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Materials for a 4-Part On-Line Course on Global Financial Governance Offered by United Nations Institute on Training and Research (UNITAR)

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MATERIALD FOR A 4-PART-ON-LINE COURSE ON GLOBAL FINANCIAL GOVERNANCE OFFERED BY UNITED NATIONS INSTITUTE ON TRAINING AND RESERACH (UNITAR)

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Materials for a 4-Part On-line Course on Global Financial Governance Offered by United Nations Institute on Training and Research (UNITAR)[1]

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Module 1: A Framework for Understanding International Financial Governance

I. Introduction to Course on International Financial Governance

This course has two objectives. The first is to help participants understand international financial governance and the challenges that it faces. Second, it seeks to aid participants in assessing both the impact the current arrangements for international financial governance have on their countries and regions and the options they may have in responding to the challenges this creates for them. The course will have succeeded if it provides participants with both an intellectual framework that they can use to evaluate the current arrangements for international financial governance and any proposals for changing these arrangements, and knowledge about the purposes, structures and functions of the existing arrangements for international financial governance.

The course consists of four modules. The first module, entitled "A Framework for Understanding International Financial Governance' discusses a set of general principles with which, it is suggested, all arrangements for international financial governance should comply. It is designed to provide participants with the intellectual tools they need for understanding and evaluating international financial governance arrangements.

The second module, entitled "The Global Financial System's Institutional Arrangements" provides an overview of the key institutions involved in governing the global financial and monetary system. This module will describe the structure and purposes of these regulatory institutions.

The third module, entitled, "The Functions of International Financial Governance", provides an overview of the functions and substantive work of these global institutions.

The fourth module, "Reforming Global Financial Governance", discusses the various proposals and recent efforts aimed at reforming global financial governance.

It is important for participants to note that each module is designed to be self-contained. This means that the reader should be able to gain a good understanding of the institutional arrangements of international financial governance by reading only the text of all four modules, without referring to any of the references cited in the module. This is done to ensure that the course is useful both to those with unlimited access to internet sources and to libraries and to those who do not have such access. One consequence of this approach is that it is not possible to

[1] These courses are For more information on UNITAR and its on-line training courses, see: http://www.unitar.org/e-learning

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provide comprehensive information on all the institutions, both global and regional, that are involved in some way in international financial governance. To do so, would require much longer assignments than it is reasonable to expect participants to read in a four-week on-line course. Consequently, the course will provide participants with an overview of the types of institutions involved in international financial governance and with an understanding of the substantive work that they do relating to international financial governance. The modules will also provide readers with references from which they can learn more about other organizations and entities discussed in this course.

II. Introduction to Module 1: General Principles Applicable to International Financial Governance

International financial governance should have two objectives. The first is to support an international monetary system that is predictable and stable and that facilitates payments for international economic transactions. The second is to oversee an international financial system that both protects the interests of savers and investors around the world and allocates credit efficiently and fairly amongst all potential borrowers. Effective international financial governance, thus, should facilitate productive and sustainable economic activity that serves the interests of all stakeholders in the international economic order.

Any arrangements for international financial governance will only effectively achieve the requisite objectives if they conform to the following five sets of principles: an holistic approach to development, comprehensive coverage, respect for applicable international law, coordinated specialization, and good administrative practice.

A. Holistic approach to development

All states are developing states in the sense that they are striving to create better lives for their citizens, however they understand this concept. Thus, a key test for the international financial architecture is how effectively it supports the efforts of participating states to achieve their common developmental objective. It follows that one standard for assessing international financial governance is the vision of "development" that informs its arrangements and activities.

The original vision of development as an economic process that focuses on growth, as measured by GDP per capita is no longer seen as sufficient because it is now recognized that the level of development of both individuals and societies can be positively or negatively affected by a range of non-economic factors.[3] This insight has led to a new understanding of development as being a

[3] UNDP, *Human Development Report 1990* (Oxford University Press 1990); Amartya Sen, *Development as Freedom*, (Oxford University Press 1999) *G*.A. Res. 41/128, U.N. Doc. A/RES/41/128 (Dec. 4, 1986). This new evolving definition of development is also evident in the work of the World Bank Group (the World Bank) and aspects of the work of the International Monetary Fund (IMF or Fund). It can also be seen in the formulation of such principles as the Equator Principles (Equator Principles, "*Equator Principles"* http://www.equator-principles.com/principles.shtml (Last viewed on July 9, 2009)) and the Principles developed by John Ruggie on business and human rights (Business and Human Rights Resource Centre, http://www.business-humanrights.org/Documents/RuggieHRC2008 (Last viewed on July 9, 2009)) and in the numerous industry and corporate codes of conduct that exist. (see also, Daniel D. Bradlow, *Differing Conceptions of Development and the*

comprehensive and holistic process that involves inter-twined economic, environmental, social, cultural, political and even ethical dimensions. According to this view, the economic aspects of development cannot be separated from its social, political, environmental and cultural aspects, all of which are components of one dynamically integrated process.

The extent to which the international financial governance arrangements incorporate this holistic vision of development determines how well the arrangements can account for all the economic, financial, environmental, social, cultural and political implications of the international financial system and, thus, how effectively it helps all states in the international system achieve their developmental objective.

B. Comprehensive coverage

The principle of comprehensive coverage holds that the mechanisms and institutions of international financial governance should be applicable to all stakeholders in the international financial system and should deal with all the methods, institutional arrangements, and instruments they use in their financial operations[4]. This means that the mechanism of international financial governance need to be concerned with all the activities and operations of all financial intermediaries that engage in cross border financial transactions, large corporate and sovereign investors and borrowers that utilize a broad range of complex financial instruments, financial actors who wish to base their financial transactions, both as savers and investors, on religious principles, small local financial institutions that operate only in local markets and are engaged in transactions that involve small and medium size enterprises, community based businesses and local farming operations, and with micro-credit and other financial intermediaries that are concerned with the problems of poverty and expanding access to financial services to all.

Three corollaries

There are three important corollaries that follow from the principle of comprehensive coverage. First, the mechanisms of international financial governance must be sufficiently flexible and dynamic that they can adapt to the changing needs and activities of their diverse stakeholders. For example, as the “top end” large scale financial institutions develop new financial instruments, and new arrangements through which to conduct their operations, the international financial architecture must have the capacity to understand these instruments and arrangements and to determine how to most effectively account for them and their impacts on the various stakeholders in the international financial system. At the same time the international financial architecture must be able to accommodate the changing needs of the “low end” small and micro financial institutions.

Content of International Development Law, 21, 1 S. Af. J. on Hum. R. 47 (2005)), Available at SSRN: http://ssrn.com/abstract=788070.

[4]Howard Davies & David Green, *Global Financial Regulation: The Essential Guide* (Polity Press, 2008); Kern Alexander, Rahul Dhumale & John Eatwell, *Global Governance of Financial Systems: The International Regulation of Systemic Risk* (Oxford University Press 2006).

Second, the totality of international financial governance arrangements must ensure that the international community receives all the services it requires from a well functioning global financial system. These services are: a global lender of last resort, global monetary regulation, global development finance; regulation of trade and investment in financial services; global regulation of the cross border activity of financial institutions; coordination of national financial regulation, including ensuring that all financial regulation promotes such issues as access to financial services for all (individuals, corporate entities, and states); coordinated taxation of financial transactions; arrangements for dealing with sovereign debt problems and complex cross border financial institution and corporate bankruptcies; and regulation of international money laundering.

The third corollary, which is intended to ensure that the international financial architecture is flexible, efficient and not unduly centralized, is the principle of subsidiarity[5]. This principle holds that all decisions should be taken at the lowest level in the system compatible with effective decision making. Thus, the principle would require that global financial governance arrangements encourage national or even sub-national decision making to the greatest extent possible, consistent with effective decision making and implementation. This principle is particularly important in international financial governance because of the diversity of interests of its many stakeholders and because so many of its stakeholders have only local or regional interests, as opposed to global ones. It is however a complicated principle to implement because it must apply both in standard operating conditions and in crisis situations, which may require that decisions are made at a different level than is the case during standard conditions. In addition, it needs to be linked to a conflict resolution mechanism that is capable of resolving disputes between regulators at different levels as to which level is the most appropriate for resolving a particular issue

The principle of comprehensive coverage therefore establishes a second test which global financial arrangements must satisfy. They must be able to demonstrate that they have both the technical expertise and the mandate to address the concerns of all the stakeholders in the international financial system and that they have the capacity to adapt as the interests and actions of these stakeholders evolve over time. It is important to recognize that this does not mean that all these issues must be dealt with by the global mechanisms themselves, but it does mean that they have some mechanism for ensuring that these interests are addressed at the appropriate level in the system and that learning and information on best practices in this regard is shared within the system.

C. Respect for applicable international law

[5] "The principle of subsidiarity is defined in Article 5 of the Treaty establishing the European Community. It is intended to ensure that decisions are taken as closely as possible to the citizen and that constant checks are made as to whether action at Community level is justified in the light of the possibilities available at national, regional or local level. Specifically, it is the principle whereby the Union does not take action (except in the areas which fall within its exclusive competence) unless it is more effective than action taken at national, regional or local level. It is closely bound up with the principles of proportionality and necessity, which require that any action by the Union should not go beyond what is necessary to achieve the objectives of the Treaty." Subsidiarity, http://europa.eu/scadplus/glossary/subsidiarity_en.htm (Retrieved on July 7, 2009).

The institution arrangements for international financial governance, either because they are formal international organizations created by treaty or through the participation of sovereign states in their decision making, should comply with applicable international legal principles.[6] While international law does not provide detailed standards that are applicable to specific international financial affairs, it does provide the general principles that should guide the institutional arrangements for international financial governance. In particular, this means that the decision-making bodies and institutions that comprise international financial governance should conform to universally applicable customary and treaty based international legal principles. There are four sets of principles that are applicable in this regard.

The four sets of applicable legal principles[7]

Sovereignty

The first is the principle of respect for national sovereignty. It is clear that by participating in a global governance arrangement, states are agreeing to forego some level of national independence in order to reap the benefits of a well-functioning international system. Given the different power and wealth characteristics of the participating states, it follows that, *de facto*, the amount of independence they give up will be positively related to their power and wealth. However, the principle of national sovereignty should still provide them with the means for preserving as much independence and policy space as is practicable and consistent with the demands of effective global financial governance.

Non-Discrimination

The second is the general principle of non- discrimination. This means that the institutions of international financial governance should treat all similarly situated states and individuals in the same way. This inevitably means that there will be disparate treatment for differently situated states and individuals. The key question thus becomes what standards can be used to ensure that all stakeholders receive treatment that is fair and reasonable.

The first standard applicable to the treatment of states is that the institutions of global governance, like the IMF, should treat similarly situated states similarly and differently situated states differently. This means that while they should base their treatment of all states on the same principles, they should apply these principles in a way that is responsive to the different situations of each member state. Their treatment of non-state stakeholders should be based on the same approach.

Second, it means that recognition should be given to the fact that weaker and poorer states are significantly different in capacities from rich and powerful nations. One way of implementing this principle could be to apply the general principle of special and differential treatment that is applicable in a number of international legal contexts, for example in international environmental

[6] See, *for example,* Philippe Sands & Pierre Klein, *Bowett's: Law of International Institutions* (Sweet & Maxwell 2009); Jan Klabbers, *An Introduction to International Instutional Law* (Cambridge University Press 2007); Niels M. Blokker, *International Institutional Law: Unity within Diversity* (Martinus Nijhoff 2003).
[7] Ian Brownlie, *Principles of Public International Law* (Oxford University Press 2008) (1966).

and international trade law, to international financial governance. In the international financial context, this principle would ensure both that weak and poor countries are given access to financing on easier terms than may otherwise be applicable and that special attention is paid to ensuring that they are able to enjoy a meaningful level of participation in international financial decision making structures, even when they are based on principles like weighted voting. A consequence to this may be that the organization offers some mechanism of accountability to these states and their citizens to compensate for any participation deficit.

In the case of natural persons, the relevant principles should be derived from the Universal Declaration of Human Rights, which many now consider to be part of customary international law[8]. Pursuant to this document, it would seem that individuals have some right to expect that the principles and institutions of international financial governance, including national regulatory bodies, respect their rights to housing, health care, education, jobs, and social security. The institutions of international financial governance should also respect their rights to freedom of speech and association. Thus, one indicator of good financial governance could be the level of respect that the institutions of international financial governance show for human rights in their member countries.

State responsibility

The third set of international legal principles applicable to international financial governance deals with the responsibility of states for the functioning of the financial system. Based on general principles of state responsibility[9], they have an obligation to provide foreign legal persons, including financial institutions, which are present in the state, either through an investment or an individual transaction with fair and non-discriminatory treatment. This means that these foreign entities should receive comparable treatment to similarly situated domestic institutions. It does not necessarily mean that they should receive the same treatment as all domestic financial institutions, regardless of their size or role in the domestic financial system.

International environmental law

A fourth set of applicable international legal principles are derived from international environmental law[10]. At a minimum these principles would impose on financial regulators an obligation to insist that financial institutions fully understand the environmental and social impacts of their financial practices and of individual transactions. This is particularly relevant, given the potential impact that environmental events such as climate change, can have on financial risk and visa versa. This suggests that international financial governance should be

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[8] United Nations, Universal Declaration of Human Rights, http://www.un.org/en/documents/udhr/ (last visited July 7, 2009); The Special Representative of the Secretary-General, Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, ¶ 38, U.N. Doc. A/HRC/4/35; also, see generally: Hurst Hannum, (1998) The UDHR in National and International Law, *Health and Human Rights* 3(2), pp. 144-158.
[9] G.A. Res. 62/61, U.N. Doc. A/RES/62/61 (Jan. 8, 2008); Responsibility of States for Internationally Wrongful Acts, Report of the ILC on the Work of its Fifty-Third Session, UN GAOR, 56th ses, Supp No 10, p. 43 UN Doc A/56/10 (2001).
[10] See generally, David Hunter, James Salzman, and Durwood Zaelke, *International Environmental Law and Policy* (Foundation Press 2006).

working to ensure that the financial system promotes environmentally sustainable practices and minimizes the incentives for financial actors to engage in environmentally risky behaviour.

The principle of respect for applicable international law establishes a third test for international financial governance, namely to what extent do the arrangements for international financial governance promote respect for national sovereignty, the environment, and the rights of all natural and legal stakeholders in the international financial system.

D. Coordinated specialization

The principle of coordinated specialization acknowledges that, even though development is holistic and all aspects of international governance are inter-connected, international financial governance cannot function efficiently without a limited mandate and without the officials in these institutions having the requisite technical expertise to implement these mandates. Thus, the principle of coordinated specialization has two requirements. First, the mandate of the mechanisms and institutions of international financial governance must be clearly defined and limited to international monetary and financial affairs. Second, the institutions of international financial governance cannot ignore the other important aspects of the development process. Consequently, there is a need to ensure some form of coordination between the institutions and mechanisms of international financial governance and other organizations and arrangements for global governance. The coordinating mechanism, if it is to effectively resolve tensions between the different aspects of international governance, needs to be transparent and predictable. It may also need some dispute settlement mechanism.

This principle, therefore, establishes a fourth standard for measuring the adequacy of international financial governance. This standard is that the mechanisms of international financial governance must have both specialized mandates and a means for coordinating their policies and operations with other institutions of global governance, each of which has its own limited mandate. This means that the institutions of global financial governance must offer other institutions of global governance a meaningful opportunity to raise concerns with them and that there must be some mechanism for resolving tensions between the different specialized mechanisms of global governance.

E. Good administrative practices[11]

The basic principles of good administrative practice in global governance are the same as those applicable to any public institution. These principles are transparency, predictability, participation, reasoned decision making, and accountability. This means that all the institutions of international financial governance must conduct their operations in a manner that is sufficiently open that their procedures, decisions, and actions are predictable and understandable to all stakeholders. They must also offer these stakeholders some meaningful way of raising their concerns and having them addressed by the institutions. The institutions should also be required

[11] Benedict Kingsbury, Nico Krisch & Richard B. Stewart, *The Emergence of Global Administrative Law* 68 Law & Contemp. Probs. 15 (2005); See generally, Institute for International Law and Justice, http://iilj.org/publications/default.asp (Last viewed on July 10, 2009).

to explain their decisions and operations to all interested stakeholders. Finally, the stakeholders should be able to hold the institutions accountable for their decisions and actions.

Thus, the final standard against which international financial governance arrangements can be measured is the extent to which it complies with the five principles of good administrative practice stated above.

Summary of the standards for evaluating arrangements for international financial governance

The five standards that can be used for assessing the adequacy of any international financial governance arrangements are:

1) Are the arrangements based on a holistic understanding of development and how do they incorporate this vision?
2) Do the arrangements for international financial governance deal, at an appropriate level in the system, with all the stakeholders and all the policy and regulatory issues relevant to the functioning of the international financial system and do they have the capacity to adapt to the changing interests and concerns of these stakeholders?
3) Do the mechanisms for international financial governance comply with all applicable international law standards, including respect for national sovereignty, the rights of all natural and legal persons, and responsible environmental law practices?
4) How do the institutions of international financial governance interact with other global governance institutions?
5) Do the institutions and mechanisms for international financial governance comply with the five principles of good administrative practice: transparency, predictability, participation, reasoned decision making, and accountability?

Module 2: The Global Financial System's Institutional Arrangements

Professor Daniel D. Bradlow[12]

I. Introduction

The focus of this module is on the many organizations that play a role in the regulation of the global financial system. It seeks to ensure that the reader gains an understanding of both the general institutional arrangements for global financial governance and of some of the key entities in the governance arrangements. In order to achieve this objective, the module is divided into four sections.

The first section is a brief discussion of the reasons for the complexity of the current institutional arrangements for international financial governance. The second section is devoted to a general discussion of the different categories of institutional actors involved in global financial regulation. The third section is a brief overview of the institutional arrangements for regional

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monetary and financial governance. The final section is a brief summary of the key points of this module and a conclusion.

It is important to note that, given the complexity of the subject and the relatively large number of entities involved in global financial governance, it is not possible for this module to be a comprehensive discussion of the institutional arrangements for global financial governance. Readers who are interested in such a discussion should refer to the websites cited in this module and to the sources in the short bibliography at the end of the module.

II. The Complex Arrangements for Regulation of the Global Financial System

The institutional arrangements for global financial governance involve numerous different institutions. There are organizations, like the International Monetary Fund, the World Bank Group, the Bank for International Settlements and the World Trade Organization, that have specialized mandates relating to international monetary affairs, international financial regulation, the development of financial markets, and the allocation of financing for development. Entities like the International Organization of Securities Commissions and the International Association of Insurance Administrators are involved in coordinating national regulators from around the world with responsibilities for regulating specific sectors of the financial industry. There are also entities, like the Basel Committee for Banking Supervision and the Financial Stability Board that coordinate regulators from specific sets of countries. In addition, there are groups of countries, like the G10 and the G24, that seek to advance the interests of certain countries in particular international financial organizations; and other country groupings, like the G8 or the G20, that aspire to manage the global economy. Despite this plethora of institutions, there is no mechanism that has the specific mandate to either effectively coordinate these entities and resolve conflicts between them or to ensure that all issues relating to international financial governance are adequately addressed.

Given the relative incoherence in international financial governance, it is important for readers to understand the system and how it has evolved. This in turn will help readers assess the potential for changing the system. There are four key points to consider in thinking about how the system has evolved.

First, there is a mismatch between the global operations of financial institutions and markets and the national focus of financial regulators. For example, JPMorganChase, the US financial company, manages its international network of branches and subsidiaries as a global operation that can serve its customers anywhere in the world. However, each aspect of its business is regulated by a different national regulator. Since it is a US company, the parent company and the US part of the operations are regulated by the US financial regulators. Its various subsidiaries are regulated by the national authorities in their countries of incorporation and, to the extent they are consolidated into the parent company, may be subject to some US oversight. Its branches will be regulated by both the company’s home country regulators and the branch’s host country regulators. This makes it very difficult for any one national regulator to have a clear understanding of all JPMorganChase’s operations and the risks they entail.

It should be noted regulators are aware of this tension between the *de facto* global scope of operations of large financial companies and national regulation and seek to address it by promoting international coordination between national regulators. However, these efforts are complicated by the fact that the international legal order is still based on the principle of sovereignty, which limits the ability of the international community to intervene in the domestic affairs of sovereign states. This means that any attempt to establish a global financial regulatory regime needs to respect the fact that each state has the power to regulate its own monetary and financial system and strives to preserve as much space as possible to make its own financial and monetary policy.

It follows from the above that there is no global institution that has the authority or the mandate to impose a unified regulatory regime on the global financial system and on all financial institutions without the consent of the participating states. One consequence of this situation is that regulation of the financial industry is a mix of national regulatory regimes and efforts at the international and regional level to coordinate these national regulatory schemes. In addition, while there may be similarities, even significant ones, between the regulations in different countries, they are not identical and are not interpreted and implemented in the same way. This creates opportunities for financial institutions to exploit the differences in regulation between countries by structuring themselves and their transactions so that they are subject to the regulatory regime they find most congenial, a phenomenon known as "regulatory arbitrage". It can also influence governments to create regulatory regimes that are attractive to financial institutions in the hope of attracting them to their country so that their people can benefits from the jobs and revenues that they generate. This is one reason for the existence of tax and banking havens.

Second, the key global financial regulatory bodies were created by those countries that had the greatest interest in having internationally coordinated financial regulation and policy. This means that they were created largely by the richest countries because they are the countries with global financial markets and that have the largest number of financial institutions operating globally. The result is that global financial regulatory arrangements tend to be biased in their favour either through their governance arrangements or their membership. For example, the International Monetary Fund operates on the basis of a system of weighted voting that favours the richer and more powerful member countries. Similarly, membership in the Basel Committee of Banking Supervision, the primary international entity for coordinating banking regulation, is limited to a small group of countries even though its policy recommendations can influence all countries. As a consequence, the focus of these regulatory institutions tends to be on the concerns of the rich countries and their financial institutions. They pay less attention to the regulatory challenges of poor countries, which are more concerned with small financial institutions operating in a challenging developmental environment than with large global financial institutions, and with enhancing the access of poor people to finance than with enhancing transparency in capital markets.

Third, the current institutional arrangements for regulation of the global financial system have evolved in response to problems and crises that have occurred since the Second World War rather than through careful design. When confronted with serious financial and regulatory problems, the powerful states have either tended to use the means that they find most convenient within the existing framework of institutions or have created a new mechanism to deal with the problem. For example, in response to the sovereign debt crises of the 1980s, the rich and powerful countries, acting on the assumption that a key cause of the crises was the policies of the debtor countries themselves, delegated the lead role in managing the crisis to the IMF, even though this was arguably not part of its original mandate. Its response to the Asian crises of the 1990s, on the other hand, was based on the assumption that failure of financial regulation was a primary cause of the problems. Consequently, they created the Financial Stability Forum, in which the financial regulatory authorities of the G7 countries could meet with representatives from some key international financial bodies to coordinate their regulatory efforts. The result is the complex set of institutional arrangements that make up our current system of global financial governance.

This point highlights the contingent nature of the existing governance arrangements. This means that the current institutions are dynamic and their structures and mandates can change over time. The precise path of their evolution will depend on changing power relations in the world, and on future financial and economic events. It also explains both the relatively large number of institutions that exist at the global level and the overlaps and gaps that exist in the system.

Fourth, the scope of global financial regulation has been narrowly defined to only apply to questions of prudential regulation of financial institutions and their market operations. It does not include any broader policy issues even if they may or are likely to have significant financial governance implications. Thus two of the biggest challenges facing the international community are not well integrated into international financial governance. Environmental factors, particularly climate change, can have a significant impact on financial risk but they are not currently included in most financial regulatory frameworks. Similarly, little attention is paid to the relationship between finance and poverty even though this can influence both financial risk and prudent governance of financial systems.

III. Overview of Key Global Financial Regulatory Institutions.

The various institutions involved in global financial regulation can be divided into three categories. First, there are organizations that have their own independent legal identity and specific mandates relating to international financial regulation. Examples are the International Monetary Fund (IMF)[13] and the Bank for International Settlements (BIS)[14]. Second, there are entities which bring together regulators of financial markets and financial institutions so that they can consider matters of common interest and develop common approaches to the regulation of the global financial system. The entities in this group include the Financial Stability Board[15], the Basel Committee of Banking Supervision[16], the International Organization of Securities Commissions[17]; the International Association of Insurance Administrators[18]; the International

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13 www.imf.org

14 www.bis.org

15 www.financialstabilityboard.org

16 http://www.bis.org/bcbs/

17 www.iosco.org

18 http://www.iaisweb.org/

Accounting Standards Board[19]; and the Financial Action Task Force.[20] Third, there are those mechanisms that bring together small groups of powerful countries to discuss matters of common interest, including global financial governance issues. These mechanisms include the G7, the G20. This category also includes groupings, like the G10 and the G24[21], that seek to advance the interests of specific groupings of countries within a particular governance institution, in this case the IMF[22]. Each category is discussed in general in more detail below and a representative body from each category is described.

A. International Organizations Involved in Regulating the Global Financial System

The institutions in this category are international organizations with specialized mandates that are relevant to the global financial system. They include the International Monetary Fund, the World Bank Group[23], the World Trade Organization[24] and the regional development banks. The IMF is the international organization responsible for overseeing the international monetary system and ensuring that we have a stable system of exchange rates. As a result of this mandate, it has come to play a role in the oversight of the global financial system. It also plays a role in helping its member states enhance the regulation of their financial systems so that they are more compatible with international standards. The World Bank Group is an international development financing group. As a result it plays a role in allocating international credit and in assisting countries to gain access to international finance. The conditions it attaches to its financing may also result in the borrowing states adopting certain financial regulatory policies and measures. For example, it may give a country a loan to improve the financial sector in the country, with one condition of the loan being to introduce new financial regulations that are more consistent with international best practice. It also plays a role in helping its member states develop capital markets. In addition, the World Bank Group offers its member states technical advice that can help them enhance their capacity to regulate and manage their financial systems. The regional development banks, such as the Asian[25], the African[26] and the Inter-American Development Banks[27] and the European Bank for Reconstruction and Development[28], perform similar functions to the World Bank Group but at a regional level.

The World Trade Organization, because it has a mandate to promote trade in services, helps develop international financial markets. In particular, it is the body in which arrangements relating to the terms and conditions for foreign access to national financial markets are discussed and agreements reached. These agreements then influence the structure and conduct of international financial markets.

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[19] http://www.iasb.org/Home.htm
[20] www.fatf-gafi.org/
[21] http://www.unctad.org/TEMPLATES/Page.asp?intItemID=4515&lang=1
[22] For general information on these groups, see "A Guide to Committees, Groups and Clubs" IMF Fact Sheet, April 2009, available at: http://www.imf.org/external/np/exr/facts/groups.htm#G10
[23] www.worldbank.org
[24] www.wto.org
[25] www.adb.org
[26] www.afdb.org
[27] www.iadb.org
[28] www.ebrd.org

The Bank for International Settlements (BIS) is another organization that plays a significant role in international financial governance. This entity was originally established by the victorious allies in the First World War to manage the payment of German war reparations. The functions of the BIS, which has 55 central banks as members, are to promote international monetary and financial cooperation and serve as a bank for central banks. The BIS fulfils the first part of its mandate by being a forum for discussion and analysis among central banks and within the international financial community; and by conducting economic and monetary research. The heads of the key central banks in the world meet regularly at the BIS to discuss matters of mutual interest. The BIS is also the host of the Basel Committee of Banking Supervision, whose membership consists of the banking regulators from the major banking and financial jurisdictions in the world. Its banking functions include acting as a counterparty for central banks in their financial transactions and as an agent or trustee in their international financial operations.[29]

It is important to note that these organizations have their own independent legal identities and thus operate independently of their member states. This means that they are able to enter into their own contractual and other arrangements and can be held responsible for their actions independently of the member states. Each of these organizations derive their mandates from international treaties establishing the organization. All of them, except the BIS (to which only central banks or monetary authorities belong), are inter-governmental organizations. In each organization the member states or central banks agree to conform to the requirements of membership as set out in the founding treaty. If a member state fails to comply with the obligations of membership, it can be denied both access to the benefits of membership and can incur international responsibility for the consequences of this failure.

The most significant of these organizations in terms of global financial governance is the IMF. Its structure and function are discussed in detail below.

International Monetary Fund[30]

i. Membership and Voting

The International Monetary Fund was established in 1944 at the Bretton Woods Conference as an international monetary institution to which all sovereign states could belong. In practice this means that any state that is a member of the United Nations can join the IMF. It currently has 186 member states, with the most prominent non-member states being Cuba and North Korea.

Each member state, upon joining the IMF, is assigned a quota. The quota that the new member state receives is based on a formula that takes into account the size of the country's economy and its contribution to the global economy. However, the formula results in some bias towards European states—for example Belgium has a larger quota than Brazil. The formula has recently been revised to be more favourable to some emerging markets and developing countries.

[29] Bank for International Settlements, http://www.bis.org/about/index.htm. Retrieved on June 23, 2009.
[30] Additional information on the IMF can be found generally at its website. The website has a number of useful factsheets that briefly describe aspects of the IMF's structure and function. A list can be found at: http://www.imf.org/external/np/exr/facts/eng/list.aspx.

A member state's quota is relevant to three aspects of membership in the IMF. First, voting in the IMF is based on the quotas. This means that that the IMF has a system of weighed votes. According to this system, each member state receives 250 votes, known as the basic vote, plus 1 vote for each 100,000SDR of its quota. This system, results, for example, in the United States, which has the largest quota, having 371,743 votes (about 17% of the total), Belgium having 46,302 votes (about 2% of the total), Brazil having 30,611 votes (about 1.4% of the total), Nigeria having 17,782 votes (about 0.8% of the total) and Palau, which has the smallest quota, having 281 votes (0.01 percent).

It should be noted that over time the share of the basic votes in the total votes has declined from about 11% to about 2%. Recently, the IMF membership agreed to increase the share of basic votes in the total vote and to make some adjustments in the total votes of some emerging market member states. These measures have yet to be fully implemented.

The voting system has an impact on the governance of the IMF, which is discussed in more detail below in the section on the functions of the IMF.

Quotas also affect IMF financing. Each member state is expected to make a contribution (known as a subscription) to the resources of the IMF, based on its quota. This contribution consists of 25% in SDR's or hard currency and 75% in the member state's local currency.

Finally, quotas influence member states access to IMF financing. Each IMF financing facility offers members financing based on their quotas. For example, a facility might offer members access to financing equal to 100% of their quotas. Since the IMF has a number of facilities, members can gain access to financing worth significantly more than its quota.

ii. Function

The IMF offers its member states regulatory, financial and technical support services. Its regulatory functions include conducting annual surveillance of all its member states to ensure that they are following policies that are consistent with their membership obligations. These obligations include following policies that will allow it to have a sustainable balance of payments position. These surveillance exercises are expected to help the IMF oversee a stable system of exchange rates for the international community. The reports from these country surveillance missions, known formally as Article IV consultations after the Article in the IMF's Articles of Agreement that require these missions, are only intended to be advisory. Thus, in themselves they do not impose any obligations on the member state. The reports are discussed by the IMF Board and are utilized by the IMF in preparing its World Economic Outlook Report and its other periodic reports to the international community on the state of the global monetary and financial system.

The IMF also offers its member states, which are experiencing balance of payments problems, financial support. It has a number of different financing facilities that it utilizes in offering this support. Each facility is designed to deal with a different sort of balance of payments problem. Each member state has access to these facilities up to a stipulated percentage of its quota. The financing obtained through these facilities is subject to certain conditions that are designed to ensure that the IMF gets its funds back and that the member state corrects its balance of payments problem. The conditions that the IMF attaches to its financing are often influenced by the advice the IMF has offered in its Article IV report on the country concerned.

Over time, both the regulatory and financing functions of the IMF have expanded beyond their original relatively narrow monetary focus. Today, the IMF assists member states in assessing and enhancing their regulation of their domestic financial systems. It is also playing a role in collecting information on international capital markets, and, following the most recent G20 summit, is expected to work with the Financial Stability Board to coordinate oversight of international capital markets—even though it has no explicit mandate to deal with international capital flows.

Its financing functions have expanded in the sense that it now can provide financing to qualifying member states in a broader range of circumstances.[31] For example, although originally the IMF only offered financial support to countries actually experiencing balance of payments problems, today it provides precautionary financial support through its Flexible Credit Line to qualifying countries. The support is offered to member states that are following and implementing what the IMF considers sound policies and are not actually experiencing balance of payments problems but may expect to experience them in the future due to factors beyond their control. In this new facility, the IMF pre-commits to making the funding available without conditions should the country later request it. It has also established facilities, such as the Poverty Reduction and Growth Facility and the Exogenous Shocks Facility, to provide concessional financing to low income member states. These programs are aimed at poverty reduction and growth rather as well as at macro-economic stability.

The third function of the IMF is technical assistance. The IMF offers its poorer member countries a broad range of technical advisory services, all of which are designed to help the country improve its capacity to manage its international monetary and financial affairs in a way that is consistent with both its IMF obligations and its role as a participant in an international monetary and financial system. Thus the IMF offers member states training programs on various aspects of monetary, fiscal and financial affairs, advice on drafting legislation and regulations on these matters, and on creating effective financial and fiscal regulatory authorities.

iii. Governance

The governance structure of the IMF is designed to promote accountability of the organization to the governments of its member states. The highest governance body is the Board of Governors. Each member state is entitled to appoint one Governor and usually appoints either its Minister of Finance or the Governor of its Central Bank to this position. The Board of Governors meets twice a year at the IMF's Annual Meeting and at its Spring meeting. It has delegated almost all its delegable powers to the 24 member Board of Executive Directors. However, there are certain decisions which are reserved for the Board of Governors, such as decisions on admitting new members to the IMF, making quota adjustments, issuing Special Drawing Rights and amending the IMF's Articles of Agreement. Most decisions in the IMF can be made by simple majorities.

[31] For more information: http://www.imf.org/external/np/pdr/fac/2009/032409.htm

However, certain decisions, such as adjustments in quotas require an 85% majority. This means that on these types of decisions, the United States has an effective veto.

The 24-member Board of Executive Directors, which is chaired by the Managing Director of the Fund, oversees the work of the IMF. It is made up of:

- 5 members appointed by the 5 member states with the biggest quotas: France, Germany, Japan, United Kingdom and the United States,
- 3 members, called representatives of "single member" constituencies, that represent China, Russia and Saudi Arabia; and
- 16 members elected by constituencies of the remaining 178 member states. The size of these constituencies range from 7-23 members per constituency. The Executive Director representing a particular constituency has a vote equal to the total votes of all the members of the constituency and he/she must cast all the votes in a block. The votes of the constituencies vary from 113, 969 votes (5.14% of the total) for the 10 primarily European member states currently represented by Belgium to 29,855 votes (1.35% of the total vote) for the 23 Sub-Saharan African member states currently represented by Rwanda.

The Executive Directors are based full-time at the IMF headquarters in Washington DC. They each have an Alternate Executive Director and a small staff of advisors and support staff. They function as both officials of the IMF and representatives of their constituencies. The Board is responsible for overseeing the operations of the IMF. Thus its responsibilities include approving all IMF financing operations, reviewing all IMF country and thematic reports, and all IMF policies and internal organizational matters. Normally, the IMF Board operates by consensus but, if necessary, it will make decisions by majority vote.

The functioning of the Boards of Governors and of Executive Directors are complimented by 2 committees of Governors. The first is the International Monetary and Finance Committee (IMFC). This Committee has 24 members and is constituted in a similar manner to the Board of Executive Directors. The IMFC meets twice per year to review the work of the IMF and the functioning of the global monetary and financial system. While it seeks to ensure that the IMF is operating in the most effective way, it only has advisory powers. Consequently, its opinions will only become policy and be implemented if either the Board of Governors or the Board of Executive Directors adopts its advice. Given that the members of the IMFC are Governors of the IMF and are able to instruct the Executive Directors from their countries to follow their advice, the IMFC is a powerful influence in the IMF.

It should be noted that the IMF's Articles of Agreement provide for the establishment of a "Council". This Council, which would have a similar structure and function to the IMFC, would have decision making authority. To date the Council has not been established and the IMFC is only expected to continue functioning until the Council is established. The creation of the Council is one of the reforms currently being considered for the IMF.

The second committee is the Development Committee, which is a joint committee of the IMF and the World Bank. It also has 24 members who tend to be the Governors of the World Bank from the countries represented on its Board of Executive Directors. The purpose of this committee is to review the economic situation for developing countries and to offer advice to the IMF and World Bank on ways that they can help promote larger and more predictable financial support to developing countries.

The work of the IMF is done by its Management and staff, whose chief is the IMF Managing Director. In a formal sense, the staff and management are accountable to the Board. This means that the Board, in addition to its responsibilities in regard to the finances, human resources and operational policies of the IMF, must also oversee all the work of the Management and staff. This work includes the IMF's financing operations in its member countries, its surveillance activities, its research activities and its technical support services. Given the diversity, scale and complexity of these operations and the relatively limited resources available to each Executive Director, it is unclear how effectively the Board can fulfil its oversight responsibilities. This is particularly true for those Board members who represent constituencies which contain numerous countries that utilize IMF financing and technical support services.

A final point to note about the governance arrangements of the IMF is that the World Bank and the regional development banks all have similar governance arrangements. Thus, they all have weighted voting; Boards of Governors on which each member state has one representative, and Boards of Executive Directors composed of directors who either represent one country or constituencies of countries.

B. Entities Involved in Coordinating Regulation of Financial Institutions

This group consists of entities in which national regulators of financial institutions meet to discuss matters of common interest and to seek ways to address the international dimensions of financial regulatory matters. It includes the Basel Committee of Banking Supervision (BCBS), the International Accounting Standards Board (IASB), the Financial Action Task Force (FATF), the Financial Stability Board (FSB), the International Association of Insurance Supervisors (IAIS), and the International Organization of Securities Commissions (IOSCO).

These entities share certain common characteristics. First, their membership consists of national or sub-national regulatory authorities and not states. For example, the membership of the BCBS consists of the banking regulatory authorities in 27 states. The membership of the FSB, which is discussed in more detail below, includes the financial sector regulators from the G20 countries and representatives from key international organizations like the IMF, the World Bank and the OECD. The IAIS has a large membership consisting of insurance industry regulators from 190 jurisdictions, including 50 sub-national state jurisdictions in the US[32]. In addition, there are a number of international organizations and private insurance companies that have observer status in the IAIS. Finally, IOSCO has 110 securities regulators as full members and another 11 as associate members.

There are two exceptions to this general characteristic. The first is the FATF which is composed of representatives from the Finance Ministries of the 33 member states. The FATF has developed

[32] The reason for this large US representation is that the US has no national insurance regulator. All insurance companies are regulated by the relevant regulators in each state of the US in which they operate.

rules on monitoring and reporting on money laundering activities. The second is the IASB, It is a private body, owned and managed by a trust, which develops international accounting standards that it hopes regulatory authorities around the world will adopt and enforce.

It is important to note that "effective" membership in these bodies is not necessarily universal. This means either that membership is not open to all interested regulatory authorities or that, even if membership is open to any interested and qualifying regulatory authority, not all members participate equally in the affairs of the body. Examples of entities with restricted membership are the BCBS and the FSB. In the case of the BCBS, membership is currently restricted to the banking regulators from 27countries[33]. Participation in the FSB, which is discussed in more detail below, is limited to the financial regulatory authorities of the G20 countries plus key international organizations like the IMF and the World Bank. An example of an entity with general membership but limited participation is IOSCO. While it has over 100 members and associate members and all securities regulators are eligible to join, the key work of IOSCO is done by its Technical Committee. While there is some effort at ensuring that all regions are represented on this Committee, historically most of its members come from the regulatory authorities in Belgium, Canada, France, Germany, Italy, Japan, the Netherlands, Sweden, the United Kingdom, and the United States.

The second shared characteristic is that the type of work undertaken by each of these entities is similar. They all are forums in which regulators meet to discuss matters of common interest and in which they can develop codes and standards that establish "best practices" in their particular sphere of interest. Since these entities do not produce binding standards and codes, each regulatory authority can then decide how it wants to utilize these codes and standards in its own work. For example, the BCBS has developed rules on capital adequacy and banking supervision that its members can, and in fact are encouraged, to implement through their national regulatory process. Similarly IAIS and IOSCO have developed core principles dealing with the regulation of insurance companies and securities firms. In the case of IOSCO, it has also developed guidelines and principles applicable to regulating specific aspects of the securities industries.

In the case of the IASB, it produces International Financial Reporting Standards (IFRS). Its hope is that accounting bodies around the world will adopt these IFRSs and mandate that they be utilized by all companies in its jurisdiction. This has proven to be controversial because the IASB has adopted rules and standards that many believe are less demanding than the Generally Accepted Accounting Principles (GAAP) currently used in the United States. The result has been that the US has been reluctant to adopt the IASB's rules. There are efforts underway to resolve this difference and have the standards developed by the IASB become the uniform standards across the world.

The codes and standards developed by these entities are non-binding. Thus, their members, while encouraged to do so, are not obliged to enact the codes and standards into their domestic regulatory regimes. In addition, they are free to interpret these codes and standards as they see

[33] The Committee's members come from Argentina, Australia, Belgium, Brazil, Canada, China, France, Germany, Hong Kong SAR, India, Indonesia, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, Russia, Saudi Arabia, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. Information available at: http://www.bis.org/bcbs/index.htm

fit. It is important to note, however, that developing countries and emerging market economies may effectively be required to adopt and implement these codes and practices. This can happen either because regulatory bodies in these countries see compliance with these codes and standards as being an indicator of their credibility as regulators or because doing so becomes a condition of their gaining access to international financing from sources like the IMF or the World Bank.

Another important characteristic of these bodies is that their work has implications for national governance. The reason is that the way these bodies operate is that national regulators meet, conduct studies, develop general standards and then go back to their own countries where they are expected to implement these internationally agreed standards, more or less as drafted. This means that there can be limited opportunity for participation by other national stakeholders in the development of the regulations. Consequently, the existence of these international regulatory networks has implications for national sovereignty and the amount of independent policy space available to each country. However, in evaluating this issue, it is important to keep in mind that the need for and the growing importance of these international regulatory networks arises from the growing need to be able to supervise and anaged the consequences of having globally integrated financial markets and institutions.

The most significant of these entities in terms of global financial governance is the Financial Stability Board, which is discussed in more detail below.

Financial Stability Board (FSB)[34] *– formerly the Financial Stability Forum (FSF)*

i. Membership

In 1999, the G7 countries established the Financial Stability Forum (FSF) as a forum in which senior representative of their national financial regulatory authorities could meet with senior representatives of international financial institutions, standard setting bodies and committees of central banking experts. The membership of the FSF consisted of:

- 3 representatives from the financial industry regulators in Canada, France, Germany, Italy, Japan, the United Kingdom, the United States;
- The following international organizations: the BIS, the European Central Bank[35], the European Union[36], the IMF, the OECD[37], and the World Bank; and
- The following standard setting bodies: the BCBS, the Committee on the Global Financial System[38]; the Committee on Payment and Settlement Systems[39], the IAIS, the IASB and IOSCO.

The FSF was converted into the FSB following the G20 Summit in London in June 2009. Thus, the membership of the FSB now includes representatives from each of the G20 countries in addition to the international organizations and standard setting bodies indicated above. However,

[34] www.financialstabilityboard.org
[35] http://www.ecb.int/home/html/index.en.html
[36] http://europa.eu/index_en.htm
[37] http://www.oecd.org/home
[38] www.bis.org/cgfs/index.htm
[39] www.bis.org./cpss/index.htm

while the 7 original members each have 3 representatives on the FSB, the new members have 1, 2 or 3 representatives. The following countries have 1 representative: Argentina, Hong Kong SAR, Indonesia, Saudi Arabia, South Africa, Singapore and Turkey; the following have 2 representatives: Australia, Mexico, the Netherlands, Korea, Spain, and Switzerland; and the following new member countries have 3 representatives: Brazil, China, India, and Russia.

ii. Function

The primary purpose of the FSB is to contribute to international financial stability by promoting effective regulatory and supervisory policies and practices. While its primary focus is on stability in its member states, it is also expected to play a key role in promoting global financial stability. In addition to undertaking its own research and its work with its member states, the FSB also works with its international organization and standard setting body members on the development and promotion of consistent regulatory and supervisory standards around the world. Consequently, the FSB anticipates that non-member states and their financial regulatory authorities will pay careful attention to its work. In many cases, these non-member states will be informed of the FSB's work through their interactions with the international organizations and standard setting bodies that are members of the FSB. In fact, it is likely that at least some of the international organizations that are members of the FSB will encourage their member states to adopt the regulatory and supervisory standards and policies established by the FSB.

Examples of the types of studies that the FSB is likely to undertake, based on the work of the FSF, are: the Financial Stability Forum's Principles for Cross-border Cooperation on Crisis Management[40], the Report of the Financial Stability Forum on Addressing Procyclicality in the Financial System[41], and the Report of the Financial Stability Forum on Enhancing Market and Institutional Resilience.[42]

iii. Governance

The governance of the FSB consists of a plenary meeting, a Steering Committee and three Standing Committees. The plenary meetings, which can be attended by the representatives from all member states sets the general direction of the FSB. The FSB holds 2 plenary sessions per year and as many other telephonic meetings as are deemed necessary. Given that the FSB was only established in 2009, it is not yet clear exactly how often these telephonic meetings will occur.

The Steering Committee, which is chaired by the chairperson of the FSB, provides operational guidance to the FSB between plenary sessions. The chair of the Steering Committee, who is currently the Governor of Banco d"Italia, is appointed in his/her personal capacity.

The three standing committees are the Standing Committees for Vulnerabilities Assessment; Supervisory and Regulatory Cooperation; and Standards Implementation. The Standing Committee for Vulnerabilities Assessment, which is currently, chaired by the General Manager

[40] http://www.financialstabilityboard.org/publications/r_0904c.pdf.
[41] http://www.financialstabilityboard.org/publications/r_0904a.pdf.
[42] http://www.financialstabilityboard.org/publications/r_0804.pdf.

of the BIS, is responsible for assessing and monitoring vulnerabilities in the financial system and for proposing actions that can help address these vulnerabilities. Thus, its work provides the basis for the FSB's Early Warning Exercises, which are intended to warn the FSB and its members of systemic problems that may be arising in the financial system or in systemically significant financial institutions. The Standing Committee for Supervisory and Regulatory Cooperation, which is currently chaired by the head of the UK Financial Service Authority, is responsible for liaising with the national supervisory and regulatory authorities of the FSB members on any supervisory or regulatory issues that may arise and that are of interest to the members. This means that this committee is responsible for advising FSB members on best practices in financial regulation, on promoting consistency and cooperation and fair competition across jurisdictions, and for advising on cross-border crisis management both at major financial institutions and more generally.

One innovation of the FSB is that the members are obliged to undergo peer reviews, which will be conducted by the Standing Committee for Standards Implementation. This Committee, which is currently chaired by the Associate Deputy Minister of the Department of Finance of Canada, will undertake the peer reviews and report to the FSB on how members are implementing international financial standards and other initiatives. Thus, the function of this Committee is to promote adherence to prudential regulatory and supervisory standards by FSB member states.

It is important to note that, since the membership of the FSB includes the regulatory authorities in all the major financial centres and the major emerging markets, its work, *de facto,* will set the global standards in financial regulation. In fact, it is envisaged by the G20 that the FSB and the IMF will become the key institutions in coordinating international financial governance.[43] Given its expected role in global financial governance and to compensate for its restricted membership, the FSB will hold regular regional meetings at which non-member financial authorities will be consulted about matters of common interest.

C. *Mechanisms for Coordination Between Countries*

The third category of global governance mechanisms is the relatively small groupings of countries with similar interests which seek to play an active role in international financial governance. These groupings can be divided into two sub-categories. First are those groups, like the G8[44] and the G20[45], that seek to play a role a management role in global financial governance. Second are groups, like the G10 and the G24, that seek to influence the policy and work of specific international organizations, like the IMF.

Country Groupings Playing a Role in Global Financial Governance

The oldest of these groups is the G8. It was created in 1975 as the G6 becoming the G7 in 1976, when Canada joined the group, and finally the G8 in 1998, when Russia formally joined. The members of the group are: Canada, France, Germany, Italy, Japan, Russia, the United Kingdom,

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[43] See "The Global Plan for Recovery and Reform" Communique issued by G20 Leaders at the end of their meeting in London on 2 April 2009. Available at: http://www.g20.org/Documents/final-communique.pdf
[44] For information on G8 see: http://www.g8.utoronto.ca/
[45] www.g20.org

and the United States. It originally was intended to be an informal gathering of the leaders from the world's largest economies to discuss economic matters of mutual concern and to coordinate their responses to these matters. The leaders would meet annually, with the location rotating amongst the members, and the host acting as the chair. Beginning in 1989, the G8 (then only the G7) began to invite the leaders from a small group of countries to participate in part of their meeting. This practice eventually resulted in a group known as the "Outreach 5" (Brazil, China, India, Mexico and South Africa) being regularly invited to attend at least part of the G8 meeting. In recent years the host of the G8 summit has often invited additional leaders thought to be playing a significant role in their own region to attend the meetings. Over time these meetings have become better known for their spectacle than their substance. Although the preparatory meetings to these G8 summits and the regular meetings that take place between senior finance and economic officials from the G8 still do play a significant role in coordinating financial policy and approaches to international financial governance issues among these countries.

From the time of its formation until the new millennium, the G8 functioned almost as the executive committee for global financial governance. Its views on monetary and financial policy often were adopted and implemented by other key international financial organizations, such as the IMF and the World Bank. However, over this time period, the balance of economic power in the world began to shift. As a result the ability of the G8 countries to contribute to effective global economic governance has diminished.

This first became obvious during the Asian financial crisis of 1997-98. In the wake of this crisis, the United States government invited a group of 22 countries to meet to discuss responses to the crisis. This eventually led to the creation of the G20..

The members of the G20 are, in addition to the G8 countries, Argentina, Australia, Brazil China, the European Union, India, Indonesia, Mexico, Saudi Arabia, South Africa, South Korea, and Turkey. They were selected because of their global or regional economic importance and to ensure a reasonably balanced regional representation in the group. The G20 membership coincides more or less with the 20 largest economies in the world, adjusted to ensure that all regions are represented in the group. In total the G20 represent about 80% of the world's population and economy. Thus, it does have the power to exercise strong influence over the global financial and economic system.

The first meetings of the G20 were meetings of Ministers of Finance who met to discuss matters of mutual concern relating to international financial governance. Since the G20 is a larger grouping than the G8, it has evolved a more formal operating structure than the G8. Currently, there are two connected aspects of the G20. The first is the series of regular meetings of financial officials from the G20 countries and the annual meeting of the Ministers of Finance from these countries. The chair of these meetings rotates among the member countries and the chair's country hosts the meetings. The second is the G20 Summit, the first of which was held in Washington in late 2008. At these summits the heads of government of the G20 countries meet to discuss matters of concern and to try and give guidance to global financial governance. These summits have also established working groups, co-chaired by a developing country and a rich country, to lead G20 efforts in regard to key issues in global financial governance. These working groups focus on reform of the IMF, reform of the World Bank, and financial regulatory matters.

Currently, we are in a period of transition, during which the G20 appears to be supplanting the G8's role in global financial governance. However, it is important to note that this transition is not without its critics. These critics fall into two basic groups. The first group questions the composition of the G20. Critics in this camp argue that the size of the grouping is arbitrary. Some of these critics think it should be bigger in order to ensure that all economically significant countries can participate. Others argue that it should be smaller to enhance its efficiency. The second group of critics challenge the legitimacy of the G20. They argue that the only legitimate group is the G192 that is a grouping in which all countries, or at least all UN member states, can participate. Some members in this group argue for indirect representation, with the members of the G20 (or some similar grouping) being chosen, perhaps on a rotating basis, as representatives of particular regions or interest groupings.

Interest Groups in International Financial Governance

The second category of informal groupings consists of those groups that seek to enhance their position or promote their views in the institutions of international financial governance. The best known of them operate in relation to the IMF.

The oldest of the groups is the G10. It was formed by those countries that entered into the General Agreement to Borrow (GAB) with the IMF in 1962. Initially, the purpose of the GAB was to give the IMF access to additional financing in case the countries participating in the GAB needed to utilize IMF financing. The participating countries were concerned that if too many of them needed IMF financing, it would take up too much of the IMF's general resources and cause problems for the other member states. However, over time it became clear that these countries were not likely to draw on the financing services of the IMF and the GAB was amended to allow the IMF to draw on it whenever it needed additional financial resources, provided it did so in accordance with the terms and conditions of the GAB. In addition, over time the number of countries participating in the GAB increased to 11.

Following the establishment of the GAB, the participating countries, used to meet periodically to discuss issues of mutual interest in regard to the IMF. This grouping, known as the G10, thus became an informal mechanism through which rich countries could coordinate and advance their views within the IMF. The countries participating in the G10, which actually has 11 members are Belgium; Canada; Germany; France; Italy; Japan; Netherlands, Sweden, Switzerland, United Kingdom; and the United States, some of which countries participate through their central banks.

A number of developing countries decided that the developing countries needed their own grouping in the IMF to counteract the weight of the G10. Consequently, they formed the G24, which, in principle, has 24 participating states, of which 8 represent Africa, 8 represent Asia and 8 represent Latin America. The countries participating in the group do change over time but the principle of equal regional representation continues to be respected. The current participating states are

- Africa: Algeria; Cote d'Ivoire; Egypt; Ethiopia; Gabon; Ghana; Nigeria; and South Africa.
- Asia: India; Islamic Republic of Iran; Lebanon; Pakistan; Philippines; Sri Lanka; Syrian Arab Republic.
- Latin America: Argentina; Brazil; Colombia; Guatemala; Mexico; Peru; Trinidad and Tobago; and Venezuela.

The G24 has a secretariat in Washington that commissions research; helps arrange meetings of the member states and facilitates communication and coordination of positions among the participating states.

It should be noted that the EU member states also seek to coordinate their positions in regard to the work and policies of the IMF. Thus, in addition to the mechanisms for policy coordination that exist in Brussels and under the applicable EU treaties, the Executive Directors at the IMF from EU member states meet regularly to exchange views and, when applicable, to coordinate their positions on issues that will be coming before the Board.

These informal groupings do not only exist in relation to the IMF. An example of a group that seeks to advance its interests in relation to other mechanisms of international governance is the 10 member Committee of African Finance Ministers and Central Bank Governors that works with South Africa to advance African interests in the G20.[46] The participants in this Committee are the Finance Ministers from South Africa, Nigeria, Egypt, Cameroon and Tanzania and the Central Bank Governors from Botswana, Kenya, Algeria, the West African States and the Central African States. Representatives from the African Development Bank, the African Union Commission, and the United Nations Economic Commission for Africa also participate in this Committee. This Committee was created in 2009 in connection with the April 2009 G20 Summit in London.

These informal groupings of countries share certain common characteristics. First, they are all informal. This means that there is no binding agreement upon which their existence is based and from which they derive their mandate. They are merely groups of countries that have similar concerns and interests and thus choose to meet in order to more effectively advocate for their interests and concerns in the relevant institutions to which they relate. It follows that the membership in these groupings is not fixed and can change as circumstances change.

Second, these groupings do not have any formal standing in the organizations to which they relate. This means that the organization is under no obligation to interact with these groupings, let alone to actually follow their recommendations or advice. This is true even in the case of the G10, although the IMF will negotiate with these countries over issues related to the renewal and implementation of the GAB. This is not to suggest that informally the relevant institution might not follow the work of the grouping and take advantage of its existence for particular purposes. One example of this is the G24 which benefits from IMF support.

[46] http://www.afdb.org/en/topics-sectors/topics/financial-crisis/committee-of-ten/

Third, the fact that some of these informal groupings have been in existence for some time suggests that they must serve a useful function for the participants in the groupings. This suggests that it might be useful for other groupings of like-minded states to consider forming such informal groups in regard to other key institutions in international financial governance, such as the FSB.

IV. Regional Financial Governance

The institutional arrangements for global financial governance are complimented by regional financial governance arrangements. The most developed of these exist in the European Union but there are regional efforts at dealing with financial and monetary affairs in all parts of the world.

The European Union (EU) includes countries that have the Euro as their currency and countries that continue to use their own currencies. The participants in the Euro-zone are members of the European Central Bank, which is the most advanced effort at regional monetary governance. In effect, these countries have surrendered their monetary sovereignty to a supra-national body. The EU member states have also developed mechanisms for coordinating monetary and financial policy. These operate primarily through the EU institutions, which include the EU Council, EU Commission and the EU Parliament. For example, the economic ministers of the member countries meet as the Economic and Financial Affairs Council (Ecofin)[47], under the chair of the country that presides over the EU Council. Through these mechanisms the EU member states also make efforts to coordinate their positions in the global financial governance institutions.

Asia has begun to develop efforts at regional monetary coordination, primarily through the Chiang Mai Initiative[48], which is a project of the ASEAN plus 3 grouping. This initiative seeks to establish arrangements between Asian Central Banks to assist each other in the event that they are facing foreign exchange rate or payments crises. The initiative will have the effect of protecting the participating states from having to go to the IMF for support. In addition, these countries are now seeking to establish an Asian bond market to promote capital raising in the region. Both these initiatives could over time lead to more coordinated regional financial governance arrangements.

Efforts at regional coordination exist in Africa, the Caribbean, Gulf States, and Latin America. For example, the Caribbean states have their own committees of financial regulators to coordinate financial regulation in the region[49] and there is a Caribbean Financial Action Task Force.[50] The Gulf States have established an Arab Monetary Fund.[51] On paper, Africa has plans to create an African Central Bank and an African currency. However, these plans are not yet being implemented. Latin America[52] also has sub-regional monetary and financial regulatory groupings.

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[47] http://www.consilium.europa.eu/showPage.aspx?id=250&lang=en
[48] www.aseansec.org
[49] For information on Caribbean Group of Banking Supervisors see: *:* http://www.cgbsnet.org/, and on Caribbean Association of Insurance Regulators see: www.cair.org.tt
[50] www.cfatf.org
[51] http://www.amf.org
[52] For information on the Center for Latin Americann Monetary Studies (CEMLA) see: *:* www.cemla.org/english.htm; on Council of Securities Regulators of the Americas (COSRA) see:

This brief description of regional financial governance arrangements, albeit not comprehensive, serves to indicate that all regions of the world are making efforts to better coordinate their monetary and financial policies and governance arrangements. This makes sense because in all cases there are greater similarities and areas of common interest at the regional level than exist at the global level. One issue that the existence of these regional arrangements raises is whether or not they have the potential to either become either an alternative to global governance arrangements or a compliment them. This is an issue to which we will return in the last module.

V. Summary and Conclusion

The purpose of this module has been to provide an overview of the institutional arrangements for international financial governance. It has shown that there are a large number of institutions and mechanisms involved in international financial governance. These institutions and mechanisms can be classified into 3 categories. The first consists of international organizations, like the IMF, the World Bank and the BIS. These institutions have their own mandates related to international financial governance. In most cases, these mandates, which relate to both the regulation of the international monetary and financial system and to the provision of financing to qualifying member states, are dynamic and have tended to grow to meet the evolving needs of their member states.

The second category consists of coordinating networks of financial regulators. These networks are convoked by entities that may have more or less formal legal existences. Their purpose is to provide forums for discussion of regulatory matters of common interest, to promote coordinated national regulation of financial entities and markets and to help develop standards and codes of best practices in financial supervision and regulation.

The third category are informal groupings of states that come together to advance the interests of their participants in regard to aspects of financial governance. These groupings can be divided into 2 groups. The first is those groupings, such as the G8 and the G20, that play an active role in international financial governance. The second are those groupings of like-minded states that seek to enhance their influence in key international financial governance institutions.

The module also indicated that there is a fourth category of governance arrangements that has some capacity to influence the dynamics of global financial governance. These are regional governance arrangements. Currently, except for the EU, these arrangements do not currently play a significant role in global financial affairs. However, there is potential for their role to grow in the future as the institutional arrangements for global financial governance evolve.

It should be clear from this module that the institutional arrangements for international financial governance are complex. They involve many institutions and mechanisms that often have overlapping areas of interest and responsibility and which allow for differing degrees of participation by interested states. There are 2 consequences that follow from the current

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http://www.cvm.gov.br/ingl/inter/cosra/inter.asp; on Latin American Reserve Fund (FLAR) see: www.flar.net on Western Hemisphere Payments and Securities Settlements Forum see: http://www.forodepagos.org/english.htm situation. The first is that there is a certain degree of incoherence in international financial governance, in the sense that the system may not able to effectively deal with issues as they arise because it is not always clear which entity has primary responsibility for dealing with the issue and there is not always an obvious way for resolving tensions between institutions within the international financial governance system. The G20 is attempting to address this incoherence issue by giving the IMF and the FSB coordinating responsibilities in the system. Second, there is a certain "legitimacy deficit" in the system because not all states and all stakeholders are adequately represented in the system.

We will return to these consequences and other deficiencies in international financial governance in the final module, when we look at efforts to reform international financial governance.

Module 3: The Functions of International Financial Governance

Professor Daniel D. Bradlow

VI. Introduction

The focus of this module is on the functions that the institutions, entities and groupings discussed in module 2 must perform if they are to deliver effective international financial governance. It seeks to provide the readers with an understanding of both the nature of these functions and how they are executed in the current arrangements for international financial governance.

In order to achieve this objective, the module is divided into three sections. The first section is a brief discussion of the five functions that must be performed for there to be effective financial governance. The second section is devoted to a discussion of how these functions are performed by the institutions, entities and groupings involved in international financial governance (IEGs). The final section is a conclusion.

It is important to note that, given the complexity of the subject and the relatively large number of entities involved in global financial governance, it is not possible for this module to be a comprehensive discussion of the specific governance functions performed by each of the IEGs. Readers who are interested in such a discussion should refer to the sources and websites cited in the bibliography at the end of the module.

VII. The Five Functions That Must Be Performed For Effective International Financial Governance

This section focuses on the five functions required for effective international financial governance. Its purpose is to describe the functions and explain why they are so important to any international financial governance system. These five functions can be divided into two groups. First, there are those functions that must be performed by any system of financial governance. They are information and analysis, regulation, and financial assistance. Second, there are those functions which, while they may or may not be part of any system of financial governance, are essential elements of effective international financial governance. They are technical support and coordination.

A. Functions That Are Essential to Financial Governance

Information and Analysis

Effective governance depends on the responsible institutions and individuals being knowledgeable about and having a good understanding of the workings of the system for which they are responsible. This necessitates them having access, in a timely manner, to both the raw data on the functioning of the system and adequate analysis of the data for them to understand its significance. This information and analysis should be the basis for their decisions relating to the management and operation of the financial system for which they are responsible. It is important to recognize that the information and analysis required by the responsible parties should include both quantitative and qualitative elements.

The officials responsible for financial governance need access to at least two types of information. First, they should receive the basic data that allows them to understand the scale of the operations of the financial system. Thus, they will need information on the size of financial flows, the form in which these flows take place, the terms on which the flows occur, the size and scale of operations of the key financial institutions in the system, and on the purposes for which the financial flows are used. They will also need information on the risks being created by these activities and on the measures being taken to mitigate these risks. In the case of an international system, the responsible parties will also need information on the balance of payments and external debt position of all the participating member states, on the external funding needs of member states and their ability to meet these needs, on the cross border transactions undertaken by financial institutions, and on trading in the foreign exchange markets.

Second, they will need information on the functioning of the regulatory framework or frameworks applicable to all actors in the system. Thus they will need information on how well the rules are being followed by the various actors in the system, on instances of non-compliance with the rules, on new developments in finance that could impact on the efficacy of the rules, and, if there is more than one applicable regulatory scheme, on how the different regulatory schemes are interacting with each other. This information is critical to the continued effectiveness of financial governance because over time all regulation is likely to diminish in effectiveness as the actors in the system learn how to conduct their operations in ways that minimize the impact of those parts of the rules that they do not like and as innovations in finance occur that are not fully covered by the rules.

For effective financial governance, it is not sufficient that only the key decision makers receive the above information. All the stakeholders in the international financial system need access to enough of this information that they can make considered decisions in their own operations and can take the necessary actions to mitigate risk and exploit all potentially beneficial financing opportunities. The various stakeholders in the financial system include regulators, financial institutions, public policy makers, creditors and debtors, savers and investors, and civil society. They will use this information in making credit allocation and investment decisions, developing monetary and fiscal policy, designing effective regulatory frameworks, and in formulating appropriate poverty alleviation and development policies. In addition, they can use this information to adjust the regulatory frameworks so that they incentivize the type of transactions that support appropriate public policy.

It is important to recognize that international financial governance is concerned with the operation of financial systems at both the national and the international level. At a national level it is concerned with both those aspects of national financial systems that affect the macro-economic and monetary performance of each state and those aspects that impact the cross-border activities of national financial institutions. At the international level, it is concerned with both the scale and regulation of financial markets that operate globally, for example the Euromarkets. This suggests that the responsible parties in international financial governance need information on the operations and regulation of both national and global financial markets. They will also need information on areas of potential conflict and harmony between these different financial systems and regulatory frameworks, and on the challenges that they create for the various actors in the system.

Regulation

In order for any governance system to function effectively, it must provide clear guidance to all actors in the system on the rules that they should follow in their decisions and actions. This means that a key aspect of governance is regulation. The governance arrangements must include a regulatory framework that offers all actors clear guidance on what is permissible conduct and what is not, that creates incentives for the various actors to behave in a way that ensures a stable financial system that encourages appropriate innovation and risk mitigation measures, that ensures that all actors maintain the necessary records, that encourages all stakeholders in the financial system to make informed decisions about the transactions that they undertake, that promotes efficient financial markets that offer fair access to all and allocates credit in a manner that is socially and environmentally responsible, and that establishes clear procedures and standards for handling problems arising from the operation of the financial system. These problems include instances of non-compliance with the regulations, disputes about particular transactions and about the content of applicable regulation, the failure of individual financial institutions, and systemic breakdowns.

Financial and Monetary Assistance

It should be recognized that a complex system like a financial system will never function perfectly. Consequently, it is probable that every financial system will experience challenges and occasional crises. These challenges and crises can be caused by weak financial regulation and institutions, by the poor judgement and conduct of individual actors, or by factors beyond either individual or institutional control. However, in all these cases, there can be severe adverse impacts on both the parties directly involved in the particular situation and on all the other participants in the financial system. In order to mitigate these adverse impacts, it may be necessary for the responsible authorities to provide financial support to the adversely affected parties or to the financial system as a whole. Thus, the capacity to provide financial support when needed is a key function of any system of financial governance.

In the case of the international financial system financial assistance may also be required to support a stable international monetary system. Without such support, states may find it difficult to correct serious balance of payments problems and thus to contribute to a stable system of exchange rates. Consequently, international financial governance requires a mechanism for providing financial assistance to support appropriate responses to macro-economic and monetary problems or crises in the states participating in the international financial system.

B. Functions That Are Essential to Effective International Financial Governance

Technical Support

Any international financial system inevitably creates technical challenges for some of its participants. In general, the financial systems in poor countries are smaller, less complex and dynamic than the financial systems in the rich countries and they also face different problems from those experienced in the rich countries. Nevertheless, the regulators in these countries need to make sure that their financial regulatory frameworks are consistent with the demands of the modern international financial system. If they fail to do so, they risk being excluded from effective participation in international financial markets, thereby harming their development prospects. In addition to these regulators, the officials who work in the financial institutions in poor countries need to understand enough about the operations of the international financial system that, where appropriate, they can take advantage of and can avoid being overwhelmed by the dynamics and pressures created by the international financial system.

The existence of these two groups of actors generates two types of “educational” demands on the institutions of international financial governance. First, they need to develop the technical expertise and management systems required to operate regulatory frameworks and financial institutions that are responsive to the dynamics and pressures of the modern international financial system. In order to develop this expertise they may need the institutions and entities involved in the governance of the international financial system to provide them with training programs, and advisory services, including the direct provision of technical expertise.

Second, those governance institutions and actors that operate primary at the “high” end of the financial system, meaning that they are concerned with its most complex and sophisticated transactions, need to be informed about conditions experienced by actors at the “low” end of the system, meaning that they are engaged in relatively simple financial transactions and in efforts to enhance the provision of financial services to poor people. This is particularly important if they are to help develop international regulatory frameworks and “best practice” guidelines that are applicable in all countries participating in the international financial system.

Coordination

The international financial system has become very complex. Its governance is divided among a number of IEGs. This is partly because the international financial governance arrangements have been created in response to particular events and geo-political realities.[53] However, it is also

[53] For discussion of the development of international financial governance see—Davies and Taylor books

a consequence of the key role that sovereign states, who are not willing to surrender all their sovereign powers related to money and finance to an international entity, play in the international system. Thus, effective international financial governance requires coordination between these different IEGs.

Coordination is also required between the IEGs of international financial governance and those active in non-financial global governance. This follows from the international community assigning responsibility for different aspects of international governance to different specialized international bodies. For example, under the existing arrangements, even though international financial issues can profoundly impact public health or the environment, it is the World Health Organization or the United Nations Environmental Program, and not international financial governance bodies that are responsible for global governance of health or environmental issues. This means that the IEGs of international financial governance cannot adequately account for all the consequences and implications of their decisions and actions without communicating with these other specialized global governance institutions.

It follows therefore that there is a need for two coordinating entities or mechanisms. First, there should be an entity or mechanism that is responsible for coordinating all the IEGs involved in international financial governance. This coordinating entity or mechanism must ensure that all the relevant IEGs act in mutually supportive ways. It must also play a role in resolving disputes between the different actors in the system.

Second, there should be a mechanism or entity that coordinates the IEGs of international financial governance with those of other aspects of international governance, including the management of the real economy, the environment, labour and social conditions in the international community, and human rights. In the absence of this coordination mechanism there is a risk that either financial governance will dominate other aspects of international governance or that it will act at cross purpose to these other elements thereby undermining the efficacy of international governance in general or of specific aspects of international governance. Ultimately weakened international governance in non-financial areas will adversely affect international financial governance as well.

VIII. Global Financial Regulatory Institutions, Entities and Groupings and Governance Functions.

In this section we will look at how the IEGs engaged in international financial governance perform the various functions described above. It should be noted that, in addition to the global IEGs discussed in this module, there are also regional IEGs that play a role in international financial governance, albeit limited to their particular regions. Readers who are interested in learning more about these regional bodies should refer to the references on regional bodies listed in Module 2.

A. Information and Analysis

Readers should not be surprise to learn that most IEG's play a role in information and analysis since this function is the foundation on which all effective international financial governance is based. In addition, sometimes the most productive mechanism for international governance in an international system based on sovereign states is information sharing.

In evaluating the information and analysis function of the various IEGs, there are two important issues to consider. First, do they collect information and undertake analysis on all relevant issues. Second, how much of their information and analysis do they make available to the various stakeholders in the international financial system. These two issues will influence the particular IEG's effectiveness as a mechanism for international financial governance.

Despite the fact that most IEG's perform information and analysis functions, they do so in a variety of different ways, as can be seen from the following discussion of the information and analysis functions performed by each category of IEGs.

International Institutions

The key international organizations involved in international financial governance are the International Monetary Fund (IMF)[54], the World Bank Group (the World Bank)[55], the Bank for International Settlements (BIS)[56], and the World Trade Organization (WTO)[57]. Each of these organizations performs an information and analysis function.

The IMF through its surveillance missions[58] to each of its member countries is able to gather information about their monetary, financial, and fiscal policies and about their applicable regulatory frameworks. It uses this information to advise the member state on its macro-economic policies, to formulate its views on the functioning of the international financial system and to determine where its financial and technical support might be most needed and how it can be most effectively provided. The IMF publishes significant portions of the information member states provide to it on its website. While the IMF is not the only possible source of such information, it should be recognized that this is one of the public goods that it offers to the international community.

The IMF also utilizes this information to produce regular reports, such as the World Economic Outlook[59] and the Global Financial Stability Report[60], that provide the international community and financial sector with analysis and information on the state of the global financial system.

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[54] www.imf.org

[55] The World Bank Group consists of the International Bank for Reconstruction and Development; the International Development Association, the International Finance Corporation; the Multilateral Investment Guarantee Agency; and the International Centre for Settlement of Investment Disputes. For more information, see: www.worldbank.org. Some members of the Group also have their own websites, see: www.ifc.org and www.miga.org. and www.worldbank.org/icsid.

[56] www.bis.org

[57] www.wto.org

[58] Pursuant to Article IV of its Articles of Agreement, the IMF is expected to exercise "firm surveillance over the exchange rate policies" of its member states. It does this by regularly consulting with each of its member states about the economic and financial policies. The IMF's Articles of Agreement are available on its website: http://www.imf.org/external/pubs/ft/aa/index.htm

[59] Text is available at: http://www.imf.org/external/pubs/ft/weo/2009/01/index.htm

[60] Text is available at: http://www.imf.org/external/pubs/ft/gfsr/2009/01/index.htm

These reports communicate to the international community the IMF's views on future developments in the international financial system and possible responses to these developments.

In addition, the IMF obtains information from the voluntary evaluations it does of its member states' financial regulatory arrangements. These assessments, which result in "Reports on Observance of Standards and Codes"[61], are based on the 12 guidelines, which were originally identified by the Financial Stability Forum (now the Financial Stability Board)[62] as particularly relevant to effective financial regulation. In these reports, the IMF evaluates the degree of consistency between the national regulatory arrangements and these standards and offers the member state advice on how to bring its regulatory arrangements into conformity with these standards and codes.

These so-called key standards deal with the availability of financial data, assessment of fiscal and monetary policy, financial sector regulation, and the integrity of financial markets. The 12 key standards are[63]:

Standards Dealing with Transparency

1. *Code of Good Practices on Monetary and Financial Policies*[64]. This code was issued by the IMF and it promotes transparent practices in the conduct of monetary and financial sector policy. Its focus is on the policy making process rather than on the actual substance of policies.
2. *Code of Good Practices on Fiscal Transparency*[65]. This code was issued by the IMF, and deals with the role and responsibilities of governments in regard to the making and regulation of fiscal policy and with the transparency required for effective budgetary and fiscal policy.
3. *The IMF's Special Data Dissemination Standard/General Data Dissemination System*[66]*:* This system, which was developed by the IMF, specifies the data that IMF member states should be making available to international capital markets. The IMF offers members two systems: the Special Data Dissemination Standard (SDDS) and the less stringent General Data Dissemination Standard (GDDS).

Standards Dealing with Financial Sector Regulation

4. *Core Principles for Effective Banking Supervision*[67]. This code was issued by the Basel Committee on Banking Supervision (BCBS). It addresses such concerns as the licensing and structure of banks; the regulation and supervision of banks, the key informational needs for effective regulation and supervision, and the requisite powers for banking supervision.

[61] http://www.imf.org/external/standards/index.htm
[62] http://www.financialstabilityboard.org/
[63] http://www.imf.org/external/standards/scnew.htm
[64] http://www.imf.org/external/np/mae/mft/code/index.htm
[65] http://www.imf.org/external/np/fad/trans/manual/index.htm.
[66] http://www.imf.org/external/pubs/ft/books/2008/datadiss/dissemination.pdf.
[67] http://www.bis.org/publ/bcbs129.pdf?noframes=1

5. *Objectives and Principles of Securities Regulation*[68]. This code was issued by the International Organisation of Securities Commissions (IOSCO). It deals with key issues related to the regulation of international capital markets, including, the responsibilities of issuers, secondary market activity, regulatory cooperation and the responsibilities of market intermediaries.
6. *Insurance Supervisory Principles*[69]. This code was issued by International Association of Insurance Supervisors (IAIS). It addresses such topics as supervisory arrangements for effective regulation of the insurance industry, key issues in the management and operation of insurance companies, and the supervision of transnational insurance companies.
7. *Principles Dealing with Payments and Settlements Systems:* This consists of two sets of principles—one dealing with payment systems and the other with settlement systems:
    a. *Core Principles for Systemically Important Payments Systems*[70]. These principles were issued by the Committee on Payment and Settlement Systems (CPSS) of the BIS. They are aimed at controlling access to credit, liquidity and the operation of stable payments and settlements systems.
    b. *Recommendations for Securities Settlement Systems*.[71] These recommendations were developed jointly by IOSCO and the CPSS. It deals with the procedures and institutional arrangements needed for effective settlement of transactions in capital markets.
8. *The Forty +9 Special Recommendations of the Financial Action Task Force*[72]. As its name suggests these recommendations were developed by the FATF. It sets out the obligations of states that are interested in working with the FATF to limit money laundering and other illegal transactions taking place through the banking and financial system.

Standards Dealing with Integrity of Markets

9. *International Fi nancial Reporting Standards (IFRS*[73]*).* These standards which are developed under the auspices of the International Accounting Standards Board (IASB) deal with issues related to the presentation of accurate and useful general purpose financial statements.
10. *International Standards on Auditing*[74]. These standards were developed by the International Federation of Accountants. They deal with the principles and practices that auditors and accountants should follow in their auditing work.

[68] http://www.iosco.org/library/pubdocs/pdf/IOSCOPD154.pdf.

[69] http://www.iaisweb.org/__temp/Principles_applicable_to_the_supervision_of_International_insurers_and_insurance_group_and_their_cross_borders_business_operations.pdf.

[70] http://www.bis.org/publ/cpss34e.pdf.

[71] http://www.bis.org/publ/cpss46.htm.

[72] http://www.fatf gafi.org/document/28/0,3343,en_32250379_32236930_33658140_1_1_1_1,00.html. The 9 Special Recommendations Against Terrorist Financing are available at: http://www.fatf-gafi.org/document/9/0,3343,en_32250379_32236920_34032073_1_1_1_1,00.html

[73] http://www.iasb.org/IFRSs/IFRS.htm.

[74] The auditing standards are available at: http://www.ifac.org/Store/Details.tmpl?SID=12410328891595221&Cart=1245917455322371.

11. *OECD Principles of Corporate Governance*[75]. These principles, which were developed under the auspices of the Organization for Economic Cooperation and Development (OECD), address topics relevant to ensuring transparent, effective and fair corporate governance. Consequently, they address such issues as the rights of shareholders, protection of stakeholders other than shareholders (such as employees, customers, suppliers and the community), and the responsibilities of corporate directors.
12. *Principles and Guidelines for Effective Insolvency and Creditor Rights Systems*[76]. These principles were developed as a collaborative effort between the World Bank, the IMF and the United Nations Commission on International Trade Law (UNCITRAL). They deal with such issues as creditor rights, the legal framework for corporate insolvency, banking insolvencies, and informal corporate workouts.

The World Bank and the regional development banks (collectively "the MDBs") provide useful information about and analysis of their borrowing countries and about their operations in these countries. The MDBs have access to important data on these countries through their ongoing dialogue with these member states and through the country economic and sector research and analysis that they undertake in these countries. This includes the information that the World Bank learns from its Financial Sector Assessment Programme (FSAP)[77], which is often done in conjunction with the IMF. In addition to this information being shared with the member state concerned, a significant amount of it is publicly available through the World Bank and the other MDB's websites and publications. These institutions also use this information to make informed judgements about how to allocate their financial and capacity building resources.

Another source of information for the MDBs that is relevant to financial governance is the information that they obtain through monitoring the execution of their development policy loans/credits. This information is complimented by the information garnered by the evaluation reports that the independent evaluation offices of each of the MDBs do on their completed and ongoing project and programme operations.[78]

It should be recognized that much of their work is focused on development rather than financial management. Thus, the independent evaluation offices of each of the MDBs prepare reports and studies on issues relating to the various sectors in which they fund projects, on matters relevant to poverty alleviation, the environment, gender dimensions of development, good governance at the national level, as well as on international financial and economic issues. While much of their work is controversial, their studies and reports, contain valuable information that is relied on by researchers, governments, civil society groups and activists campaigning for radical changes in the governance of the global economy. In fact, the MDBs information and analytical work is an

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The auditing practices are available at:
http://www.ifac.org/Store/Details.tmpl?SID=12048375762286923&Cart=1245918596323067.

[75] http://www.oecd.org/document/49/0,3343,en_2649_34813_31530865_1_1_1_1,00.html.

[76] http://www.worldbank.org/ifa/rosc_icr.html.

[77] http://www1.worldbank.org/finance/html/fsap.html

[78] See, for example, the World Bank's Independent Evaluation Group:
http://www.worldbank.org/ieg/?intcmp=5001010

important public good that offers the international community critical data on all aspects of development and the global economy.

The BIS collects valuable data on cross border financial flows from international banks.[79] This information is published on a regular basis by the BIS. The BIS also cooperates with the IMF and other international organizations on developing uniform practices for collecting data, for example balance of payments data, at the national level. The BIS also plays an important role in analysing international financial information and making it available to its members and other stakeholders. Some sub-committees of the BIS, for example the CPSS[80], also collect and disseminate information on regulatory practices that are relevant to the banking industry and its regulators. Some of this information amounts to guidance to the international community on international best practices in a particular area.

The WTO's mandate is concentrated on international trade, including international trade in financial services. Pursuant to this mandate it has access to information on both the scale and regulation of trade and investment in the financial services sector. This information can be useful to regulators who are always looking for more information on the key actors in their financial sectors.

In summary, it can be seen that collectively these international organizations provide an important and rich information and analysis service. In recent years, most of this information has become publicly available. Except for the MDBs, most of this information is focused on relatively narrow financial and monetary matters. While this is understandable in terms of the mandates of these organizations, it does raise concerns about the comprehensiveness of the information that they collect. In particular, it is not clear if these organizations are fully exploring either the impact of non-financial issues on the operation of the international financial system or the implications of the operation of the international financial system for non-financial aspects of international governance.

Entities Involved in Coordinating Regulation of Financial Institutions

As we saw in the second module, there are a number of entities involved in coordinating regulation of financial institutions. Except for the Financial Stability Board (FSB), these entities tend to focus on a specific sub-set of financial actors or a specific set of issues. For example, the Basel Committee on Banking Supervision (BCBS)[81], the International Organization of Securities Commissions (IOSCO)[82] and the International Association of Insurance Supervisors (IAIS)[83] coordinate national regulators dealing with commercial banks, capital markets and insurance companies respectively. On the other hand, entities like the Financial Action Task Force (FATF)[84] and the International Accounting Standards Board (IASB)[85] deal with specific issues—the FATF deals with transparency and money laundering in financial transactions and the IASB

[79] http://www.bis.org/statistics/index.htm
[80] http://www.bis.org/cpss/index.htm
[81] http://www.bis.org/bcbs/index.htm
[82] http://www.iosco.org/
[83] http://www.iaisweb.org/
[84] *:* www.fatf-gafi.org/
[85] http://www.iasb.org/Home.htm

works to ensure consistency in international accounting standards so that financial reports across the world are reasonably comparable.

One of the main purposes of these entities is to help enhance the functional effectiveness of all the national agencies that belong to them. One important way in which they do this is to keep their members informed about developments in their sphere of operations. Thus, for example, they will prepare papers and undertake studies on topics of interest to their members. In addition, as was shown above, these entities, together with organizations, such as the IMF, World Bank, and the OECD, have developed a number of the 12 standards and codes that are viewed as establishing the key principles and standards for effective financial governance.

While these standards and codes are expected to be universally applicable, it is important to note that there are grounds for concern about the ability of all interested states to participate in the work of these entities. As we saw in the discussion of these entities in module 2, while they may have wide international membership, not all states or members are able to participate equally in the key decision making bodies within these entities. This, in turn, raises questions about how adequately these standards and codes address the interests and concerns of all members. Nevertheless, the IMF and the World Bank utilize these standards and codes in their assessments of the financial regulatory frameworks of their member states. Moreover, at least for those states that make use of the IMF and World Bank's financial and technical support services, these standards can be "imposed" on the member states through the conditionalities attached to their financing or through the advice conveyed by their technical support services.

Mechanisms for Coordination

As we saw in module 2 there are a number of mechanisms, for example the G8[86], G10[87] G20[88], and G24[89], that states have created for promoting cooperation with other countries having similar interests. One of the key functions of these mechanisms is to provide a means through which they can meet, share information on matters of mutual interest and can coordinate their positions on these issues. In this sense, these mechanisms provide an important information service to their participating countries. It should be noted that, at least in the case of the G20and the G24 some of their analyses and studies are made publicly available.

B. Regulation

The IEGs involved in international financial governance perform regulatory functions in the sense that they oversee the operation of the global monetary and financial systems and encourage participating states to adopt policies and practices for themselves and their financial institutions that are consistent with the effective operation of these international systems. Their regulatory authority tends to be "soft" because they do not have the power to legally enforce compliance with their decisions. In addition, many of the IEGs' decisions and the regulatory standards and codes that they support are drafted in such a way that they provide financial regulatory

86 http://www.g8.utoronto.ca/what_is_g8.html.
87 http://www.imf.org/external/np/exr/facts/groups.htm#G10
88 http://www.g20.org/
89 www.g24.org

authorities with a reasonable amount of discretion in their interpretation and implementation. However, as will be described below, some of the IEGs have ways of compelling their member or participating states to comply with their regulatory concerns.

International Institutions

The international institution that is most prominently involved in regulation is the IMF. At the time of its creation, its member states agreed to establish a rule-based international monetary system, pursuant to which each member state agreed to maintain a fixed value for its currency, known as the currency's par value. [90] The IMF was assigned the responsibility for overseeing this par value system.

The IMF's primary tool for exercising this oversight, or regulatory, function was, and continues to be, its surveillance operations. Pursuant to Article IV of its Articles of Agreement, the IMF was expected to meet regularly with each member state to review its monetary policies. The purpose of this review was to ensure that the member state was following policies that were consistent with the maintenance of the par value of its currency. During these consultations, the IMF would advise the member state about it views on these policies. It is important to note that, in principle the member state was free to accept or reject this advice.

The persuasive power of the IMF's advice was enhanced in two ways. First, the IMF would report to its Board of Directors on its findings from these surveillance missions. This enabled the IMF to mobilize peer pressure at its Executive Board level to persuade the member state to follow the IMF's policy recommendations.

Second, all member states knew that, if they were forced to turn to the IMF for financial support, the IMF's advice would inform the conditionalities it attached to the financial support. Given that during the par value system, all types of member states used the IMF's financing facilities, this possibility gave a certain persuasive force to IMF advice to all its member states.

The IMF would also use the information it learned in the course of all its surveillance missions to inform the international community about its views on the operation of the international monetary system. This was done through publishing the World Economic Report, which contains the IMF's view on the global economy and its likely future direction. One key input into the report is the information that the IMF learns on these surveillance missions.

Over time, the IMF's regulatory powers have evolved, particularly following the collapse of the par value system in the 1970s. This collapse and the subsequent move to an international system of floating exchange rates, based on foreign exchange markets, changed IMF surveillance in two ways. First, the increased importance of foreign exchange markets, enabled rich countries to gain

[90] Pursuant to the IMF Articles of Agreement, each member state, except for the USA, was expected to fix the value of its currency in terms of the US Dollar. This fixed value was known as the par value of the currency. The USA fixed the value of its currency in terms of gold, at $35 per ounce of gold. Member states, were expected to follow economic and monetary policies that were designed to preserve, within prescribed limits, the par value of the currency. Significant changes in the par value required the approval of the IMF. See: http://www.imf.org/external/about/history.htm

more control over their international monetary policy and to free themselves from the need for IMF financing. However, the increased volatility in exchange markets resulted in poor countries becoming more reliant on either IMF financing or on IMF support to access other sources of funds. The net effect of these developments was, on the one hand, to weaken the force of the IMF's regulatory powers in regard to its rich member states and, on the other hand, to strengthen its authority over its poorer member states.

Second, the scope of the IMF's regulatory powers in regard to the poorer member states were expanded by the fact that the range of issues likely to affect the value of the member state's currency and its balance of payments was much larger under the new system than it had been under a par value system. Thus, IMF surveillance missions began to cover a broader range of issues now than used to be the case under the par value system. This in turn has resulted in the IMF attaching a broader range of conditions to its financing than used to be the case. These conditions now include issues such as financial sector governance, fiscal policy, budgetary policy, as well as more "traditional" monetary policy issues.[91]

The IMF's regulatory authority has begun to evolve again. In fact, it seems to be regaining some regulatory power over all its member states as financial sector regulatory issues have become more important relevant to the functioning of the international monetary system, which is the IMF's original area of jurisdiction. The IMF, in its Financial Sector Assessment Program (FSAP), undertaken with the World Bank and in its Reports on Observance of Standards and Codes (ROSCs) evaluates how well its member states' regulatory systems compare to the 12 standards and codes discussed above and advises them on what it needs to do to bring these systems into conformity with these standards. To date, the IMF has conducted financial sector assessments of many of both its rich and poor member states.[92]

It should be recognized that the IMF's enhanced regulatory role raises an important issue concerning decision making by the IMF in regard to its regulatory function. As we saw in module 2, not all IMF member states participate equally in its decision making process. This creates a risk that its regulatory decisions are based on considerations and standards and codes that are not fully responsive to the concerns of all its member states and stakeholders.

The multilateral development banks play a less powerful regulatory role in international financial governance. However, the credit allocation decisions they make and the conditions that they attaches to their policy based financing do have a regulatory impact. Both of these types of decisions can influence the way in which their member states respond to international financial regulatory initiatives. In addition, the MDBs support regulatory development through their participation in the FSAP. The same governance concerns about the IMF's role in regard to the FSAP are applicable to the World Bank, and, to a lesser extent, to the regional MDBs.

The WTO is not an active participant in the regulatory arrangements for international financial governance. However, it does play some role because it is the forum in which the international community meets to agree on terms for trade in financial services. Through the decisions taken

[91] It should be noted that the IMF has recently been making an effort to narrow the scope of its conditionalities. For overview of IMF conditionality, see: http://www.imf.org/external/np/exr/facts/conditio.htm.
[92] Country ROSC reports are available at: http://www.imf.org/external/np/rosc/rosc.asp

in this regard, the WTO can influence international financial governance, even though its decisions regarding trade in financial services are driven more by international trade concerns than by international financial governance considerations. This influence can be enhanced because of the fact that WTO agreements can be enforced through the WTO dispute settlement procedures[93], This creates some risk that certain international financial regulatory issues—for example, relating to the ability of financial institutions to establish a commercial presence in other countries—can be determined in the WTO which may not take into account all the relevant international financial governance considerations.

The BIS plays an important indirect regulatory role. By hosting regular meetings of the heads of its member central banks, it helps its members coordinate their regulatory and policy responses to international financial developments. Further, its committees[94], including the Committee on Payment and Settlement Systems and the BCBS, which it hosts, play critical roles in developing some of the key financial regulatory standards and codes in international financial governance. Since, these standards and codes have implications for all countries, it is concerning that the committees in which they are developed have restricted memberships and do not have any formal mechanisms for incorporating the views of other stakeholders.[95]

Entities Involved in Coordinating Regulation of Financial Institutions

The first point to note about these entities is that they do not have the authority or power to develop legally binding and enforceable standards and codes. This means that they cannot force either states or the regulatory authorities in those states to adopt and implement these standards and codes. They also cannot hold them liable for failing to incorporate these standards and codes into the national financial regulatory framework. These entities' regulatory role, therefore, is limited to developing guidelines and standards, which they expect each of their participating members to incorporate into their national law.

While their regulatory role may lack legal enforceability, these entities are still capable of playing a significant role in international financial regulation. A good example of the importance of the regulatory significance of these entities is the 2006 "International Convergence of Capital Measurement and Capital Standards" known more colloquially as the "Basel II Framework:"[96] These detailed and technical standards set out a framework for regulating the capital adequacy of banks. It establishes minimum capital standards for banks that are based on a risk adjusted evaluation of their assets. The Basel II Framework also sets out a framework for monitoring this capital adequacy that is based on a supervisory review process and on market discipline. The Basel II Framework was developed by the representatives from the 25 countries that participate in the BCBS. It was intended to be an updated and improved version of the capital adequacy standards that the BCBS had developed in 1988. It was slowly developed over a number of years

[93] http://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm
[94] The BIS has the following committees: Basel Committee on Banking Supervision; the Committee on the Global Financial System; the Committee on Payment and Settlement Systems ; the Markets Committee and the Irving Fisher Committee on Central Bank Statistics
[95] It should be noted that the BCBS does make considerable informal efforts to learn the views of non-members. See: http://www.bis.org/bcbs/index.htm
[96] http://www.bis.org/publ/bcbs128.pdf

and involved consultations with banking regulatory authorities around the world, key financial institutions, and banking industry representative bodies. Thus by the time they were finalized many but not necessarily all interested parties had participated in the process. Consequently, the BSBC was confident that they would be implemented by national regulatory authorities around the world and that they would be utilized by the IMF and the World Bank in their FSAP and ROSC work. In fact, regulatory authorities in many countries had or were in the process of implementing the Basel II Framework when the international financial crisis erupted. The crisis exposed some shortcomings in the Basel II Framework, which relied on self regulation and on the judgements of credit ratings agencies. During 2009, the BCBS has made adjustments in the Basel II Framework. However, in light of the financial crisis and the adjustments being made to the framework, a number of states may slow down their implementation of the Framework. Given its nature, they can do so without legal consequence.

The Basel II Framework also highlights another aspect of the regulatory function of these entities. It was developed by banking regulatory authority representatives from the BCBS's 25 members[97]. In doing so they had in mind the banking systems in their countries. Most of these countries have both large transnational banks and smaller nationally and locally focused banks that together serve the needs of the vast majority of their population. In addition, they are all active participants in international financial markets. Consequently, they developed capital adequacy standards that were applicable to their banking and financial systems and their needs. However, most of these countries do not have large sectors of their populations that are poor and unbanked. Similarly, they do not have large sectors of their populations that are constrained by religious principles in how they use banking systems. Thus, the resulting Basel II Accords are not necessarily the most appropriate capital adequacy standards for all countries. However, because they are utilized by the IMF and the MDBs in their work, they have become the standard that guides banking regulation in all their member states.

The Basel II Framework is not atypical. A number of other regulatory initiatives, at entities like IOSCO and IAIS, are also developed through processes which, while more open than the BCBS, may not be fully responsive to the needs of all states. For example, the 2009 IOSCO regulatory reform proposals dealing with unregulated financial markets[98] are designed to deal with the problems created by the off-balance sheet derivatives that contributed to the 2008-09 financial crisis in major financial centres and their impact on these centres rather than with all the problems that these instruments might create for markets in poorer countries. Similarly, the IAIS's "Insurance Core Principles and Methodology"[99] provides a useful set of principles for guiding insurance regulation but it does not address the challenges of overseeing an insurance industry that operates in an environment in which many people lack access to insurance.

It should also be noted that there are a number of coordinating entities that have agreed on guidelines and procedures that are designed to encourage more efficient and effective development financing. They seek to do this through promoting better coordination between all

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[97] The members of the BCBS come from Argentina, Australia, Belgium, Brazil, Canada, China, France, Germany, Hong Kong SAR, India, Indonesia, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, Russia, Saudi Arabia, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.
[98] http://www.iosco.org/library/pubdocs/pdf/IOSCOPD290.pdf
[99] http://www.iaisweb.org/__temp/Insurance_core_principles_and_methodology.pdf

the providers of specific forms of international development financing. For example, the Development Assistance Committee (DAC)[100] of the Organization for Economic Cooperation and Development (OECD) seeks to ensure better coordination between the different bilateral aid agencies of its member states. Similarly, the Berne Union[101] and the OECD[102] promote more effective standards for the operation of the export credit market. Finally, a number of international financial institutions, bilateral aid agencies and recipient countries have agreed on a set of guidelines, the 2005 "Paris Declaration on Aid Effectiveness: Ownership, Harmonization, Alignment, Results and Mutual Accountability"[103] (Paris Declaration) and the 2008 Accra Agenda for Action[104] (Accra Agenda) that seek to ensure that all official development finance is provided to recipient countries in a coordinated way that maximizes recipient ownership of their own development process and their ability to utilize the funds in ways that are consistent with their policies and needs.

Mechanisms for Coordination

It is only the mechanisms, like the G7/8 and the G20, that are interested in playing a role in global financial governance that perform a regulatory function. In particular, they seek to guide the policy debate and the regulatory initiatives undertaken in regard to international financial governance. For example, the G7/8 has historically played an important role in defining the policy agenda of the IMF and the World Bank. In addition, it used the Financial Stability Forum to try and establish the global regulatory agenda. More recently, it seems that the G20 may be taking over the role formerly played by the G7/8. It has invited all the countries in the G20 to join the Financial Stability Forum and has converted it into the Financial Stability Board.

It is important to note, however, that, while the G20 is more representative of the global economy than the G7/8, its membership is self-selected and is restricted. Consequently, to the extent that it succeeds in its apparent objective of playing the guiding role in international financial governance, it will raise important questions about the fairness and adequacy of its representation of global interests. Already there are important voices challenges its legitimacy and calling for the United Nations to play a larger role in global governance.

C. Financial and Monetary Assistance

The financial and monetary assistance function in international financial governance is limited to the key international financial institutions. None of the major entities involved in coordinating financial regulation or the coordinating groupings play any direct role in financial and monetary assistance. However, it should be noted that a number of the states that participate in coordinating groupings like the DAC do provide financial assistance, usually in the form of grants, to developing countries.

[100] http://www.oecd.org/department/0,3355,en_2649_33721_1_1_1_1_1,00.html
[101] http://www.berneunion.org.uk/
[102] http://www.oecd.org/topic/0,3373,en_2649_34169_1_1_1_1_37431,00.html
[103] http://www.oecd.org/dataoecd/11/41/34428351.pdf
[104] http://www.oecd.org/dataoecd/58/16/41202012.pdf

Both the IMF and the MDBs are actively engaged in providing financing to qualifying member states or to entities in these states. They provide financial assistance for a variety of different purposes. The IMF only provides its members with financing for balance of payments and monetary support. Its financing, which is subject to a range of policy and macro-economic conditionalities, is provided to members in the form of general balance of payment and budgetary support. They can use the funds for almost any purpose that they consider desirable. The IMF provides through a number of different facilities, each of which is designed to deal with a specific type of current account problem.[105] In principle, the facilities should not be used by states that are experiencing problems in their capital accounts. The IMF finances these facilities from its general resources, supplemented, if necessary from the borrowing facilities that are available to it from its member states.[106]

The IMF, provided sufficient member states agree, is also able to provide financial support to all its member states by issuing Special Drawing Rights(SDRs).[107] The member states can use the SDRs in specified transactions—with the IMF, some other international financial organizations and with other member states. The IMF distributes the SDRs to its member states according to their quotas. The IMF has not often issued SDRs. However, in 2009 its members agreed that it would issue SDR250 billion in order to assist its member states deal with a global economic crisis.

The MDBs were all established to provide financing to development projects in qualifying member states. Most of the MDBs provide the financing to their member states or other borrowers with a guarantee of the relevant member state. They may also have divisions or affiliates that provide financing to the private sector in their member states. However, over time they have expanded their scope of operations to include policy-based lending as well.[108] This form of financing is similar to IMF financing in the sense that it is provided, subject to conditionalities, in the form of general budgetary support and can be used for almost any purpose.

The BIS is often called the central bank for central banks because it is able to provide central banks with banking services. One important financing function performed by the BIS is to provide short term bridge financing to qualifying countries that are facing financial crises.[109] The WTO, on the other hand, does not perform any financial assistance function.

It should be noted that there are a number of other institutions that provide international finance and that are relevant to international financial governance. They include international

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[105] For information on IMF lending, see: http://www.imf.org/external/np/exr/facts/howlend.htm

[106] For information on IMF borrowing, see: http://www.imf.org/external/np/exr/facts/gabnab.htm

[107] For information on SDRs, see: http://www.imf.org/external/np/exr/facts/sdr.HTM

[108] For information on World Bank lending instruments, see: http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/0,,contentMDK:20120732~menuPK:268725~pagePK:41367~piPK:51533~theSitePK:40941,00.html

[109] For information on BIS services for central banks, see: http://www.bis.org/banking/index.htm. For information on the products offered by the BIS, see: http://www.bis.org/banking/finserv.htm

organizations, such as the United Nations Development Program[110] and the International Fund for Agricultural Development[111], as well as bilateral aid programs and export credit agencies.

D. Technical Support

Many of the institutions and entities involved in international financial governance are involved either directly or indirectly in providing technical support to their members. "Direct" technical support means that the institution or entity itself is explicitly providing a technical support service to its member states. For example, the IMF offers training workshops that are specifically designed to help develop the technical knowledge and skills of the officials of its member states. "Indirect" technical support means that the institution or entity provides either capacity building or advisory services to its member states in the course of performing some other governance function. For example, IOSCO, in undertaking various studies about the functioning of capital markets, may assist its members to learn more about the effective operation of capital markets, thereby assisting them to become more effective regulators of their own capital markets.

International Institutions

The international organizations involved in international financial governance are all involved in providing various forms of direct and indirect technical support to their member states. For example, the IMF provides a range of capacity building services to its member states that are relevant to financial governance.[112] It offers training programs for government officials from its member countries on a range of technical subjects. It also provides members with advisory services on various monetary and financial policy issues, including drafting of laws and regulations on central banking, fiscal and tax policy, payments systems, financial sector regulation, and public sector debt and financial management. During its surveillance mission and through its publications, it also offers its members some opportunities for obtaining indirect technical support.

The MDBs offer member states direct technical support through their advisory and training programs.[113] They also provide indirect technical support in the course of their country and project related analytical work. The BIS' Financial Stability Institute offers seminars and workshops for financial sector supervisors from around the world. [114] The WTO offers a range of training programs to its member countries.[115] However these relate more to international trade in general than to financial governance in particular.

Entities Involved in Coordinating Regulation of Financial Institutions

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[110] http://www.undp.org/

[111] http://www.ifad.org/

[112] For more information on IMF technical assistance, see: http://www.imf.org/external/np/exr/facts/tech.htm

[113] For more information on World Bank capacity building activity, see: http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTCDRC/0,,contentMDK:20286893~menuPK:64169184~pagePK:64169212~piPK:64169110~theSitePK:489952,00.html

[114] For information on the Financial Stability Institute, see: http://www.bis.org/fsi/aboutfsi.htm

[115] For information on these programs, see: http://www.wto.org/english/tratop_e/devel_e/train_e/course_details_e.htm

The first point to note about these entities is that the studies and technical standards that they develop fulfil an indirect technical support function in the sense that they educate their members about the "best international practice" in regard to particular financial governance issues. In addition, the fact that they convene meetings at which regulators from different countries can discuss matters of mutual interest and concern, means that they offer these members indirect technical support. Finally, some of these entities, for example IOSCO, sponsor occasional regional training seminars[116].

Mechanisms for Coordination

The coordinating mechanisms play no direct role in technical support. However, they may play an indirect role in the sense that their meetings and studies do help participants develop their technical expertise.

E. Coordination

The international financial governance system does not have one leading coordinating mechanism. However, the IMF and the FSB appear to be assuming leading coordinating roles in international financial governance, albeit under the guidance of the G20. It should also be noted that, because of the complexity of the international financial system and its governance arrangements, many of the IEG's play a role in coordination.

International Institutions

Both the World Bank and the IMF play some coordinating role in international financial governance. For example, the World Bank chairs aid coordination groups for some of its member states. In this capacity it seeks both to ensure that the country receives adequate financial flows and to promote more effective allocation and utilization of international financing within the country. It may also play a role in harmonizing the terms and conditions on which this financing is provided.

The IMF similarly plays a coordinating role in international finance through its role as the "gatekeeper" to international financing for some of its member states. This means that the financing it offers to its member states and the conditions attached to it are seen by the international financial community as evidence that the country is following "acceptable" policies. This in turn, is thought to provide them with the necessary comfort to continue their own financing operations in the member state concerned. This means in effect that the combination of the IMF's regulatory and financing functions enable it to play a coordinating role in regard to the allocation of international financial flows. This role is particularly critical in the case of states experiencing debt or international payments crises.

The IMF also uses its "convening powers" to play a larger coordinating role. This refers to its ability to bring its member states, or at least sub-groups of them together to discuss matters of mutual interest and, if appropriate, agree on coordinated strategies for dealing with common problems and challenges.

[116] For listing of past and future IOSCO seminars, see: http://www.iosco.org/events/

Both the BIS and the WTO do have some coordinating role in the sense that they provide the forums in which their members can meet to develop and coordinate policies and agreements on issues related to international financial governance.

It should also be noted that coordination in the international financial area is constrained by the fact that there are very few formal international agreements pertaining to the governance of international development finance in general and to international financial governance in particular. Some of the agreements that do exist, for example the Paris Declaration and the Accra Agenda are not binding, so that the agencies that are parties thereto are relatively free to act this lack as they please.[117] One consequence of this situation is that the flow of development financing from official sources can be unpredictable and variable. It also tends to be subject to a range of different factors, many of which may not be directly relevant to an efficient and equitable allocation of development finance.

Entities Involved in Coordinating Regulation of Financial Institutions

These entities all play an important coordinating role. This necessarily follows from the fact that they all are bodies in which national regulators meet to discuss issues of mutual interest and concern. Moreover, given that these regulators and their governments do not want to surrender their sovereign prerogatives relating to the governance of their financial markets and institutions, catoordination between national regulatory authorities is a primary means for promoting international financial governance.

It is important to note that this coordination function is not without its challenges. The primary challenge is that effective participation in these mechanisms is not equal. In some cases, for example the BCBS and the FATF, membership is restricted to certain countries. In other cases, for example IOSCO, membership is open to the appropriate securities regulators from any country but participation in IOSCO's key decision making Technical Committee is limited and it is dominated by representatives from certain countries. The result is that the coordination tends to be biased in favour of the interests of these members.

Mechanisms for Coordination

As a general proposition, one of the key functions of these mechanisms is to provide a means through which the participating states can meet, share information on matters of mutual interest and can coordinate their positions on these issues. Thus, it is not too much of an exaggeration to state that the *raison d'etre* of these mechanisms is to provide a coordination service to their participating countries.

IX. Summary and Conclusion

[117] It should be noted that there are some legally binding international agreements that are relevant to international financial governance. For example, the Articles of Agreement of the IMF and the World Bank are legally binding treaties and do set out the mandates of these organizations in regard to international financial governance.

We have seen in this module that there are five functions that any system of international financial governance should be expected to perform. These functions are information and analysis, regulation, financial assistance, technical support, and coordination. The above has also shown that the IEGs involved in existing arrangements for international financial governance collectively perform these five functions. However, it has also shown that there are problems in connection with the performance of these functions.

First, there is no lead entity in regard to each of the five functions. This suggests that these functions are performed without effective leadership. This creates a risk that these functions are being inefficiently performed. In addition, it is possible that there is both duplication and under-coverage in the performance of these functions.

Second, there are problems in terms of the decision-making processes associated with the performance of these functions. This raises concerns about the efficacy with which the functions are being performed. They also increase the possibility that the functions are being performed in ways that over-emphasize the interests of certain stakeholders in the current international financial system and undervalue the interests of other stakeholders.

These problems thus suggest that there is a need for reform of the current arrangements for international financial governance. This is the subject on which we focus in the fourth module.

Module 4: Reforming Global Financial Governance

Professor Daniel D. Bradlow

I. Introduction

We saw in module 1 that any system of international financial governance should have two objectives. The first is to support an international monetary system that is predictable and stable and that facilitates payments for international economic transactions. The second is to oversee an international financial system that both protects the interests of savers and investors around the world and allocates credit efficiently and fairly amongst all potential borrowers. We also saw that any arrangement for international financial governance will only effectively achieve the requisite objectives if they conform to the following five sets of principles: holistic approach to development, comprehensive coverage, respect for applicable international law, coordinated specialization, and good administrative practice.

It is clear that the current international financial governance arrangements have not produced a predictable and stable financial system that efficiently and fairly allocates finance around the world. Consequently, there is general agreement amongst all stakeholders that these arrangements need to be reformed.

This module focuses on the efforts that have been undertaken in recent years to reform international financial governance. It encourages readers to think about the costs and benefits of these reform efforts and about what additional reform measures could be attempted in the future.

The module is divided into 3parts. The first section will discuss the problems with the existing global financial governance arrangements. The second section will focus on the current reform efforts. The third section discusses the potential for additional reform that may exist in the short and medium term.

It is important to note that, given the complexity of the subject and the relatively large number of entities involved in global financial governance, it is not possible for this module to provide a comprehensive discussion of the problems with each of the institutions, entities and grouping involved in international financial governance (IEGs or financial IEGs). Readers who are interested in learning about the problems with specific financial IEGs should refer to the sources and websites cited in the bibliographies at the end of this module and the other modules in this course.

I. What are the problems with the institutions of international financial governance?

Using the five principles articulated above, it is possible to identify the key problems with the existing international financial architecture.

A. Holistic vision of development

The two most significant financial IEGs, the International Monetary Fund (IMF)[118], and the Financial Stability Board (FSB)[119], do not explicitly embrace a vision of development in their founding documents. The IMF's mandate, as set out in its Articles of Agreement[120], is to promote stable international monetary arrangements, which it now interprets as including some role in the oversight of international financial markets. However, its Articles do not make any explicit reference to development and it has no formal responsibility for promoting development. Moreover, it interprets its Articles of Agreement as precluding it from dealing with certain aspects of a holistic vision of development, for example it does not take political considerations into account in its policies and operations. The FSB's mandate is limited to financial regulation and the coordination of such regulation among its participating members.

Thus, it is clear that these entities are constrained in their ability to incorporate a holistic vision of development into their operations by their mandates. This can only change if their members amend their mandates or they incorporate the decisions and views of the other international organizations that deal with other aspects of development into their decision-making and operations.

B. Comprehensive coverage

The current international financial governance arrangements are not comprehensive because they suffer from problems of under-inclusiveness in both a regulatory and a participatory sense. There are three aspects to regulatory under-inclusiveness. First, the existing multilateral regulatory

[118] www.imf.org
[119] http://www.financialstabilityboard.org/
[120] IMF, *Articles of Agreement of the International Monetary Fund*, http://www.imf.org/external/pubs/ft/aa/

bodies do not cover all the relevant categories of actors in the international financial system.[121] Some national banking regulators meet at the Basel Committee of Banking Supervision (BCBS).[122] Many capital market regulators meet in the International Organization of Securities Commissions (IOSCO)[123] and insurance regulators meet in the International Association for Insurance Supervisors (IAIS).[124] However, there is no currently existing international institution or mechanism for coordinating regulation of such relatively new actors in the system, like hedge funds, private equity funds and sovereign wealth funds, that make up the so-called "shadow banking" system that played such a critical role in the creation of the 2008 financial crisis. This lack of international coordination is a consequence of the fact that there is, currently, limited national regulation of the shadow banking system or of credit rating agencies. However, the net effect of this situation is that the current institutional arrangements for international financial governance are incomplete and important financial actors fall outside the scope of the arrangements that do exist. It should be noted that this is likely to change as national regulatory regimes are adjusted to incorporate the shadow banking system.

Another aspect of regulatory under-inclusiveness is that there are financial instruments that are important in terms of their market role and total value but that are not covered by the existing international arrangements.[125] For example, many credit derivatives were until very recently relatively unrelgulated in such key jurisdictions as the US or Europe. As a result, there is also inadequate regulatory attention to these instruments at the international level. This may change as national financial regulation is reformed.

The final aspect of regulatory under-inclusiveness is that the global regulatory bodies sometimes rely on self regulation by the entities that they are expected to regulate. For example, the 2006 "International Convergence of Capital Measurement and Capital Standards" known more colloquially as the "Basel II Framework"[126] allow qualifying banks to develop their own risk assessment models and to base their capital requirements on these models. These guidelines also rely on the decisions of the credit ratings agencies regarding specific transactions. This situation results in under-regulation because it allows self-interested parties to make decisions that affect their own capital requirements.

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[121] Kern Alexander, Rahul Dhumale & John Eatwell, *Global Governance of Financial Systems: The International Regulation of Systemic Risk* (Oxford University Press 2006); Department of the Treasury (US), *Financial Regulatory Reform: A New Foundation*, http://www.financialstability.gov/docs/regs/FinalReport_web.pdf (Last viewed on July 10, 2009); UNCTAD Task Force on Systemic Issues and Economic Cooperation, *The Global Economic Crisis: Systemic Failures and Multilateral Remedies* (2009) http://www.unctad.org/en/docs/gds20091_en.pdf; *Commission of Experts of the President of the United Nations General Assembly on Reforms of the International Monetary and Financial System,* http://www.un.org/ga/president/63/interactive/financialcrisis/PreliminaryReport210509.pdf (Last viewed on July 10, 2009).

[122] http://www.bis.org/bcbs

[123] http://www.iosco.org/

[124] http://www.iaisweb.org/

[125] Department of the Treasury (US), *Financial Regulatory Reform: A New Foundation*, http://www.financialstability.gov/docs/regs/FinalReport_web.pdf; UNCTADTask Force on Systemic Issues and Economic Cooperation, *The Global Economic Crisis: Systemic Failures and Multilateral Remedies* (2009) http://www.unctad.org/en/docs/gds20091_en.pdf; *Commission of Experts of the President of the United Nations General Assembly on Reforms of the International Monetary and Financial System,* http://www.un.org/ga/president/63/interactive/financialcrisis/PreliminaryReport210509.pdf .

[126] http://www.bis.org/publ/bcbs128.pdf.

Participatory under-inclusiveness is concerned with the operating principles of the international regulatory bodies themselves rather than with their activities.[127] In particular, it refers to the fact that not all national regulatory bodies are able to participate in decision making at the global level. For example, only 25 countries[128] participate in the BCBS, even though the Basel II Framework and the Core Principles for Effective Banking Supervision[129] that it developed, in fact, are applicable globally.

Similarly, while IOSCO has more general membership, its Executive Committee has established two important working groups: a Technical Committee and an Emerging Markets Committee. The Technical Committee, most of whose members come from the G10 countries, including two each from the US and Canada, is responsible for developing and overseeing the regulatory issues and standards of interest to the world's most liquid and sophisticated financial markets.[130] While its proposals are submitted to the Emerging Markets Committee and the Executive Committee before being shown to the full membership, the Technical Committee is the forum in which the bargaining and the shaping of issues takes place. As a result, *de facto*, only the Technical Committee members participate in the identification of issues for consideration by the IOSCO membership and they play the leading role in formulating its responses to these issues. A third example is the FSB which is the key global forum for coordinating financial regulation and for discussion of global financial regulatory policy but its formal membership is limited to regulators from the G20 countries.

A final more complex example is the IMF and the World Bank, both of which help transmit the standards established in the more technical regulatory bodies to all their member states.[131] While they have universal membership, these organizations do not offer all states meaningful participation in their decision making. This follows from their weighted voting system, and the structure of their Board of Directors. For example, Belgium has more votes in the IMF than Brazil; and Sub-Saharan African countries, which are big consumers of the services of the World Bank and the IMF, currently have two representatives on their Boards, while Western Europe has eight.

The current arrangements also have a second participatory under-inclusiveness. They are under-inclusive in the sense that that they do not provide for effective participation by all relevant and interested stakeholders. Consequently, in addition to the problems with participation by state representatives discussed above, many of the IEGs do not provide an effective means for participation by all the various non-state actors who have an interest in financial regulation and governance. This is a particularly significant problem at the "low end" of the system in the sense that both the institutions dealing with poverty and poor people themselves have inadequate

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[127] Kern Alexander, Rahul Dhumale & John Eatwell, *Global Governance of Financial Systems: The International Regulation of Systemic Risk* (Oxford University Press 2006).
[128] The members of the BCBS come from Argentina, Australia, Belgium, Brazil, Canada, China, France, Germany, Hong Kong SAR, India, Indonesia, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, Russia, Saudi Arabia, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.
[129] http://www.bis.org/publ/bcbs129.pdf?noframes=1
[130] Davies, H. & D. Green (2008) Global Financial Regulation: The Essential Guide (Polity Press: Cambridge).
[131] Daniel D. Bradlow, *The Governance of the IMF: The Need for Comprehensive Reform*, Meeting for the G24 Technical Committee, Sept. 2006, http://www.g24.org/brad0906.pdf.

means for participating in international financial governance, despite the profound impact of international financial decisions on their lives.

An important aspect of comprehensive coverage is subsidiarity. In the case of international financial governance, this means deferring to national regulators to the greatest extent possible and, when international level regulation is necessary, ensuring that it provides for maximum feasible national implementation and interpretation. The current international financial governance arrangements satisfy the requirement of subsidiarity for some member states and not for others. In the case of the rich and powerful states, the arrangements are very respectful of their need for making, to the greatest extent feasible, their own financial regulatory policies and their own monetary and financial policies. Consequently, the bodies in which they participate most actively—the BCBS, IOSCO, IAIS, FSB etc. – tend to be bodies which depend on national implementation of their standards for their efficacy. This means that while these bodies develop standards that they expect all their members to implement, their decisions are non-binding and it is up to each state to decide for itself whether or not to incorporate the international standard into their domestic regulatory regime. They are also able to interpret and apply the international standard in the way that is most congenial for them. While there are likely to be adverse market consequences for any participating state and their financial institutions and borrowers that do not follow the international standards, there will be no legal consequences.

On the other hand, weak and poor countries do not have the same degree of discretion in regard to these international standards, despite the fact that they have usually played a limited or even no role in developing them. There are two reasons for this. First, the international financial governance institutions on which they are most dependent for financing --- the World Bank and the IMF—tend to support the key international regulatory standards and to advocate for their adoption by all their member states. Second, these institutions are able through the conditions attached to their financial support, *de facto*, to compel weak and poor states to adopt and implement standards. Thus, these poor and weak states end up having less policy discretion than the richer and more powerful member states.

C. Respect for applicable international legal standards

The relevant international legal standards tend to be generally applicable and do not include provisions that are specifically designed to apply to international financial governance. The result is that it is not always clear how the financial IEGs should interpret or implement these principles.

Compliance with certain applicable international legal principles is relatively non-controversial. The key institutions of international financial governance are formally respectful of the national sovereignty of their member states. They appear to formally respect the principle of non-discrimination in regard to the member states, in that they do not actively discriminate between states to the detriment of any state. Third, they appear to pay attention to the rights of legal persons, particularly financial institutions in their activities and policies.

The remaining areas of concern, therefore, are their respect for the rights of natural persons and their compliance with international environmental legal standards. At a minimum, their compliance should manifest itself in some discussion of these issues in the policy and operational documents of the financial IEGs. This would indicate that attention has been paid to these issues and how they affect financial regulation and financial transactions. It is very difficult to find any indication that attention has been paid to them in the documents of the key regulatory bodies—the BCBS, IOSCO, IAIS, FSB or the Bank for International Settlements[132] (BIS).

On the other hand, some attention is paid to these issues by the international financial institutions. The World Bank addresses environmental law and some human rights issues in its safeguard policies.[133] However, these policies, which deal with how the Bank should address social, cultural, and environmental concerns in its operations, do not explicitly require the Bank to assess the human rights impacts of Bank operations and so are not comprehensive in their coverage of human rights issues. The IMF acknowledges the relevance of some human rights issues to the challenges of governance.[134] Yet, like the Bank, it does not explicitly or comprehensively evaluate the human rights impacts of its policies or operations.

D. Coordinated specialization

There are a number of IEGs that have specialized responsibilities in international financial governance. They include the IMF, the World Bank, the FSB, the BCBS, IOSCO, IAIS, and the BIS. In addition, the World Trade Organization is responsible for facilitating development of international rules and standards for trade in services, including financial services. Each of these entities has, *prima facie*, clear and well defined specialized areas of expertise and their mandates are confined to these limited areas. Issues outside their defined areas of expertise are assumed, in principle, to be the responsibility of other non-financial international institutions and entities (non-financial IEGs), including the various United Nations specialized agencies.

This arrangement faces two significant challenges, First, the envisaged clear division of responsibility has not been maintained in the case of the major, international financial institutions, the IMF and the World Bank. The dynamics of their work tend to push them to see connections between their areas of responsibility and other substantive issues, even if these fall within the mandate of non-financial IEGs. Thus, over time, both the World Bank and the IMF have expanded their scope of work to include aspects that were outside their original mandates.[135] A good example is the way in which the Bank and the IMF have both come to address issues like good governance as they have seen how these issues affect the developmental or international monetary affairs of their member states. However, their concern with these issues, because it is filtered through their specific mandate, is not comprehensive and has a certain *ad hoc* quality.

[132] www.bis.org
[133] World Bank, *Safeguard Policies* http://go.worldbank.org/WTA1ODE7T0; International Finance Corporation, *Performance Standards*, http://www.ifc.org/ifcext/sustainability.nsf/Content/PerformanceStandards (Last viewed on July 9, 2009); Robert Danino, *Legal Opinion on Human Rights and the Work of the World Bank*(January 27, 2006) http://www.ifiwatchnet.org/sites/ifiwatchnet.org/files/DaninoLegalOpinion0106.pdf.
[134]Francois Gianviti, *The Reform of the International Monetary Fund (Conditionality and Surveillance)* 107 (2000).
[135] U.N. Charter arts.70-71; Claudio Grossman and Daniel Bradlow, *Limited Mandates and Intertwined Problems: A New Challenge for the World Bank and the IMF,* 17(3) H. Rig. Quar. 41l, 411- 442 (Aug. 1995) available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1365257

This "mission creep" in addition to taxing the Bank's and the Fund's resources, credibility and ultimately legitimacy, also weakens other international organizations. The reason is that these other organizations, while they may formally have the authority to act in certain areas, lack the financial and political means to offer serious counterweights to the financially powerful IMF and World Bank.

Second, there is not effective coordination either between the various financial IEGs or between these financial IEGs and the non-financial IEGs. In the case of the financial IEGs coordination is expected to come from the G20 working with the IMF and the FSB. However, as we have seen, there are problems of representation and participation in the decision making structures of these organizations, which undermine their ability to be effective coordinators. In addition, while the IMF has considerable leverage over its poorer and weaker member states, its influence over its rich and powerful member states is limited. In addition, the IMF does not have any formal mechanisms for getting the World Bank and the other international financial institutions to follow its lead. Consequently, its ability to be an effective coordinator is limited. The FSB has even more limited authority in the sense that it has no means to compel the various state and institutional participants to implement its decisions or to follow its lead. Each is free to decide for itself if and how to implement the decisions, standards and codes supported by the FSB. It has even less direct ability to force its views onto non-participating states—although the IMF does assist in this regard.

The international order created after the Second World War did include a coordinating mechanism for all the United Nations' specialized agencies, including the IMF and the World Bank. The Economic and Social Council is supposed to be the body where these different specialized agencies could come together to coordinate their activities[136]. However, this coordination has not functioned effectively, in large part because the specialized financial agencies are able to use their financial power to overwhelm other international organizations in almost any sphere that they choose to operate. For example, if the World Bank decides that, in order to effectuate its development mandate, it should support health related projects, it is able to allocate substantial amounts of money for such projects. Similarly, when the IMF, through the conditions it attaches to its finance, requires its member states to cut expenditures in ways that impact on health, it indirectly becomes a key influence over its member states' health sector. The result is that those states which are interested in developing their health sector are more likely to turn to the World Bank or the IMF than to the World Health Organization, with its relatively small budget, for advice and support in their health related activities and policies. This situation inevitably undermines the position of the WHO, which is supposed to be the UN specialized agency responsible for health. The IMF and World Bank have had similar effects in regard to other UN agencies, for example those dealing with agriculture, children, and education.

The result is that over time a distortion has appeared in the international governance system in the sense that the financial institutions have grown in power and resources while the non-financial ones have declined. The net effect is that international financial governance is not effectively coordinated with other areas of global governance. The situation is exacerbated by the fact that some of the key actors in international financial governance are not part of the UN system. For example the FSB is not a UN agency.

[136] U.N. Charter arts. 62-66, *U.N. Charter*, www.un.org/en/documents/charter/

E. Good administrative practices

The basic principles of good administrative practice in global governance are the same as those applicable to any public institution. These principles are transparency, predictability, participation, reasoned decision making, and accountability. This means that all the financial IEGs must conduct their operations in a manner that is sufficiently open that their procedures, decisions, and actions are predictable and understandable to all stakeholders. They must also offer these stakeholders some meaningful way of raising their concerns and having them addressed by the institutions. The institutions should also give reasons for their decisions and actions to all interested stakeholders. Finally, the stakeholders should be able to hold the institutions accountable for their decisions and actions.

Finance, which is so dependent on confidence and faith, is not an activity that lends itself easily to all the principles of good administrative practice. It has no problem with the principles of predictability, since this is essential to the functioning of finance. Similarly, at least as a general proposition, it can satisfy the principle of reasoned decision making because all key actors in the financial system need to understand the decisions of regulators and other key players in international financial governance, if they are to act in conformity with these decisions. However, the principles of transparency, participation, and accountability are more challenging for the international financial governance institutions. Consequently, the remainder of this section will focus on these three aspects of good administrative practice.

Transparency

The mechanisms for international financial governance have attempted to adapt to the need for transparency. This is perhaps not surprising, given the need for their information to be shared with international financial markets.

The IMF and the World Bank have both significantly improved the transparency of their operations in recent years. Their information disclosure policies now require that many of their documents are made publicly available as a matter of course and there is greater effort to communicate with stakeholders about their policies and operations.[137] However, they are not fully transparent. For example, there are still certain categories of documents, such as their archives, that are not easily made publicly available. In addition, the IMF does not have a clear set of operational policies and procedures so that it is difficult for interested stakeholders to fully understand how they go about doing their business.

The other financial IEGs are reasonably transparent. They share information with their members, who often, pursuant to national requirements, will make this information public. They publish drafts of their proposed policies and invite comment on the drafts. For example, the BCBS published a number of drafts of the Basel II Framework and engaged in extensive discussions with key stakeholders about these drafts.

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[137] World Bank, *The World Bank's Policy on Information Disclosure*, http://go.worldbank.org/TRCDVYJ440 (Last viewed on July 9, 2009); International Monetary Fund, *Review of the Fund's Transparency Policy* (May 24, 2005) http://www.imf.org/external/np/pp/eng/2005/052405.htm.

Participation

The compliance of the institutions of international financial governance with the requirement of participation is problematic. The World Bank and the IMF, despite their near-universal membership, do not provide for effective participation by all member states. The level of member state participation depends on their share of votes in the institution and this is a function of each member state's historical wealth and power. Consequently, as we have seen, there are many member states that are under-represented in the organizations and others that are over-represented.

There is also a participatory deficit in the international regulatory institutions. The reason is that these bodies either have restricted memberships (for example the BCBS or the FSB) or, despite their open membership policies, have key decision making bodies with restricted memberships (for example, the Technical Committee of IOSCO). The result is that a large number of countries, in fact, are excluded from participation in these bodies.[138]

The openness of all these organizations to participation by non-state stakeholders is complex. In some cases, while they do not formally provide for non-state actor participation in their decision-making they will consult with key stakeholders. However, the lack of formal consultation mechanisms means that other stakeholders may be excluded from the consultation process. For example, the BCBS is likely to consult, directly or indirectly, with large private banks and organizations representing banks and any other entities that it sees as relevant to its work. Thus, informally these consultations are likely to create opportunities for participation by certain entities from outside the BCBS member countries in the work of the BCBS. However, since the BCBS has discretion in deciding with whom to consult, it is more likely to consult with banking organizations than with consumer groups dealing with credit transactions and other civil society groups from around the world that have an interest in its work. This lack of participation can be mitigated at the national level, if the national law or policies require significant public consultation and participation in regard to financial regulatory and operational affairs.

Accountability

In this context, accountability means that all the stakeholders in international financial governance should have some means of holding decision makers responsible for their decisions and for their implementation of these decisions.

Using this yardstick, it is clear that the World Bank is the most accountable global financial institution. In addition, to providing its member states with means to raise concerns at the Board level, it has a procedure for dealing with complaints about allegedly improper procurement awards, and independent entities -- the Inspection Panel and the Compliance Advisor Ombudsman -- for investigating complaints from private parties who allege that they have been harmed or threatened with harm by the failure of the members of the Bank Group to comply with

[138] Howard Davies & David Green, *Global Financial Regulation: The Essential Guide* (Polity Press, 2008); Kern Alexander, Rahul Dhumale & John Eatwell, *Global Governance of Financial Systems: The International Regulation of Systemic Risk* (Oxford University Press 2006).

their own operational policies and procedures in the projects that they fund.[139] It should be noted, however, that, while it is possible, for private parties to challenge any World Bank operation in the appropriate entity, the complaints, in fact, tend to deal more with project based loans than with policy based loans, which may be more directly relevant to international financial governance.

The IMF has made some effort to enhance its accountability through the creation of the Independent Evaluation Office. This office, which conducts studies of IMF operations, is similar to the Independent Evaluation Group in the World Bank. However, it does provide for public consultation on its work plan and on the scope of its studies.

The international regulatory bodies are sufficiently different from the IMF and the World Bank that it is not reasonable to expect them to be accountable in the same way. Their members are regulatory agencies, each of which is accountable to their national governments and, through the national administrative procedures, to their various stakeholders. However, the more significant concern is that there is no accountability of these regulatory bodies to stakeholders who do not participate, either directly or indirectly, in the work of the international regulatory bodies. This is particularly significant because the non-participants in these bodies tend to be the poorer and weaker states, which nevertheless are compelled either by other multilateral organizations or by donor countries to conform to the policies and guidelines of these international regulatory bodies.

II. What reforms have been agreed to?

This section evaluates the recent efforts to reform global financial governance. These efforts can be divided into three groups: reforms that have actually been or are being implemented; reforms that have been agreed but not yet implemented; and reforms that are still under consideration. Each group is considered separately below.

Reforms being implemented

The most noticeable reform is that the G20 has emerged as the primary forum for discussion of international financial governance matters.[140] This is important because it represents an acknowledgement of the shift in global power. This change has led to a similar expansion in representation in the key international regulatory entity. The Financial Stability Forum, which was the forum in which the banking, finance and insurance regulators from the G7 countries plus

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[139] Richard E. Bissell & Suresh Nanwani, *Multilateral Development Bank Accountability Mechanisms: Developments and Challenges*, 6(1) Man. J. Int'l. Econ. L., 2 (2009); Daniel D. Bradlow, *Private Complaints and International Organizations: A Comparative Study of the Independent Inspection Mechanisms in International Financial Institutions*, 36 Geo. J. Int'l. L. 403 (2005).

[140]Group of Twenty, *The Global Plan for Recovery and Reform* (Apr. 2, 2009) http://www.londonsummit.gov.uk/resources/en/PDF/final-communique; Group of Twenty, *Declaration on Strengthening the Financial System* (April 2, 2009) http://www.londonsummit.gov.uk/resources/en/PDF/annex-strengthening-fin-sysm; Group of Twenty, *Declaration on Delivering Resources through the International Financial Institutions* (April 2, 2009) http://www.londonsummit.gov.uk/resources/en/PDF/annex-ifi; Group of Twenty, *Summit on Financial Markets and the World Economy* (November 15, 2008) http://www.g20.org/Documents/g20_summit_declaration.pdf; *Annual and Spring Meetings of the International Monetary Fund and the World Bank Group*, http://www.imf.org/External/am/index.htm (Last viewed on July 10, 2009).

representatives from international financial institutions like the IMF met to discuss financial regulatory matters, has been expanded to include the regulators from all the G20 countries. In addition, its status has been enhanced, as exemplified by it changing from a "forum" to a "board" named, as we have seen, the Financial Stability Board (FSB). This should result in broader participation in deliberations about financial regulation. However, it is not clear that the FSB will be more responsive than the FSF to the concerns of low income countries.

There have also been some reforms in the IMF. The IMF has made some small changes in its voting allocations, and has promised additional support to the African members of the Board. The IMF has also taken a number of actions that are designed to enhance access to its financing. These include reforming its conditionality requirements so that they are more targeted and streamlined; eliminating some under-utilized facilities; creating the Flexible Credit Facility and the Exogenous Shocks Facility, both of which are only available to member states that meet certain qualifications; and raising the limits on member states' access to IMF financing.[141]

The IMF, with the support of the G20, has also increased its ability to provide financial support to its member states. The G20 member states have provided the IMF with an additional $500 billion.[142] These contributions, in the case of those member states that participate in the New Agreement to Borrow (NAB)[143] are in the form of loans through the NAB. In other cases, for example Russia and China, the contributions are made through the purchase of an unprecedented issue of IMF notes[144]. Both the NAB loans and the note purchases will only result in temporary increases in the resources of the IMF. They will also not result in the states that contribute these resources gaining any permanent increase in voting power in the IMF.

Third, the G20 agreed that the IMF should sell some of its gold reserves[145] to funds to build an endowment for its administrative costs and provide (approximately $6 billion) concessional funds for the poorest developing countries.

The IMF member states have also agreed to the IMF making an allocation equivalent to USD250 billion in SDRs to its member state.[146] (Special Drawing Rights are created by the IMF to provide member states with additional liquidity[147].) Pursuant to its rules, the IMF must allocate SDRs among all its members according to their quotas in the IMF. Consequently, the richest countries will receive the biggest share of the allocation. Developing countries will receive the equivalent of about USD100 billion of the total allocation, of which low income countries get the equivalent of about USD19 billion.

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[141] International Monetary Fund, *IMF Reforms Exogenous Shocks Facility* (October 8, 2008) http://www.imf.org/external/np/sec/pn/2008/pn08130.htm.
[142] International Monetary Fund, *IMF Acting on Several Fronts to Ramp Up Its Financing*, (July 6, 2009) http://www.imf.org/external/pubs/ft/survey/so/2009/INT070709A.htm.
[143] http://www.imf.org/external/np/exr/facts/gabnab.htm
[144] http://www.imf.org/external/np/exr/facts/imfnotes.htm
[145] http://www.imf.org/external/np/exr/facts/gold.htm
[146] http://www.imf.org/external/np/sec/pr/2009/pr09283.htm.
[147] http://www.imf.org/external/np/exr/facts/sdr.htm

Similarly, the WB has agreed to increase its lending over the next three years.[148] It has also agreed to create a third chair for an African Executive Director. However, to date the African countries have not decided how they will reconstitute themselves to take advantage of this new chair.

Reforms that have been proposed but not implemented[149]

The reforms that have been proposed but not yet implemented include an agreement that in the future the Managing Director of the IMF and the President World Bank will be selected on the basis of merit and not nationality. Until now there has been a practice that the head of the IMF is always a European and the head of the World Bank is always from the USA. This agreement will only be tested when there is a need to select a new leader for one of these organizations.

The G20 also agreed to implement all the voice and vote reforms agreed in 2008 and to advance the quota review scheduled for 2013 to no later than January 2011. Despite their agreement, it is unclear when and if these reforms will be implemented. The key problem is that the European states that are "over-represented" in the organization are unlikely to surrender their votes (and therefore agree to quota reforms) without compensation and, to date, it is unclear how they can be adequately compensated. [150]

Reforms still under consideration

The most significant of the reforms still under consideration are the recommendations of the high level panels appointed to review the governance of the IMF (the Manuel Committee[151]) and of the World Bank (the Zedillo Committee). In the case of the Manuel Committee, the recommendations on IMF governance reform include changing the requirement that the five largest member states have their own Executive Director, changing the scope of IMF surveillance to make it more comprehensive, and changing the majority voting rules to eliminate the US veto. The first and third of these proposals require amendments to the IMF Articles. Since adoption of such amendments requires parliamentary approval in many member states, it is very difficult to predict if and when they will actually be implemented. One indicator: it took 12 years for the Fourth Amendment to the IMF Articles to receive the 85% majority needed for its adoption.[152] The Zedillo Committee has not yet issued its report.

III. What more can be achieved?

[148] World Bank, *G20: Global Financial Crisis: Responding Today, Securing Tomorrow*, Background Paper (Nov. 15, 2008), http://go.worldbank.org/TM8VAV33P0.
[149] Group of Twenty, *Declaration on Delivering Resources through the International Financial Institutions* (April 2, 2009) http://www.londonsummit.gov.uk/resources/en/PDF/annex-ifi;
[150] Manuel Grajewski, *EU not ready for single seat at IMF says* Barroso, Reuters, July 6, 2009.
[151] Manuel Committee, *Committee on IMF Governance Report: Final Report* (Mar. 24, 2009), http://www.imf.org/external/np/omd/2009/govref/032409.pdf.
[152] International Monetary Fund, *Summary Proceedings, 1997 (part 4 of 4)* (1997) http://204.180.229.21/external/pubs/ft/summary/52/pdf/part4.pdf; International Monetary Fund, *IMF Acting on Several Fronts to Ramp Up Its Financing*, (July 6, 2009) http://www.imf.org/external/pubs/ft/survey/so/2009/INT070709A.htm.

A. Short Term Prospects

In evaluating the potential for further reform efforts in the short run, it is necessary to pay careful attention to the constraints within which these reforms must be achieved. There are two issues that are relevant in this regard.

First, we are undergoing a shift in power in the global political economy. Currently, the "rising powers", as typified by the BRICs[153], are not powerful enough to successfully demand substantial reform of global financial governance arrangements and the "declining powers", primarily the G7 countries, can still block changes that are not to their liking. Thus, the rising powers have only succeeded in obtaining marginal changes in IMF quotas, and the rise of the G20 has not yet led to the demise of the G7. This suggests that it is not feasible in the short run to reform any faster or further than the current major powers are willing to accept. This may change over time as power shifts more towards the newly rising powers but at the moment this is an important constraint. Another consequence of the current situation is that the present governance reform process is unlikely to result in sustainable and stable changes in international financial governance because these reforms will always be subject to new pressures and constraints as the shift in global power plays itself out.

Second, the G20 have been selective in the issues that they address in their reform efforts. Thus, while they have addressed some regulatory issues and some governance issues, they have not addressed any of the inter-linked issues. These include climate change, poverty alleviation and inequality, all of which impact global financial flows and financial regulation. Consequently, failure to include them in the discussions on international financial governance undermines current efforts to sustainably reform the global financial governance regime.

These constraints suggest that the potential for significant additional reform efforts in the short run are limited—especially as the global economy begins to grow again and the pressure imposed by the recession declines. They even seem to indicate that the prospects for implementation of the agreed but not yet implemented reforms are uncertain.

Given the current situation, in the short run there are only two areas in which there is scope for additional reform. The first is financial regulatory reforms. While these reforms are likely to have their greatest impact at the national level, they could result in some changes in governance at the global level. The second is in enhancing accountability of the IMF. The reason is that it is currently the only major multilateral financial institution that does not have some independent accountability mechanism. It is important to note that the IMF can create such a mechanism without having to amend its Articles of Agreement and without any action beyond the level of its Board of Executive Directors. The history of these mechanisms in other IFIs, like the World Bank, suggests that they have can have a positivn impact on the working of the institutions.

B. Medium Term Prospects

The constraints that limit reform efforts in the short run should not be applicable over the medium term. The reason, as indicated above, is that the force of these constraints is likely to

[153] BRICs== Brazil, Russia, India and China

weaken over time. Consequently, when contemplating medium term reform efforts, it is reasonable to think more laterally and to re-imagine the arrangements for international financial governance.

This is not the appropriate occasion to spell out the arrangements for a new international financial governance regime in great detail. Suffice it to say that such a regime can take many forms as long as it conforms to the key principles set out in the first section of this module. This means that the regime must be comprehensive in its coverage. It must also be based on a holistic vision of development that both guides the implementation of its specialized technical mandate and ensures that there is an effective means for coordinating its activities with those of other institutions of global governance. It must also conform to all applicable international legal standards, and to the principles of good administrative practice.

The functions that the IEGs of international financial governance regime must provide include being a global lender of last resort, global monetary regulator, provider of global development finance; a facilitator of fair trade in services; a sovereign debt workout mechanism, a means for dealing with complex cross boarder bankruptcies, a global financial regulator, which promotes, in addition to financial efficiency and innovation, fair financial systems that ensure access for all to financial services, appropriate consideration of environmental and social risk; and an efficient and fair global tax system.

IV. **Summary and Conclusion**

In this module we have briefly reviewed the principles that should guide any system of international financial governance. We have also considered the problems that exist in the current arrangements for international financial governance. Finally, we reviewed the current efforts to reform these arrangements and saw that these efforts are still a "work in progress", in the sense that some elements have already been implemented, some are in the process of being implemented and some are "yet to be" implemented. In addition, we saw that there is still some scope for reform in the short run.

However, we also saw that the existing arrangements are reflections of the current balance of forces in the international arena. Moreover, the global balance of forces are shifting relatively rapidly and it is unlikely that stable arrangements for international financial governance can be achieved before these forces resolve themselves. This suggests that in the short term there will be limited opportunities for substantial reform of the international financial governance system. However, it is likely that as the balance of forces continue to evolve opportunities for reform in the existing arrangements will arise. Developing country governments and their citizens should be looking out for these opportunities and should use them to try and create enhanced roles for smaller and weaker countries in international financial governance. Such opportunistic reform efforts, over time, can lead to progressively more space for reform and more opportunity for improvements in international financial governance.

We have also seen that over the medium term, it could become possible to undertake more substantial changes in international financial governance. However, if these medium-term changes are to be sustainable and supportive of equitable development, they will need to be consistent with the principles discussed in this module.