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Summary

The architecture of the world financial order

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I. Introduction

1. The “international financial architecture” is commonly described as being consistent with the following four elements: (1) international financial standards aimed at preventing or at least mitigating systemic global financial crises; (2) a certain number of relevant governmental, non-governmental and intermediate standard setting organizations; (3) actors and mechanisms being responsible and aimed at solving international financial crises; and (4) mechanisms and standards aiming at ensuring integrity and transparency of the international financial markets with regard to, e.g., money laundering.

2. However, it is not sufficient and not convincing to only look at the prevention and management of international financial crisis in order to define the architecture of the international financial order. Instead, it is necessary to add to the list above (5) those rules establishing the legal framework which enables individual economic transaction on the international financial markets, and (6) to also focus on the interrelationship between trade, finance, monetary issues and state debts.

II. From 1929 to 2009: The development of the international financial, monetary and state debt system

3. For a long time, none of the three parts of the international financial order (financial, monetary and state debt system) received much international regulatory attention. Namely, the private international financial market has largely been ignored by international regulatory attempts. As John Maynard Keynes put it in 1933: “… above all, let finance be … national”.

4. It was thus consequent that Bretton Woods did not establish a comprehensive world financial order.

5. The main challenge for the Bretton Woods system was not the change from fixed to flexible exchange rates at the beginning of the 1970s, but rather the dramatic increase in private portfolio investment financing state budgets.

6. With the establishment of the G5 (1973) and the Basel Banking Committee (1974), a parallel structure to Bretton Woods emerged.

7. The foundations of the “New Financial Architecture I” (NIFA I) were laid down by G7 finance ministers in May 1998. NIFA I was, however, not sustainable: after September 11, 2001, the international financial stability was no longer a priority of the international agenda. Moreover, NIFA I was fragmented. Namely, the radically new system of state debts that emerged out of the Brady Plan, did not receive attention. The (new) interrelationship between real economy and financial markets was also not addressed.

III. Today's international financial architecture (New International Financial Architecture II) (NIFA II)

8. Main characteristics of NIFA II are, first, the central role of G20 as the real "gubernative" of the international financial and economic system, and, second, increased attention to the interface problems between trade, finance, state debts and monetary issues.

9. One could argue that the G20 – as a functional substitute to ECOSOC in its original design – is already a subject of public international law.

IV. Elements of a world financial order

1. The normative function of a world financial order

10. A world financial order could be defined as a legal order that establishes the framework that is necessary so that a spontaneous order of global financial and currency relations may evolve.

2. Substantive elements of a world financial order

11. A world financial order must focus on financial stability as a global public good.

12. However, one must also realize that financial market instruments are always embedded in domestic legal orders.

13. Moreover, what is necessary is an institutional and substantive integration of micro- and macro-economic risk assessments in the tasks and mandates of the IWF and the Financial Stability Board (FSB) as the fourth pillar of the international economic system.

14. A world financial order must be based on the constitutional values laid down in Art. 1 (3), 55 and 56 of the UN Charter.

3. Element of the institutional structure of the world financial order

15. A world financial order can never be based on a concept of full-harmonisation. Instead, it is by necessity a multilayered system.

16. An intensive cooperation between IMF, World Bank, WTO and FSB is important. It represents the horizontal dimension of the multilayered system of the world financial order.

17. The duty to cooperate as an important element of the world financial order follows from Art. 56 of the UN Charter. Actors without international legal personality which are thus not formally bound by the UN Charter are covered by the cooperation task as laid down in the FSB Charter. Whether the FSB will be able to in fact accomplish this task remains to be seen.

18. A world financial order must be based on administrative and gubernative structures in horizontal and vertical integration and cooperation. The current problem of the gubernative structure is only to a certain extent due to the design of the G20. More important is the fact that the United Nations is hardly playing any role in the gubernative structure of the world financial order. This lack of involvement explains why the Stiglitz Commission called for the establishment of a Global Economic Coordination Council, a substantially convincing proposal albeit unrealistic solution.

V. Outlook

19. The current architecture of the world financial order remains fragmented.

20. A convincing way towards a real world financial order must be based on a broad perspective of relevant actors, global administrative and gubernative structures, and constitutional values as laid down in the UN Charter.