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Making use of SDRs to weather the COVID-19 storm

The expected issuance of $650 billion in the international reserve asset known as Special Drawing Rights will provide a financial lifeline to economies battered by the COVID-19 crisis. How the SDRs can be chanelled to the countries in greatest need and to the most urgent uses was explored by economic and development experts at a recent webinar.

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Developing countries seek parity in fisheries subsidies deal

Powerful states push tax race to the bottom

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131 Jalan Macalister
10400 Penang, Malaysia
Tel: (60-4) 2266728/2266159
Fax: (60-4) 2264505
Email: twn@twnetwork.org
Website: https://twn.my

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Editor: Chakravarthi Raghavan

Editorial Assistants: Lean Ka-Min, T. Rajamoorthy, Chee Yoke Heong

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Drawing on Special Drawing Rights to save the economy

A recent webinar examined how allocations of Special Drawing Rights by the International Monetary Fund can best support pandemic response and recovery and meet other key development challenges.

by Bhumika Muchhala and Christopher Hope

In the wake of the liquidity and fiscal crisis across developing countries generated by the global pandemic, the role of Special Drawing Rights (SDRs) – an international reserve asset issued by the International Monetary Fund (IMF) – has been an important part of the debate on economic recovery.

Developed countries account for nearly 80% of all fiscal efforts, while many low-income countries (LICs) have cut spending or have directed more funds to repaying creditors than they have to their own health sectors. In the 15 months since the onset of the pandemic in March 2020, multilateral efforts have not sufficiently accelerated comprehensive efforts to respond to the multiple dimensions of health and economic crises in developing countries, particularly through financing and provision of immediate liquidity.

The unequal distribution of vaccines and emergence of new variants of the virus threaten to prolong the crisis, with developing countries continuing to bear the brunt of the exacerbation of poverty and inequality, including extreme poverty. Progress towards the Sustainable Development Goals (SDGs) by 2030 is effectively derailed, with many developing countries set back by years or decades in the achievement of these goals.

In this context, there has been ample discussion of the possible role of SDRs in responding to the crisis. It now appears that later this year the IMF will allocate countries SDRs worth a combined $650 billion. But there remains much debate as to precisely how SDRs can support the pandemic response and recovery, how SDRs can be directed to those countries most in need, and what kind of institutions could be set up to utilize SDRs in the pandemic response.

With these questions in mind, a group of 16 civil society organizations organized a webinar titled “SDRs: Saving the global economy and bolstering recovery in pandemic times” on 21 May.

Opening remarks were made by Cardinal K.A. Peter Turkson (Prefect, Dicastery for Promoting Integral Human Development). Speakers were Vera Songwe (Executive Secretary, UN Economic Commission for Africa – ECA); Jose Antonio Ocampo (former Finance Minister and Central Bank Board Member of Colombia); Daouda Sembene (Distinguished Non-Resident Fellow, Center for Global Development, and former IMF Executive Director for a group of African countries); Ana Corbacho (Assistant Director, Strategy, Policy and Review Department, IMF); Esteban Perez Caldentey (Chief, Financing for Development Unit, UN Economic Commission for Latin America and the Caribbean – ECLAC); and Jayati Ghosh (Professor of Economics, University of Massachusetts Amherst).

The following is a summary of the key themes discussed during the event. A recording of the discussion is available at www.youtube.com/watch?v=Qnqg4cXg4r8

The purpose of SDRs

Global reserve funds in the form of IMF SDRs are a vital tool to provide swift and unconditional support to the global response without increasing debt. Civil society organizations and experts have called for a new allocation of $3 trillion in SDRs.

Earlier this year, the IMF membership conveyed broad support for an allocation of $650 billion in SDRs, and they will consider a formal proposal in June, while the issuance will likely occur in August. Of this amount, low-income countries would receive $21 billion – crucial relief, but not close to the $450 billion financing needs identified by the IMF to step up pandemic response and accelerate growth.

Developing countries would receive $230 billion, short of IMF estimates that last year placed emerging economies' financing needs at $2.5 trillion.

During the 21 May event, Ocampo said that the most positive aspect of SDRs is that they are essentially foreign exchange reserves for developing countries, providing them with international liquidity. In light of the very limited international cooperation on debt and liquidity that has taken place, SDRs are constructive for pandemic response and recovery in developing countries.

Corbacho of the IMF clarified that SDRs will boost international reserves, and this is of vital importance as an insurance mechanism in times of crisis. Expanding reserve assets also strengthens global financial resilience and confidence by sending a powerful signal of macroeconomic stability. She outlined the immediate uses of SDRs in developing countries, which include building up reserve buffers, providing financial backstops and freeing up financial liquidity for urgent balance-of-payments needs.

Corbacho added that the creation of additional liquidity can occur either by the addition of SDRs to reserves freeing up other foreign currency reserves or by countries converting their SDRs for hard currency. When countries convert their SDRs for currency, they are required to pay an interest rate to the IMF. Given that the normative interest rate is at a record low of 0.05%, using SDRs is currently very affordable. If, or rather when, rich countries start to normalize and unwind their expansionary policies, interest rates may rise, which countries should bear in mind.

Sembene said that if well-calibrated and timely, SDRs can provide useful liquidity, but that historically SDRs have not played this role. Mechanisms to recycle and transfer SDRs must be designed to maximize impact and use. While the immediate priority for developing countries is vaccine access and purchase, there are other priorities that should not be forgotten, such as debt sustainability and climate change. Governments across the South need financial resources to bolster economic recovery, counter wealth and income inequality, and tackle rising poverty.

Recycling rich-country SDRs

The core inequity in allocation of SDRs is that they are distributed according to IMF quotas, or financial contribution shares, rather than need. As a result, over 60% of SDRs go to a handful of wealthy countries, while developing countries with the greatest need receive the least. In response, IMF membership have asked the institution to explore mechanisms for rich members to voluntarily transfer SDRs to vulnerable countries.

Different stakeholders have proposed a number of, not mutually exclusive, forms for such mechanisms, for instance: contributing to the IMF Poverty Reduction and Growth Trust (PRGT) facility, financing expanded debt relief through the Catastrophe Containment and Relief Trust (CCRT), strengthening the financial capacity of multilateral or regional financial institutions, and creating new vehicles such as the Liquidity and Sustainability Facility, vaccine financing vehicles or the COVID-19 Economic Relief Fund. The key question is how the design of SDR recycling mechanisms can maximize positive impacts for all countries that need support, while avoiding harm.

According to Perez Caldentey of ECLAC, recycling SDRs needs to proactively include middle-income countries (MICs). Despite being home to more than 75% of the global population, a majority of the world's poor and accounting for almost 96% of the external debt of all developing countries (excluding China and India), MICs have so far not been granted access to G20 debt relief. Reallocation, he stressed, should also be used as a way to boost the lending capacity of regional financial institutions and regional banks, such as the Latin American Reserve Fund (FLAR) and the Eastern Caribbean Central Bank, among others.

Ocampo emphasized that SDRs should be lent to low- and middle-income countries without conditionality and with attention to how exactly to spend the SDRs.

For Corbacho at the IMF, the central question leading up to the August issuance is how SDR recycling mechanisms can supplement and meet global reserve needs. The IMF requires broad support from its members, she stressed, as the process of reallocation can only be made effective once the IMF's Executive Board approves.

Donating SDRs

Civil society organizations and many policymakers and academics have stressed the importance of maintaining the inherently benign properties of SDRs of being non-debt-creating and unconditional. The best way to maintain these properties would be direct donations of SDRs from rich countries to developing countries. However, Ocampo warned that such donations are not easy, as the donating country will have to pay interest to the IMF. As a long-term approach to overcome this hurdle, Ocampo proposed this interest to be paid out of the general IMF, though he acknowledged that this would be unlikely to occur for this allocation.

Corbacho reiterated the point, noting that the interest costs would be permanently incurred by the donor country; that is why it makes more sense for rich member countries to on-lend their SDRs rather than donate them. On the other hand, Ghosh countered that for the leading industrial countries, the budgetary implications of paying this interest are minor. As such, the issue is convincing rich-country governments to agree to donations.

On-lending SDRs

The IMF is reportedly considering its PRGT lending facility as a central SDR recycling mechanism. Many civil society advocates have concerns over PRGT loans, many of which were mentioned by the speakers. The PRGT facility is currently accessible to only LICs and should be made accessible to all developing countries in need.

Ocampo emphasized this point on access. Conditionalities attached to loans, many of which promote fiscal consolidation measures, should be removed, similar to how the Fund's debt relief scheme for LICs, the CCRT, is unconditional. Ghosh underscored that while the PRGT can provide needed liquidity, the emphasis within PRGT loans on cutting fiscal expenditure should be unacceptable in the recycling of SDRs.

Ghosh noted that while IMF leadership and management have made statements that COVID-19 financing should be non-conditional, this point has not yet been incorporated into the Fund's lending facilities.

Many civil society advocates are also

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against the conditionality within PRGT loans, typically oriented towards fiscal consolidation in the medium to long term. They also stress that PRGT loans would exacerbate already high levels of debt distress, may be double-counted as official development assistance rather than additional to existing aid commitments, and require a more appropriate accountability mechanism.

Vaccine funds

Songwe emphasized that the priority for the African continent is vaccine access and distribution. As such, as well as supplementing the PRGT, SDRs should be on-lent to create a fund for vaccines. While the first priority is to get more countries and companies to produce vaccines, after production the problem for developing countries will be vaccine affordability.

Ghosh stated that SDRs should be specifically recycled into the World Health Organization's Access to COVID-19 Tools (ACT) Accelerator, which addresses diagnostics supplies, personal protection equipment and medical needs, among other areas.

Corbacho reiterated that ultimately it is up to IMF member countries how they will employ unused SDRs. Channelling SDRs for specific purposes such as vaccines and climate change, either through another trust or through Special Purpose Vehicles (SPVs), will need willing creditors as well as satisfying certain criteria, such as the additionality and complementarity of new trusts to existing IMF tools.

A fund outside of the IMF

Sembene said that while the IMF is important, it is not the only institution and process by which SDRs can be recycled. Should there be a role for multilateral development banks (MDBs) and mechanisms within these institutions that can leverage SDR resources for use over the long term? He noted that an SDR recycling mechanism that should be on the table is on-lending via SPVs that are not yet prescribed holders of SDRs. This would require a decision from the IMF to designate new prescribed holders of SDRs. Sembene also stressed that one key area that SDR recycling conversations may not be focusing as much on is the role of SDRs in reducing debt burdens across the developing world.

Liquidity and Sustainability Facility

There was debate within the panel on the value of using SDRs to contribute to a Liquidity and Sustainability Facility (LSF) for Africa, which has been proposed by the ECA. The LSF would mobilize private finance for the Sustainable Development Goals through mechanisms such as SDG COVID-19 bonds.

According to the ECA, the LSF would be financed by official development assistance, multilateral development banks, and/or by the central banks of members of the Organisation for Economic Co-operation and Development (OECD). The LSF is a response to the African context of sovereign debt, where countries often have to pay higher interest rates than non-African countries with similar macroeconomic fundamentals (often called the "African premium"), in that the facility hopes to reshape misperceptions about credit risk for African sovereigns.

As the ECA's Songwe previously mentioned in a June 2020 *Financial Times* article, "Africa needs its own repo market [...] that would attract a new class of investors while shaving off the higher borrowing costs that African nations face because of age-old stubbornly sticky perceptions that they are especially risky." The LSF "modelled on existing market-based and commonly used facilities in Europe and the US [...] would help cut borrowing costs for African governments by providing incentives for the private sector to increase their portfolio investments on the continent."

Ghosh had concerns over these types of facilities for Africa. She noted that while it was good to leverage existing resources for additional finance, the design of the LSF meant that it was pro-cyclical, was dependent on market behaviour, and would lead to a loss of domestic monetary and fiscal policy. Ghosh pointed to the experience of middle-income countries in Asia which had opened up to bond markets over recent decades and have experienced net losses. Songwe responded that the LSF was not pro-cyclical and that its role was in correcting market distortions. The LSF is necessary because Africa has not yet deepened its capital markets, meaning that it presently has to borrow at high rates.

Long-term reforms to maximize the benefits of SDRs

An underlying current during the event were voices calling for a more ambitious reformulation of how SDRs can be used to support developing countries. Ocampo identified three long-term solutions. The first was eliminating the dual accounting of SDRs – counting as both assets and liabilities – within the IMF's SDR account and its general resources account. In this way, SDRs that have been issued but have not been used by states can be used by the IMF to finance its products. This was the most important potential reform. The second was changing the distribution formula for IMF quotas so that the need for foreign reserves is taken into account. This would lead to more SDRs being allocated to low- and middle-income countries. And the third was allowing for the private use of SDRs. While these options can move the needle forward for SDRs to achieve their purpose in assisting countries in need, all of them require changes in the IMF's Articles of Agreement, which currently constrains the above options.

In a similar vein, Ghosh argued that there should be automatic mechanisms within the IMF that keep issuing SDRs over time and that we need to think of reasonable ways of reallocating SDRs to support global public goods. Today we are talking about the pandemic, in the future it will be climate change. We need cross-border public trusts to ensure some degree of economic resilience, but they cannot be based on the on-lending IMF facilities which are necessarily conditional. We are all thinking within the constraints of what is possible right now, but ultimately this is no time for business as usual, and we have to rethink and step outside the box if we are to do anything for the massive challenges the global economy is facing today.

Bhumika Muchhala *is the Third World Network's Senior Policy Researcher for finance and development.* ***Christopher Hope*** *is a Policy Officer at the Bretton Woods Project.*

Developing countries remain upbeat on TRIPS waiver negotiations

Advocates of a COVID-19-related waiver of intellectual property protections are gearing up for more intensive talks at the WTO, as member states begin discussing the specific wording of a waiver decision.

by D. Ravi Kanth

GENEVA: The proponents of the TRIPS waiver on 17 June expressed optimism on the intense schedule of meetings being convened at the World Trade Organization for text-based discussions on their waiver proposal, said people familiar with the development.

The revised proposal submitted by the 63 co-sponsors on 25 May has set the ground for negotiating a temporary waiver of certain provisions in the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) pertaining to copyrights, industrial designs, patents, and protection of undisclosed information for a period of at least three years.

The objective of the proposed waiver is to meet "the global need for unimpeded, timely, and secure access to quality, safe, efficacious and affordable health products and technologies for all, for a rapid and effective response to the COVID-19 pandemic and consequently the urgent need to diversify and scale-up production to meet global needs and promote economic recovery."

At an informal meeting of the WTO's TRIPS Council on 17 June, South Africa, India, Indonesia, China, Tanzania on behalf of the African Group, and several other developing and least-developed countries drove home the message that a delay in reaching an agreement on the waiver would escalate the loss of lives across countries.

"We should count the cost of these negotiations in lives; the longer it takes us to conclude these negotiations, the more people are likely to die," said Mustaqeem De Gama, South Africa's TRIPS negotiator.

The COVID-19 pandemic has already resulted in more than 3.8 million deaths, with over 177 million registered cases worldwide. Mutations of the SARS-CoV-2 virus and the lack of equitable access to vaccines, particularly in the developing and least-developed countries, have intensified the health crisis.

Meeting calendar

The TRIPS Council chair, Norwegian Ambassador Dagfinn Sorli, has announced a schedule of meetings until the end of July to "organize and take stock of the text-based discussions on an urgent response to the COVID-19" pandemic. In response, members voiced their varying levels of expectations during the 17 June meeting, with the proponents of the waiver arguing that the text-based discussions must be concluded by the fourth week of July.

Ahead of the meeting, the chair had sent an email to members on 16 June in which he proposed "arrangements for an intensive text-based process to discuss the waiver proposal … and related submissions and proposals."

In the email, he said that "in the course of this process, we need to permit a combination of various formats of meetings and activities, while maintaining the central principles of openness, transparency and inclusiveness."

He informed members that at the end of the intense discussions every week, there would be an open-ended informal meeting.

Sorli said that the TRIPS Council "secured availability of conference facilities for four informal open-ended meetings of the TRIPS Council, at which I can report on any chair-led consultations to the wider membership, where delegations can report on any bilateral discussions they have had, and where Members can generally take stock of the state of play of the text-based process."

He said that "the spacing of these meetings is intended to allow for sufficient time for consulting capital and other delegations between dates."

Sorli said that the open-ended informal meetings were scheduled as follows: Wednesday, 30 June; Tuesday, 6 July; Wednesday, 14 July; and Tuesday, 20 July.

He said that "one of these may have to be transformed into a formal meeting of the Council, so as to adopt a TRIPS Council report to the General Council, which is now scheduled to take place on 27-28 July."

In his remarks at the 17 June meeting, the chair said the meeting was specifically convened for "addressing the modalities of the process going forward."

He said that he would invite "a smaller but representative group of delegations to start a discussion of what I consider to be a key substantial question, namely, scope [of the waiver.]"

He elaborated that "scope has two different aspects: coverage of TRIPS provisions, and coverage of products," suggesting that members should have substantive discussions on these two issues.

According to the chair, other issues such as "duration and implementation" would be discussed in due course. The open-ended meeting on 30 June would take stock and consider next steps in more detail.

Commenting on conflicting views that have emerged as to when a proposal by the EU needs to be discussed during the small-group meetings, the chair said to the proponents of the waiver proposal that they are ready to discuss all proposals, including new proposals. He reserved 24 June to discuss the EU's proposal.

[On 4 June, the EU had tabled a proposal for "a global trade initiative for equitable access to COVID-19 vaccines and therapeutics encompassing the following three components: (1) trade facilitation and disciplines on export restrictions; (2) expansion of production, including through pledges by vaccine producers and developers; and (3) clarification and facilitation of TRIPS Agreement flexibilities relating to compulsory licences" (see *TWE* No.724).]

Sorli concluded by saying that "even if members have accepted to engage in a text-based process, this acceptance is not entirely without caveats, and reservations from some members," suggesting that "we should not think that substantial differences have evaporated."

He said that his role is "to facilitate the process, which will allow us to reassess the formats and modalities," adding that members should engage on the substance of the core issues.

Looking forward to talks

Responding to the chair's preliminary remarks, South Africa said that "the co-sponsors are happy to enter into text-based negotiations."

South Africa's De Gama said that "even though we will start with the substantive provisions on scope, as you [the chair] rightly point out – the scope of the IP [intellectual property] provisions of the TRIPS Agreement and scope of products – starting with the scope of the products would be easier and this could then go into a discussion of the IP rights that are involved."

He said "we would just like to put it on record that we would be happy to proceed from that basis on a line-by-line discussion."

He said the proposed open-ended informal meeting on 30 June will allow members to "assess, firstly, whether the modus operandi, which has been set forth, has been successful, how we can tweak it, to such an extent, and certainly how we can get into specific issues around implementation, and the like."

He went on to assure the proponents of other proposals that the co-sponsors of the waiver proposal "are happy to discuss any submissions, their relevance to our discussion, and I want to reiterate that the waiver proposal has been brought on the basis of Article 9.3 [of the Marrakesh Agreement], [which is a] very distinct legal basis for this discussion, and so any proposals that deal with this particular process would be welcome."

Article 9.3 of the Marrakesh Agreement that established the WTO in 1995 states that "in exceptional circumstances, the [WTO] Ministerial Conference may decide to waive an obligation imposed on a Member by this Agreement or any of the Multilateral Trade Agreements, provided that any such decision shall be taken by three fourths of the Members."

De Gama highlighted the difference with the EU's proposal, saying that "the basis upon which this communication is made, at this point, seems to be different from the legal basis on which we are having our discussions."

He also told the chair that the co-sponsors of the waiver proposal have "a fire date" and "an end date, which cannot be later than the General Council dates, indicated to finalize our deliberations on the waiver proposal."

He said that although there is no consensus on the waiver proposal, the co-sponsors "hope that, through your guidance, and I think through various interactions, we are able to find each other."

He added that "we will not only rely on the processes that you've outlined, but we, as co-sponsors, will proactively reach out on a bilateral basis, to discuss our ideas and to see what type of landing zone we can create through a mutually inclusive discussion."

> "If we had enabled the waiver to be passed a year ago, six months ago, nine months ago, we would already have more producers coming online to produce vaccines."

He emphasized that "the WTO has an obligation to explore processes that will ensure that we reach these objectives and certainly, where intellectual property rights are concerned, we believe that the mandate of the TRIPS Council, as set out in the Marrakesh Agreement, and of course, the process that we are embarking on, is the right and most appropriate way for us to address COVID-19."

In his second intervention at the meeting, which was largely aimed as a response to the chair's second round of remarks as well as to the interventions of the EU, the US, the United Kingdom and Switzerland, De Gama raised a few further points.

He stressed that members "should count the cost of these negotiations in lives; the longer it takes us to conclude these negotiations, the more people are likely to die."

He pointed to the comments made by many developing and least-developed countries that "they do not have access to, for example, vaccines." Consequently, he said, "what we've heard today really underscores the importance of us concluding our negotiations as soon as possible."

Responding to the US statement, which had objected to the chair-led process in the discussions, De Gama said that the WTO is a member-driven organization and that "members have spoken loud and clear, firstly that we do have a common objective and that is that we have to address COVID-19 through all the necessary means possible."

He said that the WTO is not the only relevant organization, suggesting that the co-sponsors recognize "the fact that all efforts to address COVID-19 should be welcomed, wherever they are in, whatever form this may happen."

In regard to statements made in support of the COVAX vaccine allocation facility, which is being implemented with donations, De Gama said the co-sponsors of the waiver proposal "many times pointed out the shortcomings of this very short-term solution to a long-term problem."

"And so we believe this is where the waiver comes in, and makes it possible to enable countries to operate, to share information, and to cooperate," he emphasized.

He said that the co-sponsors are aware that passing the waiver "will not immediately solve the problem, but it will help us to build up our capacity to address these particular shortcomings."

He lamented the time lost in discussing the waiver proposal, suggesting that "if we had enabled the waiver to be passed a year ago, six months ago, nine months ago, we would already have more producers coming online to produce vaccines, for example."

Explaining the differences between the waiver proposal and the EU's proposal, he told the chair that "we are not opposing your proposal to have a separate session to discuss the EU proposal, but I do not think that we can discuss it, in the same meeting, side-by-side. I think there are certainly different approaches."

He said "the waiver proposal incorporates many of the points that

the EU is seeking to make through its compulsory licence proposal."

He also said that "the waiver is a time-bound, short-term intervention", adding that "speculating about longer- and medium-term consequences may not necessarily be useful in the context of the substantive discussion on scope."

He said that "the sequence of our discussions has no bearing on the substance because the fact that the waiver proposal is discussed on the 22nd [of June] has no impact on the discussion on the 24th, because the EU proposal has no bearing to the process that we've set forth under Article 9.3."

Proactively engaged

Agreeing with the chair's proposed calendar of meetings on the text-based negotiations, India said the proponents will be proactively engaged on both scope and substance during the discussions in all formats to take forward this process.

India said that "each proposal is to be discussed on its own merit", adding that "there are different approaches to achieve our common goal and they are not in any way crisscrossing each other or coming in the way of each other."

India said it is critical that members "come out with a solution urgently."

India said it would be interested to see what the new proposals will bring to the table. "However, these would be dealt with in parallel and would follow their own due course."

It underscored the need for members to "come to the meetings with their comments or suggestions or changes (preferably in writing) to the revised text."

Indonesia said that it agreed with South Africa's statement that "we can approach the scope of the product first, before the TRIPS coverage."

It cautioned that the EU proposal or other proposals that are put on the table should not defeat each other's proposals.

It said that given "the inequality of access of health products and technologies globally, as well as the continued spread of this pandemic, we will need whatever tools are possible in front of us to combat this COVID-19 pandemic" through "multilateral and global solidarity."

On behalf of the African Group, Tanzania argued that members need an outcome on an expeditious basis as it "will contribute to expanding production ... and affordable access to vaccines and therapeutics."

China, which supports the waiver, said that the WTO "is well equipped to provide comprehensive solutions to tackle the pandemic, and IP is one of the important aspects."

It thanked the co-sponsors for their revised waiver proposal, which has provided a basis for the next phase of text-based discussions.

China also said it would welcome the EU's proposal, adding that it "stands ready to get into future discussions, in all possible configurations".

Cabo Verde explained how it has been unable to get any vaccines until now while its economy is severely affected due to the pandemic. "So, the temporary waiver is [primary] for us to deal with the pandemic," it stressed.

On behalf of the group of least-developed countries, Bangladesh said it is "a good idea to start with the product list; we would like to see where are the problems." The LDC group said that the WTO is "the place where we believe that we can definitely contribute to this end."

Egypt, which is a strong proponent of the waiver, said that "after eight months of discussions in this Council, it is time to reach a positive outcome on the proposal, to assist in better facing the unprecedented challenges of the pandemic."

Sri Lanka, which is badly affected by the pandemic on a per capita case basis, called for an expeditious solution, urging members to "come to meaningful negotiations on a text rather than bringing elements which may hinder that process."

Bolivia said it is ready to discuss any relevant proposal, adding that members must "first know what the proposals are based on." It said that it is yet to hear any opposition to text-based discussions, and added that focus should be on substance and on effective solutions.

Sceptical

Major developed countries such as the US, the EU, the UK and Switzerland apparently issued somewhat sceptical statements, said people who asked not to be quoted.

The US, which had brought about a qualitative shift in the discussions when it came out in May in support of a waiver and text-based negotiations, suggested that besides the TRIPS Council, it has deployed its energies in other initiatives, in a possible reference to the G7 leaders' agreement on health. It said that the work at the TRIPS Council is just one piece of a broader global coordinated strategy on vaccine production, said people who preferred not to be quoted.

The US wanted the discussions to start with common objectives and not with the scope, arguing that it will make it clear for people as to what options should be deployed to achieve the common goal. It expressed scepticism about beginning with the scope, as it could be a recipe to engage in a circular process that does not go anywhere.

It called on members to spend time on what the end goal is, what the timeline is and the urgency with which members must move.

Without mentioning the current proposals, the US said some of them could be very expensive and could take a long time. The timeframe is important for arriving at a solution, it said.

It cautioned against a calendar filled with no purpose, calling on members to make sure that meetings are driven by substance. It maintained that members need to be prudent and judicious in the schedule because if they are not able to talk to each other, they will not find solutions and will come back to meetings without being able to bridge gaps.

The US expressed opposition to a chair-led process, as this approach, in its view, has shown to be a failure in every instance where it has been tried in the WTO.

It also said that it has not accepted any end date for this or any conclusions. Referring to the need to provide a report to the WTO General Council, it said it has not committed to any timeline that is not based on a process that builds a consensus-based outcome.

"The devil is in the detail as regards the US statement," said a former TRIPS negotiator, suggesting that it is more aligned with the G7 statement.

The EU said that it is ready to constructively engage in a text-based substantive process to find a way forward in the discussion on the role of intellectual property in enhancing access to affordable COVID-19 vaccines and therapeutics and to proceed with concrete and pragmatic short- and medium-term solutions to enhance universal access to COVID-19 vaccines and therapeutics at affordable prices.

It said it is not convinced about the broad waiver proposed by South Africa and India, suggesting that it may not be the right response to the pandemic.

Switzerland, which is one of the leading opponents of the waiver proposal, called for the EU proposal to be discussed on an equal footing.

It called for a pragmatic solution, while the US said the initial discussion should focus on how a waiver, if agreed, would rapidly increase the supply of COVID-19 goods.

The UK said that while it is ready to engage in the text-based negotiations, it remains sceptical about various elements of the revised waiver proposal.

In short, the battle lines are drawn for securing an early, positive decision on the waiver, when text-based talks begin. These will reveal whether the developed countries are willing to save lives or protect the international monopoly IP system of Big Pharma. *(SUNS9370)*

Developing countries seek parity in fisheries subsidies deal

The leeway to be granted to certain countries to provide subsidies that contribute to overfishing remains a major bone of contention in the WTO talks on crafting fisheries subsidies disciplines.

by D. Ravi Kanth

GENEVA: Many developing countries have turned the tables in the ongoing fisheries subsidies negotiations in the WTO by seeking parity between the carve-outs granted to big subsidizers such as the United States, the European Union and Japan to continue with their industrial-scale fishing, and appropriate and effective special and differential treatment in the most crucial overcapacity and overfishing pillar, said people familiar with the discussions.

During separate discussions on 11, 14 and 15 June, the developing countries exposed the allegedly imbalanced and asymmetrical provisions in the draft text of a fisheries subsidies agreement issued by the chair of the talks on 11 May, said people who asked not to be quoted.

Trade envoys from developing countries on 11 June demanded that if the big subsidizers are granted a carve-out in Article 5.1.1 of the text, then developing countries must be accorded the same level of flexibility on the issue of special and differential treatment (S&DT) in the "Alternative (Alt) 1" text of Article 5.5.

Besides the many unresolved issues in all the three pillars of the negotiations – illegal, unreported and unregulated (IUU) fishing; overcapacity and overfishing (OCOF); and overfished stocks – the parity as well as the linkage sought between Article 5.1.1 and Alt 1 in Article 5.5 have almost brought a new dynamic to the talks, said people who asked not to be quoted.

At issue is the carve-out sought to be provided to the big subsidizers to continue with their subsidies under the pretext of "sustainability-related flexibility" in Article 5.1.1. Article 5.1 prohibits subsidies that contribute to overcapacity and overfishing, listing these subsidies as including: (a) subsidies to construction, acquisition, modernization, renovation or upgrading of vessels; (b) subsidies to the purchase of machines and equipment for vessels (including fishing gear and engine, fish-processing machinery, fish-finding technology, refrigerators, or machinery for sorting or cleaning fish); (c) subsidies to the purchase/costs of fuel, ice, or bait; (d) subsidies to costs of personnel, social charges, or insurance; (e) income support of vessels or operators or the workers they employ; (f) price support of fish caught; (g) subsidies to at-sea support; and (h) subsidies covering operating losses of vessels or fishing or fishing related activities. This provision is, however, followed by Article 5.1.1 which states that "a subsidy is not inconsistent with Article 5.1 if the subsidizing Member demonstrates that measures are implemented to maintain the stock or stocks in the relevant fishery or fisheries at a biologically sustainable level."

Effectively, therefore, the prohibition on the subsidies listed in Article 5.1 need not be implemented by the big subsidizers if they can demonstrate that "measures are implemented to maintain the stock or stocks in the relevant fishery or fisheries at a biologically sustainable level."

In relation to any acceptance of Article 5.1.1, the developing countries have demanded that Alt 1 in Article 5.5 must be accepted as well.

The Alt 1 text of Article 5.5 introduced by the developing countries states:

"[a The prohibition under Article 5.1 shall not apply to subsidies granted or maintained by LDC [least developed country] Members for fishing or fishing related activities.

b The prohibition under Article 5.1 shall not apply to subsidies granted or maintained by developing country Members for fishing or fishing related activities within their territorial sea.

c The prohibition under Article 5.1 shall apply to subsidies granted or maintained by developing country Members, including LDC Members, for fishing or fishing related activities within their EEZ [exclusive economic zone] and the area of competence of RFMO/A [regional fisheries management organization or arrangement] if all the following criteria are met:

i. the Member's GNI [gross national income] per capita exceeds US$5,000 (based on constant 2010 US dollars) for three consecutive years;

ii the Member's share of the annual global marine capture fish production exceeds 2% as per the most recent published FAO [UN Food and Agriculture Organization] data;

iii. the Member engages in distant water fishing; and

iv. the contribution from Agriculture, Forestry and Fishing to the Member's

annual national GDP is less than 10% for the most recent three consecutive years.]"

Due to the lack of convergence on the core disciplines in Article 5 under the overcapacity and overfishing pillar, the prospects for reaching an agreement on fisheries subsidies by the 15 July ministerial meeting to be convened by the WTO Director-General hang in the balance.

Differing stances

The chair of the fisheries subsidies negotiations, Ambassador Santiago Wills from Colombia, convened an informal meeting of heads of delegation on 11 June, where he presented his assessment on the ongoing discussions on Article 5 and on Article 4 dealing with overfished stocks.

The chair's report revealed a lack of convergence on all elements in Article 5. However, for some reason, the chair chose to highlight the differences over provisions concerning S&DT, even as the differences over Articles 5.1.1, 5.2 and 5.3 remain unbridgeable, said people who preferred not to be identified.

The US, which made a brief statement at the meeting, said it continues to hear the argument that the provision in Article 5.1.1 is too lenient or broad, but argued that it is the "correct formulation" and provides the right balance. The US did not support limiting the exemption under Article 5.1.1 to fishing conducted within the subsidizer's EEZ.

It also opposed any change in Article 5.2(a), saying that the prohibition in the paragraph is squarely within the mandate. Article 5.2(a), which is purportedly targeted at China, states that "no Member shall grant or maintain subsidies contingent upon, or tied to, actual or anticipated fishing or fishing related activities in areas beyond the subsidizing Member's jurisdiction (whether solely or as one of several other conditions), including subsidies provided to support at-sea fish-processing operations or facilities, such as for refrigerator fish cargo vessels, and subsidies to support tankers that refuel fishing vessels at sea."

The US said it does not support the new carve-out in Article 5.2(b), which is apparently designed to safeguard the EU's access agreements. Article 5.2(b) states that "Subparagraph (a) shall not apply to the non-collection from operators or vessels of government-to-government payments under agreements and other arrangements with coastal Members for access to the surplus of the total allowable catch of the living resources in waters under their jurisdiction, provided that the requirements under Article 5.1.1 are met."

The EU, however, maintained that both Articles 5.2(a) and 5.2(b) are interlinked and any attempt to undermine Article 5.2(b) is a "red line" for the EU members.

In response to a demand from China and several other countries to treat fuel subsidies as a non-specific subsidy, the US said that if members were to discuss non-specific subsidies, it should take place in the context of Article 1 dealing with the scope of the agreement.

Meanwhile, India proposed on 14 June that "fuel subsidies, that are not specific within the meaning of Article 2 of the SCM Agreement [WTO Agreement on Subsidies and Countervailing Measures], granted or maintained by the Member to fishing and fishing-related activities at sea and/or availed by such Member's fishing vessels" must be reported under the transparency and notification provisions of Article 8.1.

China said both Articles 5.2 and 5.3 are inconsistent and go beyond the mandate. It said that members' target ought to be tackling harmful subsidies while allowing permissible subsidies. It said it will not accept the definition of subsidies in Articles 5.2 and 5.3, and called for the deletion of these two articles from the disciplines.

Many developing countries, including the African, Caribbean and Pacific (ACP) Group, the African Group, South Africa, India and Indonesia, said that Article 5 is imbalanced and asymmetrical.

South Africa said that "Article 5 is the core of the disciplines and the agreement will be judged whether it lives up to the mandated objectives of United Nations Sustainable Development Goal 14.6."

South Africa said SDG 14.6 is supposed to address the issue of sustainability, suggesting that its view on common but differentiated responsibilities as outlined in the climate change agreement remains key, and the biggest subsidizers will have to assume the biggest responsibility in the overcapacity and overfishing pillar. It reiterated that the disciplines should target the large subsidizers, and maintained that appropriate and effective S&DT should be an important part as mandated. It also said that it has advocated a carve-out for artisanal and subsistence fishermen for addressing their food security needs.

South Africa argued that the chair's text is "imbalanced and enables the biggest subsidizers to continue their industrial-scale fishing under OCOF pillar."

It said that Article 5.1.1 "is not acceptable to us [but] we indicated that we can live with it and show flexibility subject to appropriate and effective S&DT." The use of the flexibility granted to big subsidizers should be limited to the EEZ of 200 nautical miles.

The negotiation of S&DT provisions in the fisheries subsidies agreement should go beyond transitional periods and technical assistance, South Africa said. It called for effective S&DT that has to include provisions that "safeguard the interests of the WTO members and flexibility of commitments and use of policy instruments to advance the development objectives of developing countries."

Dismissing the Alt 2 text for Article 5.5 on S&DT as proposed by the big subsidizers, including the US, South Africa said Alt 2 "does not allow us to move forward", does not reflect the views of developing countries who are the proponents of S&DT, and does not meet the standard of being "appropriate and effective."

In sharp contrast to the developing countries' proposal under Alt 1 of Article 5.5, Alt 2 attempts to bring about differentiation among developing countries in availing of S&DT. It states:

"[a The prohibition under Article 5.1 shall not apply to subsidies granted or maintained by LDC Members for fishing or fishing related activities.

b The prohibition under Article 5.1 shall not apply to subsidies granted or maintained by developing country Members for low income, resource-poor or livelihood fishing or fishing related activities within 12 nautical miles measured from the baselines [for a period of [7] years from the date of entry into force of this [Instrument]].

c For subsidies other than those referred to in subparagraph (b), a developing country Member may grant or maintain the subsidies referred to in Article 5.1 for fishing and fishing related activities within its EEZ and the area of competence of a relevant RFMO/A for a maximum of [5] years after the entry into force

of this [Instrument]. A developing country Member intending to invoke this provision shall inform the [Committee] in writing before the date of entry into force of this [Instrument].

d If a developing country Member whose:

i. share of the annual global volume marine capture fish production does not exceed [0.7%] as per the most recent published FAO data; and

ii. subsidies to fishing or fishing related activities at sea do not exceed US$ [25 million] annually

deems it necessary to apply subsidies referred to in subparagraphs (b) and (c) beyond the [7 or 5] years provided for, respectively, in those subparagraphs, it shall not later than one year before the expiry of the applicable period enter into consultation with the [Committee], which will determine whether an extension of this period is justified, after examining all the relevant needs of the developing country Member in question. If the [Committee] determines that the extension is justified, the developing country Member concerned shall hold annual consultations with the [Committee] to determine the necessity of maintaining the subsidies. If no such determination is made by the [Committee], the developing country Member shall phase out the remaining subsidies prohibited under Article 5.1 within two years from the end of the last authorized period.]"

Meanwhile, during the discussions on the transparency and notification provisions under Article 8 on 15 June, sharp differences emerged among the US, Australia, Japan and the EU on the one side, and the developing countries on the other over the allegedly onerous notification requirements, said people who asked not to be quoted. *(SUNS9368)*

Putting the Third World First

A Life of Speaking Out for the Global South

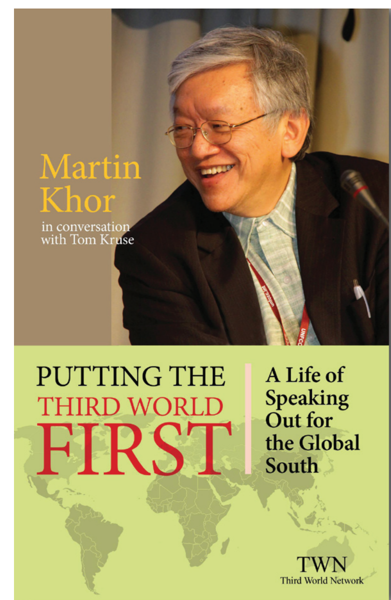
Martin Khor in conversation with Tom Kruse

Martin Khor was one of the foremost advocates of a more equitable international order, ardently championing the cause of the developing world through activism and analysis. In this expansive, wide-ranging conversation with Tom Kruse – his final interview before his passing in 2020 – he looks back on a lifetime of commitment to advancing the interests of the world's poorer nations and peoples.

Khor recalls his early days working with the Consumers Association of Penang – a consumer rights organization with a difference – and reflects on how he then helped build up the Third World Network to become a leading international NGO and voice of the Global South. Along the way, he shares his thoughts on a gamut of subjects from colonialism to the world trade system, and recounts his involvement in some of the major international civil society campaigns over the years.

From fighting industrial pollution in a remote Malaysian fishing village to addressing government leaders at United Nations conferences, this is Khor's account – told in his inimitably witty and down-to-earth style – of a life well lived.

Martin Khor (1951-2020) *was the Chairman (2019-20) and Director (1990-2009) of the Third World Network.*



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Third World ECONOMICS No. 725, 16-30 June 2021

Powerful states push tax race to the bottom

International taxation arrangements, including a global corporate tax rate floor, agreed recently by the leading industrial economies fall short of an equitable deal for developing countries.

by Anis Chowdhury and Jomo Kwame Sundaram

The largest rich countries, home to most major transnational corporations (TNCs), have agreed to a global minimum corporate income tax (GMCIT) rate. But the low rate proposed and other features will deprive developing countries of their just due yet again.

On 5 June, the Group of Seven (G7) largest rich countries agreed that TNCs should all pay GMCIT of at least 15%. This rate is just over half President Joe Biden's promise of a 28% US CIT rate during last year's election campaign.

The G7's 15% GMCIT rate is also almost 30% less than US Treasury Secretary Janet Yellen's 21% proposal. Her proposal was aligned with Trump's much reduced CIT rate, rather than Biden's 28% vow.

Unbelievably, this cut rate has been hailed as a "game changer" by the new Organisation for Economic Co-operation and Development (OECD) chief from Australia and the UK Chancellor of the Exchequer, among others.

Many have called for a GMCIT, especially those long concerned with reduced fiscal means. Notably, the Independent Commission for the Reform of International Corporate Taxation (ICRICT) called for a 25% GMCIT to enhance development finance.

On average, official CIT rates have fallen by 20 percentage points since 1980. In high-income countries, they fell from 38% in 1990 to 23% in 2018. Meanwhile, they fell from 40% to 25% in middle-income countries (MICs), and from over 45% to 30% in low-income countries (LICs). Despite such lowered rates, TNCs still minimize paying tax.

Contemporary fiscal crises have been decades in the making. The tax counter-revolution of recent decades cut not only public spending but also tax revenue. Developments in the last dozen years have forced an ongoing fiscal policy turn.

The 2008 global financial crisis was met by massive financial bailouts and recovery measures. Declining tax revenue in earlier decades and its sharp decline during the Great Recession compelled related policy rethinking.

Meanwhile, debilitating inter-country tax competition remains unaddressed. Now, the pandemic has enhanced efforts to boost fiscal means to finance contagion containment as well as economic relief and recovery.

TNCs' "base erosion and profit shifting" (BEPS) practices are hardly new, having long adversely affected developing countries. To be sure, all countries have lost much tax revenue to such practices.

TNCs use "trade mis-invoicing" – i.e., "paper transactions" among linked companies – and "tax havens" to minimize overall tax liability on their profits and income. Thus, effective tax rates are even lower, with many paying little in fact.

In 2013, the OECD launched its BEPS project, at the behest of the Group of Twenty (G20) largest economies, to reform taxation of TNC digital commerce (Pillar 1) and propose a GMCIT rate (Pillar 2).

ICRICT estimated yearly global revenue losses at minimally $240 billion, or 10% of global CIT revenue. Despite falling rates, CIT is still significant for government revenue, at 13-14% of global tax revenue, and 9.3% in OECD countries.

Tax injustice rules

The OECD has long limited international tax cooperation to arrangements for its wealthy-country members. Its BEPS proposal's 12.5% minimum rate would raise no more than $81 billion in additional revenue yearly. Unsurprisingly, about 75% of the additional tax revenue envisaged would go to its rich member states.

The G7 proposal's main attraction is that it seems simpler than the OECD blueprints. If more TNCs are taxed, than just a few large TNCs with profit rates over 10%, CIT revenue would rise significantly. For Yellen, a minimal Pillar 2 CIT rate on about 8,000 TNCs would yield much more.

For the G7, host countries will only have the right to tax 20% of "excess profits" (over 10%) from the largest, most profitable firms. In the OECD draft, "residual" profit untaxed by home – headquarters or "source" – countries may be taxed by host countries.

Calculating and apportioning excess profit will always be moot. As home countries have the right to tax the "residual", or balance untaxed by host countries, developing countries will have no more reason to offer tax incentives to attract foreign direct investment.

Both OECD and G7 proposals favour TNC home countries, even when host countries are the main profit source. Also, mechanisms to distribute "extra" tax revenue would mainly benefit the richest countries, home to most large TNCs.

Incredibly, location of TNC production or employment, often in developing countries, is irrelevant for defining host countries. With generally lower incomes, developing countries are relatively less significant as sales jurisdictions except for affordable, mass-consumed goods and services.

Some governments are expected to seek – and gain – exemptions to protect special interests, further eroding the already modest G7 proposal, e.g., the UK reportedly wants to exclude financial services. Also, some low-tax countries are among those sowing doubts about the G7 proposal.

Meanwhile, tax justice campaigners have noted the painfully obvious: the G7's 15% minimum is too low – much lower than average rates in most MICs and LICs, and closer to rates in tax havens like Singapore, Switzerland and Ireland. The rate is seen as reflecting G7 interests and preferences.

Instead, the G24 intergovernmental group of developing countries at the International Monetary Fund (IMF) and World Bank urges greater priority for host countries. The G24 and African Tax Administration Forum have also proposed various practical measures. These include distributing TNCs' global profits among countries on a formulaic basis, considering factors such as production and employment, not just sales.

An IMF policy paper also argues for greater priority for LIC interests. It urges a simpler system, given their capacity constraints, and the critical need for "securing the tax base on inward investment".

But achieving a fair and effective outcome is difficult. According to the Tax Justice Network, a 21% minimum rate would yield $640 billion more annually. Tax equity campaigners' other proposals are also generally fairer to developing countries.

Reverse race to bottom

The G7 has lowered the GMCIT to 15%, close to the OECD's 12.5% proposal, and much lower than Yellen's 21%, Biden's 28% and ICRICT's 25%. But the G20 could still reverse this downward trend as it can decisively influence the OECD BEPS Inclusive Framework (IF) outcome.

A related option is to begin implementation as soon as possible at a certain lower rate, with an irrevocably scheduled commitment to quickly raise the GMCIT rate according to a preset timetable to, say, 25%.

Much more remains to be done, much of it urgently. Developing countries can only seek tax justice on more neutral ground provided by a truly multilateral forum, namely at the United Nations with the IMF providing needed technical support.

For the time being, however, the participation of many developing countries, mainly MICs, in the skewed OECD BEPS IF has to be urgently addressed to ensure its outcome is not detrimental to their medium- and long-term interests. *(IPS)*

***Anis Chowdhury**, Adjunct Professor at Western Sydney University (Australia), held senior United Nations positions in New York and Bangkok. **Jomo Kwame Sundaram**, a former economics professor, was UN Assistant Secretary-General for Economic Development, and received the Wassily Leontief Prize for Advancing the Frontiers of Economic Thought in 2007.*

Battles in the WTO

Negotiations and Outcomes of the WTO Ministerial Conferences

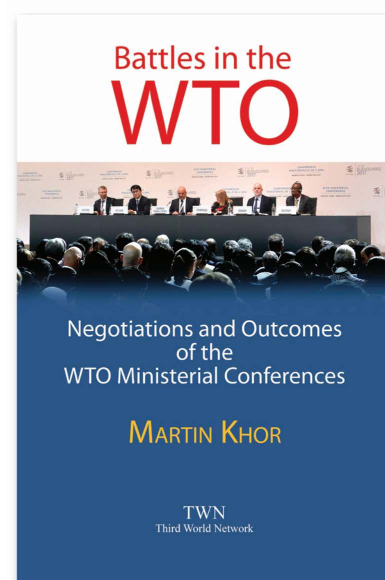
By Martin Khor

The World Trade Organisation has been an extremely controversial and divided organisation ever since its establishment in 1995. The big battles are most evident at its highest governing body, the Ministerial Conference, where the Trade Ministers of member states convene to chart the WTO's course.

This book is a compilation of contemporaneous reports and analyses of what unfolded at each Ministerial, as well as a few "mini-Ministerials", that took place from the WTO's inception up to 2017. As these articles reveal, the Ministerials have been the stage on which battles over the future direction of the WTO are most prominently played out. These clashes have mainly pitted developed member states pushing to expand the WTO's ambit into new subject areas, against many developing countries which call instead for redressing imbalances in the existing set of WTO rules.

This book also shines a light on the murky decision-making methods often employed during Ministerials, where agreements are sought to be hammered out by a select few delegations behind closed doors before being foisted on the rest of the membership. Such exclusionary processes, coupled with the crucial substantive issues at stake, have led to dramatic outcomes in many a Ministerial.

The ringside accounts of Ministerial battles collected here offer important insights into the contested dynamics of the WTO and the multilateral trading system in general.



Email twn@twnetwork.org for further information, or visit https://www.twn.my/title2/books/Battles%20in%20the%20WTO.htm

MARTIN KHOR *(1951-2020) was Adviser to the Third World Network. He was formerly Executive Director of the South Centre (2009 to 2018). He was the author of several books on trade, development and the environment, including Globalization and the South. He followed the negotiations in the WTO for many years, including at most of the Ministerial Conferences.*

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Towards financial reform that targets the banking behemoths

Pointing to the myriad shortcomings of financial sector reforms adopted in the wake of the global financial crisis, *Taming the Megabanks* makes the case for breaking up the large banking conglomerates that are a major source of systemic financial risk.

Review by Andrew Cornford

Taming the Megabanks: Why We Need a New Glass-Steagall Act
Arthur E. Wilmarth
Oxford University Press, New York, 2020, vii+589pp

The global financial crisis of 2007-08 (GFC) was not followed by fundamental changes in the financial systems of the countries of the Group of 20 (G20), a group of developed and major emerging market economies. The weaknesses in regulation revealed by the GFC have indeed been the subject of an extensive programme of regulatory reform which has targeted increases in capital, better risk management and better-designed incentives. However, the programme has not included the major structural changes in financial institutions and markets which many regulators, policymakers and commentators believe to be necessary.

In this new book, Arthur Wilmarth reviews reforms undertaken in the aftermath of the GFC primarily but not exclusively in the United States. He argues that the centrepiece of the reform agenda should be the abolition of large universal banks and shadow banks to break what he calls the "doom loop" that links these institutions to governments and central banks. This could be achieved by a new Glass-Steagall Act to establish a clear structural separation between banks and the capital markets. His argument is put forward as part of an illuminating and detailed historical review of policy towards financial conglomeration in the United States since the First World War. The review shows that measures directed at reducing such conglomeration in the 1930s were gradually weakened or abolished during the following 60 years. The financial system which emerged from this deregulation process was ill equipped to withstand the pressures which eventually led to the GFC.

At the centre of the post-GFC G20 reform agenda are technical amendments of the existing system. Higher capital requirements for banks and rules for ensuring adequate liquidity for banks are accompanied by reforms such as procedures for the avoidance and management of institutional failures on the part of global systemically important banks (GSIBs) and other systemically important financial institutions (SIFIs), improved regulation of over-the-counter derivatives, guidelines on remuneration of key staff designed to discourage excessive risk taking, and strengthening controls over non-bank financial institutions which are potential sources of systemic risk.

Implementation of the reform programme is the responsibility of the Financial Stability Board (FSB), which is to collaborate for this purpose with the Basel Committee on Banking Supervision (BCBS) and the International Monetary Fund (IMF). The reforms are to be implemented in an open world economy operating on market principles in a context of avoidance of overregulated financial markets and maintenance of free cross-border capital movements. Failures of GSIBs and SIFIs are to be avoided partly thanks to the regulatory reforms but also to the provision of emergency financing to ailing institutions. This last not only crimps the reform agenda but, as is argued forcefully by Wilmarth, also fails to address the way in which large universal banks and large shadow banks (entities outside the regulated banking system performing some banking functions), through their interdependent relationships, have become a major source of systemic financial risk.

What follows is a survey (drawing heavily on Wilmarth's book) of the internationally agreed reforms of financial regulation – with special attention to those directed at banks' capital and liquidity as well as other major items of the post-2007-08 agenda adopted by major countries. This leads to a review of ways in which the reforms have been frustrated and weakened by pressures from the financial lobby and steps undertaken by the unsympathetic Trump administration in the United States. The account of shortcomings of the reform path actually taken is followed by presentation of alternatives, with special attention to the measures advocated by Wilmarth, principally those directed at reducing conglomeration in the banking sector.

Banks' balance sheets and management of credit risk

There was agreement amongst observers that major features of the GFC in the banks of the principal advanced economies were excessive leverage and inadequate liquidity provisions, and that these contributed to the severity of the crisis.

Leverage is a measure of financial institutions' exposure to risk in relation to their protective layers of capital. The exposure reflects that due not only to straightforward instruments like loans but also to derivatives (instruments requiring little or no initial investment whose price is derived from that of another asset, rate or index) and to obligations linked to other financial services. Liquidity refers to the ability of a financial institution to meet financial obligations as they fall due. Satisfactory liquidity denotes sufficient cash for this purpose from different sources.

Excessive leverage and inadequate liquidity are closely related. Excessive leverage leaves banks vulnerable to low or zero profitability in periods of widespread defaulting and thus to endangering their own solvency. The condition of excessive leverage calls into question banks' capacity to attract deposits and other forms of commercial funding and thus the availability of the

liquidity essential to their continued operation. Unsurprisingly, the post-GFC agenda for financial reform accorded a central role to reduced leverage and stronger liquidity positions alongside of other reforms for regulation and financial infrastructure.

The most important standards under this heading were contained in successive versions of the Basel Capital Accord, Basel I, Basel II and Basel III, developed by the BCBS (BCBS, 2011). The current version of the framework is designed to control banking risks through regulatory requirements for capital and liquidity together with improvements in banks' internal risk controls.

Major changes introduced in Basel III included increased capital buffers based on a stricter definition of capital, the requirements for minimum required regulatory capital including common equity amounting to 7% of risk-weighted assets. Capital is now to include a conservation buffer consisting of equity intended to absorb losses during periods of stress. National authorities may also impose a countercyclical capital buffer as a way of countering rapid credit growth.

For GSIBs, there is a capital surcharge in the range of 1% to 3.5%. GSIBs are also subject to additional rules on absorption capacity in the form of Total Loss Absorption Capacity (TLAC) consisting of instruments meeting certain conditions as to their capacity for absorbing losses and amounting to 16-20% of a bank's risk-weighted assets. TLAC rules are designed to facilitate the resolution of GSIBs following insolvency and thus to minimize the resulting costs to governments and taxpayers.

Rules specifying capital in relation to risk-weighted assets are supplemented by a "risk-blind" minimum leverage ratio of high-quality capital in relation to total assets and some other exposures (off-balance-sheet items), initially set at 3%. The rules include the restriction for GSIBs of a minimum level of equity capital in the numerator of 50% of risk-weighted items.

Adequate liquidity for a bank is to be assured by a Liquidity Coverage Ratio (LCR) and a Net Stable Funding Ratio (NSFR). The first targets the supply of liquidity during 30 days, and the second that for one year during conditions of market stress. The ratios are also designed to reduce the incentives of banks to rely on short-term and potentially volatile funding.

The initial versions of the Basel capital framework had two principal objectives. The first, *microprudential* objective was to help to ensure the strength and soundness of individual banks, and thus only indirectly those of the banking systems of which they are a part. The second objective was to help equalize cross-border competition between banks by eliminating advantages due to differences among their regimes for capital adequacy.

Since the initiation of Basel III, the objectives now incorporate a *macroprudential* dimension. This reflects a more explicit acknowledgement that many of the risks targeted by regulation in crisis situations can spill over into risks affecting several institutions and thus threaten essential functions of the financial system such as payments, lending and deposit taking. Examples in the Basel framework of measures directed at the macroprudential dimension are the countercyclical buffer and the special rules for GSIBs, both of which comprise targets transcending the soundness of individual banks.

In Wilmarth's view, the traditional macroprudential dimension involving the impact of linkages between financial firms should now be extended to include the almost automatic response in situations of crisis for governments and central banks to intervene in support of large financial institutions (commercial banks and shadow banks) for the purpose of preventing failures of large interdependent institutions and thus stabilizing financial markets. These linkages have been described by Wilmarth as a "doom loop" between banks and the authorities in their home countries. For a country with large debts, the authorities have a strong incentive to rescue banks to avoid wholesale liquidation of their bond portfolios resulting in a collapse of the bonds' values and a likely triggering of a sovereign debt crisis.

The BCBS announced at the end of 2017 that Basel III was now complete. However, this seemed questionable. The final capital standards for market risk had not yet been issued. There remained unsettled issues regarding the standards for the banking book. These included standards for banks' exposures to sovereign risk (and thus to sovereign insolvency) which is still not subject to minimum risk weights. And regulators are apparently still debating whether standards for interest-rate risk should be included in the banking book.

Moreover, revisions of the standards for the credit risk of securitized assets issued in July 2016 (BCBS, 2016b) had not yet been incorporated in the text of Basel III as of December 2017. The revisions to the framework for such assets published in July 2016 were designed to eliminate shortcomings highlighted by the GFC as follows: they seek to reduce mechanistic reliance on often misleading external credit ratings; they increase risk weights for highly-rated risk exposures and reduce risk weights for low-rated senior securitization exposures; and more generally, they are designed to enhance the framework's risk sensitivity.

The Basel Capital Accord is still the subject of much criticism. On the one hand, the banking lobby wants to limit the stringency of the new standards, arguing that they have an unfavourable effect on banks' capacity to finance higher economic growth. On the other hand, several experts think that the prescribed increases in capital provide insufficient protection against banking risks.

Market and some other risks

The proposals on market risk, which had already been strengthened in Basel II.5 in response to experience during the early part of the GFC, underwent in January 2016 a thorough revision to deal with still unmet weaknesses (BCBS, 2016a). The deficiencies which this revision flagged included the following: the definition of the boundary between the banking and the trading book, which has long been the subject of regulatory arbitrage by banks seeking to lower their capital requirements; and the methods for risk measurement which, relying heavily on banks' own models, were insufficiently robust and led to the provision of inadequate capital for banking systems as a whole.

More specifically in the reforms of Basel II.5 a key determinant of the boundary between the trading and banking book was banks' intent to trade, which was inherently subjective. The reforms under the heading of the internal-models approach to market risk were dependent on the framework of Value at Risk (VaR), which failed to take account of the substantial exposures to credit as well as market risk of trading exposures. Moreover, the restriction of VaR to protection against risks beyond the 99th percentile was shown to leave banks vulnerable to "tail risks" which had led to unexpectedly large trading losses for banks during the GFC. Allowance under the internal-models approach for market illiquidity was not realistic for stressed conditions.

Moreover, recognition of the potential for risk reduction through hedging and diversification was too generous, based as it was on correlations from data during normal conditions.

Shortcomings of the standardized approach to market risk of Basel II.5 revealed by the GFC included the following: lack of sensitivity to different risk exposures; inadequate rules for recognition of hedging and diversification; and failure to capture risks associated with more complex trading instruments. The standardized approach was not a credible threat to banks facing withdrawal of approval of their use of the internal-models approach.

The revisions proposed in 2016, partly in response to the results of Quantitative Impact Studies (QIS), included additional guidance on the boundary between trading and banking books; reductions in banks' ability to arbitrage this boundary; enhanced powers for supervisors regarding instruments improperly designated; and clearer rules concerning internal transfers of trading instruments between risk classes.

A major change in the methods of risk capture under the internal-models approach was the replacement of VaR with an Expected Shortfall (ES) metric. VaR is intended to measure the maximum loss at a specified degree of probability during a given period. By contrast, ES is intended to answer the question of what is the expected loss on the condition that the loss exceeds a specified probability – i.e., more informally, the expected loss if things do get bad – likewise within a specified time horizon. The initial popularity of VaR in risk management was due less to its superiority as a measure than to its advantages in comprehensibility and facility (Hull, 2010: 161-165). ES was to be calibrated on the basis of periods of significant market stress.

The process for supervisory approval of a bank's models was to become more granular and was to apply at the level of each of a bank's trading desks rather than, as previously, at a bank-wide level. Approval was to depend on a desk's proficiency in modelling the dependence of profit and loss on risk factors. This would include a proper classification of risk factors into those which are "modellable" and those which are "non-modellable", with the latter subject to a separate stressed capital add-on under the ES approach. Potential advantages to a bank from hedging and diversification were constrained by rules concerning the classification of risk categories and the correlations eligible for inclusion in risk mitigation through diversification. The revised standardized approach was also designed to measure the risks of securitization exposures in the trading book.

Closer calibration between the revised standardized and internal-model approaches was to be achieved through a sensitivities-based method involving the use of standardized "bucket" risk weights reflecting stressed market conditions under an ES framework, which also incorporated varying liquidity horizons as in the internal-models approach. The approach was now to reflect more fully risk sensitivities which were already an integral part of the models used for risk pricing and management by banks with an extensive involvement in trading activity.

The revised standardized approach included a standardized Default Risk Charge calibrated to reduce potential discrepancies between capital requirements for similar risk exposures in the banking and trading books. There was also a Residual Risk Add-On designed to capture risks not already covered by the sensitivities-based method or the standardized Default Risk Charge.

In 2019 there were further revisions of both the internal-model and standardized approaches (BCBS, 2019). For the former, there are further clarifications of the way in which financial instruments are assigned either to the trading or to the banking book, and of the treatment of positions in investment and other managed funds. Tail risks are no longer to be captured by VaR but by the measure of ES described above. For the standardized approach, there is a refinement of the sensitivities-based approach to risk measurement and of the Default Risk Charge and the Residual Risk Add-On.

Market risk accounts for a small share – less than 5% – of total capital requirements even of internationally active banks (Coen, 2018: 3-4). For many critics this indicates that the post-GFC reform agenda has become increasingly detached from what should be priority issues. For the market-risk framework the question has been posed whether it adequately balances simplicity, comparability and risk sensitivity. As the Secretary-General of the BCBS himself has noted, "if the risk-weighted regime is too opaque, market participants will simply stop using risk-weighted ratios to assess the health of banks" (Coen, 2018: 4). The danger extends to banks' senior management and boards for whom "undue regulatory complexity can impair their ability to ensure that the bank has adequate capital to support its risks".

In 2016 revisions to the treatment of securitization were also published (BCBS, 2016b). These were designed to remedy shortcomings in the revised version of Basel II.5 and to incorporate a hierarchy of approaches to risk measurement according to the availability and usability of estimates of the capital charges for the exposures of instruments underlying the securitizations. Here too the rules were highly complex.

In his critique of the capital requirements for banks prescribed as part of the response to the GFC, Wilmarth draws special attention to the risk-weighted capital requirement of zero for holdings of their sovereign debt, which he views as providing an incentive to the "doom loop" described earlier, and to the arbitraging by big banking conglomerates of estimates of risk-weighted exposures through manipulatory use of their internal models.

Limits and weakening of reform

As Wilmarth emphasizes, the G20 reform agenda revealed that even after the massive losses incurred during the GFC, financial systems with structures incorporating interlocking systems of huge conglomerate banks and shadow banks still had "powerful defenders and remarkable staying power" thanks, importantly, to key figures in the Treasury and the White House during the administration of President Obama. Timothy Geithner, the Treasury Secretary, insisted that what the United States financial system required was measures designed to ensure the survival of all major financial institutions, while also ensuring their resilience and strengthening their oversight. Subject to regional and national variation, the overall policy response in other major G20 economies was framed by similar limits.

The Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), the major set of reforms adopted by the United States, contained the following major features. Title I established a super-agency, the Financial Stability Oversight Council (FSOC), to identify and control systemic risks. The Chair

of the FSOC is the Secretary of the Treasury and its membership includes the Federal Reserve, the Securities and Exchange Commission (SEC), the newly established Consumer Financial Protection Bureau (CFPB), and an independent representative of the insurance industry. The FSOC can designate sufficiently large and complex non-bank financial institutions as non-bank SIFIs. The Fed is enabled to impose stricter regulations for capital and liquidity on GSIBs and non-bank SIFIs, and, together with the Federal Deposit Insurance Corporation (FDIC), to require them to submit plans ("living wills") for orderly resolution in the event of serious financial distress or insolvency.

Title II created an Orderly Liquidation Authority to handle such insolvencies. Title VII targets greater transparency in the pricing and trading of derivatives together with stronger regulation of derivatives dealers and large end-users. Title VII also mandates capital requirements, margin rules and stress tests for Designated Contract Markets and clearinghouses. Margin rules and other prudential standards are also prescribed for customized derivatives traded in over-the-counter (OTC) transactions with dealers.

Dodd-Frank also covers rules not directly related to market functioning and transactions. Federal regulators are to issue rules prohibiting compensation policies that encourage excessive risk taking by executives, directors and key insiders of banks, securities broker-dealers, and other financial institutions. Title IV also imposes registration and informational requirements on advisers to hedge funds and private equity funds. Title X establishes the CFPB, which has rulemaking, examination and enforcement powers to protect consumers of financial services. Title X was vehemently opposed by megabanks and Wall Street, and killing the CFPB became a priority for the financial lobby.

Reforms in countries other than the United States are treated by Wilmarth in a more perfunctory way. The reforms included introduction of changes in the Basel Framework on banks' capital, risk management and liquidity requirements. The results included rises in average LCRs and NSFRs during the period 2012-17. But such improvements ceased thereafter. The revised rules on banks' capital for reasons discussed earlier still remained insufficient in the view of many commentators and vulnerable to manipulation and evasion by large banks.

Reforms were introduced for the resolution regimes of SIFIs in the European Union and the United Kingdom as well as the United States. These will require arrangements for support of the principal subsidiaries of a failing SIFI and for restructuring of its holding company. The reforms of resolution regimes are based on what are widely considered untried assumptions about the dynamics of SIFI failures, especially during systemic crises.

In the United States, important reform initiatives were weakened during the process of introducing Dodd-Frank, and the provisions of the law were subject to additional limitations and watering down during implementation. Amongst the former initiatives was the Lincoln Amendment. This was originally designed to force banks to transfer their derivatives to non-bank affiliates. As enacted by the United States Congress, the Amendment applied only to equity derivatives, commodity derivatives and uncleared credit default swaps – and thus only to less than 10% of banks' derivative holdings. In December 2014 the Amendment was effectively gutted by a provision allowing financial holding companies to conduct the great majority of their derivatives activities within their subsidiary banks.

The weakening of reform initiatives also affected the version of the Volcker Rule eventually enacted. As proposed by the former Fed Chairman after whom it was named, banks should be barred from holding ownership interests in hedge and private equity funds and from engaging in proprietary trading in securities, commodities and derivatives. The Rule enacted as part of Dodd-Frank exempted transactions in financial instruments for the purpose of underwriting, market making and risk-mitigating hedging. In 2018 the Rule was weakened in various ways: some trading transactions and assets valued on a mark-to-market basis but not held in a bank's trading account were removed from coverage by the Rule's restrictions; and quantitative tests for the exemption of underwriting, market making and hedging were replaced by more lenient qualitative standards which could be based on a bank's internal policies and procedures. Many large banks were removed from the enhanced regulatory authority of the Fed under Dodd-Frank, and liquidity requirements were reduced for banks with assets between $250 billion and $700 billion (a category which would have included several institutions which posed systemic threats to United States financial markets during the GFC).

The weakening of Dodd-Frank reforms was facilitated by provisions whose implementation depended on action by financial regulators. These included appointees of the Trump administration who were often unsympathetic to the law's programme. Inadequacies on the regulatory side were accompanied by unwillingness amongst the leaders of financial sectors as a class to assume special responsibility for controlling the huge, simultaneous losses of the major banks and other financial institutions of the GFC. Arguably the mindset deemphasizing personal responsibility was reinforced by the way in which individual cases of wrongdoing were treated by the legal system. Big banks did pay large fines and reached large financial settlements with the authorities after investigations. But leaders of large financial institutions rarely faced prosecution. Penalties were more likely to take the form of forced dismissal and fines, which frequently nonetheless accorded those affected substantial severance payments. In such a climate of opinion, it is unsurprising that discussion of reform devoted little space to the possible restoration of unlimited liability for individual participants in banking activities.

A new Glass-Steagall Act

Wilmarth's review of recent reforms of banking and the financial markets ranges widely over both measures adopted, though often in watered-down form, and ideas which did not get beyond the stage of consideration and discussion. But clearly for him the most important targets for reform are large banking conglomerates. The vehicle for this should be a renewed Glass-Steagall Act.

The version of Glass-Steagall cited in current discussions of reform was another name given to the comprehensive Banking Act of 1933 (Jackson and Symons, 1999: 43-44 and 1033-1035). The Act contained four sections which required the separation of commercial and investment banking. Section 16 limited the involvement of depositary institutions in the business of dealing in securities and stock to purchases and sales and undertaken for customers and to underwriting of certain government securities. Section 21 prohibited organizations involved in underwriting

securities from also engaging in the business of receiving deposits. Sections 20 and 32 extended the Act's prohibitions to certain banking affiliates and other related entities and individual officers, directors, partners and employees.

The other reforms contained in the Banking Act of 1933 were wide-ranging. Probably the most important for the purpose of ensuring financial stability was the establishment of the FDIC, through which the Federal Government insured deposits in qualified banks. Since this measure applied to small as well as large banks, deposit insurance arguably contributed also to competition in the banking sector since henceforth deposits would be just as safe in small as in large banks (Skeel, 2011: 55).

The backdrop of the 1933 Banking Act was the failure in the United States of more than 5,000 banks between 1930 and 1932. The backdrop of the post-GFC reforms, on the other hand, was a serious financial crisis but one which was more successfully contained by the macroeconomic policy response in advanced economies. The threat to the banking system at an institutional level in the latter case involved the failure of Lehman Brothers and the near-failure of a number of other large institutions but not generalized bank insolvency. Another difference between the two crises was the relative importance in key policy decisions of two groups with different perspectives on the direction which should be taken by banking reform.

In the United States response to the GFC, the dominant role was played by corporatists, that is to say, policymakers who believe that reform of the financial sector should be channelled through selected large financial institutions (Skeel, 2011: 11-12, 55 and 77-85). The key role in the oversight of systemic risks was to be played by the FSOC, a body which brought together major regulatory agencies and was likely to be sensitive to representations of the financial sector. In the administration of Franklin Roosevelt, in contrast, structural reformers were more important in the policy response to the banking collapse of the early 1930s. Amongst these, the most influential voice was that of Louis Brandeis, Boston lawyer, adviser of President Woodrow Wilson, Supreme Court Justice and author of *Other People's Money*. This book popularized the 1913 findings of the Pujo subcommittee, established by the House of Representatives, which found that the so-called Money Trust of a close-knit group of Wall Street investment and commercial banks and their associates in Boston and Chicago – in Wilmarth's words – "controlled the market for financing the great interstate corporations". Brandeis highlighted "the revolutionary change in the conduct of our leading banking institutions" due to "invasion by the banks into the realm of investment banker".

Wilmarth leaves no doubt as to where his sympathies lie. He notes that John Reed and Sandy Weill, major figures in the creation of the massive Citigroup as part of the merger movement associated with the repeal of the original Glass-Steagall Act in 1999, have changed their positions. They now see a new Glass-Steagall as likely to improve the internal functioning of financial institutions by ending the culture clash within universal banks between investment and commercial bankers and the conflict of interest preventing universal banks from acting effectively as both objective lenders and impartial investment advisers. In their view, a new Glass-Steagall would also reinforce the resilience of the financial system through the creation of strong structural buffers between banks and other financial institutions. Perhaps most interestingly, the two major bankers stress the importance for the great majority of the population not actively involved in the management of commercial and investment banking of the way in which a new Glass-Steagall would prevent, or at least greatly reduce, the exercise by financial conglomerates of dominance over political and regulatory policies. Wilmarth agrees with the positions of Reed and Weill, and his treatment extends them special emphasis on the way in which a new Glass-Steagall can enhance financial stability.

Wilmarth is unconvinced by the argument of the corporatists that open-ended support for large banks and shadow banks is the only guarantee that a future financial crisis will not lead to a new Great Depression. On the contrary, such an option in his view would increase the stress on already stretched financial and fiscal systems, eventually – although he does not explicitly say so – leading to some kind of breaking point. Avoidance of this danger requires recourse to structural reforms in an appropriately modernized version of Glass-Steagall.

Central to this new version of Glass-Steagall would be a delimiting of which activities constitute commercial banking. This is not simple owing to the extension of banks' activities into such fields as insurance, securities underwriting and real estate investment. Wilmarth's approach to this question involves both the liabilities and the assets of commercial banks.

On the liability side, banks' deposits would henceforth include all short-term financial instruments which are payable in practice at par (100% of amount invested) either on demand or within 90 days of issuance. Non-banking institutions would be prohibited from issuing short-term financial instruments which function as cash equivalents or deposit substitutes. This would imply, for example, that Money Market Mutual Funds (MMMFs) and other deposit substitutes would be issued by banks and not by non-banking institutions. Such funds would thus be subject to the more rigorous regulatory regime applying to banks. Funds issued by non-banking institutions would be subject to stronger market discipline, and thus such holdings of them would be less likely to contribute to financial instability.

Creation by banks and affiliates of derivatives designed to serve as "synthetic" substitutes for certain items on their balance sheets would be subject to greater restrictions. Derivatives would be permitted for banks only if they qualified for hedge-accounting treatment under the standards of the Financial Accounting Standards Board.

On the asset side, the main prohibition of a revised Glass-Steagall would concern involvement of banks in securities business other than underwriting and investing in government bonds, a restriction similar to that in the 1933 Glass-Steagall. This would imply no participation in securitization, trading on the bank's own account, and other investment banking services.

Wilmarth views his proposals as conducive to an improved alignment of financial risks and risk management in the financial sector. Non-bank financial institutions would face more rigorous regulatory rules. Shadow banks, the entities outside the regulated banking system which perform several banking functions and which have become increasingly important since 1975, could well largely disappear in a regime in which issuance of short-term claims on non-banks was no longer permitted. Wilmarth's proposals would also end current anomalies where large banks are able, sometimes through capital-market affiliates or regulatory redefinition of themselves as commercial banks, to exploit safety-net subsidies such as deposit insurance, access

to favourable terms on loans from the Fed, and even implicit guarantees for banks considered Too Big to Fail. Institutional anomalies here have merely been a highly visible manifestation of a pervasive intertwining of banking conglomerates and securities firms which created on- and off-balance-sheet exposures whose dangers Treasury and Fed leaders such as Geithner and Ben Bernanke on their own admission had failed to grasp before the GFC. This failure had partly conceptual origins: the models used for forecasting failed to include what proved to be crucial details of the functioning of the financial system and its potential impact on the macroeconomy.

In presenting his proposals for better controlled interdependence of different categories of financial institution – similar to the structural buffers of Reed and Weill – Wilmarth gives special emphasis to the way in which it would enhance financial stability through methods which avoid the reliance on large-scale support from government institutions of the corporatist approach that has characterized much of the post-GFC reform programme. Features of this approach, characterized by Wilmarth as "the global doom loop", are the following: Too Big To Fail guarantees to universal and large shadow banks which, supported by easy monetary policies, finance rapidly rising levels of private and public sector debt; and the assumption of outsized financial risks by investors and creditors in the expectation that governments and central banks will take the actions necessary to stabilize financial markets and prevent failures of large financial institutions.

Supportive policies towards universal and shadow banks have in fact been accompanied by a more severe regime for smaller banks. Over 2,000 new community banks opened between 1993 and 2008 but fewer than 20 between 2010 and 2018. Wilmarth attributes much of this decline to severe chartering requirements for such banks which have been an impediment to establishing new banks in smaller cities or rural areas. Regulatory stringency for small banks has been accompanied by leniency in the adoption of antitrust standards elsewhere, which permitted consolidation of the banking industry through mergers and acquisitions. Longer-term trends in this area included a fall in the number of community banks between 1984 and 2015 from more than 14,000 to less than 6,000 and a decline in such banks' share of the total assets of the banking industry from 38% to 14%. Such trends were associated with a sharp decline in the number of business start-ups (and, it is safe to assume, in the creation of new employment).

Wilmarth is sceptical that the decline in classical small-scale banking can be replaced by online non-bank financial (fintech) services. He is more optimistic concerning the likely effects of a new Glass-Steagall, which he thinks would encourage substantial inflows of deposits and capital into community banks as universal banks break up and non-banks are barred from issuing short-term financial claims. He draws attention here to a recent comparative study of local regions in Austria, France, Germany, Italy and Spain which indicated that regions with a more substantial presence for smaller banks had higher levels of income and wealth and lower unemployment rates.

Wilmarth emphasizes that the new Glass-Steagall which he is proposing will permit banks and their affiliates to engage in several financial activities other than deposit taking and lending. He cites here the earning of agency-based fees for investment advice and securities brokerage services, and acting as agents in selling insurance products. Also acceptable under the new Glass-Steagall would be greater flexibility for the definition by the Fed under the Bank Holding Company Act of 1956 of "activities closely related to banking" (i.e., the activities of deposit taking, lending, payment and settlement services, and wealth management) which it could permit to bank holding companies.

In his view, such services can be provided without creating the dangerous conflicts of interest and risks currently generated when universal banks underwrite or create the financial products which they sell. The task of regulation will be to ensure that banks do not assume legal duties or exposures as principals as part of their participation in such activities.

Wilmarth confronts some of the common arguments favouring large universal banks. The first cites the advantages of their economies of scale and scope. Another argument is that the ability of United States financial institutions to compete with those of other major countries depends on their size and the diversification of their activities. Closely related to this argument is that only big universal banks can satisfy the requirements of large multinational firms. On the basis of conceptual and historical considerations, Wilmarth argues that all such points are questionable.

Firstly, there is no consensus that the performance of large universal banks is generally superior once one has taken account of determinants other than scale and scope. On the contrary, according to many studies, increases in scale and in geographic and activity diversification have been associated with higher volatility of earnings and higher insolvency risk, and thus lower market valuations even during periods preceding the GFC. Moreover many critics of excessive reliance on large universal banks would argue that the superior competitive performance of United States financial firms in the 1980s and 1990s was driven to a significant extent by conditions in the country's home markets, conditions which included roles for vigorous competition and the decentralization of activities and markets that were more important than size and activity diversification. As for the unique capacity of universal banks to satisfy the needs of multinational firms, Wilmarth points out that this does not receive support from postwar history between the 1940s and 1990s. Transborder financing during this period relied heavily on syndication – in bank lending and in offerings of debt and equity securities. More competitive transborder banking, on the contrary, could end a regime characterized by regulatory complacency towards big universal banks as well as the astronomical remuneration of their senior officers.

Conclusion

Wilmarth's book covers interesting territory other than the key regulatory issues which are the principal focus of this review. He provides a detailed treatment of the evolution of principally United States banking practices and regulation since the beginning of the 20th century. Of interest in itself, this also provides important muscle for his case against acceptance of financial conglomeration and of the institutions and supportive legal and regulatory framework with which this has been associated.

However, impressively though Wilmarth makes his case, reversing conglomeration amongst large banks will be difficult.

Financial lobbies will mostly oppose such a reversal, and they will have support not only from within the industry but also from significant parts of intellectual and regulatory elites. Moreover, consolidation and associated mergers are prioritized in several countries for the purpose of reorganization and reinforcement of banking sectors. Accompanying structural reforms, by contrast, are often limited and halting. Nevertheless, regardless of unsupportive climates, Wilmarth's wide-ranging commentary on underlying issues merits close attention in debates on the future of banking regulation.

__Andrew Cornford__ is with the Geneva Finance Observatory.

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A Clash of Climate Change Paradigms

Negotiations and Outcomes at the UN Climate Convention

By Martin Khor and Meenakshi Raman

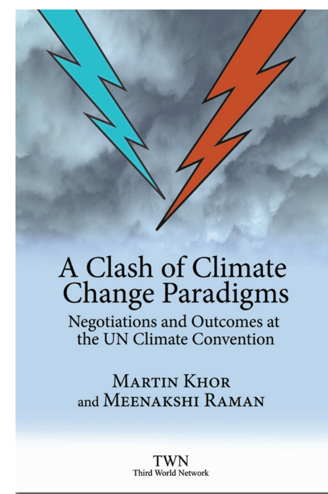
Climate change is the biggest problem facing humanity and the Earth. To address it requires fundamental changes to economies, social structures, lifestyles globally and in each country.

International cooperation is crucial. But to achieve this is difficult and complex, because there are many contentious issues involved, not least the respective roles and responsibilities of developed and developing countries.

This book is an account of the outcomes and negotiations at the UN Framework Convention on Climate Change (UNFCCC). It covers the Convention's annual Conference of Parties (COP) from Bali (2007) to Paris (2015), where the Paris Agreement was adopted, to 2018 where the rules on implementing Paris were approved, and to Madrid (2019).

The two main authors took part in all the COPs analysed except the 2019 COP. The book thus provides a unique ringside view of the crucial negotiations and their results at the UNFCCC as the different countries and their groups grappled with the details on how to save the world, and who should take what actions.

This brief account will be useful, even indispensable, for policy-makers, researchers, civil society activists and all those interested in the climate change issue.



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__MARTIN KHOR__ was Adviser to the Third World Network and was formerly Executive Director of the South Centre (2009 to 2018). Author of several books on trade, development and the environment, he participated at the COPs from 2007 to 2014 as an observer.

__MEENAKSHI RAMAN__ is Senior Legal Adviser and Coordinator of Third World Network's Climate Change Programme. She was an observer at the COPs from 2007 to 2018.