CHAPTER 9

Transnational Governance Failures – a Business Perspective and Roadmap for Future Action

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1 Introduction

The theme of transnational governance – and, more specifically its effectiveness in the real world – is one that is central to the century-long history of the International Chamber of Commerce ("ICC").

ICC was founded out of the ashes of the first world war with a vision that business could be a force for good in the world; and, perhaps more fundamentally, that cross-border commerce should be a vital driver of peace, prosperity and opportunity for all. This early vision of globalization – though admittedly simplistic – remains, I believe, a useful starting point for any discussion on transnational governance failures.

This may seem an unfashionable approach in today's geopolitical context. After all, many respected commentators have been quick to point to the limitations of the German doctrine of *Wandel durch Handel*, or "change through trade", in the context of Russia's unprovoked invasion of Ukraine. The conclusion being, to cite a recent piece by the *Financial Times* columnist John Plender, that trade "produced the wrong sort of change".

This line of argument has, to be sure, a certain instinctive attraction to it in the wake of the war in Ukraine – the ripple effects of which have been felt far and wide. But my core argument here is that a wider historical perspective – separated from the cycle of 24-seven news and the inevitable dramatization that comes with it – offers a much better grounding for an effective debate on the shortcomings of transnational governance today.

2 Re-evaluating the Role of Trade and Globalization

Extensive studies have been dedicated to the history of globalization which I do not seek to re-write or re-interpret here. Rather, I believe it is vital to restate one simple fact as context to the contemporary debate on transnational

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governance: specifically, that over the past thirty years two forces have combined to mean that we are more prosperous and more interdependent than ever.

The first is the erosion of physical barriers unleashed by the destruction of the Berlin Wall which has led – in broad terms – to an unprecedented period of political, economic and technological convergence across the world. Flows of finance, goods, services and people across borders have transformed the nature of our societies and economies.

The second, is that this erosion of physical barriers has been coupled with an explosion of virtual connectedness, with the internet providing the platform for what is now often termed hyper-globalization. This is – I would unashamedly suggest – good news. Not least since these inter-connected developments have been associated with the most rapid rise in incomes in history.

Indeed, in a recent article, the International Monetary Fund's Kristalina Georgieva and Gita Gopinath highlighted that these positive forces of integration have "boosted productivity and living standards, tripling the size of the global economy and lifting 1.3bn people out of extreme poverty". By contrast, extreme poverty, more often than not, is because people are disconnected from globalization – leaving them without the infrastructure, education, or access to benefit from the global economy.

I emphasise this remarkable dividend from globalization not to make the case for unfettered markets or neo-liberal policies; rather, to emphasise the true root cause of many – if not all – of the transnational governance challenges that we face today. In short: the past thirty years show us that trade can bring positive change. To suggest otherwise is to disregard recent history and risk a "great retrenchment" that could undermine the great strides made in terms of global prosperity.

Set in this context, the real problem that we must address is the growing disconnect between the problems that bind us as a result of our economic interconnectedness and the ability of governments and institutions to respond in appropriate ways. Unfortunately, while people and systems have become more integrated, governance systems are too often locked into fossilized structures which have failed to keep pace with global developments. The result is that globalization has not been – and is not being – managed correctly.

Financial crises, pandemics, cyber-attacks, climate change, and other global threats are, in many ways, an unfortunate underbelly of globalization. The more connected we are, the more we need to accept that we are exposed to trans-boundary risks; and, by extension, the more we need effective, modern global governance.

3 Analysing the Governance Gap

From a business perspective, four weaknesses stand out in terms of the ability of governments and existing multilateral institutions to adapt to the threats inherent to a hyper-globalized world. The first is that the most significant challenges that arise in today's world are cross-border or global in nature. If the primary purpose of a government is to protect its respective citizens, effective cross-border governance should be a greater focus of their attention.

Second – by extension – none of these threats can be addressed by any one country alone. Even the world's largest countries – such the United States of America or China – do not have the means to fight cross-border risks in isolation. This, of course, does not make for easy domestic politics but the trajectory of the coronavirus pandemic is perhaps the ultimate example of how pursuing disjointed domestic policies is futile in the face of a threat that, by its very nature, knowns no borders. To take just one angle, the long-tail of the pandemic – which has resulted in extensive supply-chain disruptions and associated supply-chain disruptions – is a direct consequence of the general failure of the international community to ensure equitable distribution of COVID-19 vaccines across the world. One, which according to our estimates, has cost the world trillions of dollars in lost output and productivity gains.

The third is that new technologies are evolving at such an unprecedented pace that policymakers and regulators need better ways to map and assess potential threats. And fourth: existing global institutions are unfit for 21st century purpose. To take just one example, international development banks are arguably the best resourced element of today's global institutional system and yet they have proved incapable of moving beyond their original Bretton Woods mandate.

4 A Pathway for Reform

The question is thus what kind of reform do we need to see? Clearly, as a fundamental starting point, a step-change is needed in how governments make the case to voters on the merits of international cooperation. This will not be easy to effect; nor – as we have seen with the now decade-long discussions on reform of the World Trade Organization – is it a straightforward process to reform existing international associations. In short, the risk of statis cannot be understated.

It is in this context that I posit a more pragmatic approach to addressing the yawning global governance gap: new modes and models of cooperations that may have potential to yield immediate dividends in tackling transboundary risks to global peace and prosperity. This, I believe, should start with a new wave of thinking on the role of the private sector in enhancing global governance.

This idea is borne out of my experience over the past five years heading up the world's largest business institution. One of the most striking things I have found in the context of challenges such as climate change, infectious diseases or cybercrime is the difference in the instinctive response within the public and private spheres. In general terms, while the approach of business is to seek cross-border solutions, the reflex of governments tends to be to retreat behind national borders and place short-term domestic interests first.

Given this difference in mindset and approach, I believe it is timely to ask whether some of the deficiencies in transnational cooperation could be addressed by more effective engagement of business. In the academic literature on the evolution of global governance arrangements in different policy areas, six ingredients of successful cooperation are typically identified:

- joint identification of problems;
- shared expertise;
- common action principles;
- an accepted outcome-evaluation process to assess results;
- an ability to adapt instruments; and
- trust in institutions.

What is noticeable, however, is that – aside from a few journal articles on hybrid governance from the 1990s and early 2000s – relatively little attention has been paid to the potential role of business in enhancing these core elements of successful transnational governance. I believe that this is an area that warrants much greater debate. To explain why, let me take three examples in turn.

First, cyber security. While the world's attention is, quite rightly, focused on the real-world conflict in Ukraine, we should not lose sight of the fact that states seeking to intimidate and punish their adversaries are much more likely to use non-military methods – most notably cyber-attacks.

This so-called "grey-zone" aggression, which falls below the threshold of formal conflict, takes place every day – and, increasingly, companies are the primary targets. Indeed, in a survey published at the start of 2022, three-quarters of companies expressed concern about state-sponsored cyber-attacks; while over half were worried about government-led retaliation against business in international diplomatic disputes. It seems reasonable to suggest that these percentages will have increased markedly since the invasion of Ukraine.

This, of course, brings a whole range of dilemmas for business leaders who find themselves exposed to geopolitical risk unlike ever before. But if governments really want to prevent their companies – and, moreover, their critical infrastructure – being crippled by state-sponsored cyber-attacks, they must set up regular consultations about prospective threats.

Establishing such dialogue with executives would enable security officials to alert critical industries to potential threats to which they may be imminently exposed. It would also open a channel for executives to contribute intelligence as regards risks and vulnerabilities to governments. Such links are, moreover, essential preparation for if an attack does occur in enabling businesses, diplomats and security agencies to put up a united front in the face of hostile action.

At the global level, a recent ICC paper has shown clearly that existing institutional arrangements and conventions are often underutilized in defending and in prosecuting malicious actors. Again, the experience and expertise of business – from, if you like, the frontlines of cyberspace – has an important role to play in informing how this existing international architecture can be more effectively deployed and leveraged.

Dialogues between governments and industry won't eliminate grey-zone attacks, but they will remove their sting. In an era in which geopolitics is challenging the very principles of globalisation, that is no mean feat.

The second example I want to cite is the global response to the pandemic. To take the public health response: faced with a rapidly evolving health emergency, the immediate reaction of international agencies and humanitarian organizations was to ask the private sector for charitable donations. That – at one level – is entirely understandable given the lamentable underfunding of the humanitarian sector globally.

Nevertheless, that should not obscure a more fundamental truth: reducing the role of the private sector to that of a piggy bank, is – ultimately – to severely understate the role it can play in assisting the global response to crisis situations. To illustrate, in the context of COVID-19, many promising offers from businesses to put their distribution networks at the service of agencies distributing PPE and, latterly, proven vaccines were frequently declined. While companies who wanted to be able to share best practices around containing the virus – such as workplace reconfigurations or enhanced ventilation systems – unable to find willing interlocutors.

Moreover, we saw institutions such as the IMF and regional development banks calibrating their response to the economic impact of the pandemic based on data with a six-month time lag or theoretical models – while many chambers and local business networks had access to real time information on the actual strains being felt in the real economy.

These examples clearly point to missed opportunities to engage the private sector in response to the various dimensions of the pandemic – and in ways which would, quite clearly, have offered opportunities to improve the necessary global effort to protect lives and livelihoods.

What's more, in a world in which humanitarian crises are increasing in their scale and frequency – and where core government funding for the agencies responsible for responding to them is flat at best – there is a broader question about the role of business in providing in-kind resources as part of a new and durable global humanitarian network. Simply put, this is an idea that deserves much greater thought. Emergency fundraising on an ad-hoc basis is not a sustainable nor, by any means, an optimal response to crisis situations.

The third example I'd like to highlight relates to the food security crisis precipitated by the war in Ukraine. In June 2021, the United Nations successfully brokered the Black Sea Grain Initiative to restore international trade in essential Ukrainian and Russian agricultural products and inputs. This was, without doubt, a tremendous diplomatic achievement: one that was brokered in difficult political circumstances and under great pressure given the growing risk of catastrophic food shortages in the developing world.

But, what perhaps isn't widely known is the role played by the business community – and specifically ICC – in ideating and shaping this landmark diplomatic accord. Lest any readers think that I may be overstating the role business played, let me start by quoting directly from a speech given by the UN Secretary General, Antonio Guterres, to a number of heads of state and foreign ministers during General Assembly week in September 2022:

> On top of this [the climate crisis and impact of the pandemic] we now have the impact of the war in Ukraine. The war has manifested itself in severe challenges for food and for energy – which, of course, further complicates the financial problems faced by developing countries.
>
> I want to thank John Denton who provided me with papers and the ideas that allowed me to negotiate with Putin and Zelenskyy something [the Black Sea Initiative] that was meaningful to address the global food crisis. It was his papers that did that – providing me with the scientific capacity to make proposals that would make sense.

This may seem remarkable when viewed through a classic diplomatic lens but from a logical and pragmatic perspective it makes perfect sense. In short, any diplomatic deal to restore agricultural trade in the context of the war in Ukraine must ultimately work for and with the companies trading in farm products across the value chain – from banks and insurers to shipping lines and commodity traders. The worth of any agreement in this context is ultimately only as good as utility to those businesses operating in the real world.

In this context, rather than guessing what might work and taking a step into the dark in forging a new diplomatic deal, a more effective approach is to work with business to craft arrangements that have the best possible chance of functioning in the real economy. Moreover, this partnership-based approach also has the upside of vesting in the private sector a clear stake in making the implementation of any international outcome work – creating a virtuous cycle from design to implementation.

The UN Secretary General deserves great credit for breaking with "business as usual" diplomacy and engaging the private sector, through ICC, as a genuine partner in the negotiation of the Black Sea deal. Drawing on the insights and expertise of our network, the UN was able to design a diplomatic accord that would get business in the agricultural value chain back into Ukraine and Russia – directly addressing the operational and legal risk resulting from the war.

That's what I'd call modern, multistakeholder multilateralism at its very best.

And precisely the foresight, leadership and, indeed, courage we need to see from the heads of global institutions. In this context, the Black Sea Initiative should not be an outlier in terms of how multilateral institutions and international diplomacy engage with business. It should be seen, rather, as a template for the kind of institutional innovation that we need to see to address the transnational governance failures that so often characterise the response to the interconnected and inherently cross-border challenges we face.

5 Areas for Future Research and Dialogue

None of this, of course, is to suggest that engaging business is a panacea for the deficiencies of multilateral institutions. Rather, my aim is to emphasise the latent potential of business to play a more active role in the response to major global challenges.

In this context, I suggest that there are several areas that warrant further research:

i. What approaches could be used to build the necessary trust within multilateral organizations (and their constituent governments) that business can play a constructive role in global governance and humanitarian efforts?
ii. What systems or modes of engagement could be used to scale and structure the engagement of the private sector in multilateral institutions?

iii. What governance arrangements and checks-and-balances would be needed to properly institutionalise the role of business in multilateral affairs?
iv. What could be the role of business networks, such as ICC, in enabling hybrid systems of governance and decision-making?

As noted previously, these areas have been largely underserved to-date by contemporary research – a result, I believe, of the traditional distinction between public and private spheres when it comes to matters of global governance and international diplomacy.

I hope, in some small way, this article will serve to inspire a new wave of thinking on new modes of multistakeholder or hybrid governance that are far better equipped to tackle the transboundary nature of crises that are a very natural, if unwelcome, biproduct of the world's increasing economic interdependence.