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Comparing the “Four Pillars” of Global Economic Governance: A Critical Analysis of the Institutional Design of the FSB, IMF, World Bank and WTO

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COMPARING THE "FOUR PILLARS" OF GLOBAL ECONOMIC GOVERNANCE: A CRITICAL ANALYSIS OF THE INSTITUTIONAL DESIGN OF THE FSB, IMF, WORLD BANK AND WTO

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ABSTRACT

Why are the intergovernmental organizations referred to as the "four pillars" of international economic governance designed the way they are? Although much of their institutional design – issues like voting, membership, mandate, and funding – can be traced back to the history of the organization and the circumstances in which states established it, the institutional setup of each organization should ideally correspond with the type of public good it seeks to provide. Formal organizations like the World Trade Organization (WTO) are treaty-based, requiring strict conditions for membership and a high degree of legal rules and enforcement. They were also established to carry out a specific function, such as balance of payment issues for the International Monetary Fund (IMF). Bodies such as the Financial Stability Board (FSB), the new player in the field of economic governance, are less formal, and are concerned with monitoring, advising, and coordination of regulatory efforts. In some cases the roles of these organizations have expanded into new areas, or they have had functions replaced by other international bodies, especially in the wake of events such as the 1997 and 2008 financial crises. This paper seeks to understand how the design of these institutions is influenced not only by the states that established them, but also by the overarching goals the organization seeks to achieve, and its place within the broader framework of global economic governance.

The paper begins by comparing the institutional design of the IMF, the WTO, the World Bank and the FSB. It compares the organizations' legal basis, membership, organs and decision-making processes, as well as the methods by which they develop and enforce rules for the global economy. The paper examines how these very different institutional setups relate to the goals of each organization. How has the design and function of these organizations changed over time, and to what extent has this change been due to the changing role of the organization, especially in light of events such as the 1997 and 2008 financial crises? Particular emphasis is given to the level of formality with which these organizations operate – when does the organization require strict rules regarding funding, voting, and membership, and when are more informal processes more appropriate? Finally, the paper seeks to understand to what extent these organizations, despite their differences in terms of mandate, structure, and methods are able to work together effectively and develop policies that are mutually consistent. An understanding of these dynamics will be useful in further discussions about how these organizations might be designed and structured better in order to address the challenges facing the global economy.

KEY WORDS

Financial Stability Board, World Bank, International Monetary Fund, World Trade Organization, G20, Institutional Design, International Economic Governance, Financial Stability, Global Public Goods

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1. INTRODUCTION

International organizations are often established, or undergo fundamental reform, in the wake of international or regional crises. Just as the establishment of Bretton Woods institutions followed the Second World War and the economic turmoil of the 1930s, the global economic crisis that broke out in 2008 brought about the impetus for a major transformation of the system of global economic governance. The response to the crisis saw new machinery established, such as the Financial Stability Board (FSB) and the renewed G20, as well as a commitment to reform of the established institutions,[1] such as the International Monetary Fund (IMF or Fund) and World Bank (IBRD or Bank).[2] Stressing the importance of the newly-established FSB in the global economic governance architecture, US Treasury Secretary Tim Geithner at a press conference at the G20 Pittsburgh summit in September 2009 stated that "[a]fter the second world war, we came together and established the IMF, the World Bank, the GATT which became the WTO. But the Financial Stability Board is, in effect, a fourth pillar of that architecture."[3]

The present paper focuses on the question of why the key pillars of global economic governance are designed the way they are. It seeks to understand how the institutional design of these bodies relates to the type of global public good they seek to provide, with a particular focus on the issue of financial stability. The first section briefly discusses the four institutions and the types of global public goods they were established to provide. It shows how their role has changed over time in response to changes in the world economy and in global politics. The next section goes on to examine and compare certain features of their institutional design, focusing on issues such as the organization's legal basis, membership, mandate, structure, formality and decision-making processes. These design features all represent deliberate choices made by the states that established them. To a certain extent these decisions reflect the political environment at the time of their creation, and the interests of the powerful states. Yet the design of the institutions also reflects the type of public goods they were established to provide, and that organization's place within the wider multilateral fabric of global governance. The paper examines how these institutions relate to each other and interact, in order to understand whether or not they achieve a coherent framework for global economic governance. In concludes with a brief discussion about whether the FSB should be transformed to a 'hard' organization similar to the other three pillars, or whether it should remain an informal body.

[1] G20, Declaration on the Summit of Financial Markets and the World Economy, Washington DC, November 14-15, 2008, point 9: "We are committed to advancing the reform of the Bretton Woods Institutions so that they can more adequately reflect changing economic weights in the world economy in order to increase their legitimacy and effectiveness."
[2] The term 'World Bank' usually refers to two institutions, the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA) while 'World Bank Group' includes these bodies as well as the International Finance Corporation (IFC), the International Centre for Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA). In this paper 'World Bank' refers to the IBRD, which was established at Bretton Woods.
[3] Press Briefing by Treasury Secretary Tim Geithner on the G20 Meetings, Pittsburgh Convention Centre, Pittsburgh, 24 September 2009. <http://www.whitehouse.gov/the_press_office/Press-Briefing-by-Treasury-Secretary-Geithner-on-the-G20-Meetings>.

2. THE ROLE OF THE "FOUR PILLARS" OF GLOBAL ECONOMIC GOVERNANCE

International institutions are often established to allow states to more effectively deal with problems that cannot be addressed effectively at the domestic level. In this way they contribute to the provision of global public goods. There is some debate about what constitutes a 'public good', but it is generally recognized that they are both non-excludable and non-rivalrous[4], i.e. that they can be consumed without depriving another of that good. The protection of the environment is a classic example since acts undertaken to improve the air quality or combat climate change at the state level also benefit others. Public goods at the global level include the prevention of communicable diseases, the prevention of global armed conflict and use of nuclear weapons, or the protection of the cultural heritage of mankind.

There is a good case for adding economic and financial stability to this list.[5] If it was not already apparent, the global financial crisis of the past five years has reminded us how easily instability in one part of the global economy can be disastrous for other regions, and the international economy as a whole. The economic damage sustained from these crises also has a negative impact on the enjoyment of other global goods, for instance, by depriving resources that might be used for poverty alleviation or by making global cooperation in other fields, such as public health and the environment, more difficult. It is for this reason that financial stability has been considered as a global public good:

> Financial stability can be seen as an international public good because financial instability is a potential public bad that spreads across countries. But collective action problems have led so far to an under-provision of the international public good, with severe redistributive effects.[6]

All countries have an interest in an economic and financial system that is more or less 'stable', although there is disagreement about what 'stability' exactly entails.[7] The lack of banking or other economic crises does not necessarily point to the stability of a financial system, and it has been notoriously difficult to identify possible causes of instability. While one might point to the collapse of one bank or financial system as a trigger, the precise sources of financial instability are increasingly difficult to pinpoint. Financial stability suffers from a similar collective action problem associated with other global public goods. While the whole international community has an interest in a 'stable' global financial system, individual states will continue to take steps that are in their own (short-term) interests, even if they remain dangerous for the system as a whole. It is for this reason that states have looked to international institutions to help overcome this collective action problem and promote greater global cooperation.

Stability of the global economic system (rather than financial stability) was one of the key factors behind the creation of the Bretton Woods institutions. The IMF was primarily established with the vision of helping to ensure the stability of the

[4] J. E. Stiglitz, 'Global Public Goods and Global Finance: Does Global Governance Ensure that the Global Public Interest is Served?', in J.-P. Touffut (ed.) *Advancing Public Goods* (Edward Elgar, 2006) 149. P.A. Samuelson, 'The Pure Theory of Public Expenditure' 36 (4) *Review of Economics and Statistics* (1954). pp. 387–389; M. Olson, *The Logic of Collective Action : Public Goods and the Theory of Groups* (Harvard University Press, 1965); I. Kaul, I. Grunberg and M. Stern (eds.) *Global Public Goods: International Cooperation in the 21st Century* (OUP, 1999).

[5] "[I]nternational financial codes and standards, such as Basel III, are intended to foster the GPG [Global Public Good] of enhanced financial stability." I. Kaul, 'Global Public Goods: Explaining their Under provision' 15 (3) *Journal of International Economic Law* (2012) 734.

[6] C. Wyplosz,'International Financial Stability', in I. Kaul, I. Grunberg and M. Stern (eds.) *Global Public Goods: International Cooperation in the 21st Century* (OUP, 1999), 156.

[7] "The term financial stability has gained prominence in international policy discussions and has become an actively discussed academic topic since the mid-1990s. However, a precise definition still eludes the work done so far." U. Das, M. Quintyn and K. Chenard, 'Does Regulatory Governance Matter for Financial System Stability? An Empirical Analysis' IMF Working Paper WP/04/89 (2004), 5.

international monetary system. The IMF contributes to macro-economic stability primarily by providing support and advice to countries facing external payment difficulties. The IMF is able to take action during times of crisis to help prevent international contagion and maintain a more stable economic system. The World Bank also plays a role by providing finance and advice to countries that reform their economies, including in the financial sector. Since the crisis that broke out in 2008, there has been a sharpened focus on the issue of financial stability and the topic of macroprudential regulation. This was not an explicit goal of the original Bretton Woods institutions and the IMF and World Bank do not have a specific mandate to deal with the regulation of international finance. This reflects the economic system of the 1940s, where trade in goods was increasingly globalized, but finance and financial services were not.

Rather than creating an institution responsible for financial stability, various international organizations and other bodies took up the role. The Bank for International Settlements (BIS), for example, works alongside the IMF and World Bank in the field of financial stability. The BIS houses the Basel Committee on Banking Supervision (Basel Committee), which works on issues of banking supervision. Bodies such as the International Organization of Securities Commission (IOSCO) deal with stock market regulation, and the International Accounting Standards Committee (IASC) deal with accounting practices. In contrast with the Bretton Woods institutions, global financial governance is composed of a diverse range of international actors. This problem of diversified and often overlapping entities was one of the issues that the Financial Stability Board was established to help overcome. Rather than create a new institution in the mould of the Bretton Woods system, the world's major economies opted for a much more informal mechanism. Instead of establishing an organization to create and enforce binding rules, or endowing an existing body such as the IMF with greater responsibilities, they established an 'umbrella' body that would play a role of coordination and supervision of best practices and standards.

While the FSB, IMF and World Bank all have mandates related to the stability of the global economy, the World Trade Organization (WTO) was established with a more narrow aim, to help economies move towards further trade liberalization. Although the WTO may contribute indirectly to economic stability, it provides a very different 'service' in the global economic architecture. Unlike the enjoyment of a stable economic system, free trade is itself not a public good. Trade liberalization can benefit the world economy, and greater economic interdependence through trade can limit the risk of global instability and armed conflict. Yet the benefits of trade liberalization are not felt equally, and its benefits can be excluded from others. While trade liberalization is not a 'global public good' in this sense, the WTO can be seen as providing a public good in itself, that is, by providing a mechanism by which its Members can agree upon binding rules and settle disputes. The WTO creates a forum where governments are capable of negotiating agreements to progressively open markets and also provides a rule-based mechanism for enforcing these agreements. In turn, the work of the WTO, by promoting further liberalization, contributes to the wider benefit of strengthening the international trade regime and promoting economic growth. By contributing to a rule-based system of international trade, the WTO, alongside the other institutions, also contributes to a more stable international system as a whole. While it does not have the specific mandate of promoting economic stability, the WTO's work can be seen as closely linked with that of the other pillars. Indeed, the WTO is the modern equivalent of the International Trade Organization (ITO), the body intended to sit alongside the other Bretton Woods institutions, since it was understood that strengthening and promoting international trade would encourage economic growth and stability.

All of these bodies play a role, either directly or indirectly, in supporting the stability of the international economic system. Yet they also provide public goods that fall outside of their stated mandates. First, each of them contributes to a rule-based system for the global economy. They therefore contribute to the development of an international system in which commitments are more likely to be complied with. Each of these bodies have their own systems of ensuring compliance, relying on legal (WTO), financial (IMF) and peer review (FSB) methods to ensure actors behave according to the rules of the system. A more open and competitive international market can also be seen as a global public good,[8] especially where it leads to greater economic development and poverty reduction. The organizations discussed here can also provide or support the enjoyment of other associated public goods. For instance, whereas the World Bank originally provided finance to its Member Countries to improve infrastructure, industry and agriculture, it is now strongly involved in improving rule of law, good governance, and promoting health, education and poverty alleviation in developing countries. Similarly, the WTO's role has also shifted, as states have used the body to move from narrowly-defined trade issues, to areas such as intellectual property rights. These bodies, especially the IMF and World Bank, also provide an enormous amount of data and public information, for example the IMF's data on balance of payments.[9] The gathering and publishing of these data also contributes to a 'global good' of greater information and transparency. Publication of reports and peer review of member jurisdictions contribute to a greater amount of information and knowledge about each other's economic and financial positions. The considerable expertise developed by these bodies in various fields also further contributes to this public good.

3. THE DESIGN OF INTERNATIONAL ECONOMIC INSTITUTIONS

The design of international institutions is influenced by the role that the body in question plays within the international system. As Koremenos *et. al.* argue, differences in institutional design do not occur by chance, but "are the result of rational, purposive interactions among states and other international actors to solve specific problems."[10] We seek to understand how the design of these bodies differs in several key aspects of their design including legal basis, mandate, membership, and formality and structure and how this design is influenced by the organization's role in global economic governance. Although the design of these bodies naturally reflects the political interests of states at the time of the organization's creation, they also reflect the type of global public good it seeks to provide, as well as the organization's place within the broader international economic system.

3.1 LEGAL BASIS AND MANDATE

Legal Basis

International institutions vary according to the types of instruments used to bring them to life. The FSB was created in April 2009 through a decision of the G20 leaders at their London summit.[11] G20 leaders decided that there was a need "to establish the much greater consistency and systematic cooperation between countries, and the

[8] N. Birdsall and R. Z. Lawrence, 'Deep Integration and Trade Agreements: Good for Developing Countries?' in I. Kaul, I. Grunberg and M. Stern (eds.) *Global Public Goods: International Cooperation in the 21st Century* (OUP, 1999), 133.
[9] See B. Koremenos, C. Lipson, and D. Snidal, 'The Rational Design of International Institutions' 55(4) *International Organization* (2001) 771: "The least intrusive form of centralization is information collection, and many international institutions engage in it. Members of the IMF, for instance, need not gather their own data on others' balance of payments. Instead the IMF regularly collects, evaluates, and publishes itemized statistics on its members' payments."
[10] B. Koremenos, C. Lipson, and D. Snidal, 'The Rational Design of International Institutions' 55(4) *International Organization* (2001), 762.
[11] Leaders Statement at the G20 Summit, London, 3 April 2009.

framework of internationally agreed high standards, that a global financial system requires."[12] The FSB is the successor to the Financial Stability Forum (FSF), established by the G7 Finance Ministers and Central Bank Governors in 1999 in the wake of the Asian Financial Crisis. It is the first institutional innovation of the renewed G20[13], a body which itself is not grounded in any type of formal international treaty or other instrument. Unlike the other organizations discussed in this paper, the FSB does not have a formal international legal basis. Its founding Charter is a 'memorandum of understanding', which unlike a treaty, does not impose international legal obligations upon its members.[14] The G20 made the decision at the June 2012 Los Cabos Summit to establish the FSB 'on an enduring organisation footing'[15], and to endow the FSB with legal personality. The FSB has now been established as an association under Article 60 of the Swiss Civil Code. The FSB Plenary approved the FSB's Articles of Association in January 2013,[16] although the FSB Charter remains the document governing the FSB's activities and decision-making. This innovation, as well as the establishment of a more defined framework for decision-making, has seen the FSB slowly transform from a loose and informal body into a more structured organization. However, the FSB has a long way to go before it becomes anything like the other pillars in terms of legal basis. The FSB Articles of Association are binding under Swiss law, but at the international level, the Charter remains a non-binding agreement between FSB members. Moreover, it is unclear how the FSB will further transform to become a more permanent and enduring body.[17] At the 2013 G20 summit in Russia, G20 leaders requested the FSB to "review the structure of its representation"[18] and the FSB will report on this at the 2014 Brisbane Summit.

The FSB's informal structure is in sharp contrast with the other pillars, all of which are established through international treaties, and enjoy international legal personality. The IMF is established by Articles of Agreement[19] which were signed along with the Articles of Agreement of the International Bank for Reconstruction and Development.[20] The WTO is also a treaty-based organization, founded upon the 1994 Marrakesh Agreement[21], which builds upon GATT, a multilateral agreement regulating international trade in goods. These treaty-based bodies enjoy the rights of an international organization, such as legal personality, privileges and immunities, and they have negotiated headquarters agreements with states. For the time being the FSB is covered by the BIS Headquarters Agreement, although as the FSB becomes more institutionalized, a separate headquarters agreement with Switzerland may be appropriate in the future.

The G20 leaders rejected the notion of establishing the FSB as a formal international organization based on a multilateral treaty, a move considered "not to be an appropriate legal form at this juncture."[22] The FSB Charter can and has been continuously changed and adapted by the G20. This is in contrast to a formal treaty, which, once drafted, is extremely difficult to amend.

[12] Leaders Statement at the G20 Summit, London, 3 April 2009.
[13] E. Helleiner, 'What Role for the New Financial Stability Board? The Politics of International Standards after the Crisis' 1 (3) *Global Policy* (2010), 282.
[14] International Monetary Fund, 'IMF Membership in the Financial Stability Board', Prepared by the Legal and Monetary and Capital Markets Departments, Approved by José Viñals and Sean Hagan, 10 August 2010.
[15] Financial Stability Board, Report to the G20 Los Cabos Summit on Strengthening FSB Capacity, Resources and Governance, 18-19 June 2012.
[16] Articles of Association of the Financial Stability Board (FSB), 28 January 2013.
[17] C. Brummer, 'Charter of the Financial Stability Board: Introductory Note' 51 *International Legal Materials* 4 (2012) 828.
[18] G20 Leaders Declaration, Saint Petersburg, Russia, 5-6 September 2013.
[19] Articles of Agreement of the International Monetary Fund, July 22, 1944, 2 UNTS 39, as amended through June 28, 1990.
[20] Articles of Agreement of the International Bank For Reconstruction and Development, July-22, 1944.
[21] Agreement establishing the World Trade Organization, signed on 15 April 1994, 1867 UNTS 154.
[22] Financial Stability Board, Report to the G20 Los Cabos Summit on Strengthening FSB Capacity, Resources and Governance, 18-19 June 2012.

Mandates

The founding documents of these bodies set out the specific mandates and powers of the organization. The institutions now perform a range of tasks that were not foreseen at the time of their creation and their roles have changed and adapted over time. Nevertheless, the mandate of the bodies in the founding documents remains of paramount importance since it sets out the core role of the organization.

Article 1 of the FSB Charter provides the Board's objectives. It sets out a role of coordination of national financial authorities and international standard-setting bodies to promote and implement financial sector policies. The FSB is also tasked with collaborating with international financial institutions to address vulnerabilities of the international financial system. The Charter sets out the FSB mandate, which is to:

> (a) assess vulnerabilities affecting the global financial system and identify and review on a timely and ongoing basis within a macroprudential perspective, the regulatory, supervisory and related actions needed to address them, and their outcomes;
> (b) promote coordination and information exchange among authorities responsible for financial stability;
> (c) monitor and advise on market developments and their implications for regulatory policy;
> (d) advise on and monitor best practice in meeting regulatory standards;
> (e) undertake joint strategic reviews of and coordinate the policy development work of the international standard setting bodies to ensure their work is timely, coordinated, focused on priorities and addressing gaps;
> (f) set guidelines for and support the establishment of supervisory colleges;
> (g) support contingency planning for cross-border crisis management, particularly with respect to systemically important firms;
> (h) collaborate with the International Monetary Fund (IMF) to conduct Early Warning Exercises;
> (i) promote member jurisdictions' implementation of agreed commitments, standards and policy recommendations through monitoring of implementation, peer review and disclosure; and
> (j) undertake any other tasks agreed by its Members in the course of its activities and within the framework of this Charter.[23]

The FSB's Charter remains very much 'a work in progress'. It has been changed several times and G20 countries may continue to add new tasks to the list of FSB responsibilities. Unlike international organizations which are given a mandate in a specific and relatively narrow field, the FSB is much more geared towards being a manager and harmonizer of regulatory efforts at different levels. The Charter states that the FSB "should consult widely amongst its Members and with other stakeholders including private sector and non-member authorities" and "will promote and help coordinate the alignment of the activities of the SSBs [Standard Setting Bodies]". Unlike the other international bodies discussed here, which have their own legal structures and powers to implement a specific mandate, the FSB is much more focused on coordination and oversight tasks and does not possess legal powers as such. It is therefore far from being on par with the other pillars.

Article 1 of the IMF Articles of Agreement sets out the purposes for which the IMF was established. These include the promotion of international monetary cooperation, the expansion and balanced growth of international trade, exchange stability, and the establishment of a multilateral system of payments in respect of current transactions between members. The Fund's purposes are set out in a very specific manner, and are an exhaustive, rather than an indicative list of the Fund's aims. Moreover, they

[23] Charter of the Financial Stability Board, June 2012. Article (2), available at < http://www.financialstabilityboard.org/publications/r_120809.pdf>.

state the purposes that should *guide* the IMF's policies, rather than setting out its specific powers. The Articles of Agreement contain no lofty language like the preamble for some other organizations, and make no mention of more 'political' goals such as fostering democracy, rule of law etc. The absence of such goals reflects the requirement at the time of the IMF's creation to have a great number of countries willing to join the organization. The very defined purposes given to the IMF can also be understood in the light of the IMF being a fund, a body that employs the resources of its members, and as such possesses considerable economic weight. By circumscribing the goals of the Fund to a set of defined purposes in the Articles of Agreement, there is arguably less chance of it being used for goals that deviate too far from its original mandate.

In a similar way, the IBRD Articles of Agreement set out the purposes of the Bank, which are to be used to 'guide' its decisions. The Bank's first purpose is directly related to its goal of contributing to the economic restoration in the post-War period. The Bank's role in the immediate post-War years was "to assist in bringing about a smooth transition from a wartime to a peacetime economy." Article 1(a) states that its goal is

> (i) To assist in the reconstruction and development of territories of members by facilitating the investment of capital for productive purposes, including the restoration of economies destroyed or disrupted by war, the reconversion of productive facilities to peacetime needs and the encouragement of the development of productive facilities and resources in less developed countries.

The Bank's goals did not end at post-war reconstruction, however. More generally, the Bank should also "promote private foreign investment by means of guarantees or participations in loans and other investments made by private investors" and "promote the long-range balanced growth of international trade and the maintenance of equilibrium in balances of payments". Like the IMF, the IBRD's objectives are delimited to ensure that the Bank is not used for other purposes. Indeed the Articles of Agreement explicitly prohibit the Bank from granting loans based on "political or other non-economic influences or considerations."[24] Today, the mandate of the Bank is geared more towards the goal of promoting poverty reduction through the supply of technical and financial support. The IBRD has, just like other international organizations, progressively expanded from its original mandate to cover new areas and issues. While this should be viewed as a natural evolution for the organization, it has at times been criticized for its 'mission creep' by expanding towards areas such as biodiversity or corruption.[25] Moreover, its role has expanded from being that of a traditional lender to being more involved in global policy-making, and has a considerable body of expertise in a wide range of policy fields.

Article II of the WTO Agreement sets out the aims of the organization in a very broad manner: the WTO "shall provide the common institutional framework for the conduct of trade relations among its Members".[26] Some of the WTO's aims are mentioned in Article III setting out the functions of the organization. It shall *inter alia* "provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements" and shall administer the Dispute Settlement Understanding (DSU). These goals and straightforward and rather technical. There is little mention, save for brief references in the preamble, to 'overarching goals'. This reflects the member-driven nature of the WTO. It is established primarily as a tool for its Members, rather than a body with its own mandate and autonomous powers. As an illustration, while the website of the IBRD is

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[24] IBRD, *supra* note 20, Article III(5)(b).
[25] J. Einhorn, 'The World Bank's Mission Creep' 80 *Foreign Affairs*, September/October 2001, 22-35.
[26] WTO Agreement, *supra* note 21, Article II.

emblazoned with the slogan ‘Working for a World Free of Poverty’, and the IMF states that it is ‘working together to foster global growth and economic prosperity’ the WTO describes its mandate to the world in much drier terms: the “WTO is a rules-based, member-driven organization — all decisions are made by the member governments, and the rules are the outcome of negotiations among members.”[27]

3.2 Membership and Voting

While international organizations may develop a certain level of autonomy, they are influenced by their members, primarily states. The rules governing who can become a member and under what conditions, are important in shaping the organization. Membership can be broad-based and universal, such as the UN, or may establish strict criteria for membership and accession, such as the EU. Older international institutions generally only allow membership for states, while some newer organizations tend to allow membership of other international organizations and even some non-state actors, albeit with often differing levels of participation. This reflects the fact that states are no longer the only significant actors in international relations, especially in global economic governance. Rules on participation and voting are also a critical issue in many organizations. While the ‘one state, one vote’ rule applies to many international organizations, typically representing the principle of the sovereign equality of states, a number of organizations in the field of economic governance have developed weighted voting to account for the economic size and power of their members. Other bodies may put more emphasis on consensus, meaning that formal voting procedures are in practice not as critical to the organization.

When the FSB was established in 2009, it significantly expanded its membership from the members of the original FSF to include a much greater number and range of economic players. The limited membership of the FSF was seen to be one of its main drawbacks, as it represented a very limited group of actors (mainly representing Western economies) which could be seen as dictating policies to rest of the world.[28] Membership of the FSB was expanded to include, in addition to the existing members of the FSF, all the members of the G20. This added emerging economies such as Argentina, Brazil, China, India, Indonesia, Korea, Mexico, Russia, Saudi Arabia, South Africa and Turkey. Membership was also expanded to include the European Commission (the European Central Bank (ECB) was already an FSF member) and Spain (which is regularly invited to G20 meetings).[29] This broadened membership still leaves it with far fewer members than the World Bank/IMF (188 members) and the WTO (159 members).

What is most striking about the membership of the FSB is the diversity of bodies represented, which includes a range of influential non-state actors. The FSB includes three types of members. The first type of membership is the ‘member jurisdictions’. The reference to ‘jurisdictions’ and not ‘states’ allows the participation of bodies such as the ECB and European Commission in this list. Moreover, it is not strictly the states that are represented, but the relevant authorities responsible for financial stability in that jurisdiction. For instance, the United States is represented through three members, the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission. The second category of member is the International Financial Institutions: the BIS, IMF, Organization for Economic Co-operation and Development (OECD) and the IBRD.

[27] World Trade Organization. < http://www.wto.org/english/thewto_e/thewto_e.htm>.

[28] See High-Level Panel on the Governance of the Financial Stability Board, Recommendations on the Financial Stability Board , 23 October 2009; E. Helleiner, ‘The Financial Stability Board and International Standards’ CIGI G20 Papers No. 1, June 2010, 4.

[29] Financial Stability Board, ‘Financial Stability Forum decides to broaden its membership’. Press Release Ref no: 10/2009, 12 March 2009.

One of the key organizations discussed in this paper, the WTO, is conspicuously absent from this list. Although the WTO does not have an explicit role in financial regulation, it nevertheless plays a role in the liberalization of financial services within the framework of GATS and could also have been included as a body with which the FSB coordinates. This may be important in cases where WTO rules potentially impede the ability of FSB members to implement financial regulation. The third type of member is International Standard-Setting, Regulatory, Supervisory and Central Bank Bodies. These currently include the International Association of Insurance Supervisors (IAIS), IOSCO, the Basel Committee, Committee on Payment and Settlement Systems (CPSS), Committee on the Global Financial System (CGFS) and the IASB. The types of bodies represented within the FSB is indeed diverse, ranging from state authorities such as the central banks and regulatory agencies, to international organizations such as the IMF, to purely private standard-setting bodies such as IASB. The FSB's membership can be seen as reflecting the body's objective, which is not establishing binding and enforceable legal rules for its members, but co-ordination at different levels. In order to promote this public good, the FSB is composed of those bodies that have the greatest role in formation of regulatory, supervisory and other financial sector policies. Moreover, the FSB's membership includes only the more advanced economies, reflecting the fact that these are the jurisdictions that have the largest influence in, and are also most affected by, regulatory and financial sector policies.

Although the FSB Charter sets out these three types of members, the list is not exhaustive, and new members could be included over time. Article 5(2) of the Charter states that "[t]he eligibility of Members will be reviewed periodically by the Plenary in the light of the FSB objectives", implying that members may also be excluded or removed from the FSB. Membership could be expanded further to include a greater number of member jurisdictions, for example, other international organizations or other bodies. Although the world's major economies (represented as G20 members) are included, a greater number of non-Western states could also be included, a step that would arguably strengthen the legitimacy of the FSB. Yet a long list of members would also entail problems. Being composed of a limited number of major economic actors may make the decision-making process more manageable than an organization with wide membership and formal voting procedures. That being said, one of the criticisms of the FSB's predecessor, the FSF, was that it represented too narrow a range of actors. The FSB's membership may have to expand at some point. However, since there are no strict membership criteria or guidelines on who should be a member, the proper composition of the FSB will remain a subject of debate.

Although there is little public information about the FSB's decision-making process, the FSB generally operates via consensus. Although each member has one vote, in practice there is a system of 'weighted voting'. This is because more economically important jurisdictions such as the US, China and Russia are represented by the central bank, finance ministry and securities regulators, whereas smaller jurisdictions are represented by only one or two of these. The number of seats assigned to each jurisdiction depends on the size of its economy, the activity of the financial market and national financial stability arrangements.[30] Moreover, these economically important countries are also represented via the international institutions with FSB membership, such as the IMF and IBRD. In practice, this gives the governments of economically important countries even greater representation in the organization. This structure has also been criticized as making the FSB an overly political, rather than technical, body, one which may be unwilling to tell the 'hard truths' needed to ensure financial

[30] A. Vanoli, 'FSB: Current Structure and Proposals for a More Balanced Integration', in S. Griffith-Jones, E. Helleiner and N. Woods (eds) 'The Financial Stability Board: An Effective Fourth Pillar of Global Economic Governance?' Special Report, The Centre for International Governance Innovation (2010) 24.

stability.[31] Gadinis, noting that around a quarter of the FSB Plenary is represented by state finance ministers or treasury secretaries, argues that "it is the presence of the politicians that distinguishes the FSB from the other international bodies in financial regulation"[32] such as the Basel Committee or IOSCO. The requirement of consensus decision-making has also been criticized since in practice it gives everyone a veto over the decision-making process, making it difficult to expel or discipline a member.[33] As discussed below, in organizations like the WTO, consensus decision-making may be appropriate. However, it has been argued that "in the case of the FSB, if it is to perform its countercyclical role properly, it will be very difficult to avoid politically unpopular messages."[34]

The conditions of membership of the IMF are outlined in Article II of the Fund's Articles of Agreement. Membership is only open to 'countries' and therefore excludes other international or regional organizations such as the EU. The IMF is very much a traditional international organization in this sense. Yet unlike many traditional organizations where participation is equal and voting remains on a 'one state, one vote' basis, IMF decision-making is based on a somewhat complex system of quotas.[35] Quotas are used to determine both the member's voting power[36] and the level of IMF financing available to a member.[37] Since decisions are made based on the quotas, the United States and European countries have historically had a greater role in the organization. Such weighting of votes was intended to reflect the strength of each member within the global economy. However, it is generally agreed that the current system no longer adequately reflects the economic balance of power, especially since it under-represents the world's emerging economic powers. There has been considerable debate about how quotas are calculated, and whether the complex formula to allocate quotas has benefited larger and more developed economies. The reform of the IMF quotas has therefore been a field in which there has been continuous reform, and G20 leaders have decided to continue a transfer of votes to emerging economies such as Brazil, China, India and Russia.[38] Moreover, as discussed above, the role of the IMF has shifted since it was originally created, and now has a greater role in advising and financing developing countries.

The quota system can be partly explained by historical reasons. A 'one state, one vote' system would not have been a politically acceptable option at the time of its creation, since the Fund was resourced by the world's powerful economies, such as the United States, who wanted to ensure a greater say in the management of the Fund. Yet another reason for having a different voting structure from other organizations is due to the IMF's role as a fund, rather than a rule-making body. The allocation of quotas reflects the size of the member in the world economy and also determines its contribution to the IMF. The contribution of these major economies is crucial for the IMF to be able to fulfill its role. Although there is serious discussion

[31] See S. Gadinis, 'The Financial Stability Board: The New Politics of International Financial Regulation' 48 *Texas International Law Journal* 2 (2013) 157.
[32] Gadinis, *supra* note 31, 167.
[33] A. Baker, 'Mandate, Accountability and Decision Making Issues to be faced by the FSB', in S. Griffith-Jones, E. Helleiner and N. Woods (eds) 'The Financial Stability Board: An Effective Fourth Pillar of Global Economic Governance?' Special Report, The Centre for International Governance Innovation (2010) 22.
[34] *Id*.
[35] IMF Articles of Agreement, *supra* note 19, Article III.
[36] IMF Articles of Agreement, *supra* note 19, Art XII(5)(a) "The total votes of each member shall be equal to the sum of its basic votes and its quota-based votes."
[37] IMF Articles of Agreement, *supra* note 19, Art. V (3) (b) (iii).
[38] G20 Leaders Statement, Pittsburgh, United States, 24-25 September 2010: "We are committed to a shift in quota shares to dynamic emerging market and developing countries of at least five percent from over-represented to underrepresented countries using the current IMF quota formula as the basis to work from." On December 15, 2010 the IMF Board of Governors approved a quota and governance reform package that included a re-structure of the Fund's quotas. See 'IMF Executive Board Approves Major Overhaul of Quotas and Governance' Press Release No. 10/418, International Monetary Fund, 5 November, 2010. These changes require acceptance by the Fund's membership. See 'IMF Executive Board Reviews Progress Toward Implementation of the 2010 Quota and Governance Reform' Press Release No. 13/127, International Monetary Fund, 17April, 2013.

regarding how the quotas are to be allocated, there is little disagreement that voting weight in the IMF should broadly reflect the member's relative weight in the world economy. When making a decision to allow a bailout of a country, for example, the effect on IMF member countries will differ, since each country has contributed different levels. Since the IMF deals with the allocation of large, finite resources, a 'one state, one vote' system would not reflect each member country's stake in the decision-making. In cases where an 85% majority is required[39], the United States possesses a *de facto* veto right. Even in cases where decisions are made by consensus or not put to a vote, greater voting rights can translate into greater bargaining power, as major decisions require the agreement of the major economic powers.

The IBRD Articles of Agreement set out the conditions for membership, which is limited to states that are also member countries of the IMF. Like the IMF, the Bank also employs a system of weighted voting.[40] The weighted voting systems of the IMF and the World Bank are somewhat unique in international organizations, and reflect in many ways the political situation at the time of their creation. Indeed most other international organizations do not use a system of weighted voting, despite the fact that the benefits members derive from the organization and the resources members provide to them, often differ dramatically. Despite criticisms of the weighted voting systems of the IMF and IBRD, these two organizations have continued to be effective since their creation in the 1940s. It has even been argued that a weighted system of voting can increase the effectiveness of the organization and compliance with its decisions, since "[c]ountries often treat decisions of equal voting organizations as advisory opinions, but abide by decisions of weighted voting organizations."[41]

The conditions for membership in the IMF and IBRD are quite open, allowing these bodies to achieve almost universal membership. The WTO has more restrictive rules for accession and membership, and entrance can often be more of a political rather than legal issue. Article XI of the WTO Agreement sets out the original membership of the WTO, which includes all contracting parties to GATT 1947, as well as the European Communities (now European Union). Article XII applies to accession to the WTO, a far more political and legally complex process than accession in the other bodies. Accession is open not only to 'states' but also to 'customs territories' wherever they have "full autonomy in the conduct of its external commercial relations.[42] This has allowed membership of Hong Kong, Macau and Taiwan alongside that of the People's Republic of China. In addition to the full WTO members, there are also observer governments, and a long list of observer organizations, including the IMF and World Bank. Decisions on accession, however, are taken by the Ministerial Conference.[43]

While the IMF and World Bank both have a complex formula for voting, the WTO uses 'one member, one vote' approach which applies in most traditional international organizations. However, the practice of the WTO is to take decisions by consensus.[44] The *de facto* requirement for consensus may seem to be a factor that would complicate decision-making, since it allows any member to exercise a form of veto. However the requirement for consensus can also enhance effectiveness. In the field of trade liberalization, it is not only important that there is a high number of participants in an agreement, but also that they will abide by the agreed-upon rules.

[39] This includes decisions to adjust quotas (III(2)) and to amend the structure of the Executive Board (Article XII).
[40] IBRD, *supra* note 20, Article V (3).
[41] W. Gianaris, 'Weighted Voting in the International Monetary Fund and the World Bank', 14 (3) *Fordham International Law Journal* (1990) 936.
[42] WTO Agreement, *supra* note 21, Article XII, 1.
[43] WTO Agreement, *supra* note 21, Article XII, 2.
[44] C. Ehlermann and L. Ehring, 'Decision-making in the World Trade Organization' 8(1) *Journal of International Economic Law* (2005) 51–75, 55.

Ehlermann and Ehring argue that an advantage of consensus is "the fact that no decisions are likely to be taken against the opposition of the big and mighty, who generally need to implement the decision for it to have practical value."[45] Consensus should not be confused with the requirement of unanimity. Consensus is reached when no member raises a formal objection to the proposal being discussed. Taking decisions by consensus means that a member is not out-voted, arguably decreasing the likelihood that a member will not abide by any decision. However, as the WTO expands, both in terms of membership and types of issues it covers, the requirement for consensus has the potential to grind decision-making to a standstill. Although there is currently little interest in changing the voting arrangements at the WTO (as there is in the IMF), some have suggested a form of weighted voting may also be suitable for the WTO.[46] A requirement of a simple majority, as often required in international organizations, would also be inappropriate in the WTO. Due to their levels of economic development and participation in world trade, members have differing levels of interest in developing rules on world trade. However, unlike the World Bank and IMF, the WTO is not involved in the allocation of funds and resources, arguably lessening the need for weighted voting. Rather than imposing binding decisions on its members, the preference in the WTO has been towards working through consensus and (often long) negotiations.

3.3 Structure and Formality

International organizations also differ in their structure and level of formality. While the Bretton Woods institutions are categorized by a high level of formality and have a highly defined institutional structure, many modern forms of intergovernmental cooperation such as the G20, and bodies such as the FSB, remain markedly informal. While informal meetings of heads of states have existed in the past, what sets the G20 and FSB apart is the amount and variety of serious tasks states have been assigned to these bodies. Informal arrangements can be highly useful, allowing these bodies to quickly adapt to new developments and to reach consensus on a number of issues. This is especially the case at times such as those following the 2008 global economic crisis, where urgent action was needed at the international level, and the G20 was chosen as the appropriate forum to deal with these issues. It has been argued that in the field of financial stability, rigid rules and decision-making process are not appropriate: "Traditional international law, which usually involves very lengthy formal negotiating processes that then lock in commitments at a particular point in time, is not well suited to a world in which problems, interests, and the relevant actors are not clearly defined and are changing rapidly."[47] Yet the lack of clear rules for their operation may also weaken the international legitimacy of informal bodies. Moreover, once the crisis giving impetus for a quick response has subsided, the body can grow stagnant without a strong state or group of states to push along the agenda. While informality may allow states to come to agreement more easily, it may also make the arrangements reached more 'disposable' when it is politically convenient. The FSB does not possess the capacity to take decisions with binding legal force, and therefore relies on other mechanisms, such as peer review and supervision, to ensure compliance.

Greater formality and legal structure can make the organization less disposable. The Bretton Woods institutions have remained remarkably enduring, despite significant changes in the world economy since their creation. Less formal forms of cooperation

[45] C. Ehlermann and L. Ehring, *supra* note 44, 67.
[46] T. Cottier and S. Takenoshita, 'The Balance of Power in WTO Decision-Making: Towards Weighted Voting in Legislative Response', *Aussenwirtschaft* (2003) 171, 176.
[47] T. Porter, 'Making the FSB Peer Review Effective' in , S. Griffith-Jones, E. Helleiner and N. Woods (eds) 'The Financial Stability Board: An Effective Fourth Pillar of Global Economic Governance?' Special Report, The Centre for International Governance Innovation (2010) 39.

have remained far less enduring. In the wake of the next economic crisis, world leaders may simply leave aside or ignore the G20 and FSB for new forms of cooperation in the same way they did the G7 and Financial Stability Forum. There may also be competing forms of multilateralism which may seek to play a role in economic governance in the future, especially those stemming from the emerging economies, such as the BRICS. It is unlikely that the IMF or WTO could be replaced or pushed aside so easily. Rather than being an impediment to their work, these organizations' formality and international legal status helps cement them as real pillars of the system of economic governance, and reflects the crucial importance of the public good they provide in the international system.

Compared with the other bodies discussed here, the FSB is striking in terms of its fluid structure and low level of formality. Nevertheless, steps have been taken to progressively establish the FSB on a more 'enduring organizational footing'.[48] The FSB Charter sets out the structure of the organization and the mandate of the different bodies. The FSB consists of the Plenary; the Steering Committee; Standing Committees; Working Groups; the Regional Consultative Groups; the Chair; and the Secretariat. The Plenary is the sole decision-making body for all matters governed by the FSB Charter, including the FSB budget and work programme and the appointment of the FSB Chair. Decisions by the Plenary are taken by consensus. The Steering Committee provides operational guidance between FSB meetings and is responsible for monitoring and guiding the progress of FSB's work. The composition of the Steering Committee is decided by the Plenary, taking into account geographic regions and institutional functions.[49] The FSB also includes various standing committees: Assessment of Vulnerabilities (SCAV), Supervisory and Regulatory Cooperation (SCSRC), Standards Implementation (SCSI), and Budget and Resources (SCBR). The tasks of these committees is to primarily monitor and advise, assist in co-ordination, set guidelines and best-practices, and to undertake peer review among members. Standing Committees may also establish working groups as needed, which may include representatives of non-FSB members.[50] There are 'Regional Consultative Groups' (RGCs) for the Americas, Asia, Commonwealth of Independent States, Europe, Middle East and North Africa and for Sub-Saharan Africa. These groups allow the input and interaction with non-members regarding issues such as vulnerabilities in the financial system and methods of promoting greater financial stability.[51] They are one of the methods by which the FSB implements its goal to "consult widely amongst its Members and with other stakeholders including private sector and non-member authorities"[52] and the goal endorsed at the G-20 Toronto Summit "to expand upon and formalize its outreach activities beyond the membership of the G-20 to reflect the global nature of our financial system".[53] By giving a greater say to non-members, RCGs go some way to make up for the fact that the FSB has only limited membership, representing only the most advanced world economies. The FSB Chair, selected from representatives from the Plenary, chairs meetings of the Plenary and of the Steering Committee, oversees the Secretariat, and represents the FSB externally. The Secretariat provides support to the FSB and its various groups, facilitates co-operation and communication among members, and manages manage the financial, material and human resources of the FSB.

[48] G20, Cannes Summit Final Declaration, Building Our Common Future: Renewed Collective Action for the Benefit of All, 4 November 2011, point 38.
[49] Art. 13, Charter of the Financial Stability Board.
[50] Art. 19, Charter of the Financial Stability Board.
[51] Art. 20, Charter of the Financial Stability Board.
[52] Art. 3, Charter of the Financial Stability Board.
[53] G20 Toronto Summit Declaration Toronto, 27 June, 2010, point 34.

The FSB's Charter does not have the characteristic of being a legally-binding international instrument, such as the treaties founding other international organizations. The Charter itself states "[t]his Charter is not intended to create any legal rights or obligations."[54] The FSB is still formally tied to the G20, which itself remains only a very loose form of international co-operation, and remains without a secretariat or other permanent institutional organ. Helleiner argues that this means that "the FSB's fate is tied up with that of the new G20 leaders' forum"[55] in much the same way that the FSF was tied to the G7. There have therefore been calls for the FSB to more towards a harder structure, such as being incorporated into the structure of an existing formal institution such as the IMF. This may help increase the legitimacy of the FSB, which at present only represents a narrow range of actors. It would provide the FSB with access to a permanent staff and secretariat of an established international organization. The FSB could also benefit from greater enforcement mechanisms, something which it currently lacks. Another option would be to slowly develop more formal arrangements for the FSB. Although it is very unlikely that this would come in the form of an international treaty, the G20 has taken steps to gradually give the FSB more formal autonomy. On 28 January 2013, the FSB was formally established as an association under Swiss law.[56] This step implements the recommendations endorsed by G20 leaders at the 2012 Los Cabos Summit "for placing the FSB on an enduring organizational footing, with legal personality, strengthened governance, greater financial autonomy and enhanced capacity to coordinate the development and implementation of financial regulatory policies, while maintaining strong links with the BIS."[57] The FSB is still hosted by the BIS in Basel, Switzerland, and the two bodies have entered into an agreement that formalizes provision of services to the FSB Secretariat. The FSB could also move towards having its own permanent secretariat and staff, and establishing formal voting procedures, including for electing its Chair. If the FSB were to be transformed into a more classical international organization, it may also have seek to negotiate a separate Headquarters Agreement with the host state regarding privileges and immunities. It may also require greater accountability mechanisms than those that currently exist. FSB members may fear that giving greater autonomy to the FSB would risk the body moving away from its core role of coordination and oversight into more 'regulatory' role. In the field of financial regulation, there is definitely no desire at present to move towards a body operating in a fashion similar to the other pillars discussed here.

While the FSB might be criticized for its informality, this could also be one of its strengths. The lack of formal decision-making and voting procedures may make it easier to come to agreement on certain issues. Moreover, its informal nature reflects the type of public good it seeks to provide, that of financial stability. Financial regulation is not a field which necessarily lends itself to centralized, international regulation. Member authorities and central banks still play the main role in ensuring financial stability, and states do not wish to give these powers to a centralized international body. Rather, they have sought to attain greater financial stability through monitoring and oversight mechanisms, and through establishing 'best practices' and guidelines rather than strictly enforceable legal measures. This looser form of oversight and standard-setting may be more appropriate to this area of economic activity. While principles on, for example, world trade, may be globalized, financial regulation tends to differ from jurisdiction to jurisdiction. The goal is not 'harmonization' or even 'standardization' of financial rules. The FSB report to the G20 at the Los Cabos summit identified the 'flexibility' of the FSB as one of its strengths,

[54] Art. 23, Charter of the Financial Stability Board.
[55] Helleiner, *supra* note 13, 288.
[56] Financial Stability Board, 'Meeting of the Financial Stability Board in Zürich on 28 January'. Press Release Ref no: 06/2013, 28 January 2013.
[57] G20 Leaders Declaration, Los Cabos, Mexico, 19 June 2012.

stating that "[t]he FSB should remain a flexible, responsive, member-driven, multi-institutional and multidisciplinary institution."[58] It also states that it "considers a treaty-based inter-governmental organisation not to be an appropriate legal form at this juncture."[59] This view may not only reflect the field of governance in which the FSB works, but may also reflect a trend more general away from formal legal institutions and centralized decision-making bodies towards more flexible forms of co-operation.

One of the FSB's key challenges relates to its powers of enforcement. At first sight, the FSB's ability to compel members is slight, as it does not have either the economic power of a body such as the IMF and World Bank, nor the legal enforcement mechanisms available in the WTO system, to compel members to abide by its commitments. Moreover, the FSB is not based on the implementation and enforcement of binding legal commitments under international law. Yet one should not underestimate this body's power to ensure compliance in other ways. The FSB, tied to the G20, remains a form of 'club' governance and it relies more on monitoring and peer review rather than strict rule creation and enforcement. Some member jurisdictions, especially the less powerful, may comply with rules because they feel that their position at the table might be threatened if they do not implement commitments. More powerful members such as the US have the incentive to comply, since their refusal to implement recommendations would have the effect of undermining the system, especially when they were influential in developing those rules.[60] While this may enhance compliance in the short term, the lack of hard law commitments and enforcement may be a weakness of the FSB in the longer term. Some members may decide it is no longer in their interest to move forward with implementing reforms. Without the impetus of the financial crisis to motivate FSB members into compliance, there is little else it can do. Moreover, as the FSB remains a club of limited membership, its ability (and legitimacy) to establish standards with a truly global reach may also diminish. It is likely that for the time being, however, the FSB will remain an entirely member-driven form of cooperation. As discussed below, the FSB still relies on other international bodies, such as the IMF, to fulfill its tasks. Importantly, it also relies on the BIS for its operational funding. While FSB members do not currently pay a membership fee, direct funding from its members could be possible in the future, which would give the FSB greater resources and financial autonomy to pursue its goals.[61]

While the FSB constitutes a relatively new body, the IMF and World Bank are now among the oldest international economic organizations. While they remain very much member-driven organizations, many of the tasks undertaken require a level of autonomy by the organizations. Some have developed significant expertise in a range of different fields. In the IMF and World Bank, the staff and management play a far greater role than in the WTO, which acts primarily at the request of its members. Both Bretton Woods institutions work directly with governments, and rely heavily on the expertise and guidance of their staff, as overseen by the Executive Board. While the IMF is run by the Board of Governors, represented by each IMF member country, the task of running the IMF has been delegated in large part to the Executive Board, comprising 24 Executive Directors. Similarly, at the World Bank, the Board of Governors has delegated many duties to the Executive Directors, who meet at least twice a week and make decisions on the Bank's lending activities. In both institutions, the Executive Directors are employees of the organization, and must act in its

[58] FSB, Report to the G20 Los Cabos Summit on Strengthening FSB Capacity, Resources and Governance 18-19 June 2012. < http://www.financialstabilityboard.org/publications/r_120619c.pdf>, point 1.
[59] FSB, *supra* note 58, point 11.
[60] See J. Wouters, S. Van Kerckhoven and J. Odermatt, 'The EU at the G20 and the G20's Impact on the EU' in B. Van Vooren, S. Blockmans, and J. Wouters, *The EU's Role in Global Governance : The Legal Dimension (*2013) Oxford University Press, Oxford, pp. 259-270.
[61] FSB, *supra* note 58, point 14.

interest, rather than representing their country of origin. In other words, the IMF and World Bank are fundamentally less 'member-driven' than the WTO, which still relies on individual governments to negotiate trade agreements and to bring disputes against each other. While the WTO Secretariat provides important technical support, the thrust of the WTO's work is carried out through the membership. Rather than have a centralized monitoring and enforcement mechanism, enforcement of WTO rules relies on members bringing trade disputes before the settlement machinery. This de-centralised system has worked at least until now – as a fairly effective procedure to not only resolve trade disputes, but to also progressively develop a body of international trade law on which members can rely.

The WTO system of hard commitments, backed up by binding dispute settlement procedures, has been looked at as a potential design for other international bodies. Eichengreen suggested that a 'World Financial Organization' based on the WTO model might be an appropriate way forward for financial regulation, a field of governance still lacking binding international rules and effective enforcement mechanisms. In such an organization, international financial standards agreed upon members would be enforced by 'independent panels of experts to determine whether countries were in compliance with those obligations.'[62] Yet is questionable whether the WTO design would be workable in economic fields outside of trade, let alone financial regulation. States are generally reluctant to bring legal claims against other states, and it is unlikely that a state would file a claim against another for having not implemented sufficient financial regulation. An organization responsible for creating rules of global financial regulation would probably require a much more centralized system of enforcement, something that states would be very unlikely to agree upon.

The four organizations discussed in this paper differ substantially in the ways in which they carry out their mandate and run their day to day activities. The FSB, for instance, relies entirely upon staff temporarily seconded to it from member organizations[63] and member jurisdictions (such as economists from Central Banks)[64]. This is primarily due to the fact that it has a role of coordinating the work of other actors and bodies. The IMF on the other hand has a very large staff numbering some 2,475 people[65], and its management plays a strong role in its day-to-day activities. Similarly, the World Bank relies on a large staff numbering around 9,000.[66] This is primarily due to the need for experts to work with governments in negotiating and implementing loans. While the WTO is an important organization in international economic governance, its secretariat remains relatively small, comprising only 629 staff based in offices in Geneva.[67] This reflects in many ways the role of the WTO as a body that facilitates action of its members. The Secretariat staff mainly provides technical and professional support to the committees, and legal assistance in the dispute settlement process.

While states have established international organizations to tackle a range of international issues, they are also faced to a certain extent with what has been referred to as the 'Frankenstein problem', whereby the members lose control of the organization as it becomes more autonomous over time. States have used different methods to prevent this from happening. For instance, the WTO has remained highly-member driven and makes most decisions through consensus (except for the 'inverted consensus' in the case of the Dispute Settlement Body). It is not given a

[62] B. Eichengreen, 'Out of the Box Thoughts about the International Financial Architecture' *IMF Working Paper* 09/116 (2009),
[63] See High-Level Panel, *supra* note 28, 4.
[64] S. Griffith-Jones, E. Helleiner and N. Woods (eds) 'The Financial Stability Board: An Effective Fourth Pillar of Global Economic Governance?' Special Report, The Centre for International Governance Innovation (2010) 16.
[65] 'IMF at a Glance' (figures of 22 August 2012). <http://www.imf.org/external/np/exr/facts/glance.htm>.
[66] 'The World Bank: About Us' (figures of 26 June 2012) <http://web.worldbank.org/>.
[67] 'The WTO: Secretariat and Budget' <http://www.wto.org/english/thewto_e/secre_e/intro_e.htm>.

broad mandate to pursue lofty goals that could be expansively interpreted, or endowed with a large staff and secretariat with central decision-making power. Moreover, the WTO remains overtly a mechanism to be used by members, rather than an autonomous institution. The panels and Appellate Body are also explicitly precluded from "adding or diminishing" in their interpretation of the WTO texts under the Dispute Settlement Understanding.[68] As Guzman describes it: "The WTO is simply not given the power to become a monster."[69] The IMF and World Bank have been able to adapt and change over time. Their mission has developed substantially from one of post-war construction and economic stability, and these bodies have become highly influential in member jurisdictions through the practice of conditionality. The IMF has also played a role in international standard-setting, in areas such as transparency and data dissemination.[70] In contrast, there is very little chance that the FSB in its current form will stray from its mandate as it is tightly controlled by and bound to its membership. If it is to change its focus or expand its powers, this will likely be through a deliberate choice of the G20 leaders.

4. WORKING TOGETHER? DEVELOPING MUTUALLY CONSISTENT POLICIES

The comparison of the four organizations acting as the 'four pillars' of economic governance might give the impression that they stand apart, even isolated, from each other, and that there is a type of 'division of powers' and responsibilities in global economic governance. However, as discussed above, the goals of the bodies have tended to overlap and converge over time. These organizations continue to develop working relationships, cooperating in fields to maximize the coherence and effectiveness of economic governance. This section briefly examines some of the ways in which they have established relationships in practice.

As discussed above, the FSB is the newcomer in the field of global economic governance. When it was given life in 2009 by the London G20 summit, it entered a system that included both older institutions such as the IMF and World Bank, but also an array of newer bodies that are not necessarily classical intergovernmental organizations, such as IASB and IOSCO. A decision had to be made about how the FSB would relate to those of these existing bodies, and where it would fit among established institutions such as the IMF. For example, the IMF, along with the World Bank and regional development banks, already plays a role in promoting and adopting sound principles and practices in the field of international financial regulation.[71]

The IMF is one of the international financial institutions which are full members of the FSB. The IMF's Articles of Agreement also specifically state that the Fund should cooperate with other organizations.[72] The Article in question does not specify which bodies the Fund is to cooperate with, and at the time of the IMF's creation, bodies such as the WTO and the FSB had not yet come into existence. Like the IMF, the

[68] Understanding on rules and procedures governing the settlement of disputes, Annex2, WTO Agreement, Art. 3(2): "Recommendations and rulings of the DSB cannot add to or diminish the rights and obligations provided in the covered agreements."
[69] A. Guzman, 'Doctor Frankenstein's International Organizations', UC Berkeley Public Law Research Paper No. 2015010 <http://works.bepress.com/andrew_guzman/58> p. 11.
[70] M. Giovanoli, 'A New Architecture for the Global Financial Market: Legal Aspects of Financial Standard Setting' in M. Giovanoli (ed) *International Monetary Law: Issues for the New Millennium* (OUP, 2000) 14: "The IMF develops and monitors international standards in areas of direct operational relevance to its mandate to carry out surveillance of the international monetary system, of in co-operation with other IFIs or international bodies. The standards developed by the IMF cover issues such as data dissemination and transparency practices in fiscal, monetary and financial policies."
[71] D. Arner and M. Taylor, 'The Global Financial Crisis and the Financial Stability Board: Hardening the soft law of international financial regulation?' AIIFL Working Paper No. 6 June 2009, 4.
[72] IMF Articles of Agreement, *supra* note 19, Article X. "The Fund shall cooperate within the terms of this Agreement with any general international organization and with public international organizations having specialized responsibilities in related fields. Any arrangements for such cooperation which would involve a modification of any provision of this Agreement may be effected only after amendment to this Agreement under Article XXVIII."

IBRD Articles of Agreement also state that the Bank should cooperate with other international organizations.[73]

On 15 March 2013 the IMF Executive Board approved the IMF's acceptance of membership in the FSB. The co-operation between the IMF/FSB and the division of responsibilities is set out in a joint letter between the IMF Managing Director and the Chairman of the FSF, the FSB's predecessor, which continues to govern the relationship between the two bodies. The FSB Charter specifically refers to the role of the IMF in its work, for instance, stating that the FSB will "collaborate with the IMF to conduct Early Warning Exercises."[74] The Early Warning Exercises (EWE) have been jointly developed by the IMF and FSB and are intended to improve the analysis of systemic risks. In doing so, there is a division of responsibilities; the IMF generally is responsible for economic, macro-financial, and sovereign risk analysis whereas the FSB has greater responsibility for work on regulatory and supervisory issues.[75] In addition, one of the conditions of FSB membership is to "agree to undergo periodic peer reviews, using among other evidence IMF/World Bank public Financial Sector Assessment Program reports."[76] FSB members' adherence to standards is also monitored by their publication of detailed assessments prepared by the IMF and World Bank as a basis for the Reports on the Observance of Standards and Codes (ROSCs). The IMF's surveillance activities and the FSB's review role often overlap, and the two bodies have identified areas where they could be complementary.[77] The IMF and FSB have worked together in filling information gaps and strengthening data collection. The data gaps exposed by the 2008 crisis, as well as the need for future policy to be based on accurate and timely data, led the G20 to call upon the FSB/IMF to explore and make recommendations on the issue.[78] The G20 may call upon the IMF, FSB and other bodies to cooperate and provide reports in other fields important to the G20, such as the joint IMF/BIS/FSB Report providing guidance to national authorities to assess the systemic importance of financial institutions, markets and instruments.[79]

Close co-operation between these bodies also creates risks of duplication of tasks and overlapping responsibilities. The two bodies have sought to work together to establish consistent and mutually complementary policies by creating closer coordination both at the level of FSB and IMF staff, as well as between the IMF Executive Directors and members of the FSB Plenary.[80] Generally, the work is based upon a division of responsibilities where the IMF is concerned with issues relating to macro-financial stability. Another source of tension may arise from the differing membership and mandates of the two bodies. The IMF is primarily bound by its own Articles of Agreement and is accountable to its members. As a separate international organization, the IMF should not support policies within the FSB that are not supported by its own membership (which includes large number of non-FSB countries) or that go against the IMF's mandate.

[73] IBRD, supra note 20, Art. V(8) (a) "The Bank, within the terms of this Agreement, shall cooperate with any general international organization and with public international organizations having specialized responsibilities in related fields. Any arrangements for such cooperation which would involve a modification of any provision of this Agreement may be effected only after amendment to this Agreement under Article VIII."
[74] FSB Charter, *supra* note 23, Article 2(1)(h).
[75] International Monetary Fund, *IMF Membership in the Financial Stability Board*, Prepared by the Legal and Monetary and Capital Markets Departments, Approved by José Viñals and Sean Hagan, 10 August 2010, p. 9.
[76] FSB Charter, *supra* note 23 Art. 6(1)(d).
[77] IMF *supra* note 75, p.11.
[78] See Report to the G-20 Finance Ministers and Central Bank Governors, *The Financial Crisis and Information Gaps*, Prepared by the IMF Staff and the FSB Secretariat, 29 October 2009.
[79] Report to the G-20 Finance Ministers and Central Bank Governors, *Guidance to Assess the Systemic Importance of Financial Institutions, Markets and Instruments: Initial Considerations*, Prepared by Staff of the International Monetary Fund and the Bank for International Settlements, and the Secretariat of the Financial Stability Board, October 2009.
[80] IMF *supra* note 75, para. 18.

While the FSB cooperates with the IMF/World Bank, the relationship between the FSB and the WTO is less defined. The WTO is not a member of the FSB, and there is yet no form of agreement or cooperation between the two bodies. However, as global efforts to bolster financial regulation increase, especially since the global financial crisis, issues may arise regarding how these efforts relate to existing commitments made by WTO members under GATS in the field of financial services. Efforts to put in place greater regulation of the financial sector could potentially be in breach of agreements on trade in financial services. In a meeting of 1 October 2012, the WTO Committee on Trade in Financial Services discussed how macroprudential issues were being dealt with in other international fora (including FSB, BIS and the G-20) and noted that

> "as a result of the crisis, many countries now preferred to re-regulate their financial systems, although their GATS commitments could prevent this. Members therefore faced different opinions by different international organizations as to the relationship of specific policies with the GATS framework of rules. This should at least be addressed by the Committee so as to clarify the coherence between those policy prescriptions and the GATS."[81]

The discussion followed a proposal by Ecuador for issues of macroprudential regulation to be discussed by the WTO and whether other international bodies (such as FSB, BIS, or IMF) should be invited to take part in those discussions. Despite the obvious links between the work of the WTO and other bodies working on financial regulation such as the FSB, there seems to be little cooperation between these bodies so far. This can possibly be explained by the fact that these two bodies, while dealing with similar issues, approach them from different perspectives, and with different overarching aims. The WTO's interest in trade in financial services stems from the desire to promote trade liberalization whereas the FSB deals with issues of macroprudential regulation and seeks to promote 'stability' of the global financial system.[82]

While the precise relationship between the FSB and the older economic institutions is still unfolding, the latter institutions have developed forms of cooperation and consultation between themselves. Although the work and goals of the IMF/World Bank and WTO are in many ways complementary, the relationship between them is a complex story.[83] Even before the creation of the WTO, there were questions about how it would fit within the existing economic governance system. The negotiators at the Uruguay Round discussed ways "to increase the contribution of the GATT to achieving greater coherence in global economic policy-making through strengthening its relationship with other international organizations responsible for monetary and financial matters."[84] One of the IMF's key roles is to provide balance of payments support that further facilitates global trade. As stated above, the IMF Articles of Agreement also state that the Fund should cooperate with other international organizations in related fields. Article III(5) of the WTO Agreement sets out as one of the WTO's functions the achievement of "greater coherence in global economic policy-making". To this end, it states that the WTO "shall cooperate, as appropriate, with the International Monetary Fund and with the International Bank for

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[81] World Trade Organization, Committee on Trade in Financial Services, Report of the Meeting Held on 1 October 2012, S/FIN/M/74, 16 November 2012.
[82] R. Bismuth, 'Financial Sector Regulation and Financial Services Liberalization at the Crossroads: The Relevance of International Financial Standards in WTO Law' 44 *Journal of World Trade* (2010) 2, 491.
[83] See D. Siegel, 'Legal Aspects of the IMF/WTO Relationship: The Fund's Articles of Agreement and the WTO Agreements' 96(3) *American Journal of International Law* (2002) 561-621; J. Wouters and D. Coppens, 'International Economic Policy-Making: Exploring the Legal Linkages between the World Trade Organization and the Bretton Woods Institutions' 3 *International Organizations Law Review* (2006) 267-315.
[84] Multilateral Trade Negotiations Uruguay Round, Negotiating Group on Functioning of the GATT System, MTN.GNG/NG14/9, 18 October 1988.

Reconstruction and Development and its affiliated agencies."[85] The 'Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policymaking' recognizes that "interlinkages between the different aspects of economic policy require that the international institutions with responsibilities in each of these areas follow consistent and mutually supportive policies."[86] Ministers invited the WTO Director-General, Managing Director of the IMF and the President of the World Bank to review the WTO's cooperation with the Bretton Woods institutions in order to achieve 'coherence in global economic policymaking.'[87]

Cooperation agreements were concluded between the WTO and the IMF/World Bank in 1996.[88] The agreements grant mutual observer status to the secretariats and seek to enhance cooperation through the exchange of documents and attendance at each other's meetings in areas of mutual interest. There should also be consultation in acts of each body that affect the field of the other, such as decisions approving restrictions on payments or transfers or discriminatory currency arrangements.[89] Indeed, the WTO-IMF relationship seems to have grown to become quite close. The consultation and communication between staff of the WTO Secretariat and staff at the IMF are said to work especially well. Siegel however notes that the legal relationship between the WTO and IMF is "one-sided". For instance, while the WTO Agreements take IMF issues into account[90], the IMF Articles of Agreement are not similarly affected by WTO action. Difficulties continue to arise, for example, regarding the legal demarcation of responsibilities of the WTO and IMF. One example is the different definitions of exchange restrictions.[91]

In any event, in practice the IMF and WTO play a mutually supportive role in their activities. One of the aims of the IMF is to facilitate and expand international trade, which coincides with the aims of the WTO. The coherence between these bodies is continually tested, especially in the wake of financial crises, when each seeks to respond to the new challenges. Their overlapping roles seem to be rather minor, and tend to be legal and technical in nature, rather than involving larger disputes over responsibilities and competences. It is also understandable that the IMF, World Bank and WTO fit together in such a way, since they represent the original design of the Bretton Woods pillars.[92] Although the original idea of having these bodies structurally linked by making them all specialized agencies of the United Nations was never implemented, the charters of these bodies, as well as agreements developed between them, have allowed them to find ways to share information and cooperate on a range of issues.

Of all the organizations discussed here, the relationship between the IMF and World Bank is by far the closest. They are sometimes described as 'sister' institutions[93], and there have been suggestions for the two bodies to be merged.[94] Created at the same time, they share much in terms of institutional design, but are each given unique and

[85] WTO Agreement, *supra* note 21, Art. III(5).
[86] Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policymaking, para. 5.
[87] *Id*.
[88] Agreement between the WTO and IMF, Adopted by the IMF by Decision No. 11381-(96/105), November 25, 1996.
[89] Agreement between the WTO and IMF , *supra* note 88 para. 3.
[90] For examples of this, see Wouters and Coppens *supra* note 83.
[91] The IMF has a very limited and technical definition of exchange restrictions, while the WTO looks at the effect measures have on trade. See Siegel, *supra* note 83.
[92] M. Auboin, 'Fulfilling the Marrakesh Mandate on Coherence: Ten Years of Cooperation between the WTO, IMF and World Bank' WTO Discussion Papers No. 13 (2007), 4.
[93] 'Managing the Fund in a Changing World' in J.M Boughton, S*ilent Revolution: The International Monetary Fund 1979–1989* (IMF, 2001).
[94] See Giovanoli, *supra* note 70, 15; D. Carreau, 'Why not Merge the International Monetary Fund (IMF) with the International Bank for Reconstruction and Development (World Bank)' 62(7) *Fordham Law Review* (1994).

specific mandates in economic governance. Over time, cooperation between them has developed even further, especially since the IMF and World Bank's work moved closer towards issues such as reform in member economies, and issues such as poverty reduction. This has also led to an overlap in functions, which has required administrative arrangements to ensure coordination and coherence. This includes high-level coordination between the Executive Boards, as well as collaboration between staff. The IMF and World Bank jointly administer the Financial Sector Assessment Program (FSAP), as discussed above, and work together on issues such as the Poverty Reduction Strategy Papers (PRSP), initiated by the IMF and World Bank in 1999. Other than these types of cooperation and consultation, there have been no attempts to structurally 'merge' the two bodies.[95] This reflects the fact that, while having similar goals, the Fund and Bank remain separate entities, each with their own goals and methods of pursuing them.

5. Conclusion

This article has sought to compare and critically analyse the institutional design of the 'four pillars' of global economic governance: FSB, IMF, World Bank and WTO. It discussed how the design of these bodies is in many ways shaped by the type of global public good it seeks to provide. It also discussed how these four bodies have worked together in practice in order to develop mutually consistent and coherent policies.

While the WTO, World Bank and IMF remain important institutions in global economic governance, there is a shift towards governance by informal inter-governmental bodies such as the FSB and G20, rather than permanent'Bretton Woods-type' institutions. The institutional design of the FSB demonstrates a deliberate choice on the part of G20 leaders to reject the formal institutional form of governance represented by the IMF and WTO for a form of 'informal' governance based on intergovernmentalism. As Giovanoli puts it, "the "horizontal" approach of intergovernmental co-operation (through the "Gs" and the standard-setting bodies) was preferred over an institutional "vertical" approach (involving an international organization such as the IMF to head the process)."[96] States could have chosen to create a new formal institution responsible for financial stability in the mould of the Bretton Woods institutions or to add new tasks to an existing international organization such as the IMF. Their actual choice represents a trend in global governance away from formal institutional structures towards looser networks and 'co-operation'. It allows states, primarily the powerful players, to maintain in control of developments. It establishes commitments rather than legally binding and enforceable rules. The FSB's membership, although expanded to include a greater number of economic players, is still limited, especially when compared to the IMF, World Bank and WTO. However, given the important role the FSB has taken in global economic governance since the crisis, this informal structure no longer corresponds to the level of influence it now has in the global economy. The FSB's current work touches upon some of the most pressing issues for the global economy, including ending 'Too-Big-To-Fail' institutions,[97] reform of OTC derivatives[98] and identifying the vulnerabilities affecting the financial system that may be the cause of the next crisis. One could argue, however, that given the FSB's role is one of co-ordination and standard-setting, it would not appropriate to burden the FSB with rigid institutional

[95] See Boughton, *supra* note 93.
[96] M. Giovanoli, 'The Reform of the International Financial Architecture After the Global Crisis', 42 *New York University Journal of International Law and Politics* (2009) 81, 90-91.
[97] Financial Stability Board, Progress and Next Steps Towards Ending "Too-Big-To-Fail" (TBTF), Report of the Financial Stability Board to the G-20, 2 September 2013.
[98] Financial Stability Board, OTC Derivatives Reforms Progress Report from the FSB Chairman for the G20 Leaders' Summit, 2 September 2013.

structure and formal decision-making processes. This is especially the case since the FSB was not established to harmonize rules or to impose international regulation, but rather to co-ordinate other important actors involved in maintaining financial stability.

Still, is the FSB's role of coordination, standard-setting and monitoring enough to prevent the next crisis? First, the FSB lacks the legal ability to 'discipline' a members that does not implement its obligations. Moreover, it may be politically difficult for the FSB plenary to criticize FSB jurisdictions for failure to uphold their commitments, especially economically powerful members. As a member-driven body FSB arguably lacks the political independence to do so. Second, although the FSB membership includes the largest players in the global economy, its limited membership will continue to give rise to questions about its legitimacy, especially when it seeks to establish rules intended to have a global scope or are likely to have an impact on the global economy. Compared to the other pillars, the FSB remains extremely narrow in terms of membership. The FSB may seek to promote global compliance with financial standards, yet its legitimacy will likely be challenged by non-member jurisdictions as long as its membership remains so limited. If the FSB is to remain at the centre of global economic governance and financial stability, questions will arise about whether its design equips it to deal adequately with the many challenges it faces. Moreover, as it plays a greater role in economic governance, the FSB should become more transparent and accountable in its decision making-process. Although its website is bursting with Policy Frameworks, Progress Reports and other documents, there is precious little information about the internal workings of the FSB and its decision-making. Ultimately, however, the FSB will be judged on its performance. This will be determined by whether it is able to put in place the structures and early warning systems to prevent or alleviate the effects of the next major crisis. The FSB's predecessor, established following the Asian financial crisis, was largely unable to identify the vulnerabilities that led to the 2008/9 financial crisis, and the FSB's creation was a response to this failure. Following the next crisis, the WTO, World Bank and IMF will likely remain important international institutions. Whether this will also apply for the FSB remains to be seen.

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