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A FRAMEWORK FOR ASSESSING GLOBAL ECONOMIC GOVERNANCE

DANIEL D. BRADLOW*

Abstract: Increased globalization over the last twenty years has made effective global economic governance more important than ever. This period has witnessed the rise of a number of new international governance actors, such as the Group of Twenty and the Financial Stability Board. This Article proposes a five-part test to evaluate how the existing global governance actors serve the interests of all stakeholders in the global economy. The test is based on four fundamental indicators of good global governance. The Article uses the five-part test to evaluate the G20's performance at the G20 Summit at Los Cabos, Mexico. Finally, this Article concludes that the G20 is not fully satisfying any of the five parts of the test, and therefore fails to reach its full potential as a global economic governance actor.

INTRODUCTION

Global economic governance has become more complex over the past twenty years. The range of issues that require global coordination now include topics which were once viewed as falling exclusively within a state's domestic jurisdiction, such as banking regulation, inclusive green growth, youth employment, and domestic resource mobilization.¹ This period has also seen the rise of new global governance actors, such as the Group of Twenty ("G20")² and the Financial Stability Board

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¹ See Daniel D. Bradlow, *Development Decision-Making and the Content of International Development Law*, 27 B.C. INT'L & COMP. L. REV. 195, 210-11 (2004) (explaining that under the modern view of development, development actors are concerned with economic, social, environmental, and human rights issues as well as traditional economic law issues).

² The Group of Twenty ("G20") defines itself as "the premier forum for international cooperation on the most important issues of the global economic and financial agenda." *What Is the G20*, G20, http://www.g20.org/docs/about/about_G20.html (last visited Apr. 18, 2013); see also *infra* notes 25-58 and accompanying text (providing a detailed description of the G20).

(“FSB”).³ As a result, global economic governance directly affects a broad range of state and non-state stakeholders in the global economy, many of whom were previously only indirectly affected by these matters.⁴

Unfortunately, most of these stakeholders are not able to participate effectively in global economic governance decision making.⁵ In some cases, such as with the G20 or the FSB, membership is restricted to a relatively small number of states.⁶ In other cases, such as with the International Organization of Securities Commissions (“IOSCO”)⁷ or the International Monetary Fund (“IMF”),⁸ it is because, although membership is more universal, effective participation is de facto limited to a smaller number of actors.⁹

The combination of the expanding scope of global economic governance and restricted effective participation in the institutional arrangements for global economic governance is problematic. It increases the risk of unanticipated adverse impacts on non-participants in

³ The Financial Stability Board (“FSB”) was established in 2009 “to coordinate at the international level the work of national financial authorities and international standard-setting bodies and to develop and promote the implementation of effective regulatory, supervisory and other financial sector policies.” See *About the FSB: Overview*, FIN. STABILITY BOARD, <http://www.financialstabilityboard.org/about/overview.htm> (last visited Apr. 18, 2013); see also *infra* notes 59–67 and accompanying text (describing the FSB).

⁴ See Sungjoon Cho & Claire R. Kelly, *Promises and Perils of New Global Governance: A Case of the G20*, 12 CHI. J. INT’L L. 491, 493–94 (2012) (noting that globalization forces national economies to share risks).

⁵ See Ngaire Woods, *The Challenges to International Institutions*, in THE POLITICAL ECONOMY OF GLOBALIZATION 202, 208 (Ngaire Woods ed., 2000) (noting that the international financial system is generally run by the leading industrialized countries).

⁶ See *About the FSB: Overview*, *supra* note 3 (explaining that the FSB member institutions include institutions from twenty-four countries, as well as international organizations such as the International Bank for Reconstruction and Development (“World Bank”), the International Monetary Fund (“IMF”), and international standard-setting bodies such as the Basel Committee on Banking Supervision); *What Is the G20*, *supra* note 2 (noting that the G20 includes finance ministers and central bank governors from nineteen countries and the European Union).

⁷ See *The International Organization of Securities Commissions*, INT’L ORG. SEC. COMMISSIONS, <http://www.iosco.org/about/> (last visited Apr. 18, 2013) (explaining that the International Organization of Securities Commissions (“IOSCO”) is the international standard-setting body for securities markets).

⁸ See *About the IMF*, INT’L MONETARY FUND, <http://www.imf.org/external/about.htm> (last visited Apr. 18, 2013) (explaining that the IMF is an organization of 188 countries that work “to foster global monetary cooperation, secure financial stability, facilitate international trade, promote high employment and sustainable economic growth, and reduce poverty around the world”).

⁹ See Daniel D. Bradlow, *The Governance of the IMF: The Need for Comprehensive Reform* 15 (Sept. 2006), <http://ssrn.com/abstract=928467> (observing that there is a significant risk that the Group of Seven (“G7”) and other industrialized countries, which dominate the IMF, will impose their views on developing countries).

global economic governance decision making. Given the increasing intensity of globalization, this situation is likely to get worse unless some means can be found for enhancing the key decisionmakers' responsiveness to non-participants in their deliberations. One way to do this is to critically assess how well these decisionmakers are serving the interests of all stakeholders in the global economy.

This Article proposes a five-part test for making such an assessment of global economic governance. The test considers its strategic objective, its compliance with applicable international legal principles and good administrative practice, the scope of its coverage of the relevant issues and stakeholders, and the coherence of its institutional relations. Part I describes the current arrangements for global economic governance.¹⁰ Part II proposes four factors of good global economic governance efforts and develops a five-part test to evaluate international institutions' performance.¹¹ Finally, Part III applies the proposed assessment framework to the outputs of the 2012 G20 Summit in Los Cabos, Mexico.¹² Based on this test, the Article concludes that the G20 is unable to comply fully with any of the four factors of good global governance.¹³

I. CURRENT ARRANGEMENTS FOR GLOBAL ECONOMIC GOVERNANCE

Following World War II, the primary actors in global economic governance were the IMF, the International Bank for Reconstruction and Development ("World Bank"), and the General Agreement on Tariffs and Trade ("GATT").¹⁴ The Bank of International Settlements ("BIS") also played a role, albeit a subordinate one.¹⁵ Each of these in-

¹⁰ See *infra* notes 14–72 and accompanying text.

¹¹ See *infra* notes 73–104 and accompanying text.

¹² See *infra* notes 105–173 and accompanying text.

¹³ See *infra* note 174 and accompanying text.

¹⁴ See, e.g., RICHARD N. GARDNER, *STERLING DOLLAR DIPLOMACY: THE ORIGINS AND PERSPECTIVES OF OUR INTERNATIONAL ECONOMIC ORDER* 284, 348 (1969) (describing the creation of the IMF and the General Agreement on Tariffs and Trade ("GATT")); John H. Jackson et al., *Implementing the Tokyo Round: Legal Aspects of Changing International Economic Rules*, 81 MICH. L. REV. 267, 270 (1982) (describing the post-war creation of global economic governance actors); José Antonio Ocampo, *Rethinking Global Economic and Social Governance*, 1 J. GLOBALIZATION & DEV. 1, 4–5 (2010) (providing a general overview of the history of post-World War II global economic governance); see also Fiona Smith, *Power, Rules, and the WTO*, 54 B.C. L. REV. 1063, 1076–79 (2013) (discussing the GATT).

¹⁵ See David J. Bederman, *The Bank for International Settlements and the Debt Crisis: A New Role for the Central Bankers' Bank?*, 6 BERKELEY J. INT'L L. 92, 95–98, 103–104 (1988) (describing the creation of the Bank for International Settlements ("BIS") and its role after World War II).

stitutions have specialized mandates.¹⁶ Over the following decades, the number of key actors in global economic governance grew to include the Group of Seven (“G7”)¹⁷ and the International Monetary and Finance Committee,¹⁸ as well as international standard-setting bodies, including the Basel Committee on Banking Supervision,¹⁹ IOSCO,²⁰ the International Association of Insurance Supervisors,²¹ the Interna-

¹⁶ See *About BIS*, BANK FOR INT’L SETTLEMENTS, <http://www.bis.org/about/index.htm> (last visited Apr. 18, 2013) (stating that the BIS’s mission is to “serve central banks in their pursuit of monetary and financial stability, to foster international cooperation in those areas and to act as a bank for central banks”); *About Us: What We Do*, WORLD BANK, <http://web.worldbank.org/> (select “About”; then follow the “What We Do” hyperlink) (last updated Mar. 8, 2012) (explaining that the World Bank provides financial and technical assistance to developing countries around the world through two institutions: the International Bank for Reconstruction and Development, and the International Development Association); *The GATT Years: From Havana to Marrakesh*, WORLD TRADE ORG., http://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm (last visited Apr. 18, 2013) (explaining that the GATT was originally intended to provide rules for organizing world trade); *Overview*, INT’L MONETARY FUND, <http://www.imf.org/external/about/overview.htm> (last visited Apr. 18, 2013) (stating that the IMF’s goals include “promot[ing] international monetary cooperation and exchange rate stability, facilitat[ing] the growth of international trade, and provid[ing] resources to help members”).

¹⁷ See Nicholas Bayne, *The G7 Summit and the Reform of Global Institutions*, 30 GOV’T & OPPOSITION 492, 492–509 (1995) (describing the G7 Summit). The G7 includes Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States. See *Glossary of Statistical Terms*, OECD, <http://stats.oecd.org/glossary/detail.asp?ID=1585> (last visited Apr. 18, 2013).

¹⁸ See Margaret Garritsen de Vries, *The Bretton Woods Conference and the Birth of the International Monetary Fund*, in *THE BRETTON WOODS-GATT SYSTEM: RETROSPECT AND PROSPECT AFTER FIFTY YEARS* 3, 15–18 (Orin Kirshner ed., 1996) (describing the Bretton Woods Conference, which created the IMF); *Factsheet: A Guide to Committees, Groups, and Clubs*, INT’L MONETARY FUND (Apr. 4, 2013), <http://www.imf.org/external/np/exr/facts/groups.htm> (explaining that the International Monetary and Financial Committee aids the IMF by advising and reporting to the IMF Board of Governors).

¹⁹ See *Basel Committee on Banking Supervision*, BANK FOR INT’L SETTLEMENTS, <http://www.bis.org/bcbs/> (last visited Apr. 8, 2013) (stating that the Basel Committee on Banking Supervision’s role is to provide a forum for committee members from various countries to cooperate on banking supervisory issues).

²⁰ See *The International Organization of Securities Commissions*, *supra* note 7.

²¹ See *About the IAIS*, INT’L ASS’N INS. SUPERVISORS, <http://www.iaisweb.org/About-the-IAIS-28> (last visited Apr. 18, 2013) (explaining that the International Association of Insurance Supervisors (“IAIS”) is a group of insurance regulators and supervisors from more than 200 jurisdictions).

tional Accounting Standards Board,²² and the Financial Action Task Force.²³

Recently, two new global economic governance entities, the G20 and the FSB, were created. These organizations are discussed below.²⁴

A. The G20

Prior to 2008, the overall manager of the global economic system was the G7/G8.²⁵ In 1999, in the wake of the Asian financial crisis,²⁶ the G7 recognized that it could not manage the crisis on its own, and its leading members invited the ministers of finance from a select group of countries, including the G7 countries and the European Union, to meet.²⁷ This resulted in the formation of the G20 Ministers of Finance,²⁸ which became an additional actor in the overall arrangements for global economic governance. In 2008, as part of the response to that year's global financial crisis, the G20 was elevated to the level of a summit of heads of government.²⁹ The next year, at the Pittsburgh G20 Summit, the participating states declared that the G20 was the "premier forum" for global economic governance.³⁰ Although the practical im-

²² See *About the IFRS Foundation and the IASB*, IFRS, <http://www.ifrs.org/The-organisation/Pages/IFRS-Foundation-and-the-IASB.aspx> (last visited Apr. 18, 2013) (noting that the International Accounting Standards Board ("IASB") is the standard-setting body of the IFRS Foundation, which is a private-sector organization that works to develop globally accepted international financial reporting standards).

²³ See *About Us*, FIN. ACTION TASK FORCE, <http://www.fatf-gafi.org/pages/aboutus/> (last visited Apr. 18, 2013) (explaining that the Financial Action Task Force ("FATF") is a group of representatives of different countries that attempts "to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system").

²⁴ See *infra* notes 25–67 and accompanying text.

²⁵ See Cho & Kelly, *supra* note 4, at 491 (explaining that the G20 emerged as a coordinating structure in the wake of the 2008 financial crisis).

²⁶ The Asian financial crisis, which was sparked by a devaluation of the Thai baht, began in 1997 and later spread across East Asia. See Woods, *supra* note 5, at 207.

²⁷ See Cho & Kelly, *supra* note 4, at 516–17 (explaining that the G20 was formed in 1999, partially in response to the Asian financial crisis).

²⁸ The members of the G20 are: Argentina, Australia, Brazil, Canada, China, the European Union, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, South Korea, Turkey, the United Kingdom, and the United States. *What Is the G20*, *supra* note 2.

²⁹ See Cho & Kelly, *supra* note 4, at 518 (explaining that in the wake of the 2008 financial crisis, the G7 leaders decided to convene a "summit" including the leaders of G20 countries).

³⁰ *G20 Leaders Statement: The Pittsburgh Summit*, U. TORONTO, G20 INFO. CENTRE (Sept. 24–25, 2009), <http://www.g20.utoronto.ca/2009/2009communique0925.html> (declaring that the G20 is the "premier forum for our international economic cooperation").

plications of this announcement are not yet clear, it amounted to a public acknowledgment that the G7/8 was no longer capable of managing the global economy and needed to share this responsibility with a broader group of countries. It is important to note, however, that the G7/8 still continues to meet and to play a role in the governance of the global economy.³¹

The G20 refers to more than a grouping of countries—it is also a short-hand reference to a complex cluster of governance activities. The apex of this cluster is the annual summit of the leaders of the G20, which is the culminating event of an annual work program consisting of two work streams.³² The first, which is guided by ministers of finance and central bank governors, deals with a range of financial and economic issues.³³ These officials meet regularly to discuss global economic conditions and to coordinate their responses to these conditions. They are supported by seven working groups, each consisting of and co-chaired by officials from G20 states.³⁴ The seven working groups deal with developing the framework for strong, sustainable, and balanced growth; financial regulation; financial inclusion; the international financial architecture; energy and commodities markets; energy and growth; disaster management; and climate finance.³⁵ The working groups, in addition to their specific mandates, follow up on the decisions and requests of the G20 leaders, promote cooperation between the participants in the G20 process on particular issues, and help shape the summit discussions and communiqués.³⁶

The second track is the Sherpas' track.³⁷ This track, in which each leader is represented by an official, known as the leader's "sherpa," is responsible for the political aspects of the G20's work.³⁸ Its workload is

³¹ See *Group of Seven—G-7*, INVESTOPEDIA, <http://www.investopedia.com/terms/g/g7.asp#axzz2NKqA4Mpb> (last visited Apr. 18, 2013).

³² See *Leaders' Summit 2013*, RUSSELL G20, http://www.g20.org/docs/summit/summit_2013.html (last visited Apr. 18, 2013).

³³ *The Finance Track*, G2012 MEX., <http://www.g20mexico.org/index.php/en/financial-track> (last visited Apr. 18, 2013) (explaining that the Finance Track in the G20 focuses on financial and economic issues, including "providing solutions to the current economic problems, economic stabilization and structural reforms, increasing international coordination for crisis prevention, correction of external, fiscal and financial imbalances, providing resources to increase global liquidity, and strengthening the international financial system").

³⁴ See *id.*

³⁵ See *id.*

³⁶ See *id.*

³⁷ *Sherpas' Track*, G2012 MEX., <http://www.g20mexico.org/index.php/en/sherpas-track> (last visited Apr. 18, 2013).

³⁸ See *id.* (noting that the Sherpas' track focuses on political, non-financial issues).

undertaken by working groups and it is supplemented, in some cases, by meetings of ministers other than ministers of finance.³⁹ Currently, there are working groups for issues such as employment, agriculture and food security, energy, corruption, and development.⁴⁰

These activities suggest that the G20 plays three critical global economic governance roles. First, it is a crisis manager. In this capacity it has forged agreement on the actions that the participants, individually and collectively, must take to resolve the current financial crisis. Second, the G20 is the orchestrator of global economic governance. It provides the setting in which the major economies meet with the leading international institutions—the IMF, the World Bank, the World Trade Organization (“WTO”), and the United Nations (“UN”)—to discuss the key economic challenges facing the international community and coordinate their responses to these challenges.⁴¹ The G20, therefore, enables the relevant policymakers and technical experts from the participating countries and international organizations to meet and seek common understandings and approaches on particular issues of global importance.⁴² Third, the G20 is a communicator. It helps to promote international global awareness of the challenges facing the global community and the approach that the most powerful countries are considering for dealing with these challenges.

There are three aspects of the G20 structure that should be noted. First, the number of G20 participants, in fact, exceeds twenty. They usually include a number of additional states that are invited by the G20 chair, which is the host state for that year’s summit.⁴³ Some of these states, such as Spain, are regularly invited in their own right, and some are invited because of their position as chair of an important regional body, such as the African Union or the Association of Southeast Asian Nations. In addition, the regular participants include international organizations like the IMF, the World Bank, the regional development banks, the FSB, the Organization for Economic Cooperation and Development (“OECD”), the International Labor Organization,

³⁹ See *id.*

⁴⁰ See *id.*

⁴¹ See *G20: Invitees and International Organizations*, Russ. G20, http://www.g20.org/docs/about/international_guests.html (last visited Apr. 18, 2013) (noting that international organizations are invited to the G20 Summit).

⁴² See Cho & Kelly, *supra* note 4, at 523 (noting that G20 progress reports monitor the work of organizations such as the IAIS, IOSCO, and BIS).

⁴³ See *G20: Invitees and International Organizations*, *supra* note 41 (noting that the presiding economies invite several non-member countries and institutions to attend the Leaders’ summit).

the UN Conference on Trade and Development, the WTO, and the UN Development Programme.⁴⁴ These organizations participate in both the summits and in the meetings of those working groups that are most relevant to their work.⁴⁵ Because the G20 does not have a permanent secretariat, the participating international organizations usually assume responsibility for preparing the background studies and policy proposals requested by the leaders of the G20.⁴⁶ For example, the FSB and the IMF coordinate studies on financial regulatory issues.⁴⁷ In addition, these organizations can be expected to work with their non-G20 member states to implement applicable recommendations of the G20. It is not clear what role, if any, they may play in informing the G20 about the views of their non-G20 member states.

Second, the G20 has begun a process of outreach to other stakeholders in the global economy. This process, which is managed by the chair of the G20, usually includes meetings of business and labor leaders from the G20 countries, and separate meetings of representatives of think tanks, civil society, and youth groups from these countries.⁴⁸ These meetings, which may lead to reports that feed into the G20 process, are an opportunity for the G20 to learn the views of other stakeholders.⁴⁹

Third, the G20 has initiated a peer review process called the Mutual Assessment Process (“MAP”) that is designed to ensure that the economic and financial policies of the G20 are coordinated and compatible.⁵⁰ In this process, each of the states is expected to report on its

⁴⁴ See *id.* (noting that such formal international organizations regularly participate in G20 meetings).

⁴⁵ See *id.*

⁴⁶ See *What Is the G20*, *supra* note 2.

⁴⁷ See *Factsheet: IMF-FSB Early Warning Exercise*, INT’L MONETARY FUND (Mar. 20, 2013), <http://www.imf.org/external/np/exr/facts/ewe.htm> (explaining that the G20 has asked the IMF and the FSB to coordinate Early Warning Exercises to assess global economic risks).

⁴⁸ See *Mexico G20 Presidency: Outreach Activities Held in Advance of the Los Cabos Summit*, G2012 MEX. (Apr. 11, 2012), <http://www.g20mexico.org/en/publications/325-presidencia-de-mexico-del-g20-labores-de-dialogo-y-consulta-rumbo-a-la-cumbre-de-los-cabos> (discussing Mexico’s outreach activities with non-G20 countries, international and regional organizations, and various civil society groups).

⁴⁹ See *id.*

⁵⁰ The Mutual Assessment Process (“MAP”) was launched at the 2009 G20 Summit in Pittsburgh to “evaluate the consistency of the G-20 policies and frameworks with members’ shared growth objectives.” See INT’L MONETARY FUND, G-20 MUTUAL ASSESSMENT PROCESS: FROM PITTSBURGH TO CANNES—IMF UMBRELLA REPORT 2 (2011), <http://www.imf.org/external/np/g20/pdf/map2011/umbrella.pdf>.

macro-economic policies and to have them reviewed by their peers in the G20. The IMF helps coordinate the process.⁵¹

Given its important role in global economic governance, it is striking that the G20 remains an informal grouping of states and international organizations.⁵² It is not based on a treaty and has no formal international legal personality. In addition, it has no permanent headquarters or secretariat.⁵³ As a result, the reports, communiqués, and documents that it issues have no formal international legal status.⁵⁴ Thus, when the G20 states make firm commitments in communiqués and other G20 documents, these commitments do not constitute obligations for which states can be held legally responsible.⁵⁵

This does not, however, mean that non-compliance has no consequences for either the G20 states or for other stakeholders. First, in some cases, a G20 country's failure to comply with the G20's decisions can adversely affect its credibility, its relations with other G20 states, and its access to financing.⁵⁶ In addition, G20 decisions can have, and in some cases are intended to have, an impact beyond the participants in the G20. For example, non-G20 states that fail to comply with G20 financial regulatory and transparency requirements can suffer adverse consequences in terms of their borrowing costs, their attractiveness to foreign investors, and their relations with the states and international organizations that participate in the G20.⁵⁷ Non-state actors in these countries, such as financial institutions, can suffer analogous adverse consequences.⁵⁸

⁵¹ See *Factsheet: The G-20 Mutual Assessment Process (MAP)*, INT'L MONETARY FUND (Mar. 20, 2013), <http://www.imf.org/external/np/exr/facts/g20map.htm>.

⁵² See Jan Wouters & Sven Van Kerckhoven, *The OECD and the G20: An Ever Closer Relationship?*, 43 GEO. WASH. INT'L L. REV. 345, 346 (2011) (noting that the G20 is an informal body with neither a charter nor a voting mechanism).

⁵³ See *What Is the G20*, *supra* note 2 (explaining that the G20 does not have a secretariat of its own, but that a temporary secretariat is set up by the country that holds the presidency for the term of its chairmanship).

⁵⁴ See CHRIS BRUMMER, *SOFT LAW AND THE GLOBAL FINANCIAL SYSTEM: RULE MAKING IN THE 21ST CENTURY* 115 (2012) (explaining that commitments made through international financial networks "have no legal effect and are unrecognized and nonbinding as a matter of international law").

⁵⁵ See *id.*

⁵⁶ See *id.* at 116.

⁵⁷ See *id.* at 141–56 (describing the "regulatory tools" that international financial institutions may employ, which include reputation, market disciplines, financial assistance or conditionality, "name and shame," capital market sanctions, and membership sanctions).

⁵⁸ See *id.*

B. *The Financial Stability Board*

The second important global economic governance development is the conversion of the Financial Stability Forum (“FSF”) into the FSB.⁵⁹ The FSF was an informal assembly in which national financial regulatory authorities—primarily from the G7 countries, international organizations with an interest in financial regulation, and the international standard-setting bodies—could meet to exchange views and information on regulatory matters of mutual concern.⁶⁰ It could undertake studies and issue reports, but it had no formal legal authority or legal personality.⁶¹ Following the 2008 financial crisis, the G20 leaders decided to convert the FSF into the FSB.⁶²

This involved four important changes. First, membership was expanded to include the G7’s regulatory counterparts in the other G20 countries and some additional systemically important countries.⁶³ Second, the FSF mandate was expanded to include assessing the vulnerabilities in the global financial system and developing regulatory and supervisory responses to them, monitoring market developments, working with the IMF to provide early warnings of financial trouble, dealing with cross-border regulation of large financial institutions, and coordinating the work of the international standard-setting bodies.⁶⁴ Third, in 2013 the FSB formally established itself as a Swiss association with a distinct legal personality and greater financial autonomy.⁶⁵ The FSB’s secretariat, however, continues to operate under the auspices of the BIS, allowing the FSB to benefit from the BIS’s grant of immunity from the Swiss government.⁶⁶ Fourth, it has recently established regional consul-

⁵⁹ See *About the FSB: Overview*, *supra* note 3 (noting that the FSB attempts to coordinate with national financial authorities and international standard-setting bodies to develop various regulatory, supervisory, and other policies for the financial sector). See generally Eric Helleiner, *The Financial Stability Board and International Standards* (Ctr. for Int’l Governance Innovation, Paper No. 1, 2010) (providing a detailed description of the FSB).

⁶⁰ See Helleiner, *supra* note 59, at 3–4.

⁶¹ See *id.* at 4.

⁶² See *id.* at 5.

⁶³ See *id.* at 5–6.

⁶⁴ See *id.* at 13–14.

⁶⁵ Press Release, Fin. Stability Bd., Meeting of the Financial Stability Board in Zürich on 28 January (Jan. 28, 2013), http://www.financialstabilityboard.org/press/pr_130128.pdf.

⁶⁶ See *id.*; see also Carl Felsenfeld & Genci Bilali, *The Role of the Bank in International Settlements in Shaping the World Financial System*, 25 U. PA. J. INT’L ECON. L. 945, 956–57 (2004) (detailing the privileges and immunities enjoyed by the BIS and affiliated entities under Swiss and international law).

tative bodies so that interested regulatory authorities from non-FSB participating countries can have some input into the FSB's work.⁶⁷

C. *Legal Character of Global Economic Governance*

Although there is now a set of institutional actors to oversee our complex and integrated global financial system, there is no obvious "governing law" for global economic governance.⁶⁸ Some of the leading governance institutions, for example the G20, have no international legal personality.⁶⁹ This provides it with a certain flexibility and informality that enables it to adapt relatively quickly to changing circumstances. It also means, however, that its official documents have no formal international legal status.⁷⁰ This is not a problem for the powerful states that participate in the G20—they are able to influence the G20's deliberations and can choose to follow those governance decisions that they favor and to ignore those that they find burdensome.

The situation is, however, different for other states. Many of the new state participants in the G20 have less discretion. Their credibility as responsible participants in global economic governance is influenced by their compliance with at least the most significant decisions taken in the forums of global economic governance.⁷¹ Similarly, the compliance of non-G20 participating states with these decisions may be considered in their relations with the IMF and other international financial institutions.⁷² Thus, for these states, and the non-state actors in these states, the decisions and actions of global economic governance

⁶⁷ See *About the FSB: Mandate*, FIN. STABILITY BOARD, <http://www.financialstabilityboard.org/about/mandate.htm> (last visited Apr. 18, 2013).

⁶⁸ See BRUMMER, *supra* note 54, at 115 (noting that commitments made by international financial organizations have no legal effect and are nonbinding as a matter of international law).

⁶⁹ See *id.* at 71 (noting that, although the G20 is important in global economic affairs, it has no permanent staff and does not use any formal voting system).

⁷⁰ See *id.* at 72 (describing the various communication methods used by the G20, including communiqués, declarations, and progress reports).

⁷¹ See *id.* at 121–23 (explaining various methods of enforcement of "soft law," including reputation, reciprocity, and retaliation).

⁷² See, e.g., *Reports on the Observance of Standards and Codes (ROSCs)*, INT'L MONETARY FUND, <http://www.imf.org/external/NP/rosc/rosc.aspx> (last visited Apr. 18, 2013) (collecting reports by the IMF that summarize the extent of countries' compliance with internationally recognized standards and codes); *Supporting Documents Country FSAPs*, INT'L MONETARY FUND, <http://www.imf.org/external/NP/fsap/fsap.aspx> (last updated Apr. 12, 2013) (explaining that the Financial Sector Assessment Program is an analysis of a country's financial sector).

de facto have a compliance pull that is stronger than the pull for the richer and more powerful states.

This differential impact on the various stakeholders in the global economy is exacerbated by the legal status of the current arrangements. Legal uncertainty makes it difficult for adversely affected stakeholders to hold a key actor like the G20 accountable for its decisions and actions. This situation of power without accountability is troubling and requires a response. One possible response is a framework for assessing the outputs of global economic governance decision making.

II. A FRAMEWORK FOR ASSESSING GLOBAL ECONOMIC GOVERNANCE

This Part focuses on my proposed framework for assessing global economic governance. The framework consists of four factors, each of which is discussed in turn below. The first factor considers whether the relevant economic governance actor defines its ultimate goal.⁷³ The second factor evaluates the system's respect for applicable legal principles, primarily seven principles of customary international law.⁷⁴ The third factor addresses how comprehensively the relevant global economic governance actors address the interests of all of the stakeholders in the global economy.⁷⁵ The fourth factor seeks to ensure that global economic governance actors act in mutually consistent and supportive ways.⁷⁶ These four factors yield a five-part test that can be used to evaluate the performance of global economic governance actors.⁷⁷

A. Factor 1: What Is the Goal?

The first challenge for any governance system is to define its ultimate objective. All state and non-state stakeholders agree that every society should aim to offer all of its members lives of dignity and opportunity. Although these stakeholders may differ in how they understand and plan to reach this objective, they all acknowledge that it includes economic, social, political, environmental, and cultural aspects. Moreover, they should all agree that this goal, which none of them has fully achieved, has both an individual and a social dimension. This means

⁷³ See *infra* note 78 and accompanying text.

⁷⁴ See *infra* notes 79–98 and accompanying text.

⁷⁵ See *infra* notes 99–102 and accompanying text.

⁷⁶ See *infra* note 103 and accompanying text.

⁷⁷ See *infra* note 104 and accompanying text. I have written about this proposed test elsewhere. See Daniel D. Bradlow, *Rethinking Global Financial Governance Reform*, WORLD FIN. REV., <http://www.worldfinancialreview.com/?p=1212> (last visited Apr. 18, 2013).

that the ultimate objective of global economic governance should be to achieve “development,” as defined in the Declaration on the Right to Development:

[D]evelopment is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom⁷⁸

This definition suggests two considerations that can be used in a global economic governance assessment framework. The first is the extent to which the actors in global economic governance promote economic policies and practices that enable all stakeholders, including the weakest societies and the poorest individuals, to share in the benefits of the global economic system. The second is that global economic governance must promote economic policies that are sustainable and will not be undermined over time by their environmental or social costs.

B. *Factor 2: Respect for the Applicable International Law*

The second factor focuses on the extent to which the relevant governance actor pays respect to applicable international legal principles.⁷⁹ As indicated above, some significant global economic governance actors are not subjects of international law.⁸⁰ Nevertheless, there are a limited number of international legal principles, derived from customary international law and general principles of law, that are relevant for all actors in global economic governance.⁸¹ These principles

⁷⁸ Declaration on the Right to Development, G.A. Res. 41/128, U.N. Doc. A/RES/41/128 (Dec. 4, 1986).

⁷⁹ Article 38 of the Statute of the International Court of Justice states that the key sources of international law are: international conventions, international custom as evidence of a general practice accepted as law, and the general principles of law recognized by civilized nations. *See* Statute of the Court of International Justice, art. 38, June 26, 1945, 59 Stat. 1055, 3 Bevens 1153.

⁸⁰ *See supra* notes 68–72 and accompanying text.

⁸¹ It should be noted that there are multilateral treaties that deal with aspects of global economic governance. The most significant are the treaties establishing the key international economic organizations—the International Monetary Fund (“IMF”), the International Bank for Reconstruction and Development (“World Bank”), and the World Trade Organization (“WTO”). *See* Marrakesh Agreement Establishing the World Trade Organization art. 1, Apr. 15, 1994, 1867 U.N.T.S. 154; Articles of Agreement of the International Monetary Fund art. 1, Dec. 27, 1945, 60 Stat. 1401, 2 U.N.T.S. 39 [hereinafter IMF Articles]; Articles of Agreement of the International Bank for Reconstruction and Develop-

are the customary international legal principles of sovereignty; nondiscrimination, which incorporates treatment of legal and natural persons;

ment art. 1, Dec. 27, 1945, 60 Stat. 1440, 2 U.N.T.S. 134 [hereinafter World Bank Articles]. These treaties authorize each of these organizations to perform specific functions relating to global trade, monetary policy, and financial system regulation. None of these organizations, however, are specifically assigned the responsibility for overall governance of the global economy.

The broad language of these founding documents is particularly noteworthy because these organizations were intended to be specialized. *About Us: History*, WORLD BANK, <http://web.worldbank.org/> (select "About"; then follow the "History" hyperlink) (last visited Apr. 18, 2013) (explaining that since 1944, the World Bank's mission has expanded from being "a facilitator of post-war reconstruction" to its present mission of alleviating poverty worldwide); *The GATT Years: From Havana to Marrakesh*, *supra* note 16 (noting that in its initial conception as the "International Trade Organization," the WTO was conceived as being a specialized agency of the UN); *History*, INT'L MONETARY FUND, <http://www.imf.org/external/about/history.htm> (last visited Apr. 18, 2013) (explaining that the IMF's role has broadened since its initial role, in 1944, of rebuilding national economies). The organizations have effectively used this discretion to expand their originally circumscribed role in global economic governance. For example, the IMF was originally expected to serve as a forum for the exchange of views among its member states on international monetary affairs and to manage the par value system. See IMF Articles, *supra*, art. 1 (explaining that the purposes of the IMF are to promote international monetary cooperation by providing an institution for consultation and collaboration on international monetary problems). It has evolved into an organization focused on macroeconomic, monetary, and financial affairs. This evolution occurred even though its articles do not explicitly assign it any role in the regulation of financial institutions or financial markets. See *id.* Similarly, the World Bank was originally expected to only be a source of financing for large development projects, particularly infrastructure projects. See World Bank Articles, *supra*, art. 1 (explaining that one of the purposes of the World Bank is to assist in the reconstruction and development of members' territories by facilitating investment). It has evolved into an organization that plays a role in national economic governance in its member states, in assisting member states in developing the financial systems and revenue raising arrangements that allow them to participate in the global economy, and in the funding of a broad range of social development projects.

There is a limit, however, on how far these organizations can stretch the language in their founding documents. Consequently, they have been unable to assume full responsibility for all aspects of global governance.

The states that are involved in global economic governance, of course, are signatories to a broad range of international agreements dealing with their international economic relations. Except for the founding treaties of the international economic organizations, most of these treaties either relate to the states' economic relations with specific states or groups of states (e.g., regional trade agreements), or to specific aspects of economic activity (e.g., contracts for the international sale of goods or corruption). See, e.g., U.N. Convention on Contracts for the International Sale of Goods, Apr. 11, 1980, S. Treaty Doc. No. 98-9 (1983), 1489 U.N.T.S. 3 (entered into force Jan. 1, 1988); *Regional Trade Agreements*, WORLD TRADE ORG., http://www.wto.org/english/tratop_e/region_e/region_e.htm (last visited Apr. 18, 2013) (discussing regional trade agreements and providing a link to a database of such agreements). They do not provide guidance on how states should conduct themselves in the realm of global economic governance.

environmental responsibility; good faith; and the general legal principle of good administrative practice.⁸²

1. Sovereignty

The customary international legal principle of respect for state sovereignty provides that global economic governance actors should refrain from interfering in those matters that fall within the domestic jurisdiction of each sovereign state.⁸³ This obligation is becoming both easier and more complex. On the one hand, the scope of matters that are deemed by the United Nations to fall within a sovereign state's domestic jurisdiction has narrowed over time. Currently, for example, states are required to report to international supervisory bodies on their compliance with specific international human rights agreements and so cannot treat their domestic conduct in regard to these human rights issues as being exclusively within their domestic jurisdiction.⁸⁴ Additionally, there are some who contend that there is an international duty to protect groups and individuals from the most systematic and gross human rights violations in a particular country.⁸⁵ On the other hand, the resulting expansion in the powers and responsibilities of the actors in the international sphere imposes an obligation on them to deal responsibly with issues that were previously viewed as being within a state's exclusive jurisdiction and in which their actions can directly impact a range of state and non-state stakeholders.⁸⁶

Despite these developments, the legal principle of state sovereignty remains an important criterion in assessing global governance. At a minimum, it reminds global economic governance decisionmakers that they should act in ways that preserve as much independence and policy space for states as is consistent with effective global economic governance.

⁸² See *infra* notes 83–98 and accompanying text.

⁸³ U.N. Charter art. 2, para. 7; see IAN BROWNLIE, *PRINCIPLES OF PUBLIC INTERNATIONAL LAW* 250, 294–98 (7th ed. 2008) (explaining that international actors should refrain from infringing on the principles of state sovereignty).

⁸⁴ See Stephanie Farrow, *International Reporting Procedures*, in *GUIDE TO INTERNATIONAL HUMAN RIGHTS PRACTICE* 189, 197–201 (Hurst Hannum ed., 4th ed. 2004) (describing reporting procedures of international human rights treaties).

⁸⁵ See ALEX J. BELLAMY, *RESPONSIBILITY TO PROTECT* 51–59 (2009) (describing the United Nation's "responsibility to protect" doctrine, which encourages states to intervene in genuine humanitarian emergencies).

⁸⁶ See Woods, *supra* note 5, at 216 (explaining, for example, that the IMF's role of safeguarding the stability of the international monetary system is difficult to accomplish without intruding into countries' domestic policies).

2. Nondiscrimination

The principle of nondiscrimination requires subjects of international law to treat all similarly situated parties in a like manner.⁸⁷ The impact of the decisions and actions of global economic governance will, however, affect different states differently depending on their wealth, power, and role in the global economy. This suggests that the application of the principle of nondiscrimination to global economic governance requires treating all similarly situated states similarly and all dissimilarly situated states differently. One way to ensure such nondiscriminatory treatment would be to apply the principle of special and differential responsibilities⁸⁸ to global economic governance. This would require that all states have some way to participate, either directly or indirectly, in international decision-making structures and institutions. This would help them protect themselves against having to assume responsibilities that are not commensurate with their capacities.

3. Treatment of Legal Persons

The principle of nondiscrimination is also relevant to a state's responsibility to corporate actors in the global economy.⁸⁹ They would be eligible for nondiscriminatory treatment when they operate outside their home state. This would also include ensuring that they receive at least national treatment in their dealings with their host states.⁹⁰

⁸⁷ See Ernst-Ulrich Petersmann, *Constitutionalism and WTO Law: From a State-Centered Approach Towards a Human Rights Approach in International Economic Law*, in *THE POLITICAL ECONOMY OF INTERNATIONAL TRADE LAW* 32, 45–46, 60–61 (Daniel L.M. Kennedy & James D. Southwick eds., 2002) (describing the WTO's principle of nondiscrimination).

⁸⁸ See DAVID HUNTER ET AL., *INTERNATIONAL ENVIRONMENTAL LAW AND POLICY* 495–97 (3d ed. 2007) (explaining that the principle of “common but differentiated responsibilities” reflects principles of equity by placing more responsibility on wealthier countries and those that are more responsible for causing specific environmental problems); REMONDA B. KLEINBERG, *THE POLITICS OF INTERNATIONAL TRADE REGULATION IN THE DEVELOPING WORLD: LAW AND POLICY OF “PREFERENTIAL” TREATMENT IN THE GOVERNANCE OF WORLD TRADE* 4–5, 7 (2011) (noting that special and differential treatment principles have been incorporated into the architecture of the WTO rules).

⁸⁹ See generally JAMES CRAWFORD, *THE INTERNATIONAL LAW COMMISSION'S ARTICLES ON STATE RESPONSIBILITY: INTRODUCTION, TEXT AND COMMENTARIES* (2002) (discussing state responsibility in the International Law Commission).

⁹⁰ See M. SORNARAJAH, *THE INTERNATIONAL LAW ON FOREIGN INVESTMENT* 201–04, 208, 337, 409–10 (3d ed. 2010) (explaining that nondiscrimination is a custom of international law).

4. Treatment of Natural Persons

Many commentators contend that the Universal Declaration of Human Rights (“UDHR”)⁹¹ has taken on the characteristics of customary international law and, as such, should help define the responsibilities of global economic governance actors to natural persons.⁹² The challenge for global economic governance is that the UDHR contains only general principles, as it was always envisaged that they would be elaborated upon and eventually made binding through treaties.⁹³ This means that the UDHR does not provide clear guidance to global economic governance decisionmakers. At most, it suggests that these decisionmakers have an obligation to respect, protect, and fulfill those human rights principles expressed in the UDHR.⁹⁴ Exactly how each decisionmaker should fulfill these obligations is not clear, and thus, in effect, the decision is left to the discretion of each actor.

5. Environmental Responsibility

In regard to customary international environmental law, the most relevant obligation is to undertake impact assessments.⁹⁵ Given the importance of sustainability to global economic governance, this principle

⁹¹ Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

⁹² See Hurst Hannum, *The Status of the Universal Declaration of Human Rights in National and International Law*, 25 GA. J. INT’L & COMP. L. 287, 289, 323 (1995) (noting that several commentators have taken the position that the entire Universal Declaration of Human Rights (“UDHR”) now represents customary international law).

⁹³ Mary Ann Glendon, *The Rule of Law in the Universal Declaration of Human Rights*, 2 Nw. J. INT’L HUM. RTS. 1, 15 (2004) (arguing that the UDHR was written to provide flexibility for countries implementing the declaration, and therefore was not meant to create uniform practices).

⁹⁴ See Hannum, *supra* note 92, at 323 (arguing that the UDHR obliges states to guarantee respect for human rights).

⁹⁵ See Erika L. Preiss, Note, *The International Obligation to Conduct an Environmental Impact Assessment: The ICJ Case Concerning the Gabčíkovo-Nagymaros Project*, 7 N.Y.U. ENVTL. L.J. 307, 317 (1999) (discussing international environmental impact assessments); see also, e.g., *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 1996 I.C.J. 66, ¶ 20 (July 8) (noting that states “must take environmental considerations into account when assessing what is necessary and proportionate in the pursuit of legitimate military objectives”); *Trail Smelter Case* (U.S. v. Can.), 3 R.I.A.A. 1905, 1907, 1923–24, 1933–34 (Perm. Ct. Arb. 1938 & 1941); United Nations Conference on Environment and Development, Rio de Janeiro, Braz., June 3–14, 1992, *Rio Declaration on Environment and Development*, U.N. Doc. A/CONF.151/26/Rev.1 (Vol. I), Annex I (Aug. 12, 1992); United Nations Conference on the Human Environment, Stockholm, Swed., June 5–16, 1972, *Stockholm Declaration on the Human Environment*, U.N. Doc. A/CONF.48/14 (June 16, 1972). See generally HUNTER ET AL., *supra* note 88 (discussing economics and sustainable development).

is clearly relevant to the conduct of each actor within the realm of global economic governance. The principle, however, is stated too generally to provide guidance on how it should be applied in this context. Therefore, global economic actors retain considerable discretion in deciding how to apply the principle in their activities.

6. Principle of Good Faith

In this context, the principle of good faith can be interpreted as a call for honesty and fairness in dealings between the various actors and stakeholders in global economic governance.⁹⁶ The principle, however, offers little guidance to actors seeking to implement it in their global governance activities. For example, the principle does not help a decisionmaker know whether or when to consult with each of the stakeholders in a particular matter of global economic governance, how much information to make available to the stakeholders, or how to handle complaints from the different stakeholders in the matter. In fact, it is possible that honest and fair dealing in a particular international economic governance matter may require different answers for different stakeholders, depending on their interest in the particular matter and, in some cases, the identity of the particular decisionmaker. Given these variables, the content of this obligation must be left to the discretion of each actor.

7. Good Administrative Practice

Good administrative practice is another important legal criterion in evaluating global economic governance.⁹⁷ The general principles of administrative law that are recognized by all nations are transparency, predictability, participation, reasoned and timely decision making, and accountability.⁹⁸ These are relevant because global economic governance, to a significant extent, involves designing rules for regulating the

⁹⁶ Vienna Convention on the Law of Treaties art. 26, May 23, 1969, 1155 U.N.T.S. 331 (“Every treaty in force is binding upon the parties to it and must be performed by them in good faith.”); BROWNIE, *supra* note 83, at 635 (discussing the principle of good faith).

⁹⁷ See Carol Harlow, *Global Administrative Law: The Quest for Principles and Values*, 17 EUR. J. INT’L L. 187, 187–214 (2006) (arguing that global administrative law may be undesirable); Benedict Kingsbury, *The Concept of ‘Law’ in Global Administrative Law*, 20 EUR. J. INT’L L. 23, 23–57 (2009) (arguing that there is a workable concept of law in global administrative law).

⁹⁸ See Benedict Kingsbury et al., *The Emergence of Global Administrative Law*, 68 LAW & CONTEMP. PROBS., Summer/Autumn 2005, at 15, 28–29 (describing the principles of global administrative law).

global economy. In this sense, the actors in global economic governance may be compared to administrative agencies in domestic law. This suggests that they should comply with the applicable principles of good administrative practice.

C. Factor 3: Comprehensive Coverage

Comprehensive coverage refers to the need for all the mechanisms and institutions of global economic governance to be applicable to and serve all the interests of all stakeholders in the international economic system. For example, in the case of international financial governance, this means that the mechanisms of international financial governance must address such diverse matters as all the regulatory, supervisory, resource allocation, and developmental needs of states; international organizations; financial intermediaries that engage in sophisticated national and cross-border financial transactions and their clients; savers and investors who wish to base their financial transactions on religious principles; small financial institutions that operate only in local markets; microfinancial institutions; and small businesses, community groups, and individuals that have difficulty accessing financial services. In addition, the actors in global economic governance must be flexible and dynamic enough to adapt to the changing needs and activities of all these stakeholders.

One corollary of the principle of comprehensive coverage is that the principle of subsidiarity⁹⁹ should apply to global economic governance. This principle holds that all decisions should be taken at the lowest level in the system compatible with effective decision making.¹⁰⁰ It is a complicated principle to implement because it must apply in standard operating conditions and in crisis situations, when decisions may need to be made at a different level.¹⁰¹ In addition, it may require a conflict resolution mechanism that is capable of resolving disputes concerning which level is the most appropriate for resolving a particular issue.¹⁰²

⁹⁹ *Glossary: Subsidiarity*, EUROPA, http://europa.eu/legislation_summaries/glossary/subsidiarity_en.htm (last visited Apr. 18, 2013) (defining the principle of subsidiarity as ensuring that decisions are taken as closely as possible to the citizen and that constant checks are made to verify that action at the European Union (EU) level is justified).

¹⁰⁰ *See id.* (explaining that the principle of subsidiarity requires that the EU not take action unless it is more effective than action taken at lower levels).

¹⁰¹ *See id.*

¹⁰² *See id.*

D. *Factor 4: Coordinated Specialization*

Coordinated specialization acknowledges that, even though all aspects of global economic governance are interconnected, global economic governance cannot function efficiently without institutions that have limited and specialized mandates.¹⁰³ The principle of coordinated specialization is intended to ensure that the actors in global economic governance act in mutually consistent and supportive ways to meet all the needs of all stakeholders in global economic governance. It has two requirements. First, the mandate of the institutions and mechanisms of global economic governance must be clearly defined and must be limited to their areas of specialization. Second, in executing their specialized responsibilities, these institutions cannot ignore the impact they have and the ways in which they are affected by other actors in global governance. Consequently, there is a need for coordination between the institutions and mechanisms of international economic governance themselves and with the key actors in other areas of global governance. The coordinating mechanism's function is to resolve tension between the different actors in global economic governance and between them and other actors in global governance. Additionally, it functions to facilitate coherence in global economic governance.

E. *A Framework for Evaluating Global Economic Governance*

Based on the four factors described above, it is possible to develop the following five-part test¹⁰⁴ for assessing performance of the various actors in global economic governance:

1. What is the strategic goal of the global economic governance actor?
2. Does the global economic governance actor incorporate the applicable customary international legal principles into its deliberations?
3. Does the global economic governance actor make decisions that comply with the principles of good administrative prac-

¹⁰³ This principle is not new and underlies the role of the Economic and Social Council ("ECOSOC") in the United Nations ("UN") system. See Gene M. Lyons, *Competing Visions: Proposals for UN Reform*, in *THE UNITED NATIONS SYSTEM: THE POLICIES OF MEMBER STATES* 41, 77–80 (Chadwick F. Alger et. al. eds., 1995) (noting that the UN includes a cluster of economic and social programs that should be coordinated by the ECOSOC).

¹⁰⁴ It should be noted that not all parts of the test may be applicable to each individual global economic governance actor. Given its central role in global economic governance, however, all five parts are applicable to the G20.

- namely, transparency, predictability, participation, reasoned and timely decision making, and accountability?
4. Are the institutions of global economic governance designed to, and do they, in fact, address all global economic governance issues of interest to all of the various state and non-state stakeholders in the global economy?
 5. Are there mechanisms for coordinating the decisions and actions of the particular global economic governance actor with other actors in both global economic governance and in other areas of global governance?

III. APPLYING THE FRAMEWORK TO THE 2012 G20 SUMMIT

This Part uses the five-part test described in Part II to evaluate the outcomes of the 2012 Group of Twenty (“G20”) Summit in Los Cabos, Mexico (the “Summit”). Section A describes the various communiqués and declarations that emerged from the Summit.¹⁰⁵ Section B then applies the proposed test to these outputs to evaluate the G20’s success as a global governance actor.¹⁰⁶

A. *The Outcome of the Los Cabos Summit*

The *Los Cabos Leadership Declaration* (the “Declaration”),¹⁰⁷ the communiqué issued by the leaders at the end of the Summit, makes clear that although the Summit was dominated by the Eurozone crisis,¹⁰⁸ the leaders discussed other matters. The Declaration is divided into the following sections: supporting economic stabilization and the global recovery; employment and social protection; trade; strengthening the international financial architecture; reforming the financial sector and fostering financial inclusion; enhancing food security and addressing commodity price volatility; meeting the challenges of development; promoting longer term prosperity through inclusive green

¹⁰⁵ See *infra* notes 107–131 and accompanying text.

¹⁰⁶ See *infra* notes 132–173 and accompanying text.

¹⁰⁷ See generally *G20 Leaders Declaration*, G2012 LOS CABOS MEX., http://g20mexico.org/images/stories/docs/g20/conclu/G20_Leaders_Declaration_2012.pdf (last visited Apr. 18, 2013) [hereinafter *Leaders Declaration*] (summarizing the outcome of the 2012 G20 Summit at Los Cabos, Mexico).

¹⁰⁸ See *id.* at ¶¶ 6, 11 (explaining that the Eurozone crisis is shorthand for the European debt crisis, in which several European countries have struggled to service their sovereign debt obligations).

growth; and intensifying the fight against corruption.¹⁰⁹ In each section, the leaders explain why they think the issue is important and they commit, or often recommit, themselves to certain objectives.¹¹⁰ They do not, however, necessarily specify what actions they will take to achieve these objectives.¹¹¹ They also request different actors, such as their ministers of finance or specific groups of international organizations, to undertake certain studies or prepare particular reports.¹¹²

At the Summit, the leaders also issued the *Los Cabos Growth and Jobs Action Plan*¹¹³ in which they promised to undertake a range of country and group-specific measures to protect the integrity of the Eurozone and promote fiscal sustainability, price stability, and job creation.¹¹⁴ They also released a document containing the relevant policy commitments of each G20 member state.¹¹⁵ Most of the participating states, however, had previously committed themselves to these actions in earlier G20 meetings and/or in domestic policy documents.¹¹⁶

The Summit participants also reasserted their determination to implement the *Los Cabos Accountability Assessment Framework*, which creates a process for peer review of each participating state's implementation of the G20's *Framework for Strong, Sustainable and Balanced Growth*.¹¹⁷ Finally, the first report on the Mutual Assessment Process ("MAP"), which the International Monetary Fund ("IMF") helps implement, was issued at the Summit.¹¹⁸

¹⁰⁹ See generally *id.* (dividing the Leaders Declaration into different sections based on the topics discussed).

¹¹⁰ See generally *id.* (summarizing the relevant issues and setting forth objectives).

¹¹¹ See generally *id.* (setting forth objectives without listing specific plans to accomplish those objectives).

¹¹² See generally *id.* (noting that the G20 is seeking the help of international financial organizations and finance ministers in preparing evaluations of its proposed projects).

¹¹³ See *The Los Cabos Growth and Jobs Action Plan*, U. TORONTO, G20 INFO. CENTRE (June 19, 2012), <http://www.g20.utoronto.ca/2012/2012-0619-loscabos-actionplan.html>.

¹¹⁴ See *id.*

¹¹⁵ See *Policy Commitments by G20 Members*, G2012 MEX. (June 18–19, 2012), http://www.g20mexico.org//images/stories/docs/g20/conclu/Policy_Commitments_By_G20_Members.pdf.

¹¹⁶ See *id.*

¹¹⁷ See *The Los Cabos Growth and Jobs Action Plan*, *supra* note 113 (explaining that the *Framework for Strong, Sustainable and Balanced Growth* incorporates the *Cannes Action Plan* and intensifies the Group of Twenty's ("G20") efforts for a strong and sustained recovery).

¹¹⁸ See *id.*

One noteworthy action announced at the Summit was that a group of countries, including all the “BRICS” countries,¹¹⁹ agreed to lend new funds to the IMF for use in future IMF operations, including in the Eurozone.¹²⁰ Many of these countries are hoping that their contributions will help accelerate IMF governance reform.¹²¹

The Summit outputs also include the progress report of the G20 Development Working Group.¹²² This report reaffirms the G20’s commitment to promoting such international objectives as the Millennium Development Goals¹²³ and development effectiveness.¹²⁴ In addition, the report discusses, in some detail, implementation of the Working Group’s priorities—infrastructure, food security, and inclusive green growth.¹²⁵ For example, the document stipulates that “incorporating social and environmental costs and benefits into economic decision-making is critical to [inclusive green growth].”¹²⁶ In regard to infrastructure, it states that the G20’s approach to infrastructure should seek “synergies” with inclusive green growth and the Working Group’s development pillars—food security, human resource development, trade, private investment with job creation, growth with resilience, financial inclusion, domestic resource mobilization, and knowledge sharing.¹²⁷ It adds that “adequately designed infrastructure investments offer opportunities for triple wins: economic growth, social inclusion and greater environmental sustainability.”¹²⁸ In regard to food security, the report highlights the importance of agricultural research and welcomes the work that is being done by other international bodies.¹²⁹ It also encourages all countries to support the *Principles for Responsible Agricultural*

¹¹⁹ “BRICS” stands for Brazil, Russia, India, China, and South Africa, and is an economic modeling exercise to forecast global economic trends. See *About BRICS*, BRICS, <http://www.brics5.co.za/about-brics/> (last visited Apr. 18, 2013).

¹²⁰ Press Release, Int’l Monetary Fund, Joint Statement by the International Monetary and Financial Committee and the Group of 20 Finance Ministers and Central Bank Governors on IMF Resources (Apr. 20, 2012), <http://www.imf.org/external/np/sec/pr/2012/pr12144.htm>.

¹²¹ See *id.*

¹²² See *2012 Progress Report of the Development Working Group*, G20 DEV. WORKING GRP. 3–4 (2012) [hereinafter *2012 Progress Report*], http://www.g20mexico.org/images/stories/docs/g20/conclu/2012_Progress_Report_Of_The_Development_Working_Group.pdf.

¹²³ *Millennium Development Goals*, CESVI, <http://www.cesvi.eu/UserFiles/File/Mdgs.pdf> (last visited Apr. 18, 2013).

¹²⁴ See *2012 Progress Report*, *supra* note 122, at 1–2.

¹²⁵ See *id.* at 1.

¹²⁶ *Id.* at 3.

¹²⁷ See *id.* at 4.

¹²⁸ *Id.*

¹²⁹ See *id.* at 7.

*Investment That Respects Rights, Livelihoods and Resources*¹³⁰ and the *Voluntary Guidelines on the Governance of Tenure of Land, Fisheries and Forest in the Context of National Food Security*.¹³¹

B. Applying the Framework

This Section assesses the Summit outputs under the framework of the five-part test proposed in Part II.¹³² At the end of this Section, I conclude that the G20 is not fully satisfying any of the tests as a global economic governance actor.¹³³

1. Does the G20 Have a Strategic Objective for Global Economic Governance?

At a rhetorical level, the G20 appears to have a strategic goal of inclusive growth. The Los Cabos documents discuss the importance of inclusive green growth, job creation, social security, and financial inclusion.¹³⁴ The documents do not, however, define what “inclusion” means for the G20, nor do they provide any guidance on the strategy for achieving it.¹³⁵ This is particularly important given that there is no general consensus on how inclusion can most effectively be incorporated into the way in which specific development policies are made and executed and how development projects are selected, prepared, implemented, and operated.

The G20 seems to address this issue indirectly through its institutional arrangements and work program. For example, the creation of the Development Working Group, in part, is an effort to ensure that

¹³⁰ See *2012 Progress Report*, *supra* note 122, at 7–8; see also *Principles for Responsible Agricultural Investment That Respects Rights, Livelihoods and Resources*, FOOD & AGRIC. ORG. OF THE UNITED NATIONS (Feb. 22, 2010), http://www.fao.org/fileadmin/templates/est/INTERNATIONAL-TRADE/FDIs/RAI_Principles_Synoptic.pdf (proposing a set of principles for agricultural investment).

¹³¹ See *2012 Progress Report*, *supra* note 122, at 7–8; see also FOOD & AGRIC. ORG. UNITED NATIONS, *VOLUNTARY GUIDELINES ON THE RESPONSIBLE GOVERNANCE OF TENURE OF LAND, FISHERIES AND FORESTS IN THE CONTEXT OF NATIONAL FOOD SECURITY* (2012), http://www.fao.org/fileadmin/templates/cfs/Docs1112/VG/VG_Final_EN_May_2012.pdf (proposing guidelines for the governance of tenure of land, fisheries, and forests, in order to work toward greater food security).

¹³² See *supra* note 104 and accompanying text; *infra* notes 133–173 and accompanying text.

¹³³ See *infra* notes 174 and accompanying text.

¹³⁴ See generally *Leaders Declaration*, *supra* note 107 (explaining that inclusive green growth, job creation, social security, and financial inclusion were some of its foremost goals at the Summit).

¹³⁵ See *id.*

the issues of development are included in global economic governance. In addition, the G20 has created a group to work on financial inclusion¹³⁶ and has asked the Basel Committee on Banking Supervision to study the impact of specific financial regulatory reforms on emerging markets and developing countries.¹³⁷ It has also taken actions that are designed to reduce price volatility in commodity markets and to promote food security.¹³⁸ Further, the G20 has played a role in seeking to reform the governance structures of the multilateral development banks and the IMF, and in ensuring that they have sufficient resources to fulfill their mandates.¹³⁹ This is relevant because their mandates, at least to some extent, deal with the challenge of exclusion at the level of the global economic system.¹⁴⁰ These measures are all still in the process of being implemented, so it is too soon to judge their efficacy.

The G20 also seems to have established an objective of promoting environmentally sustainable development. The Summit documents address such environmental challenges as green growth and food security.¹⁴¹ In addition, the Development Working Group's report emphasizes the importance of incorporating environmental considerations into economic decision making, and infrastructure project planning, construction, and operation.¹⁴² These documents do not, however, indicate that the G20 made any attempt to consider systematically how this should be done. There is no discussion in these documents, for example, of how to manage the complex trade-offs between maximizing economic benefits and mitigating the environmental and social costs that are likely to be associated with economic growth, even if it is inclusive and sustainable. This is particularly troubling because there is

¹³⁶ See *Relevant Documents by Working Group*, G2012 MEX., <http://www.g20mexico.org/en/working-groups> (last visited Apr. 18, 2013) (explaining that the group is called the Financial Stability Board and Alliance for Financial Inclusion).

¹³⁷ See *Leaders Declaration*, *supra* note 107, ¶¶ 39–40 (describing the Basel Committee's forum for regular cooperation on banking supervisory matters).

¹³⁸ See *id.* ¶¶ 55–62.

¹³⁹ See *The G20 Seoul Summit Leaders' Declaration*, U. TORONTO, G20 INFO. CENTRE ¶¶ 9, 11 (Nov. 11–12, 2010), <http://www.g20.utoronto.ca/2010/g20seoul.html> (describing the Seoul Summit's reforms of the International Monetary Fund ("IMF")); *The G-20 Toronto Summit Declaration*, G20 TORONTO ¶¶ 3, 4, 23–34 (June 26–27, 2010), http://www.g20.utoronto.ca/2010/g20_declaration_en.pdf (discussing the G20's work with the IMF and multilateral development banks).

¹⁴⁰ See, e.g., SAMJEEV GUPTA ET AL., FISCAL AFFAIRS DEP'T, INT'L MONETARY FUND, THE IMF AND THE POOR 2 (1998), available at <http://www.imf.org/external/pubs/ft/pam/pam52/52.pdf> (explaining that IMF policy advice can benefit the poor by influencing a country's macroeconomic policies, social safety nets, and public expenditures).

¹⁴¹ See, e.g., *2012 Progress Report*, *supra* note 122, ¶¶ 6–15.

¹⁴² See *id.* at 14.

clear evidence that these trade-offs exist, are complicated, are capable of generating intense and sustained conflicts, and are seldom effectively resolved.¹⁴³

Based on the record of the Los Cabos Summit, in regard to the first test, the G20's record is mixed. Rhetorically, it appears to have a strategic vision, but it is only articulated in very general terms. Consequently, there is considerable risk that this shared vision will be undermined by the specific issues relevant to converting the general vision into an operationally useful one.

2. Adherence to International Legal Principles

As indicated above, there are a limited number of international legal principles that are applicable to the G20 process.¹⁴⁴ The first is the principle of respect for state sovereignty. There is nothing in the G20 documents to suggest that the international legal subjects that participate in the G20 have done anything in regard to G20 participating states that is inconsistent with this principle. All the commitments made in the Summit document are voluntarily assumed by the particular states.¹⁴⁵ Moreover, the commitments are nonbinding, so the states remain free, at least as a formal legal matter, to set them aside.¹⁴⁶

The impact of the G20 on non-participating states is more problematic. The G20's decisions can be made applicable to non-participating states through the operations of international organizations like the IMF. In addition, the outputs of the Financial Stability Board ("FSB") and the standard-setting bodies, which feed into the G20 decision-making process, can constrain the policy choices of these countries. Although this may be a *de facto* rather than a *de jure* limitation on the policy space open to these non-participating states, the fact that the impact arises from processes and institutions in which these non-participating states both do not participate and have no ability to hold decisionmakers accountable is a challenge to their rights as sovereign states.

¹⁴³ See, e.g., Mohan Munasinghe, *Is Environmental Degradation an Inevitable Consequence of Economic Growth: Tunneling Through the Environmental Kuznets Curve*, 29 *ECOLOGICAL ECON.* 89, 89 (1999) (noting that economic reforms that contribute to economic gains often result in adverse side effects).

¹⁴⁴ See *supra* notes 79–98 and accompanying text.

¹⁴⁵ See *supra* notes 68–72 and accompanying text (explaining that the G20 has no formal legal character).

¹⁴⁶ See *supra* notes 68–72 and accompanying text.

The second principle is nondiscrimination. As discussed above, this principle requires that all similarly situated subjects of international law be treated similarly and that all differently situated subjects receive differential treatment.¹⁴⁷ Prima facie, the Summit documents do not discriminate between states and do not provide any more favorable treatment to any particular state or group of states. The documents, however, implicitly recognize that all states are not similarly situated.¹⁴⁸ This is evident, for example, in the references to “inclusive” growth, which implicitly acknowledges that current growth strategies have differential impacts on both state and non-state stakeholders in global economic governance.¹⁴⁹ Although the documents, in effect, suggest that states address these differential impacts, they do not require participating states to do anything to ensure that growth is “inclusive.”¹⁵⁰

This is particularly concerning in regard to non-participating states and their citizens. The G20 has attempted to open channels of communication with these non-participating states by inviting representatives of key regional organizations to participate in its meetings. In addition, at least in principle, another channel for communication available to these states is through the international organizations like the IMF and the World Bank, which should represent the interests of all their member states in their interactions with the G20. There is no evidence, however, that the G20 requires these organizations to consult with the non-participating states or asks them about the views of these non-participating states.

The third principle relates to the treatment of non-state actors in global economic governance.¹⁵¹ As indicated above, this means that the G20, in its decisions and actions, should respect such principles as national treatment in regard to legal persons, and human rights in regard to natural persons.¹⁵² There is clearly nothing explicit indicating that the G20 has acted or would condone actions that are inconsistent with the human rights of natural persons. There is also no indication that the G20 participating states and institutions have done any impact assessment to ensure that the policies and practices that they advocate in the G20 documents will not have adverse human rights impacts. Simi-

¹⁴⁷ See *supra* notes 87–88 and accompanying text.

¹⁴⁸ See, e.g., *Leaders Declaration*, *supra* note 107, ¶¶ 61–76 (discussing inclusive growth).

¹⁴⁹ See *id.*

¹⁵⁰ See *id.*

¹⁵¹ See *supra* notes 91–94 and accompanying text (discussing the treatment of natural persons).

¹⁵² See *supra* notes 91–94 and accompanying text.

larly, although the G20 does consult with business groups¹⁵³ and the international standard-setting bodies do consult with financial institutions, the Summit documents do not indicate that the G20 paid systematic attention to the impacts of their policies and practices on all affected legal persons in their participating states and elsewhere.¹⁵⁴

The above suggests that the G20 is only partially adhering to international legal principles. Although it is formally complying with each of the applicable international legal principles, it has not made substantial efforts to address the fact that its policies and actions have differential and potentially adverse implications for non-participating state and non-state stakeholders. As a result, there is a substantial risk that the implementation of the G20's policies and practices may not entirely comply with these principles.

3. Good Administrative Practice

This test seeks to evaluate how well the G20 complies with the principles of transparency, participation, predictability, reasoned and timely decision making, and accountability. At the Summit, the G20 did comply with the principle of transparency: it released information about the schedule of its meetings, and communiqués and other documents have been made public.¹⁵⁵

The G20, however, only partially complied with the principle of participation. The Mexican chair made arrangements for some participation by some non-G20 states.¹⁵⁶ In addition, Mexico organized meetings with business leaders, labor leaders, think tanks and researchers, youth, and civil society from G20 countries prior to the Los Cabos Summit.¹⁵⁷ The invitees to these meetings, however, attended in their personal capacities and without any mandate from broader groupings

¹⁵³ The "Business-20" Summit ("B20") is aimed at fostering dialogue between governments and the global business community). See *What Is the B20?*, B2012 MEX., <http://www.b20.org/whatis.aspx> (last visited Apr. 18, 2013).

¹⁵⁴ See *generally Leaders Declaration*, *supra* note 107 (providing one example of a Summit document).

¹⁵⁵ See *2012 Los Cabos Summit*, U. TORONTO, G20 INFO. CENTRE (June 18–19, 2012), <http://www.g20.utoronto.ca/summits/2012loscabos.html> (collecting the Los Cabos Summit documents).

¹⁵⁶ See *Invited Countries and International Organizations*, G2012 MEX., <http://www.g20mexico.org/index.php/en/invited-countries-and-international-organizations> (last visited Apr. 18, 2013) (noting that Spain, Benin, Cambodia, Chile, Columbia, Ethiopia, and several international organizations were invited to the 2012 Los Cabos Summit).

¹⁵⁷ See *Broader Discussion*, G2012 MEX., <http://g20mexico.org/index.php/en/dialogue-with-other-actors-and-side-events> (last visited Apr. 18, 2013) (explaining that the Mexican presidency appointed a special representative to increase outreach to such groups).

in their own countries or regions.¹⁵⁸ In addition, because these meetings were arranged at the discretion of the Mexican G20 chair, it is not certain that future G20 chairs will continue these initiatives. Moreover, there is no formal process through which interested stakeholders, who were not invited to these meetings, can submit information either to these informal meetings or to the formal G20 meetings.

In addition, there is no requirement that the G20 chair or other participants in G20 meetings report back to interested parties on the content of these meetings.¹⁵⁹ The latter are reduced to learning about the work of the G20 and the content of these meetings from the publicly available G20 documents.

It should be noted that the consultations arranged by the G20 chair may be supplemented by initiatives of individual G20 countries. For example, South Africa regularly consults with other African countries through the Committee of Ten (“C10”), a grouping of ten African ministers of finance and central bank governors, about items on the G20 agenda of interest to African countries.¹⁶⁰

The requirement of predictability in G20 procedures is difficult to evaluate, given that the G20, in part, is a crisis manager that must respond to events as they arise. In its communiqués and documents, however, the Summit closely followed the language of previous summits and indicated what its work plan for the next year would be. In this limited sense, therefore, it is a reasonably predictable entity.

The Summit communiqués and documents meet the test of reasoned decision making. The communiqués provide some explanation for the commitments that the countries made at the Summit, and they are supported by the reports and other documents released at the Summit that provide more detailed explanations for the decisions conveyed in the Summit communiqués.¹⁶¹ The process through which issues are selected for consideration in the G20 process and for inclusion in the communiqués, however, is less well explained.

The G20 pays limited attention to the principle of accountability. It has established the MAP, a peer review process through which individ-

¹⁵⁸ See *id.*

¹⁵⁹ See *supra* notes 25–58 and accompanying text (describing the format and legal status of the G20).

¹⁶⁰ *Committee of 10 (C10) Finance Ministers and Central Bank Governors*, NAT'L TREASURY, REPUBLIC OF S. AFR., <http://www.treasury.gov.za/c10/c10.aspx> (last visited Apr. 18, 2013) (noting that South Africa's finance minister is a member of the Committee of Ten (“C10”).)

¹⁶¹ See, e.g., *The Los Cabos Growth and Jobs Action Plan*, *supra* note 113, at 6 (noting that the Mexican Presidency's website provides details on country-specific reform commitments discussed in the document).

ual G20 states report to the IMF, the MAP implementing agency, and through it to the other G20 states about their fulfillment of the commitments they made in G20 documents.¹⁶² Non-G20 states, however, have no formal channel through which they can hold the G20 participants, either individually or collectively, accountable for the direct adverse effects of the G20's commitments and decisions that they experience.¹⁶³ Similarly, there are no channels through which non-state actors can hold the G20 accountable.¹⁶⁴

The lack of an accountability mechanism and the limited participation in the G20 process can create problems. For example, the G20 did not consult fully with all affected states and regulatory authorities before endorsing the new capital adequacy standards adopted by the Basel Committee on Banking Supervision.¹⁶⁵ As a result, it failed to fully appreciate the impact of the new capital adequacy standards on developing countries. When it became clear that the new standards would have a significant adverse impact, the G20 was forced to request a new study of this matter.¹⁶⁶

Based on the above, the G20 meets the requirements of transparency, predictability, and reasoned decision making. On the other hand, it only partially complies with the principle of participation, and it fails to comply with the principle of accountability.

4. Comprehensive Coverage

The G20's participants intend it to be the premier global economic governance body. Consequently, it is reasonable to expect it, either directly or indirectly, to address all issues of interest to all state and non-state stakeholders in global economic governance. Although the Summit agenda was not comprehensive, it attempted to address all global economic issues of interest to its participants. The agenda included such diverse issues as financial regulation, monetary and macroeconomic policies, financial inclusion, trade relations, employment,

¹⁶² See *supra* notes 50–51 and accompanying text (describing the Mutual Assessment Process (“MAP”).

¹⁶³ The G20 leaders have asked the G20 Development Working Group to study options for creating some form of accountability mechanism and to report back to them at their next summit. See *Leaders Declaration, supra* note 107, ¶ 64.

¹⁶⁴ See *id.*

¹⁶⁵ See BASEL COMM. ON BANKING SUPERVISION, BANK FOR INT’L SETTLEMENTS, BASEL III: A GLOBAL REGULATORY FRAMEWORK FOR MORE RESILIENT BANKS AND BANKING SYSTEMS 52 (2011), available at <http://www.bis.org/publ/bcbs189.pdf>.

¹⁶⁶ See *Leaders Declaration, supra* note 107, ¶¶ 39–43 (welcoming proposals and reports from the Basel Committee on Banking Supervision).

green growth, energy, and food security.¹⁶⁷ The way in which it addressed these issues does not necessarily incorporate the concerns and interests of all stakeholders in the global economy. Thus, for example, the G20 may pay more attention to price volatility as a food security issue, rather than to the concerns of small-scale farmers, who lack access to markets and are concerned about land tenure issues.

In 2012, the G20 attempted to expand the range of stakeholder views and interests that it considered. Mexico, the G20 chair, invited business, labor, youth, civil society, and think tanks from G20 countries to meet and present their views.¹⁶⁸ It did not, however, create mechanisms for consulting with comparable groups of stakeholders from non-G20 countries. It also did not formally incorporate all the non-participating regional organizations¹⁶⁹ that are stakeholders in its decisions and actions. The lack of mechanisms for consulting with all these stakeholders creates a risk that the G20 is not addressing the concerns of these stakeholders.

The above indicates that the G20 is in partial compliance with the principle of comprehensive coverage. It is clear that the G20 considers a broad range of issues and seeks to consult widely within the G20 countries and with other relevant international actors. Because it does not consult systematically with state and non-state actors outside the G20, however, it cannot be confident that it fully understands and adequately addresses their interests and concerns.

5. Coordinated Specialization

The logic of this test is to ensure, at a minimum, consistency between the decisions and actions of the G20 and those of all other global and regional actors involved with issues of relevance to global economic governance. The G20 attempts to meet this test at the global level by incorporating a number of international organizations into its deliberations and activities.¹⁷⁰ In fact, the G20 delegates some of its work to

¹⁶⁷ See *Mexican Presidency of the G20*, G2012 MEX., <http://g20mexico.org/index.php/en/mexican-presidency-of-the-g20> (last visited Apr. 18, 2013) (discussing the priorities for the Summit).

¹⁶⁸ See *Mexico G20 Presidency: Outreach Activities Held in Advance of the Los Cabos Summit*, *supra* note 48.

¹⁶⁹ For example, the G20 does not include subregional economic organizations like the Economic Community of West African States (“ECOWAS”), the South African Development Community (“SADC”), or the Common Market of the South (“MERCOSUR”).

¹⁷⁰ See *Frequently Asked Questions*, Russ. G20, <http://www.g20.org/docs/links/faq.html> (last visited Apr. 8, 2013) (explaining that the G20 also works closely with other international organizations, including the IMF, the World Bank, the Financial Stability Board (“FSB”), the

these international organizations.¹⁷¹ Unlike the G20, they have the capacity to undertake studies, monitor activities, and negotiate with non-G20 states about the implementation of the decisions of the G20.¹⁷²

The G20 has made less comprehensive efforts at the regional level, however. Although it does include some regional organizations in its activities, the G20 does not have mechanisms for consulting with or delegating decisions to a range of important regional and subregional organizations.¹⁷³ This makes it difficult for the G20 to comply with the principle of subsidiarity, which requires that governance decisions are made at the appropriate level within the global economic governance system.

The conclusion that follows from this situation is that the G20, at best, can only partially comply with this test. It will not fully comply with the test of coordinated specialization until it develops mechanisms and procedures for consulting with, and where appropriate, delegating responsibilities to regional and subregional organizations.

6. Framework Results

To summarize, the G20 does not completely satisfy any part of the proposed five-part test for global economic governance actors proposed in this Article. First, it only articulates its strategic vision in general terms that are difficult to operationalize. Second, it does not entirely comply with all applicable international legal principles, such as the principle of nondiscrimination and its application to natural and legal persons. Third, the G20 does not completely apply the principles of good administrative practice. In this regard, it conforms to the principles of transparency, predictability, and reasoned decision making, but only partially satisfies the principle of participation, and does not comply with the principle of accountability. Fourth, the G20 does not meet the requirements of the test of comprehensive coverage because many stakeholders are excluded from its activities. Fifth, the G20 does not fully pass the test of coordinated specialization. One reason for this

Organization for Economic Cooperation and Development (“OECD”), the World Trade Organization (“WTO”), the United Nations (“UN”), and the International Labor Organization).

¹⁷¹ See, e.g., *Leaders Declaration*, *supra* note 107, at 6–8 (requesting progress reports from the World Bank, IMF, OECD, and the Bank of International Settlements (“BIS”).

¹⁷² See *id.*

¹⁷³ See *supra* notes 25–58 and accompanying text (discussing the formal and legal character of the G20).

is that it fails to coordinate its activities with relevant regional and sub-regional organizations.

CONCLUSION

This Article has argued that we must establish a basis for critically assessing the performance of the key actors in global economic governance. It proposes a five-part assessment framework for determining the effectiveness and responsiveness of global economic governance, and applies it to the outputs of the 2012 G20 Summit at Los Cabos, Mexico.

This Article concludes that the G20 is unable to fully comply with any part of the assessment framework. This suggests that the G20 is unlikely to meet the needs of all stakeholders in global economic governance. Given that this is the first application of the assessment framework and that it is only applied to the outputs of one G20 Summit, however, the conclusion is necessarily preliminary. One way to further test the conclusion would be to evaluate how effectively the G20, in all its Summit outputs, incorporates and responds to the concerns of particular groups of stakeholders in global economic governance.¹⁷⁴ Another would be to apply the framework to the outputs and activities of other global economic governance actors and decisionmakers.

¹⁷⁴ The author has attempted to do this in his forthcoming paper. *See generally* Daniel D. Bradlow, *The G20 and Africa: A Critical Assessment*, GLOBAL ECON. GOVERNANCE AFRICA (forthcoming as South African Institute for International Affairs Occasional Paper) (on file with author).

