrangements can help fill some of the gaps in international conflict management left by the UN Security Council's selective approach. For example, African organizations responded with peace operations where the United Nations had declined in several post-Cold War cases, including Burundi, Congo-Brazzaville, and Liberia in the 1990s, and in Burundi, Guinea-Bissau, and Somalia in the twenty-first century. Regional organizations can also bring additional capabilities. The EU, for instance, has provided approximately €2 billion to African peace operations since 2004 through its African Peace Facility. Similarly, NATO has sometimes been crucial in conducting airstrikes (e.g., in Bosnia) and more commonly in providing strategic lift capabilities to deploy African peacekeepers in a variety of theaters, including Darfur and Somalia.

In some instances, parties to a conflict may prefer the involvement of regional actors rather than the United Nations or other external bodies, hence the frequent calls for Arab, African, or Asian solutions to regional problems.³¹ This argument about regional legitimacy “relies on the notion that the people and governments in a region have a natural affinity with those in that geographic area and an inherent suspicion of what they perceive as outside intervention.”³² This has certainly been the case in a variety of conflicts, such as those in Darfur, where for four years Sudan would only permit African, and not UN, peacekeepers, and in the Caucasus, where Russia was ready to utilize CIS peace operations but was much more loathe to support UN missions.

Another argument suggests that the region's proximity to the crisis in question means that its members have to live with the consequences of unresolved conflicts. As a result, regional arrangements are unable to disentangle themselves from an issue and hence may be more likely to sustain long-term peacekeeping operations. The experiences of the EU and NATO in Bosnia and the AU's experiences in Somalia, for example, support this argument.

Potential Disadvantages of Regional Peacekeepers

Regional organizations suffer from many of the same constraints and problems faced by UN peace operations as well as other distinct disadvantages. Geographic proximity to a conflict does not automatically generate a regional consensus on how to respond. As Paul Diehl has pointed out, although “one might expect regional organizations to have an advantage over the United Nations because their membership is more homogenous,” in fact, the “most common threats to regional peace—internal threats—are exactly those least likely to generate consensus.”³³ Immediate neighbors often have different views on how a local conflict should be resolved, which often has repercussions for the deployment of any peace operation. This might encourage a tendency for forum shopping, where great powers or powerful local actors seek more pliable peacekeepers. Russia's preference to support CIS rather than UN peacekeepers in the Caucasus or Sudan's demand, reiterated in Security Council resolution 1769, that any peacekeeping force in Darfur must retain its “predominantly African character,” are examples.

A related point is that regional organizations can be particularly susceptible to the pull of partisan interests, especially those associated with a regional hegemon such as Nigeria in the Economic Community of West African States (ECOWAS), Russia in the CIS, and arguably the United States in NATO. Because of the inability of regional organizations to act against their most powerful members, regional peace operations “are unlikely to be authorized in conflicts that directly involve the global powers or regional powers.”³⁴ Instead, local hegemons have often used regional arrangements to legitimize their activities in conflicts that are relevant to them rather than those going on inside their borders. This kind of manipulation was clearly evident in the Nigerian-led ECOWAS operations in Liberia (1990) and Sierra Leone (1997), the Russian-led CIS operations in Georgia (1994), and the Australian-led Pacific Islands Forum (PIF) operation in the Solomon Islands (2003).

Compared to the United Nations, regional organizations lack considerable experience in conducting peace operations.³⁵ Even the AU and EU, the busiest regional organizations, have undertaken only a small fraction of the operations conducted by the United Nations. In this sense, like the United Nations, these organizations have had to learn the techniques of peacekeeping as they go. In some cases, the regional organizations in question, such as NATO and the PIF, have also lacked provisions to undertake peace operations in their respective charters.

As Marrack Goulding observed, another weakness is that regional organizations, with the possible exceptions of NATO and EU, tend to operate with relatively small bureaucracies and budgets and lack the administrative, logistical, and command structures necessary to manage large-scale military operations.³⁶ The problem is, as Diehl has noted, that “merely having the authority to carry out a conflict management activity is not enough if the organization lacks the requisite resources [financial, political, and military] to take effective action.”³⁷ This can be particularly problematic given that deploying a poorly equipped and funded peace operation can generate various problems in the area concerned. Indeed, it is notable that a serious deficiency of mission support structures has been identified as one of the major failings of the African Peace and Security Architecture and, consequently, the AU’s peace operations.³⁸ In this sense, it is important to remember that the United Nations’ assessed budget for peacekeeping is one of the most sustainable forms of financial support for peace operations and is certainly far better than most regional alternatives. There is also the issue of peacekeeping standards in terms of training and equipment that the United Nations has developed but which are still lacking in many regional organizations.

Another problem stems from the uneven levels and types of regionalization evident around the globe. In particular, some parts of the world, including areas of intense confrontation such as across the Middle East and Central and South Asia, have no regional organizations capable of conducting significant peace operations. Attempting to subcontract the United Nations’ responsibilities to the regional level could have disastrous effects. As the former head of the UN Department of Peacekeeping Operations, Jean-Marie Guéhenno, warned, regionalization can encourage an “only in my backyard” approach that spells trouble for regions that lack the necessary capacities.³⁹

Finally, although the UN Security Council faces several significant problems, no other organization can consistently generate as much international legitimacy for its missions as the United Nations. This is why a growing number of regional peace operations seek authorization from the Security Council.⁴⁰ As then UN Secretary-General Boutros-Ghali concluded in 1995, if regionalization threatened to weaken the internationalist basis of the United Nations, it should be treated as a “dangerous” idea.⁴¹

RECOMMENDATIONS AND CONCLUSION

With different international organizations likely to maintain distinct approaches to peace operations and comparative advantages, the policy challenge is how to ensure the best international division of labor that can deliver effective peace operations in particular crises. Pursuing the following steps would help:

- *Clarify the limits of UN peace operations.* It will be increasingly difficult to build political consensus around and provide practical support to peace operations if they mean different things to different organizations. The UN Security Council and the Special Committee on Peacekeeping Operations should, therefore, urgently clarify the limits and principal purposes of UN-led peace operations. Specifically, these bodies should clarify the meaning of stabilization operations in the context of UN peacekeeping and the role of UN peacekeepers in counterinsurgency campaigns or counterterrorism. Training regimes and force requirements for operations should be developed in line with these definitions.
- *Develop a new and improved strategic partnership between the United Nations and AU.* The UN Security Council and AU need to clarify the nature of their strategic partnership following the end of the United Nations' ten-year capacity-building program for the AU in 2016. In the peace and security realm, this will involve developing new terms and institutional mechanisms for the relationship that will retain enough flexibility to adapt to new and unforeseen challenges while avoiding the problems of persistent ad hoc responses. Two crucial issues are ensuring that AU peace operations have access to predictable, sustainable, and flexible funding and developing appropriate UN support mechanisms for them.
- *Fully implement the new U.S. presidential policy on peace operations.* The United States should ensure rapid and full implementation of its new presidential policy on peace operations, including its stated aim to "lead the drive for reform of UN and regional peace operations."⁴² Specifically, the United States should prioritize the need to develop "skilled, deployment-ready, high quality forces and enablers, with capable leadership at the contingent, brigade, battalion and company levels" and make available to regional organizations "pre-deployment training, leadership education and training, joint planning, and doctrine development and implementation." This needs to include police and civilian personnel, not just soldiers.
- *Establish a new funding mechanism to support the AU.* To assist in these efforts, the United States should establish a predictable funding mechanism to support AU peace operations and headquarters requirements that includes full financial accountability and African contributions. A U.S. funding mechanism to support the AU directly rather than bilateral support to troop- or police-contributing countries would help build sustainable capacity for crucial planning and mission support requirements. Such support should be contingent on some level of matching funds from the AU member states and include a mechanism to ensure oversight of the disbursement of funds. One possible model is the EU's African Peace Facility.⁴³
- *Assist in the development of new standards for AU peace support operations.* The United States should assist the AU in particular to develop training, equipment, and performance standards for its peacekeepers as well as appropriate assessment metrics. These standards would need to be interoperable with those of the United Nations. The United States could make available assistance with the development of specific training and equipment standards and methodologies for assessing peacekeeper performance in the field.

Never before has it been so important for policymakers to balance regional and global forms of peacekeeping. While the UN Security Council retains primary responsibility for maintaining international peace and security and is the single largest source of peacekeepers, some regional organizations, particularly in Africa and Europe, are playing increasingly important roles. The current challenges are daunting. Both global and regional peacekeepers will struggle to pacify warzones where civilians are deliberately targeted, factions often fight without clear political agendas, and the lines between political and criminal violence are increasingly blurred. Better-resourced peace operations would help, but more resources alone will not make missions more effective. Political leadership should develop shared strategic vision for the United Nations and other organizations involved in peace operations, appropriate mechanisms through which these organizations can support one another while using their comparative advantages, and viable conflict resolution strategies to end the wars that peacekeepers are sent to manage.

APPENDIX: REGIONAL PEACE OPERATIONS, 1946–2016

Peace operations involve the expeditionary use of uniformed personnel (police and/or military), with a mandate to

- assist in the prevention of armed conflict by supporting a peace process;
- serve as an instrument to observe or assist in the implementation of cease-fires or peace agreements;
- or
- enforce cease-fires, peace agreements, or the will of the UN Security Council to build stable peace.

This definition encompasses UN, UN-authorized, and non-UN operations, which may range in size from small observation and monitoring missions involving less than fifty personnel to multidimensional operations involving tens of thousands of soldiers, police, and civilians. The list excludes:

- training missions, such as those conducted by the EU in Somalia and Mali;
- military interventions authorized by regional organizations, including NATO's Operation Allied Force in Kosovo (1999); and Operation Boleas in Lesotho (1998) and Operation Sovereign Legitimacy in the DRC (1998), both of which some members claimed were authorized by the Southern African Development Community;
- cases where regional arrangements have authorized but failed to deploy peace operations, such as the Intergovernmental Authority on Development peace mission to Somalia (2005) and the AU-authorized African Prevention and Protection Mission in Burundi (2015).

Table A1. Regional Peace Operations Since 1946

		UN-authorized	UN-recognized	Non-UN
	Dates	Mission	Location (Region)	Deployed Size (estimated maximum uniformed)
	1994–1949	OAS Mission	Costa Rica, Nicaragua (AM)	4
	1955	OAS Military Experts Commission	Costa Rica, Nicaragua (AM)	27
	1957	OAS CMOG	Honduras, Nicaragua (AM)	22
	1959	OAS Mission	Panama (AM)	Unclear
	1961–1963	Arab League Force	Kuwait (ME)	5,000
	1962	OAS Quarantine	Cuba and Caribbean (AM)	Unclear
	1965–1966	OAS Inter-American Peace Force	Dominican Republic (AM)	25,200
	1967	Arab League Military Observers	Yemen (ME)	Unclear
	1969(?)	OAS Military & Civilian Observers	Honduras, El Salvador (AM)	Unclear
	1970–1971	Arab Ceasefire Observer Mission	Jordan (ME)	Unclear
	1972	Arab League Observers	Yemen (ME)	Unclear
	1976–1981	OAS Military Observers II	Honduras, El Salvador (AM)	28
	1979–1980	CMF (UK Commonwealth)	Rhodesia/Zimbabwe (AF)	1,319
	1980	OAU Peacekeeping Force 1	Chad (AF)	550
	1981–1982	OAU Peacekeeping Force 2	Chad (AF)	2,600
	1983–1985	CPF aka ECPF (OECS)	Grenada (AM)	350
	1986	ANAD Observer Commission	Mali and Burkina Faso (AF)	16
	1990–1999	ECOMOG	Liberia (AF)	12,040
	1991–2000	ECMM (then EUMM 22 Dec 2000)	Former Yugoslavia (EUR)	350
	1991–(?)	OAU Mission	Western Sahara (AF)	Unclear
	1991	OAUMOT	Rwanda (AF)	15
	1991–1993	OAU NMOG I	Rwanda (AF)	57
	1994–2008	South Ossetia JPKF (CIS)	Georgia / South Ossetia (CAU)	1,500

	UN-authorized	UN-recognized	Non-UN
Dates	Mission	Location (Region)	Deployed Size (estimated maximum uniformed)
1993–2000	CPKF (CIS)	Tajikistan (AS)	32,000
1993	OAU NMOG II	Rwanda (AF)	70
1993–1996	OMIB (OAU)	Burundi (AF)	47
1994–current	CPKF/CPFOR (CIS)	Georgia (Abkhazia) (CAU)	2,500
1994	CPAG (UK Commonwealth)	South Africa (AF)	33
1995–1996	IFOR (NATO)	Bosnia-Herzegovina (EUR)	60,000
1996–2005	SFOR (NATO)	Bosnia-Herzegovina (EUR)	36,179
1997–2000	ECOMOG	Sierra Leone (AF)	14,000
1997–1998	OMIC (OAU)	Comoros (AF)	20
1998–1999	ECOMOG	Guinea-Bissau (AF)	750
1999–current	KFOR (NATO)	Kosovo (EUR)	45,000
1999	AFOR (NATO)	Albania (EUR)	5,500
1999–2000	OAU Observer Mission	DR Congo (AF)	43
2000–2008	OLMEE, AULMEE	Ethiopia, Eritrea (AF)	43
2003–2014	ISAF (NATO)	Afghanistan (AS)	130,000
2001–2003	Essential Harvest, Amber Fox, Allied Harmony (NATO)	Macedonia, FYR (EUR)	4,400
2001–2002	OMIC 2 (OAU)	Comoros (AF)	14
2001–2002	CEN-SAD Mission	Central African Republic (AF)	300
2002–2004	ECOMICI	Ivory Coast (AF)	1,500
2002–2008	FOMUC (ECCAS)	Central African Republic (AF)	380
2002	OMIC 3 (OAU)	Comoros (AF)	39
2003	Operation Concordia (EU)	Macedonia, FYR (EUR)	400
2003–current	RAMSI (PIF)	Solomon Islands (PAC)	2,250

	UN-authorized	UN-recognized	Non-UN
Dates	Mission	Location (Region)	Deployed Size (estimated maximum uniformed)
2003	ECOMIL	Liberia (AF)	3,600
2003	Operation Artemis / IEMF (EU-led)	DR Congo (AF)	2,205
2003–2004	AMIB	Burundi (AF)	3,250
2004–	EUFOR Operation Althea	Bosnia-Herzegovina (EUR)	6,500
2004–2007	AMIS	Sudan (AF)	7,700
2004	MIOC (OAU)	Comoros (AF)	41
2005–current	EUSEC-RD-CONGO	DR Congo (AF)	50
2005–2007	EU Support to AMIS 2	Sudan (AF)	50
2006	EUFOR-RD	DR Congo (AF)	2,275
2006	AMISEC	Comoros (AF)	1,260
2007–current	AMISOM	Somalia (AF)	22,126
2007–2008	MAES (AU)	Comoros (AF)	356
2008	Op Democracy in the Comoros (AU)	Comoros (AF)	1,800
2008–2009	EUFOR-Chad	Chad (AF)	3,700
2008–2013	MICOPAX (ECCAS)	Central African Republic (AF)	730
2012–	ECOMIB	Guinea-Bissau (AF)	629
2012–2013	AFISMA	Mali (AF)	9,620
2013–2014	MISCA	Central African Republic (AF)	5,739
2014–2015	EUFOR RCA	Central African Republic (AF)	750

Source: Based on Alex J. Bellamy and Paul D. Williams, "Trends in Peace Operations, 1947–2013," in Joachim Koops et al, eds., *The Oxford Handbook of United Nations Peace Operations* (Oxford University Press, 2015).

ENDNOTES

1. Final Report of the Expert Panel on Technology and Innovation in UN Peacekeeping, *Performance Peacekeeping* (December 2014); Report of the High-Level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people (UN doc. A/70/95-S/2015/446, June 17, 2015); Global Study on the Implementation of UNSCR 1325, *Preventing Conflict, Transforming Justice, Securing the Peace* (New York: UN Women, October 2015); and Report of the Advisory Group of Experts on the 2015 Review of the UN Peacebuilding Architecture, *The Challenge of Sustaining Peace* (June 29, 2015).
2. This paper includes NATO peace operations despite the fact the alliance defines itself as a collective self-defense alliance rather than a regional arrangement under Chapter VIII of the UN Charter.
3. They are: Organization of American States (OAS), League of Arab States, UK Commonwealth, Organization of African Unity/African Union (OAU/AU), European Community/European Union (EC/EU), Organization of Eastern Caribbean States (OECS), The Treaty of Non-Aggression, Assistance, and Mutual Defense (ANAD), Economic Community of West African States (ECOWAS), Commonwealth of Independent States (CIS), North Atlantic Treaty Organization (NATO), Community of Sahel-Saharan States (CEN-SAD), Economic Community of Central African States (ECCAS), and the Pacific Islands Forum (PIF).
4. See, for example, Roland Paris, *At War's End* (Cambridge: Cambridge University Press, 2004) and Sevrine Autesserre, *Peaceland: Conflict Resolution and the Everyday Politics of International Intervention* (Cambridge: Cambridge University Press, 2015).
5. See, for example, Linnea Gelot, *Legitimacy, Peace Operations and Regional-Global Security: The AU-UN Partnership in Darfur* (London: Routledge, 2012).
6. Marrack Goulding, *Peacemonger* (London: John Murray, 2002), p. 217.
7. For overviews, see Michael Doyle and Nicholas Sambanis, *Making War and Building Peace: United Nations Peace Operations* (Princeton, NJ: Princeton University Press, 2006); Virginia P. Fortna, *Does Peacekeeping Work? Shaping Belligerents' Choices After Civil War* (Princeton, NJ: Princeton University Press, 2008); and Joachim Koops et al, eds., *The Oxford Handbook of United Nations Peacekeeping Operations* (Oxford: Oxford University Press, 2015).
8. See Alex J. Bellamy and Paul D. Williams, *Understanding Peacekeeping* (Cambridge: Polity, 2nd edition, 2010).
9. Paul D. Williams and Jürgen Haacke, "Regional Approaches to Conflict Management," in Chester Crocker, Fen Osler Hampson, and Pamela Aall, eds., *Rewiring Regional Security in a Fragmented World* (Washington, DC: United States Institute of Peace, 2011), pp. 49–74.
10. For example, Peter J. Katzenstein, *A World of Regions* (Ithaca, NY: Cornell University Press, 2005) and Amitav Acharya, "The Emerging Regional Architecture of World Politics," *World Politics* 59, no. 4, 2007, pp. 629–652.
11. For example, Benjamin Miller, *States, Nations, and the Great Powers* (Cambridge: Cambridge University Press, 2007) and Amitav Acharya and Alastair Iain Johnston, eds., *Crafting Cooperation: Regional International Institutions in Comparative Perspective* (Cambridge: Cambridge University Press, 2007).
12. For example, Michael C. Williams, *Culture and Security: Symbolic Power and the Politics of International Security* (London: Routledge, 2007) and Williams and Haacke, "Regional Approaches," pp. 63–65.
13. For example, David A. Lake and Patrick M. Morgan, eds., *Regional Orders: Building Security in a New World* (University Park, PA: Pennsylvania State University Press, 1997).
14. Legally, there is no need for the UN Security Council to authorize a regional peacekeeping mission based on Chapter VIII of the UN Charter and carrying out Chapter VI tasks. But, as Article 53 of the UN Charter makes clear, the Security Council must authorize regional operations that undertake enforcement.
15. See William Durch and Madeline England, *The Purposes of Peace Operations* (New York University CIC, March 2009).
16. *UN Peacekeeping Operations: Principles and Guidelines* (UN DPKO/DFS, 2008).
17. See Cedric de Coning et al., eds., *The Future of African Peace Operations* (London: Zed, 2016).
18. See Paul D. Williams, "United Nations Peacekeeping in Africa," in Chester Crocker and Pamela Aall, eds., *Minding the Gap: African Conflict Management in a Time of Change* (Canada: CIGI Press, 2016), pp. 239–255.
19. The OAU first signed a cooperation agreement with the United Nations on November 15, 1965.
20. This is noted in, for example, Article 17(1) of the *Protocol Relating to the Establishment of the Peace and Security Council of the African Union* (2002). Article 52 of the UN Charter encourages regional arrangements to undertake peaceful resolution of local disputes, including peacekeeping missions, but Article 53 precludes the use of force without prior Security Council authorization.
21. See *Report of the Chairperson of the Commission on the Operationalisation of the Rapid Deployment Capability of the African Standby Force and the Establishment of an "African Capacity for Immediate Response to Crises"* (AU doc. RPT/Exp/VI/STCDSS/(i-a)2013, 29–30 April 2013), para. 53.
22. See Arthur Boutellis and Paul D. Williams, *Peace Operations, the African Union, and the United Nations: Towards More Effective Partnerships* (New York: International Peace Institute, May 2013) and Paul D. Williams and Solomon Dersso, *Savings Strangers and Neighbors: Advancing UN-AU Cooperation on Peace Operations* (New York: International Peace Institute, February 2015).
23. See Paul D. Williams, *Enhancing U.S. Support for Peace Operations in Africa*, Council Special Report No. 73 (New York: Council on Foreign Relations Press, May 2015).

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24. Used in academic literature for some time. To my knowledge, it was first used by the UN secretary-general to describe some of the United Nations' work in Africa in an April 2015 report. See, for example, Paul D. Williams and Arthur Boutellis, "Partnership Peacekeeping: Challenges and opportunities in the United Nations–African Union Relationship," *African Affairs* 113, 2014, pp. 254–287; and Report of the UN Secretary-General, *Partnering for peace: moving towards partnership peacekeeping* (UN doc. S/2015/229, 1 April 2015).
25. See Paul D. Williams, *War and Conflict in Africa* (Cambridge: Polity, 2nd edition, 2016), chapters 8 and 10.
26. The AU has a formal relationship with six RECs through the APSA: AMU, ECOWAS, SADC, IGAD, ECCAS, and CEN-SAD. The AU also has a formal relationship with two Regional Mechanisms as part of the APSA effort to build the African Standby Force: the North African Regional Capability (NARC) and the Eastern Africa Standby Force (EASF).
27. See Michelle Ndiaye, "The relationship between the AU and the RECs/RMs in relation to peace and security in Africa: subsidiarity and inevitable common destiny," in de Coning et al, eds., *The Future of African Peace Operations*.
28. See Jane Boulden, ed., *Responding to Conflict in Africa: The United Nations and Regional Organizations* (Basingstoke: Palgrave, 2013).
29. This section draws from Bellamy and Williams, *Understanding Peacekeeping*, chapter 13.
30. Boutros Boutros-Ghali, *An Agenda for Peace* (New York: UN 1992), para. 63.
31. This is not always the case. For example, in both the Eritrea-Ethiopia war (1998-2000) and the current conflict in Burundi (2015–present), at least some of the local actors preferred a UN force rather than a local OAU/AU force.
32. Paul Diehl, "New Roles for Regional Organizations," in Chester A. Crocker et al., eds., *Leashing the Dogs of War* (Washington DC: USIP Press), p. 541.
33. *Ibid.*, pp. 540–541.
34. *Ibid.*, p. 543.
35. See Goulding, *Peacemonger*, p. 217.
36. *Ibid.*
37. Diehl, "New Roles for Regional Organizations," p. 546.
38. Walter Lotze, "Mission support for African peace operations," in de Coning et al, eds., *The Future of African Peace Operations*.
39. Jean-Marie Guéhenno, "Everybody's Doing It," *World Today* 59, no. 8/9, 2003, pp. 35–36.
40. See Paul D. Williams, "Regional and Global Legitimacy Dynamics: The United Nations and Regional Arrangements," in Dominik Zaum, ed., *Legitimizing International Organization* (Oxford: Oxford University Press, 2013).
41. Boutros Boutros-Ghali, *Unvanquished: A US-UN Saga* (London: IB Tauris, 1999), p. 306.
42. *United States Support for United Nations Peace Operations* (The White House, September 28, 2015), at <http://www.defense.gov/Portals/1/Documents/pubs/2015peaceoperations.pdf>
43. Williams, *Enhancing U.S. Support*, p. 26.

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