

Working Paper 22-081

Capitalism and Global Governance in Business History: A Roundtable Discussion

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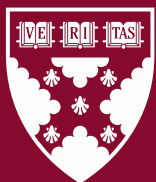
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Capitalism and Global Governance in Business History: A Roundtable Discussion

HBS Working Paper

Sabine Pitteloud and Grace Ballor
 Patricia Clavin, Nicolás Perrone, Neil Rollings, Quinn Slobodian

The many crises of the twenty-first century – and the wide-ranging institutional responses to them – have given rise to increasing demands for critical analyses of the economic and social system of capitalism and the structures of global governance.¹ As the turmoil of the twentieth century drove the development of institutional mechanisms beyond nation states to manage peace after world wars, address the fallout of financial and economic crises, reorganize political and trade relations after the end of empire, mitigate inequality, and respond to environmental degradation, capitalism and governance became inextricably linked. In the creation of international organizations, capitalism found reinforcement as much as regulation. As a result, these two predominant forces in today's world, along with their agents, relate through both concert and conflict. Recent crises have raised questions about the future of both capitalism and governance on a global scale, however, especially as one crisis begets yet another and the hyper-globalization and global interconnectedness of recent decades gives way to de-globalization and resurgent nationalism.²

This roundtable brings together a diverse group of scholars to discuss the historiography of capitalism and global governance and lay the foundations for further research on their historical connectedness. As separate topics of study, capitalism and global governance have each attracted considerable attention, but historical research connecting the two has only recently gained momentum. Scholars working in this area have revisited international organizations through the lens of capitalism,³ analyzed the institutional development of global economic governance,⁴ and critically examined the ability of global regulations to stand up to multinational corporations.⁵ This discussion aims to advance such

¹ In the first issue of the *Global Governance* journal published in 1995, Lawrence Finkelstein explained that the concept of governance allows us “to penetrate and understand the government-like events that occur in the world of states even in the absence of government.” Governance is particularly helpful in grasping the functioning of international systems, which, he argued, “notoriously lack hierarchy and government.” While the concept of global governance has been criticized for its fuzziness and its ambiguity, such characteristics are also precisely at the core of what makes governance so useful, allowing to include a variety of power relations and actors in the narrative, including non-state actors such as businesspeople. See: Lawrence S. Finkelstein, “What Is Global Governance?,” *Global Governance* 1, no. 1 (1995): 367-8.

² For a discussion of the latest wave of deglobalization, see: Geoffrey Jones and Valeria Giacomini, “Deglobalization and Alternative Futures,” Harvard Business School Technical Note 322-088, January 2022, (Revised March 2022). For perspectives on nationalism in the past and present, see: Cemil Aydin, Grace Ballor, Sebastian Conrad, Frederick Cooper, Nicole CuUnjieng Aboitiz, Richard Drayton, Michael Goebel, Pieter M. Judson, Sandrine Kott, Nicola Miller, Aviel Roshwald, Glenda Sluga, Lydia Walker, “Rethinking Nationalism,” *The American Historical Review* 127, no. 1, (2022): 311–371.

³ The International Chamber of Commerce (ICC) and Organization for Economic Cooperation and Development (OECD) are two such organizations. Pierre Eichenberger and Thomas David have written extensively on the ICC, and Matthias Schmelzer has historicized the capitalist dynamics at the OECD. For an interpretation of European cooperation through the lens of capitalism, see: Aurelie Andry, Emmanuel Murlon-Druol, Haakon A. Ikononou, and Quentin Jouan, “Rethinking European Integration in Light of Capitalism: The Case of the Long 1970s,” *European Review of History: Revue Européenne d'histoire* 26, no. 4 (2019): 553–72.

⁴ See, for example: Jamie Martin, *The Meddlers: Sovereignty, Empire, and the Birth of Global Economic Governance* (Cambridge, Mass., 2022).

⁵ Geoffrey Jones and Mona Rahmani, “In Search of Global Regulation,” Harvard Business School Case No. 9-822-122 (2022).

scholarship by examining the complex relationship of capitalism and governance in three dimensions: historically, globally, and granularly. Taking a historical approach is well suited for studying the entanglements of capitalism and governance beyond nation states, since, given its inherent instability, capitalism's reproduction has required it to be embedded within a variety of forms and levels of governance over time.⁶ Thinking globally allows for analysis on the scale of even the largest corporations and most universal institutions.⁷ And a focus on businesses as actors within the structures of capitalism and global governance opens the so-called "black boxes" of firms, their behaviors in different business environments, and the ways they relate to the international regulators, policymakers, institutions, and organizations that form the "world order."⁸

In fact, business history offers a particularly rich set of approaches for studying the relationship between capitalism and global governance. Histories of capitalism, which gained traction during the labor movements of the 1960s and crises of the 1970s before being eclipsed by the growth paradigm of the late twentieth century, were reinvigorated in the wake of the 2008 Global Financial Crisis. Since then, "new histories of capitalism" have provided valuable critical analysis of the economic and social system, its diverse origins and central features,⁹ its embeddedness within culture, law, politics, and social relations, and its negative contributions to inequality and environmental degradation.¹⁰ Although historians of capitalism seldom study individual businesses, firms have, as Walter Friedman argues, played a significant role in the history they describe, thus demanding business historical analysis.¹¹ Likewise, international and institutional histories have examined the emergence of transnational governance and the creation of supranational organizations.¹² But, as recent scholarship has shown, firms and business associations have equally contributed to the making of international order by motivating collective regulation and shaping international institutions. Moreover, an international "revolving door" has enabled business elites to become global governance elites, calling for business historical studies of the entanglement of capitalism and global governance.¹³

⁶ Fernand Braudel, *Civilisation Matérielle, Économie, et Capitalisme, Tome 2* (New York, 1982): 443; Karl Polanyi. *The Great Transformation* (New York, 1944).

⁷ Global historians have engaged in a lively debate about the merits of thinking globally. See: Richard Drayton and David Motadel, "Discussion: The Futures of Global History," *Journal of Global History* 13, no. 1 (2018): 1-21.

⁸ Walter Friedman, "Recent Trends in Business History Research: Capitalism, Democracy, and Innovation," *Enterprise & Society* 18, no. 4 (2017): 753.

⁹ Recent scholarship has traced the widespread origins of capitalism from thirteenth-century Italy and early modern Asia to the transition from feudalism to industry in Britain, the transatlantic slave trade to FoxConn and Silicon Valley. See: Francesca Trivellato, *The Promise and Peril of Credit: What a Forgotten Legend about Jews and Finance Tells Us about the Makings of European Commercial Society* (Princeton, 2019); Sophus Reinert and Robert Fredona, "Merchants and the Origins of Capitalism," in Teresa da Silva Lopes, Christina Lubinski, and Heidi Tworek, eds., *The Routledge Companion to the Makers of Global Business* (London, 2018); Giorgio Riello, ERC Project CAPASIA: The Asian Origins of Global Capitalism: The European Factories of the Indian Ocean, 1500-1800; Caitlin Rosenthal, *Accounting for Slavery: Masters and Management* (Cambridge, Mass., 2018); Margaret Pearson, Meg Rithmire, and Kellee Tsai, "Party-State Capitalism in China," *Current History* 120, no 827 (2021): 207-213.

¹⁰ Wolfgang Streeck, "How to Study Contemporary Capitalism?," *European Journal of Sociology / Archives Européennes de Sociologie* 53, no. 1 (2012): 3; Sven Beckert and Christine Desan founded a center for this field of study at Harvard University and have published key texts in this burgeoning field, including, *American Capitalism: New Histories* (New York, 2019). For a critical survey of the history of capitalism approach, see: Eric Hilt, "Economic History, Historical Analysis, and the 'New History of Capitalism,'" *The Journal of Economic History* 77, no. 2 (2017): 511-536.

¹¹ Friedman, "Recent Trends in Business History Research," 753.

¹² Glenda Sluga and Patricia Clavin, eds. *Internationalisms: A Twentieth Century History* (Cambridge, 2017).

¹³ Sandrine Kott, *Organiser le monde: Une autre histoire de la guerre froide* (Paris, 2021); Wolfram Kaiser and Jan-Henrik Meyer, eds., *Societal Actors in European Integration: Polity-Building and Policy-Making 1958-1992* (Basingstoke, 2013).

While business historians have traditionally focused on corporate strategies and organizational forms and have only rarely studied the role of business in the capitalist system and the development of global governance frameworks, recent appeals have called for scholars in the field to investigate “business power,” especially in the international arena.¹⁴ To the existing literature on business-government relations at the national level, business historians have contributed scholarship on firms and their interactions with institutions of transnational governance and supranational organizations such as the European Economic Community (EEC) and European Union (EU).¹⁵ Moreover, scholarship on international cartels,¹⁶ philanthropic organizations¹⁷ and international business interest organizations¹⁸ have also illustrated the importance of private forms of global governance across time and space. Even Alfred Chandler, whose seminal contributions to business history focused on managers and corporate structures, underlined the need to study how multinationals as “Leviathans” exert material influence on the global economy and raise global governance issues.¹⁹ Because of their attention to capital and profit, organization and structure,²⁰ business and economic historians are uniquely positioned to examine how global governance frameworks shaped and were, in turn, shaped by uses of capital and profit-making strategies. Recent developments in the field demonstrate momentum for business historians to engage further with the topic of global governance and to enrich their work through collaborations with scholars in other relevant fields. Such “post-disciplinary” scholarship promises not to reinforce boundaries between fields, “but rather to question those boundaries and through this questioning, encourage innovation and creativity.”²¹

To promote further research by business historians on capitalism and global governance, we begin with a historiographical survey of the ways capitalism and its actors – including entrepreneurs and managers, firms and business associations – have interacted with international organizations and global governance frameworks. This literature review lays the foundation for contributions from four leading scholars and their perspectives on the past, present, and future of research in this area. Patricia Clavin discusses capitalism and governance through the dynamics of international relations, while

¹⁴ Neil Rollings, “‘The Vast and Unsolved Enigma of Power:’ Business History and Business Power,” *Enterprise & Society* 22, no. 4 (2021): 893–920.

¹⁵ Niall G. MacKenzie, Andrew Perchard, Christopher Miller, and Neil Forbes, “Business-Government Relations and National Economic Models: A Review and Future Research Directions in Varieties of Capitalism and Beyond,” *Business History* 63, no. 8 (2021): 1239–52; Neil Rollings, *British Business in the Formative Years of European Integration, 1945-1973* (New York, 2008); Grace Ballor, “Agents of Integration: Multinational Firms and the European Union,” *Enterprise & Society* 21, no. 4 (2020): 886–92.

¹⁶ Marco Bertilorenzi, “The International Aluminum Industry during the 1930s: Between International Cartel Governance and National Strategic Policies,” *Entreprises et histoire* 76, no. 3 (2014): 20–40; Martin Shanahan and Susanna Fellman, eds. *A History of Business Cartels: International Politics, National Policies and Anti-Competitive Behaviour* (New York, 2022).

¹⁷ For a survey see: Mairi Maclean, Charles Harvey, Ruomei Yang, and Frank Mueller, “Elite Philanthropy in the United States and United Kingdom in the New Age of Inequalities,” *International Journal of Management Reviews* 23, no. 3 (2021): 330–52; Eleanor Shaw, Jillian Gordon, Charles Harvey, and Mairi Maclean, “Exploring Contemporary Entrepreneurial Philanthropy,” *International Small Business Journal* 31, no. 5 (2013): 580–99.

¹⁸ Neil Rollings and Matthias Kipping, “Private Transnational Governance in the Heyday of the Nation-State: The Council of European Industrial Federations (CEIF),” *The Economic History Review* 61, no. 2 (2008): 409–31; Neil Rollings, “The Development of Transnational Business Associations during the Twentieth Century,” *Business History* (2021): 1–25; Thomas David and Pierre Eichenberger, “‘A World Parliament of Business?’ The International Chamber of Commerce and Its Presidents in the Twentieth Century,” *Business History* (2022): 1–24.

¹⁹ Alfred D. Chandler and Bruce Mazlish, eds., *Leviathans: Multinational Corporations and the New Global History* (Cambridge 2005).

²⁰ Mary O’Sullivan, “The Intelligent Woman’s Guide to Capitalism,” *Enterprise & Society* 19, no. 4 (2018): 751–802; Jonathan Levy, “Capital as Process and the History of Capitalism,” *Business History Review* 91, no. 3 (2017): 483–510.

²¹ Marc Flandreau, “Border Crossing,” *Capitalism: A Journal of History and Economics* 1, no. 1 (2019): 1–9.

Nicolás Perrone brings a lawyer's perspective to the public-private creation of international rules; Neil Rollings thinks about firms, governments, and global governance through both continuities and change, and Quinn Slobodian applies the analytical framework of international political economy to the evolving relationships between states and markets on a global scale. Our collective examination of business and international order aims to offer critical scholarly insight on the twentieth and twenty-first centuries and outline future research agendas for what promises to be an increasingly rich field of study.

Business History Approaches to Capitalism and Global Governance

Grace Ballor and Sabine Pitteloud

Relationships between businesses and global governance frameworks have taken a variety of forms, depending on the historical context of their interactions, the types of firms and institutions involved, and the domains in which their interests converged. The following literature review explores those relations and highlights the value of existing and potential contributions from business historians.

Governing Global Infrastructures

Several nineteenth century international organizations provided critical basic infrastructures that facilitated the global expansion of firms, such as the International Telegraph Union (1865), often remembered as the first standards international organization, the General Postal Union established (1874), and the International Bureau of Weights and Measures (1875). Historians have illustrated the triple feedback loops between the commercialization of technological innovations, the global governance systems that enabled new technologies to spread widely, and the subsequent development of related businesses to bring goods with those technologies to market.²² For instance, Heidi Tworek showed that once global communications systems were established, thanks to submarine telegraphy and international conventions, news agencies could play a central role in disseminating news to newspapers, positioning them equally as profit-seeking businesses and strategic resources for governments in the battle of ideas.²³ As this example suggests, technological and governance spillover effects are important objects of investigation since they did not only produce globalization, but were – and still are – at the roots of counter-movements against globalization.

Integrating Markets

In the wake of nineteenth century conventions to establish global infrastructures and in the context of the wars and market disruptions of the early twentieth century, several international organizations were created with the primary purpose of facilitating financial flows, supporting international trade, and stabilizing societies on capitalist premises.²⁴ This is especially true for the Organization for European Economic Co-operation (OEEC), the Organization for Economic Co-operation and Development (OECD), the United Nations' Economic Commissions, the General Agreement on Tariffs and Trade (GATT), The World Trade Organization (WTO), the Bank of International

²² Brad DeLong's latest book historicizes the tandem evolutions of innovation and globalization, both driven by corporations. See: J. Bradford DeLong, *Slouching Towards Utopia: An Economic History of the Twentieth Century* (New York, 2022).

²³ Heidi Tworek, "Magic Connections: German News Agencies and Global News Networks, 1905–1945," *Enterprise & Society* 15, no. 4 (2014): 673–674; Heidi Tworek, *News from Germany: The Competition to Control World Communications, 1900–1945* (Cambridge, Mass., 2019).

²⁴ Andry et al. "Rethinking European Integration," 557.

Settlements (BIS), the International Monetary Fund (IMF), and the World Bank. Out of the same postwar environment in which these global organizations were developed came a dizzying number of regional European organizations,²⁵ including the European Coal and Steel Community (ECSC) and European Economic Community (EEC), designed to ensure peace and stability on the continent through economic means.²⁶ Whether universal or supranational, such organizations critically shaped the environment in which businesses operate.²⁷ In some cases, they also offered expanded forums for business influence.

In theory, market integration should enable businesses to reorganize and rationalize their production. But a business history perspective offers the potential to discuss such assumptions in concrete terms and to consider the importance of non-market elements. The example of Unilever in the mid-twentieth century shows how organizational path-dependency prevailed when cultural differences and labor relations perpetuated fragmentation along national lines. Because Unilever's directory was concerned with the autonomy of its subsidiaries, adapting its products to local tastes, and preserving jobs, the company was slow to take advantage of European market integration.²⁸ This example underscores the need to examine business responses to international efforts to integrate markets and financial systems both as a question of economic efficiency, and also in the context of broader capitalist dynamics such as uneven economic development, consumption patterns, and competition between different national labor markets and welfare systems.

Markets have long been integrated through the creation of intersecting bilateral, regional, and global institutions. Importantly, regional market integration can erect barriers for extra-regional business as much as it can remove barriers for those inside. Moreover, market integration is rarely limited to the removal of custom duties; it often extends to the regulation of non-tariff barriers and the harmonization of economic, environmental, and social standards. Business historians have investigated the impact of such market integration initiatives on firms, as well as the ways firms have shaped the creation of international rules and norms. In the case of the EC and EU, vehicle standards were equally conceived as a way to foster innovation in Europe and as a protectionist device, granting time to European manufacturers to cope with Japanese competition.²⁹ Recognizing the ambivalence of business perspectives on regional market harmonization can put business historians in fruitful conversation with scholarship on alternative visions for the EEC, which was as Warlouzet noted, a

²⁵ Kiran Klaus Patel, *Project Europe: A History* (Cambridge, 2020).

²⁶ Quinn Slobodian has drawn attention to the tensions between those who supported global market integration and the architects of regional European economic cooperation. See: Quinn Slobodian, *Globalists: The End of Empire and the Birth of Neoliberalism* (Cambridge, Mass., 2018): Chapter 6. It is important to note that European cooperation deepened and took on new political and social dimensions over time. Its most prominent organizations (like the European Union) remained distinctly regional, differentiating “transnational” governance from “global” governance, even if the world often adopts European norms. For more on this, see: Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (Oxford, 2020).

²⁷ On the varieties of impacts, see for instance: Jonathan Zeitlin, ed. *Extending Experimentalist Governance? The European Union and Transnational Regulation* (Oxford, 2017).

²⁸ Geoffrey Jones and Peter Miskell, “European Integration and Corporate Restructuring: The Strategy of Unilever 1957-1990,” *The Economic History Review* 58, no. 1 (2005): 113-139.

²⁹ Grace Ballor, “Trade and the Single Car Market: The EC-Japan Elements of Consensus, 1985–1999,” *Harvard Business School Working Paper* 21 no.145 (2021): 1–27; Samuel Klebaner and Sigfrido Ramirez Pérez, “Managing Technical Changes from the Scales of Legal Regulation: German Clean Cars against the European Pollutant Emissions Regulations in the 1980s,” *Management & Organizational History* 14, (2019): 1–27; Samuel Klebaner, *Normes environnementales européennes et stratégies des constructeurs automobiles : Un jeu coopératif aux résultats ambigus* (Paris: 2020).

contested terrain between social, neo-mercantilist, and neoliberal views.³⁰ Finally, as Grace Ballor and Alexis Drach have each documented in the case of European integration, when global governance proved challenging to implement or did not unfold in the ways firms had hoped it would, businesses could act as “agents of integration” and develop “alternative forms of integration,” and in doing so, shape capitalist dynamics for years to come.³¹

Promoting Trade and Foreign Direct Investments

In addition to global governance organizations aimed at fostering financial and trade integration, certain international schemes facilitated the expansion of business, such as the development of global standards,³² international intellectual property rights regimes,³³ export guarantees and trade finance instruments,³⁴ bilateral and multilateral investment protection treaties,³⁵ and double taxation agreements.³⁶ Understanding how firms promoted and used these agreements is crucial, since such arrangements, along with the manipulation of transfer prices, have enabled tax avoidance by multinationals. Double taxation agreements indeed allowed firms to repatriate foreign profits to tax havens (either by exacting a modest first tariff, or without being taxed at all),³⁷ giving rise to what financial historian Christophe Farquet calls an international system of non-taxation.³⁸ In a similar vein, aid and technical assistance programs developed by former colonial powers nationally and at the European level, were also aimed at helping Western firms resume and increase their business in the

³⁰ Laurent Warloutzet, *Governing Europe in a Globalizing World: Neoliberalism and Its Alternatives Following the 1973 Oil Crisis* (London, 2018); Laurent Warloutzet, “The European Commission Facing Crisis: Social, Neo-Mercantilist and Market-Oriented Approaches, 1967-1985,” *European Review of History* 26, no.4 (2019): 703–22. For competing visions and conflicts on European integration, see also: Michel Dumoulin, René Giraud et Gilbert Trausch (éd.), *L'Europe du patronat : de la guerre froide aux années soixante* (Berne, 1993); Benjamin Bürbaumer, “TNC Competitiveness in the Formation of the Single Market: The Role of European Business Revisited,” *New Political Economy* 26, no.4 (2020): 1–15.

³¹ Ballor, “Agents of Integration;” Alexis Drach, “An Early Form of European Champions? Banking Clubs between European Integration and Global Banking (1960s–1990s),” *Business History* (2022): 1–24.

³² JoAnne Yates and Craig N. Murphy, “Introduction: Standards and the Global Economy,” *Business History Review* 96, no. 1 (2022): 3–15.

³³ Susan K. Sell, *Private Power, Public Law: The Globalization of Intellectual Property Rights* (Cambridge 2003); Bernardita Escobar-Andrae, “North-South Agreements on Trade and Intellectual Property beyond TRIPS: An Analysis of US Bilateral Agreements in Comparative Perspective,” *JIPR* 16, no. 6 (2011): 477-499.

³⁴ Jamieson Myles, *Steering the Wheels of Commerce: State and Enterprise in International Trade Finance, 1914-1929* (Geneva, 2021).

³⁵ Nicolás Perrone, *Investment Treaties and the Legal Imagination: How Foreign Investors Play by Their Own Rules* (Oxford, 2021); Kathryn Greenman, *State Responsibility and Rebels: The History and Legacy of Protecting Investment Against Revolution* (Cambridge, 2021).

³⁶ Christophe Farquet, “Tax Avoidance, Collective Resistance, and International Negotiations: Foreign Tax Refusal by Swiss Banks and Industries Between the Two World Wars,” *Journal of Policy History* 25, no. 3 (July 2013): 334–53; Sabine Pitteloud, *Les Multinationales Suisses dans l'arène politique* (Genève, 2022): 213-246; Gisela Hürlimann, “Switzerland as a Laboratory for Fiscal Federalism and Global Fiscal Governance,” *Economic Sociology: European Electronic Newsletter* 21, no. 2 (2020): 15–25.

³⁷ On the creation and use of tax havens, see: Sébastien Guex, “The Origins of the Swiss Banking Secrecy Law and Its Repercussions for Swiss Federal Policy,” *Business History Review* 74, no. 2 (2000): 237–266; Sébastien Guex, “The Emergence of the Swiss Tax Haven, 1816–1914,” *Business History Review* (2021): 1–20; Vanessa Ogle, “Archipelago Capitalism: Tax Havens, Offshore Money, and the State, 1950s–1970s,” *The American Historical Review* 122, no. 5 (2017): 1431–1458; Gabriel Zucman, *The Hidden Wealth of Nations: The Scourge of Tax Havens* (Chicago, 2015); Gisela Huerlimann, W. Elliot Brownlee, and Eisaku Ide, *Worlds of Taxation: The Political Economy of Taxing, Spending, and Redistribution Since 1945* (Cham: 2018). On global banking governance, see: Alexis Drach, *Liberté surveillée: Supervision bancaire et globalisation financière au Comité de Bâle, 1974-1988* (Rennes, 2022).

³⁸ Farquet, “Tax Avoidance.”; Christophe Farquet, « Lutte contre l'évasion fiscale : l'échec de la SDN durant l'entre-deux-guerres », *L'Économie politique*, no. 44 (2009): 93–112.

context of decolonization, as shown by Véronique Dimier and Sarah Stockwell.³⁹ Moreover, foreign direct investments carried out under the cover of assistance purposes often benefited from state-sponsored and multilateral investment insurances, as well as investment protection treaties.⁴⁰

Such scholarship by historians, coupled with the work of international law scholars like Nicolás Perrone, highlights the importance of investigating how such investment protection schemes enabled multinationals to monopolize natural resources, labor, and assets in former colonies by protecting foreign investors against sovereign decisions that could jeopardize their economic interests, such as nationalization or capital controls.⁴¹ Further work could build on existing business historical scholarship on the impact of foreign direct investments, technology transfers (or lack thereof), and multinational ownership on the developing countries that so often host them. Scholars working in this area could therefore engage with historical studies dealing with empires and decolonization,⁴² assessing business impacts not only in terms of economic consequences but also with respect to state sovereignty in the Global South. Indeed, multinationals historically proved to be resilient “preservers of globalization.”⁴³ Business historians have developed strong contributions detailing how firms managed political risks in the context of revolutions and independence movements, navigated rising nationalism,⁴⁴ as well as economic embargoes and sanctions during wars⁴⁵ to maintain and sustain their operations. As Geoffrey Jones pointed out in his keynote at the European Business History Association annual meeting in 2022, business historians could do more to critically assess whether such resilience contributed positively or negatively to host economies and the extent to which the presence of multinationals extended wars and perpetuated authoritarian regimes.

Mitigating Global Externalities

While global governance played a crucial role in providing business with critical infrastructures and regulatory frameworks, firms’ economic activities also resulted in environmental and social

³⁹ Sarah Stockwell, *The Business of Decolonization: British Business Strategies in the Gold Coast* (Oxford, 2000); Véronique Dimier, *The Invention of a European Development Aid Bureaucracy: Recycling Empire* (London, 2014); Véronique Dimier and Sarah Stockwell, *The Business of Development in Post-Colonial Africa* (London, 2021).

⁴⁰ Kevin W. Lu, Gero Verheyen, and Srilal Mohan Perera, *Investing with Confidence: Understanding Political Risk Management in the 21st Century* (Washington, 2009); Piteloud, *Les multinationales*, 92.

⁴¹ Perrone, *Investment Treaties*.

⁴² For recent efforts to study global governance in relation to decolonization, see: Eva-Maria Muschik, “Special Issue Introduction: Towards a Global History of International Organizations and Decolonization,” *Journal of Global History* 17, no. 2 (July 2022): 173–90.

⁴³ Geoffrey Jones, *Entrepreneurship and Multinationals: Global Business and the Making of the Modern World* (Cheltenham, 2013): 6–7.

⁴⁴ Ben Wubs, Neil Forbes, and Takafumi Kurosawa, *Multinational Enterprise, Political Risk and Organisational Change: From Total War to Cold War* (London, 2018); Mark Jakob, Nina Kleinöder, and Christian Kleinschmidt, *Security and Insecurity in Business History: Case Studies in the Perception and Negotiation of Threats* (Baden-Baden, 2021); Mark Casson and Teresa da Silva Lopes, “Foreign Direct Investment in High-Risk Environments: An Historical Perspective,” *Business History* 55, no. 3 (2013): 375–404.

⁴⁵ Christina Lubinski, *Navigating Nationalism in Global Enterprise: A Century of Indo-German Business Relations* (Cambridge, 2022); Pierre-Yves Donzé, “The Advantage of Being Swiss: Nestlé and Political Risk in Asia during the Early Cold War, 1945–1970,” *Business History Review* 94, no. 2 (2020): 373–97; Christina Lubinski, Valeria Giacomini, and Klara Schnitzer, “Internment as a Business Challenge: Political Risk Management and German Multinationals in Colonial India (1914–1947),” *Business History* 63, no. 1 (2021): 1–26; Geoffrey Jones, and Rachael Comunale, “Business, Governments and Political Risk in South Asia and Latin America since 1970,” *Australian Economic History Review* 58, no. 3 (2018): 233–64; Christina Lubinski and R. Daniel Wadhvani, “Geopolitical Jockeying: Economic Nationalism and Multinational Strategy in Historical Perspective,” *Strategic Management Journal* 41, no. 3 (2020): 400–421.

externalities, which made global governance responses all the more pressing.⁴⁶ In recent decades, many historians, including business historians such as Geoffrey Jones and Ann-Kristin Bergquist, have made appeals to reexamine capitalist dynamics' and business' impact on the environment.⁴⁷ While acknowledging some significant progress, Bergquist points out in her 2019 literature review, that the “business history literature has essentially remained focused on how firms grew and innovated, without mentioning that they wrecked the planet as a result.”⁴⁸ Many of the environmental issues that resulted from business activities were indeed global in scope, such as transboundary air pollution, acid rain, ozone depletion, and of course, climate change. Moreover, business interacted in many ways with global environmental governance mechanisms, since companies were simultaneously primary targets of environmental governance and political actors involved in the process of setting regulations by providing technical expertise and implementing the resulting norms.⁴⁹ For instance, by acting as “merchants of doubts,” the fossil fuel and plastics industries were able to delay meaningful global engagement with climate change and obscure the truth about recycling.⁵⁰ As such examples illustrate, documenting the role of firms and industry, which had a lot to lose from the introduction of new rules, would help identify potential roadblocks and delays in terms of environmental governance.

While increasingly at the center of public concerns, environmental issues are certainly not the only externalities businesses have faced outside of the sovereignty of nation-states and for which international solutions appeared, at least at first, to be an ideal solution. International tax evasion has affected the ability of states to administrate and to provide public goods. At the same time, multinationals have made the most of both divestment and monopolies, further constraining states' policy options. Consequently, firms have long been the direct targets of international regulations, starting with antitrust and cartel legislation. Business historians made important contributions in showing how cartels were perceived differently depending on country and sector⁵¹ and were

⁴⁶ Céline Pessis, *Une autre histoire des 'Trente Glorieuses': modernisation, contestations et pollutions dans la France de l'après-guerre* (Paris, 2016); Iris Borowy and Matthias Schmelzer, eds. *History of the Future of Economic Growth: Historical Roots of Current Debates on Sustainable Degrowth* (London: Routledge, 2017).

⁴⁷ Ann-Kristin Bergquist, “Renewing Business History in the Era of the Anthropocene,” *Business History Review* 93, no. 1 (2019): 3–24; Geoffrey Jones, *Profits and Sustainability: A History of Green Entrepreneurship* (Oxford, 2019); Hartmut Berghoff and Adam Rome, *Green Capitalism? Business and the Environment in the Twentieth Century* (Philadelphia, 2017); Christine Meisner Rosen, “Doing Business History in the Age of Global Climate Change,” *Enterprise & Society* 8, no. 2 (2007): 221–26; Hartmut Berghoff and Mathias Mutz, “Missing Links? Business History and Environmental Change,” *Jahrbuch für Wirtschaftsgeschichte/Economic History Yearbook* 59, no. 2 (2009): 9–22; Franck Aggeri and Mélodie Cartel, « Le changement climatique et les entreprises: Enjeux, espaces d'action, régulations internationales, » *Entreprises et Histoire* 1, no 86 (2017): 6–20; Andrew Smith and Kirsten Geer, “Uniting Business History and Global Environmental History,” *Business History* 59, no. 7 (2017): 987–1009; Antoine Acker, *Volkswagen in the Amazon: The Tragedy of Global Development in Modern Brazil* (Cambridge, 2017).

⁴⁸ Bergquist, “Renewing Business History,” 5.

⁴⁹ Hugh S. Gorman, “The Role of Business in Constructing Systems of Environmental Governance,” in Hartmut Berghoff and Adam Rome, eds., *Green Capitalism?: Business and the Environment in the Twentieth Century* (Philadelphia, 2017): 33–50; Mattias Näsman and Sabine Pitteloud, “The Power and Limits of Expertise: Swiss–Swedish Linking of Vehicle Emission Standards in the 1970s and 1980s,” *Business & Politics* (2022): 2–4. On expertise, business and the Club of Rome, see: Matthias Schmelzer, “Born in the Corridors of the OECD”: The Forgotten Origins of the Club of Rome, Transnational Networks, and the 1970s in Global History,” *Journal of Global History* 12, no. 1 (March 2017): 26–48.

⁵⁰ Naomi Oreskes and Erik M. Conway, *Merchants of Doubt: How a Handful of Scientists Obscured the Truth on Issues from Tobacco Smoke to Climate Change* (New York, 2011). See also on the fossil fuel industry: Geoffrey Supran and Naomi Oreskes, “Rhetoric and Frame Analysis of ExxonMobil's Climate Change Communications,” *One Earth* 4, no. 5 (2021): 696–719; Christophe Bonneuil, Pierre-Louis Choquet, and Benjamin Franta, “Early Warnings and Emerging Accountability: Total's Responses to Global Warming, 1971–2021,” *Global Environmental Change* 71, (2021).

⁵¹ Harm G. Schröter, “Cartels Revisited,” *Revue économique* 64, no. 6 (2013): 989–1010; Shanahan and Fellman, *A History of Business Cartels*.

sometimes even considered to be a desirable force for stabilizing production and securing employment.⁵² They have also investigated how firms responded to the introduction of cartel regulations and the use of alternative organizational cooperation as coping mechanisms.⁵³ Laura Phillips Sawyer's recent work also highlights how the United States, acknowledging its new hegemonic position after World War I and II, used the extraterritorial reach of its law and the Marshall plan to enforce antitrust regulations internationally.⁵⁴ The 1970s witnessed unprecedented efforts to regulate multinationals, in the hope of mitigating deindustrialization in Western countries⁵⁵ and of enabling the rise of a "New International Economic Order" in which former colonies would regain control over their natural resources and benefit from a fairer international trade regime.⁵⁶ Empirical studies, such as Sabine Pitteloud's work on the reactions and strategies of Swiss multinationals, help explain why many of the envisioned international regulatory attempts failed, while others took the form of non-binding guidelines.⁵⁷ Given the numerous global and sectoral corporate regulations that seemed to be desirable from a societal viewpoint and were demanded by much of civil society, and the few binding regulations that actually came into existence, it seems indeed worth further investigating how business acted as "institutional inhibitors."⁵⁸

Business Shaping Global Governance

Thanks to their use of corporate and business interest organizations' archives, business historians are well positioned to document the "invisible hands" of firm representatives in politics and lobbying strategies, which often took place behind closed doors.⁵⁹ A growing body of literature has indeed demonstrated the usefulness of such approaches for understanding national politics⁶⁰ and the functioning of the varieties of national capitalist systems.⁶¹ Within this flourishing scholarship some

⁵² For more on this, see the ongoing doctoral project of Liane Hewitt, "The Rise and Fall of European 'Cartel Capitalism' in the Long Transwar Moment," PhD dissertation (Princeton, 2023); Sigfrido M. Ramírez Pérez, "Embedding the Market during Times of Crisis: The European Automobile Cartel during a Decade of Crisis (1973–1985)," *Business History* 62, no. 5 (2020): 815–36.

⁵³ Neil Rollings and Laurent Warlouzet, "Business History and European Integration: How EEC Competition Policy Affected Companies' Strategies," *Business History* 62, no. 5 (2020): 717–42.

⁵⁴ Cf. forthcoming Tobin Project Book Volume. For her previous work on antitrust regulation, see: Laura Phillips Sawyer, *American Fair Trade: Proprietary Capitalism, Corporatism, and the "New Competition," 1890–1940* (Cambridge, 2018).

⁵⁵ For labor demands in Western countries, see Francesco Petri, "Demanding Democracy in the Workplace: the European Trade Union Confederation and the Struggle to Regulate Multinationals," in Kaiser Wolfram and Meyer Jan-Henrik (eds.), *Societal Actors in European Integration: Policy-Building and Policy-Making 1958-1992* (Basingstoke 2013): 151-172; Rebecca Gumbrell-McCormick, "Facing New Challenges: the International Confederation of Free Trade Unions (1972-1990s)," in Anthony Carew, Marcel van der Linden (eds.), *The International Confederation of Free Trade Unions* (Bern, 2000): 341-518; Melanie, Sheehan, "Opportunities Foregone: US Industrial Unions and the Politics of International Economic Policy, 1949-1983", PhD Dissertation, University of North Carolina, (Chapel Hill, 2022).

⁵⁶ Kott, *Organiser le monde*, 145-178.

⁵⁷ Sabine Pitteloud, "Unwanted Attention: Swiss Multinationals and the Creation of International Corporate Guidelines in the 1970s," *Business & Politics* 22, no. 4 (December 2020): 587–611. For the failed binding regulation attempts at the EEC, see: Warlouzet, *Governing Europe*, 57-77. On the Sullivan principles: Jessica Ann Levy, "Black Power in the Boardroom: Corporate America, the Sullivan Principles, and the Anti-Apartheid Struggle," *Enterprise & Society* 21, no. 1 (2020): 170–209.

⁵⁸ Tim Bartley, "Transnational Corporations and Global Governance," *Annual Review of Sociology* 44, no. 1 (2018): 152.

⁵⁹ Kim Phillips-Fein, *Invisible Hands: The Making of the Conservative Movement from the New Deal to Reagan* (New York, 2009).

⁶⁰ See for instance: Benjamin C. Waterhouse, *Lobbying America: The Politics of Business from Nixon to NAFTA. Politics and Society in Twentieth Century America* (Princeton, 2014); Jennifer A. Delton, *The Industrialists: How the National Association of Manufacturers Shaped American Capitalism* (Princeton, 2020).

⁶¹ MacKenzie, Perchard, Miller, and Forbes, "Business-Government Relations"; Mira Wilkins, Kathleen Thelen, Richard Whitley, Rory M. Miller, Cathie Jo Martin, V. R. Berghahn, Martin Jes Iversen, Gary Herrigel, and Jonathan Zeitlin,

studies confirmed empirically that business interests were often assimilated to national interest and defended as such within international organization, thanks to a mix of instrumental and structural power, even if the picture appears more nuanced.⁶² Not all attempts at exerting influence were successful, and when national diplomats were prone to compromise in international arenas, businesses and interest associations sometimes bypassed them and found other ways to impose their agenda.⁶³

In expanding such inquiries more systematically toward international organizations, scholars working in this area could complement the work of historians of international relations who have increasingly pinpointed the role of business during state-led negotiations, the fact that states were far from being unitary actors, and the porousness of the boundaries between the private and public sphere.⁶⁴ For instance, Christy Thornton exposed the role of Wall Street banks in preventing the emergence of a new inter-American bank in the 1940s, which was backed by Latin American diplomats and a significant portion of the US administration.⁶⁵ And Amy Offner's work uncovered the failures of the mixed economy, which international elites tried to design in mid-twentieth century Latin America.⁶⁶ In a revisited history of the Cold War, Sandrine Kott laid a foundation for further work on the shifting coalitions of actors – including business – that transcended the division of interests between Northern and Southern countries as well as the divide between capitalist and communist countries.⁶⁷ Patricia Clavin's scholarship provided many examples of influential transnational and cosmopolitan actors, some of them carrying business functions, and whose actions were difficult to interpret according to rigid categories such as national and ethnic identity, professional attribution, political affiliation and cultural attachments.⁶⁸ Such historical approaches certainly speak to business historians, who have also documented the importance of the revolving doors phenomenon. For instance, actors such as the former EEC commissioners Etienne Davignon and François Xavier Ortoli, who ended their careers as business representatives, were involved in a variety of governance forums ranging from

“Varieties of Capitalism’ Roundtable,” *Business History Review* 84, no. 4 (2010): 637–74; Marx, Christian, and Morten Reitmayer, “Introduction: Rhenish Capitalism and Business History,” *Business History* 61, no. 5 (2019): 745–84.

⁶² Laurence Badel, *Diplomatie et grands contrats : L’État français et les marchés extérieurs au XX^e siècle* (Paris, 2010); Dominique Dirlewanger et al., *La politique commerciale de La Suisse de la Seconde Guerre Mondiale à l’entrée au GATT (1945-1966)* (Zürich: Chronos, 2004); Rhenisch Thomas, *Europäische Integration und industrielles Interesse : die deutsche Industrie und die Gründung der europäischen Wirtschaftsgemeinschaft* (Stuttgart, 1999); Werner Bühner, “Der BDI und die Außenpolitik der Bundesrepublik in den fünfziger Jahren,” *Vierteljahrshefte für Zeitgeschichte* 40, no 2 (1992): 241–61; Petrini Francesco, *Il liberismo a una dimensione : la Confindustria e l’integrazione europea, 1947-1957* (Milano, 2005); Alexis Drach, “From Gentlemanly Capitalism to Lobbying Capitalism: The City and the EEC, 1972–1992,” *Financial History Review* 27 (2020): 1–21; Rollings, *British Business*; Pitteloud, *Les multinationales*; Yohann Morival, *Les Europes du patronat français depuis 1948* (New York, 2020).

⁶³ Pitteloud, *Les multinationales*.

⁶⁴ Laurence Badel already noted in 2014, the opening of several companies’ archives, allowing for a business history approach, can fruitfully contribute to the history of international relations and global governance: Laurence Badel, « Milieux économiques et relations internationales : bilan et perspectives de la recherche au début du XXI^e siècle », *Relations internationales* 157, no. 1 (2014): 3–23.

⁶⁵ Christy Thornton, *Revolution in Development: Mexico and the Governance of the Global* (Berkeley, 2021); Amy C. Offner, “Review of Christy Thornton’s *Revolution in Development*,” *NACLA Report on the Americas* 53, no. 4 (2021): 442.

⁶⁶ Amy Offner, *Sorting Out the Mixed Economy: The Rise and Fall of Welfare and Developmental States in the Americas* (Princeton, 2019).

⁶⁷ Kott, *Organiser le monde*.

⁶⁸ Patricia Clavin, ‘Defining Transnationalism,’ *Contemporary European History* 14, no. 4 (2005): 421–39. For more examples on communities and their governance projects see: Marie-Laure Djelic and Sigrid Quack, eds. *Transnational Communities: Shaping Global Economic Governance* (Cambridge, 2010).

supranational and international organizations such as the EEC,⁶⁹ global summitry⁷⁰ such as the World Economic Forum and private governance institutions such as the European Roundtable of Industrialists.⁷¹

One of the strengths of choosing businesses and their interest organization as the primary unit of analysis is indeed to highlight a variety of coexisting strategies and channels of influence toward global governance. Indeed, while access to national political representatives certainly proved crucial, businesses were sometimes formally invited to hearings, hired professional lobbyist,⁷² engaged in long-term ideological battles or directed financial means toward business-friendly institutions.⁷³ When uncovering such multiple channels of influence, business history echoes some existing scholarship in the history of economic thought, such as Quinn Slobodian's book on *Globalists*, which historicized the ways economic elites legitimized, institutionalized, and deployed neoliberalism on a global scale.⁷⁴ There is therefore an opportunity for business historians to contribute to our understanding of why some ideas became dominant, question arguments about the 'naturalness' or 'inevitability' of economic systems, and expose instances in which international trade and investment rules have been insulated from democracies. While governance frameworks, as well as their absence, might be analyzed through the lens of power relations in which business also played a role, the rules enforced by governance bodies and those they benefit can also be discussed critically.

Establishing Private Governance

Businesses and economic elites not only influenced the work of international organizations, but they also developed private forms of global governance, sometimes supporting the work of international organizations, sometimes substituting some of their functions,⁷⁵ and sometimes undercutting their activities.⁷⁶ Several international business interest organizations were created in reaction to the work of international organizations, some of which enjoyed formal consultative status. Examples of this

⁶⁹ For Ortolí and Davignon's role, see Ballor, "Agents of Integration"; Warlouzet, *Governing Europe*.

⁷⁰ On summitry, see: Emmanuel Mourlon-Druol and Federico Romero, eds. *International Summitry and Global Governance: The Rise of the G7 and the European Council, 1974-1991* (London, 2014); Jean-Christophe Graz, « Qui gouverne ? Le Forum de Davos et le pouvoir informel des clubs d'élites transnationales », *A contrario* 1, no. 2 (2003): 67–89.

⁷¹ Maria Green Cowles, "Setting the Agenda for a New Europe: The ERT and EC 1992," *JCMS: Journal of Common Market Studies* 33, no. 4 (1995): 501–26; Bastiaan van Apeldoorn, "Transnational Class Agency and European Governance: The Case of the European Round Table of Industrialists," *New Political Economy* 5, no. 2 (2000): 157–81; Bastiaan van Apeldoorn, *Transnational Capitalism and the Struggle over European Integration* (London, 2002).

⁷² Sylvain Laurens, *Bureaucrats and Business Lobbyists in Brussels: Capitalism Brokers* (New York, 2017).

⁷³ Sabine Pitteloud, « Les multinationales comme catégorie politique : les années formatrices (1970-1990) », *Entreprises et histoire* 104, no. 3 (2021): 93–110.

⁷⁴ Slobodian, *Globalists*. On business shaping ideas, see also: Janick Marina Schaufelbuehl and François Vallotton, « Business, anticommunisme et néolibéralisme : réseaux transatlantiques durant la Guerre froide », *Relations internationales* 180, no. 4 (2019): 3–11; Glenda Sluga, "Twentieth-Century International Economic Thinking, and the Complex History of Globalization: A New Research Programme," *Working Paper EUI HEC*, (2021): 1-11.

⁷⁵ See for an empirical example, Andreas Goldthau and Llewelyn Hughes, "Saudi on the Rhine? Explaining the Emergence of Private Governance in the Global Oil Market," *Review of International Political Economy* 28, no.5 (2020).

⁷⁶ Jean-Christophe Graz and Andreas Nölke, *Transnational Private Governance and Its Limits* (London, 2007); Grace Ballor and Aydin B. Yildirim, "Multinational Corporations and the Politics of International Trade in Multidisciplinary Perspective," *Business and Politics* 22, no. 4 (2020): 573–86.

phenomenon include the ICC⁷⁷ toward the SDN and then the UN; UNICE⁷⁸ and its interactions with the EEC and EU; employer's organizations and sectoral groups within international treaties; and business – represented by the BIAC – toward the OECD.⁷⁹ A growing body of scholarship has demonstrated how international business interest organizations defensively developed self-regulation in a variety of domains such as labor, human rights and environment, to prevent governments from legislating.⁸⁰ As Rami Kaplan has written, concepts such as corporate social responsibility (CSR) can equally be interpreted as a strategy to mitigate social and political demands on business as a form of business regulation.⁸¹ Even international cartels, as Marco Bertilorenzi suggests, were not limited to price collude, but were important in securing production and employment in times of high uncertainty like the interwar period, therefore constituting an alternative to state planning.⁸² While international business interest organizations were important arenas for business to develop self-regulation, business historians have shown how building consensus between a variety of sectoral and national business interests was challenging⁸³ and how the solutions adopted by these private international organizations, as their state-led sisters, often reflected nothing more than the lowest common denominator.⁸⁴ Furthermore, that global philanthropic institutions and private foundations, such as those created by Andrew Carnegie, J.D. Rockefeller, George Soros, and Bill Gates, have increasingly filled the gap left by insufficient global governance in the fight against certain diseases and in fostering education, raises new questions about the accumulation of private wealth⁸⁵ and connects with the historical literature on inequality.⁸⁶

As this literature review has highlighted, business historical scholarship has already contributed much to our collective understanding of how the nexus of capitalism and global governance has evolved.

⁷⁷ Thomas David and Pierre Eichenberger, “Business and Diplomacy in the Twentieth Century: A Corporatist View,” *Diplomatica* 2, no. 1 (2020): 48–56.

⁷⁸ Morival, Yohann. « La fabrique des légitimités européennes : les acteurs de la confédération patronale européenne depuis 1952 », *Critique internationale* 74, no. 1 (2017): 33–51 ; Hélène Michel ed. *Représenter le patronat européen: formes d'organisation patronale et modes d'action européenne* (Bern, 2013).

⁷⁹ For an overview, see: Christian Chavagneux and Marieke Louis, *Le Pouvoir Des Multinationales* (Paris, 2018). See also: Paul Turberg, « Cooperation with employers' organizations: Business relations behind the scenes of the Elysée Treaty (1961-1964), » *Relations internationales* 147, no. 3 (2020): 91-104.

⁸⁰ Sectoral international business organizations were also important: Paul Turberg, « Le patronat ouest-européen et américain et la structuration internationale de l'industrie pharmaceutique, 1963-1971 », *Relations internationales* 180, no. 4 (2019): 75–89 ; Karin Bugow, “The Role of Multinational Corporations in the Green Revolution, 1960s and 1970s”, PhD Dissertation Jacobs University, (Bremen, 2021). See also the ongoing research project of Maiju Wuokko on the International Council of Chemical Associations and its “Responsible Care Programme.” On international organizations specialized to promote family firms, see: Paloma Fernández Pérez and Nuria Puig, “Global Lobbies for a Global Economy: The Creation of the Spanish Institute of Family Firms in International Perspective,” *Business History* 51, no. 5 (2009): 712–33.

⁸¹ Rami Kaplan, “Who Has Been Regulating Whom, Business or Society? The Mid-20th-Century Institutionalization of ‘Corporate Responsibility’ in the USA,” *Socio-Economic Review* 13, no. 1 (2015): 125–55. See also, Michel Capron and Françoise Quairel-Lanoizelée, « Un éclairage sociohistorique et théorique de l'évolution des relations entreprise-société, » *Reperes* (2015): 13–42.

⁸² Marco Bertilorenzi, “The International Chamber of Commerce. The Organisation of Free-Trade and Market Regulations from the Interwar Period to the 1960s,” in Lucia Coppolaro and Lorenzo Mechi (eds.), *Free Trade and Social Welfare in Europe. Explorations in the Long 20th Century* (London, 2020): 90-108.

⁸³ Ludovic Iberg, “Fighting for a Neoliberal Europe: Swiss Business Associations and the UNICE, 1970–1978,” *Business History* (2021): 1–16; Sabine Pitteloud, “Let's Coordinate! The Reinforcement of a ‘Liberal Bastion’ within European Industrial Federations, 1978-1987,” *Business History* (2021): 1–21.

⁸⁴ Rollings and Kipping, “Private Transnational Governance”..

⁸⁵ Maclean, Harvey, Yang, and Mueller, “Elite Philanthropy”.

⁸⁶ Thomas Piketty, *Capital in the Twenty-First Century* (Cambridge Mass, 2014).

Surveying this scholarship has also revealed the many areas still in need of further analysis. In the subsequent sections, four prominent scholars who have studied the connections between capitalism and global governance from a variety of historical approaches will offer their perspectives on the past, the present and the future of research on this theme.

Histories and Futures of Business in a Turbulent World

Patricia Clavin

When it comes to events that have marked turning points in the relationship between global governance and business history, I have focused on the role of international crises to understand the forces shaping relations between firms, states and global governance frameworks. Such approach stems from the fact that I am primarily an historian of international relations, and much of my research and writing is concentrated on European and global history in the period from about 1880 to 1950. For me, the origins and course of the two world wars and the cold war have been as important as crises of capitalism, such as the Great Depression.

Some of my recent publications have focused on developments that generated the ideas, practices and legal norms which constitute modern global governance – the international framework in which firms operate.⁸⁷ From the vantage point of the 2020s, it's become abundantly clear that global governance is hugely path-dependent with consequences that are not fully appreciated. Some of the most foundational international institutions emerged from World War One. In his acclaimed study of Franco-Prussian relations, George Kennan, the American diplomat and historian, described World War One as the 'seminal catastrophe' of the twentieth century. It determined geo-political relations for decades to come. The war generated political, ethno-national and distributional conflicts that led to the Russian Civil War; Fascism; National Socialism; and aggressive Japanese expansionism that set the world on a path to a Second World War, and Cold War.⁸⁸

Amidst this destruction, it is important to recognize the war's constructive aspects, notably the way it determined the future contours of relations between firms, states, and world markets in ways that were foundational for global governance. Not only did the course of the war firmly plug US firms and finance into the international economy, formally the prosecution of the war triggered an unprecedented level of multilateral exchange between firms and states, both belligerent, and non-belligerents which had to traverse new market conditions.⁸⁹ In the globalized economy, regional wars had huge international effects. (The same is true of the war between Ukraine and Russia today, of course.)

The Allied blockade globalized the war. Its operations were particularly formative for global governance because it marked a graduated departure from traditional state- to-state diplomacy to include administrative arrangements. In 1917, the need to coordinate procurement with supply,

⁸⁷ Patricia Clavin, *Securing the World Economy: The Reinvention of the League of Nations, 1919-1946* (Oxford University Press, 2013); Patricia Clavin and Madeline Dungy, "Trade, Law and Global Order, 1914-1930," *Diplomatic History* 44, no. 3 (2020): 554-579; Patricia Clavin, "Britain and the Making of Global Order after 1919. The Ben Pimlott Memorial Lecture," *Twentieth Century British History* 31, no. 3 (2020): 340-359. "The Austrian Hunger Crisis and the Genesis of International Organization after the First World War," *International Affairs* 90, no. 2 (2014): 265-278.

⁸⁸ George F. Kennan, *The Decline of Bismarck's European Order. Franco-Russian Relations, 1875-1890* (Princeton, 1979): 3.

⁸⁹ Andrew Hurrell, *On Global Order: Power, Values, and the Constitution of International Society* (Oxford, 2007).

notably through shipping, was recognized in the landmark Allied Maritime and Transport Council (AMTC) whose members were Britain, France, Italy and the USA. Between 1917 and 1919, the operations of the Supreme War Council augmented these arrangements. It brought together the AMTC, the Inter-Allied Transport Council and the Inter-Allied Munitions Council under one roof.⁹⁰ These operations were remarkably wide-ranging. In 1918, Alfred Zimmern, at the time a member of the Political Intelligence Department of the Foreign Office, claimed, the AMTC supervised almost 90 per cent of the world's entire sea-going tonnage.⁹¹ It had a staff of over 1,500 accredited individuals.⁹²

Headed up by the British and French civil servants Arthur Salter, and Jean Monnet, they commanded a secretariat that organized twenty discrete inter-allied committees that coordinated business and state activities.⁹³ These efforts to coordinate wartime production and supply internationally blurred the distinction between the national and international level of decision-making, as well as between advisory and executive bodies. These were the emergent mechanisms of global governance, which were enshrined in the world's first intergovernmental organization, the League of Nations (LON). The body underscored what Salter and Monnet saw as the self-evident need for international administration in the global economy. At the same time the world's first inter-governmental organization multi-lateralized international relations at a stroke.⁹⁴

Firms were not passive by-standers. If we don't know as much as we should about the role of firms in determining the practices of the AMTC, we do know that Monnet's gifts as a networker and administrator derived from his early career in the Cognac business. Businesspeople populated its various committees and shaped its operations. It included one of its foundational sub-committees, the *Commission Internationale de Ravitaillement*, first set up by the French government in August 1914. Businesspeople were nominated as government appointed delegates from the Belgian, Romanian, Serbian, Japanese, Italian, Portuguese, Russian, Greek and Brazilian governments (a US representative was also co-opted), to prevent competition in food and markets connected with military supplies, to prevent competition and price inflation. Similarly, the 400-strong executive staff of the overarching AMTC – the AMTC's secretariat – seconded a large number of businesspeople, as well as civil servants and military officers, working under the direction of Sir Edmund Wyldbore-Smith at the Board of Trade. He began his career as a civil servant, but the expertise he developed during the war, launched a hugely successful business career. He was appointed chairman of Thomas Cook, both the travel agency and the banking firm, as well as vice-president of the *Compagnie Internationale des Wagons-Lits* (the International Sleeping-Car Company), and a director of the Suez Canal Company. He also served as vice-President of the Federation of British Industries. *The Manchester Guardian* newspaper identified this as something of a trend.⁹⁵

⁹⁰ Alfred Zimmern, *The League of Nations and the Rule of Law, 1918-1935* (London, 1938): 149.

⁹¹ Zimmern, *League of Nations*, 146-7.

⁹² See, "Controls Exercised by Government Departments", Economic and Financial Section Branch memoranda, 1921, League of Nations Archives, S129-76-6.

⁹³ Yann Decorzant, *La Société des Nations et la naissance d'une conception de la régulation économique internationale* (Brussels, 2011): 133-5.

⁹⁴ We still know far less about the evolution of this arrangements from the business side. State and administrative aspects dominated the story.) history from the business perspective. Crucially, these emergent mechanisms of global governance solved 'the problem of controlling the action without displacing the authority of National Governments.' See, Arthur Salter, *Allied Shipping Control: an experiment in international administration* (Oxford, 1921): 246.

⁹⁵ 'Industrial Directorships: Another Capture from the Civil Service', *The Manchester Guardian*, 20 March, 1919: 4.

In the same year as the League began to develop its economic and financial agenda, the International Chamber of Commerce was established in Paris, styling itself as the ‘League for business.’ Like the League of Nations, it underplayed any policy ambitions, suggesting its prime purpose was to gather economic intelligence.⁹⁶ But in both cases, economic intelligence was used to frame policy debates on currency and trade.

Today, the ICC is less modest about its early history: ‘without waiting for governments to fill the gap, ICC founders acted on their conviction that the private sector is best qualified to set global standards for business.’⁹⁷ The ICC engaged with the League of Nations, seeking to inform and determine how the organization and its member states engaged with questions of governance across multiple levels – trade, finance, transportation, and so on. The ICC sought to take the leading role in brokering relations between firms and the state, as well as business to business. Tracing this history from firms’ perspective underlines the chameleon quality of business actors.

Many individuals, such as the French industrialist Louis Loucheur, traversed the worlds of business, finance and government, and move in and out of administrative posts, in national, imperial and international settings.⁹⁸ Figures such as these, in their various advisory and official in national and international governance networks, had a powerful role in the architecture of global governance from the start. And Americans were very strongly represented, despite their refusal to recognize the LON.⁹⁹ (Although arguably their business activities do not inform our understanding of their politics as much as they should. Once businesspeople become state agents, nationally or internationally, historians explore on how their agency shaped government policy and international relations, focusing less on the outcomes for business and markets.) Aside from his landmark proposal for Franco-German economic collaboration, drafted with Walter Rathenau in 1921 that cemented his place in political and financial history of European relations, Loucheur was an influential force in business and financial networks.¹⁰⁰ Business contacts played a strong role in determining outcomes at a series of economic and financial conferences – Brussels (1920); Genoa (1922), and the World Economic Conferences of 1927 and 1933 – setting both pathways of global governance, and the spatial composition of global order that continued beyond the Bretton Woods conference in 1944.¹⁰¹

As these examples of global governance emerging from the First World War indicate, an historical approach is invaluable for analysing the ongoing challenges because global governance is hugely path dependent. The past shows us it is extremely difficult to create cooperative institutions or global governance mechanisms from scratch. Institutions proliferate, but few are closed down. Debates about change revolve around discussions of reform rather than innovation. The history of the IMF, the World Bank, the EU and ASEAN, reveal that that changes in governance norms and practices –

⁹⁶ See, Letter from Edouard Dolléans (General Secretary of the ICC) to Ibbetson James (Provisional Secretary of the Economic and Financial Committee of the League of Nations), 28 Jan 1921, League of Nations Archives, Geneva, S141-91-26. David and Eichenberger, “Business and Diplomacy”..

⁹⁷ ICC, ‘Who We Are’, (accessed 8 June 2022): <https://iccwbo.org/about-us/who-we-are/history/>.

⁹⁸ Louis Loucheur papers, Hoover Institution (accessed 8 June 2022): <https://oac.cdlib.org/findaid/ark:/13030/tf038n972d/>.

⁹⁹ Thomas David and Pierre Eichenberger, “‘A World Parliament of Business?’”, 15.

¹⁰⁰ Louis Loucheur and Jacques De. Launay, *Carnets Secrets, 1908-1932. Dossiers Secrets De L'histoire* (Bruxelles, 1962); Stephen Douglas Carls, *Louis Loucheur and the Shaping of Modern France, 1916-1931* (Baton Rouge; London, 1993); Dominique Barjot, “Les Cartels, Une Voie Vers L'intégration Européenne?: Le Rôle De Louis Loucheur (1872-1931),” *Revue économique* 64, no. 6 (2013): 1043-066.

¹⁰¹ Stephen Legg, Mike Heffernan, and Benjamin Thorpe (eds.), *Placing Internationalism and the Making of the Modern World* (London: Bloomsbury, 2022).

whether positive or negative – occur through adaptation that is heavily path dependent.¹⁰² Even the 1995-founded World Trade Organization, is profoundly shaped by the legal norms and practices of the GATT, itself an heir to League of Nations and ICC innovations in the realm of international trade.¹⁰³

Part of history's value is its ability to trace and recover continuity. It recovers pathways that weren't taken, initiatives that were resisted, were transformed or which failed. History is especially useful when it comes to understanding claims about the meaning and purpose of international co-operation, which are never self-evident. For example, the People's Republic of China's (PRC) ambivalent relationship with the institutions of global governance today is deeply historical, shaped, in part, by the fact that China's inclusion in Franklin D. Roosevelt's United Nations plans was intended to support the national government. It is more than an 'origins' story. This history brings out the plurality of economic, social and political formations that involve very different understandings of value, sovereignty, and territory.¹⁰⁴ Business inhabits a different space in the PRC, which complicates its membership obligations regarding the World Trade Organization, notably in relation to the operations of its state-owned enterprises.¹⁰⁵

History also helps us see what is new about the present. Today, institutions of global governance seem weak in the face of the global challenges posed by Covid-19, the climate emergency, and the war in Ukraine. They have to live alongside the return of geo-politics and hazardous competition between the major states in the system. In the field of 21st century governance and business history, there is a tendency to separate and disaggregate these global challenges into different domains of 'health governance,' 'financial governance,' 'environmental governance,' and so on. In past decades, be it the 1880s, 1920s, or the 1930s, these issues were sometimes connected and viewed more holistically by actors across the political spectrum.

The present moment reveals that the fundamental background conditions for firms and global governance is changing. In the past, histories and future expectations were framed in relation to seemingly stable conditions that included the dominance of US and Western power on the one hand, and technologically-driven economic globalization on the other. Comparing the past with present-day circumstances shows that these assumptions no longer hold at a time of renewed and intensifying geopolitical competition; accompanying power transitions (north-south, south-south and east-west); contested globalization; and the challenge of climate change.

The present has made clear that the firms will face future global shocks that are not isolated, or singular 'black swan' events located at the confluence of a specific moment in ways that are readily comparable with 1929 or 1973. Future historical work may pay more attention to how firms sought to navigate inter-connected global shocks that traversed the domains of finance, trade, health, and geo-politics

¹⁰² See the work of Kiran Klaus Patel. Most recently, Kiran Klaus Patel, *Project Europe. A History* (Cambridge, 2020).

¹⁰³ See, for example: Maurice Obstfeld, *The International Monetary System: Living with Asymmetry* NBER Working Paper Series No. 17641 (Cambridge, Mass., 2011); Francine Mackenzie, *GATT and the Global Order in the Postwar Era* (Cambridge, 2020); Patricia Clavin and Madeleine Dungy, "Trade, Law, and the Global Order of 1919," *Diplomatic History* 44, no. 4 (2020): 554-79.

¹⁰⁴ See work of the International Network, 'Contestations of the Liberal Script (SCRIPTS). Global Challenges for the Model of Liberal Democracy and Market Economy': [Contestations of the Liberal Script \(SCRIPTS\) • International Network University • Freie Universität Berlin \(fu-berlin.de\)](#).

¹⁰⁵ Patros C. Mavroidis and André Sapir, [China and the WTO: An uneasy relationship | VOX, CEPR Policy Portal \(voxeu.org\)](#), 29 April 2021.

that affected the business of disintegrating empires in central and eastern Europe on the one hand, or decolonizing territories on the other.¹⁰⁶ I am currently working with colleagues on the challenges of turbulence.¹⁰⁷ This encourages us to avoid the dichotomy between stability and change, to confront shocks' different chronologies, and to recognize the relationship between different types of shock.¹⁰⁸ Firms and farms work to a different rhythm. The current disruption to food and fertilizer supplies in the Ukraine are likely to have consequences for global agriculture, food supplies and trade policies that outlast the war. In much the same way, US farmers and firms (and Spanish ones too), found a wartime boom became a postwar bust. In the Spanish case, it came alongside a series of other shocks – Spanish 'flu, inflation, challenge to empire and so on. We know much more about this political, social and cultural history of the road to the civil war than how its business understood and navigated these shocks.

The instability that currently characterizes the world also underscores the importance of local and regional responses to global challenges. The Covid-19 pandemic in particular has highlighted the importance of local and regional responses. Exploring the local and regional context has always been a strong feature of business history, much more so than the history of global governance.¹⁰⁹ The histories and archives of multinational companies serve as a deep resource for reconstructing and understanding local and regional contexts and indicate where these actors have had to navigate varied and complex levels of norms and regulations. There is scope, then, for insights from firms' histories to shape how we should think about global governance, as much as how trends of globalization and deglobalization have shaped business. And we need to think harder about how the region relates to the global. Regional solutions to global problems are readily evoked by 21st Century policymakers, but the relationship between them is far from clear.

Much of the recent historiography on global governance has focused on the generation and characteristics of legal norms framing the relations between business, markets, and global governance.¹¹⁰ Lawyers tends to stress legal accretion and cooperation. A business history approach instead might highlight how legal norms are generated as much – if not more - from conflict than co-operation – and the importance of new technology to the generation of international practices, notably international commercial arbitration.¹¹¹ In the same way that World Wars One and Two generated

¹⁰⁶ See, for example, Geoffrey Jones and Valeria Giacomini, 'Deglobalization and Alternative Futures', *Harvard Business School Technical Note*, 322-088, January 2022; Christina Lubinski, *Navigating Nationalism in Global Enterprise: A Century of Indo-German Business Relations* (Cambridge, 2022). These works move away from a preoccupation in business history of central Europe that focused more on Nazi penetration than the shocks which hit the region after 1917. See, for example, Stephen G. Gross, *Export Empire: German Soft Power in Southeastern Europe, 1890-1945* (Cambridge, 2015).

¹⁰⁷ The concept of turbulence has impacted financial history and governance. See, for example, F. Papadia and Tuomas Välimäki, *Central Banking in Turbulent times* (Oxford, Oxford University Press, 2018); Ansell, Christopher K. *Governance in Turbulent times*, 1st ed. (Oxford, 2017).

¹⁰⁸ For more analysis of contemporary problems, see the Oxford Martin Programme on Changing Global Orders (accessed 8 June 2022): <https://www.oxfordmartin.ox.ac.uk/changing-global-orders/>.

¹⁰⁹ See, for example, Ulf Christian Ewert and Stephan Selzer, *Institutions of Hanseatic Trade* (Frankfurt A.M: Peter Lang GmbH, Internationaler Verlag Der Wissenschaften, 2016); Maurizio Romano, "Multinational Business and Transnational Regions. A Transnational Business History of Energy Transition in the Rhine Region, 1945-1973," *Business History* 63, no. 1 (2021): 165-166.

¹¹⁰ Pasha L. Hsieh, and Bryan Mercurio, *ASEAN Law in the New Regional Economic Order: Global Trends and Shifting Paradigms* (Cambridge, 2019).

¹¹¹ Thomas Dietz, *Global Order beyond Law: How Information and Communication Technologies Facilitate Relational Contracting in International Trade. International Studies in the Theory of Private Law* (London, 2014); Walter Mattli and Dietz, Thomas, *International Arbitration and Global Governance* (Oxford: Oxford UP, 2014); JoAnne Yates and Craig N. Murphy, "Introduction: Standards and the Global Economy," *Business History Review* 96, no. 1 (2022): 3–15.

practices of international knowledge exchange, networking and administration that were conducive for business, these conflicts generated a body of international law that shaped business interaction. There has been exciting new work on the League's generation of public legal norms, and their limitations – Nicholas Mulder's recent work on sanctions for example.¹¹² But we know much less about how business agency shaped the generation of international law and the practices of private arbitration. We need new histories of the actors who generated it, including law firms, and lawyers working in business and finance, who also traverse the world of global governance. In earlier periods, the rapidly digitizing archives of the League of Nations, the International Labour Organization, and UN bodies such as the Food and Agricultural Organization offer very useful sites to trace the networks and individual business careers that traverse different realms.¹¹³

In my own research, I have become interested in the international history of food governance. The knowledge that food supply is best understood as a complex system is widely perceived to be new, as is the field of food law.¹¹⁴ My project recovers a history that shows how systematic thinking has often been applied to food in the past. It puts European and international history from ca. 1850, in dialogue with the present and the future in a series inter-related research questions, asking: when do food systems come into view? How and why is the knowledge and experience this systematic-thinking embodies remembered and applied?¹¹⁵ What can we learn from this history for the management of future shocks, and the challenges faced by local, national, regional and global institutions facing this task? When is food security recognized as the priority of global order?¹¹⁶

A major contention of this research is that systematic ideas, laws and practices in relation to food governance are generated through knowledge exchange, facilitated and governed by business, and international and non-governmental networks and organizations. Business often plays the determinant role in food governance and its entangled relationship with development.¹¹⁷ The empirical and intellectual focus of this research stands in sharp contrast to the writing of food history which is largely focused on individual national and imperial histories, and the work of food scientists and activists such as Tim Lang, who sees the protectionist British war economy of 1940-45 as the high-point of British food policy, or James Rebanks, whose writing harks back to an older, nationally-orientated accounts of English farming, past and present.¹¹⁸ I want to show that managing global shocks in food will require responses that are organized across different scales - local, regionally and globally. Food history is business history and international history. It embraces a variety of different actors (farmers, trading companies, food processing industries); scales of analysis and varieties of governance, determined by state and, crucially, non-state actors.

¹¹² Nicholas Mulder, *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War* (New Haven; London, 2022).

¹¹³ The archival resources of the United Nations can be found here (accessed 8 June 2022): <https://archives.ungeneva.org/>. For access to the International Labor Organization's sources (accessed 8 June 2022): <https://www.ilo.org/inform/online-information-resources/lang--en/index.htm>.

¹¹⁴ Gabriela Steier and Kiran K. Patel (eds.), *International Food Law and Policy*. (New York, 2016).

¹¹⁵ Patricia Clavin and Sunil Amirith, 'Feeding the World: Connecting Europe and Asia, 1930-1945,' *Past and Present*, Supplement 8 (2013): 29-50.

¹¹⁶ Among my archives are those of the United Nations Food and Agriculture Organization, as well as personal papers of leading food scientists housed at the Wellcome Institute (accessed 8 June 2022): <https://www.fao.org/library/fao-archives/about-the-archives/en/>; <https://wellcomecollection.org/collections>.

¹¹⁷ See Corinna Unger, *International Development: a postwar history* (London, 2018); Stephen Macekura and Erez Manela (eds.), *The development century: a global history* (Cambridge, 2018); Corinna Unger, "International Organizations and rural development: the FAO perspective," *International History Review* 41, no.2 (2019): 451-458.

¹¹⁸ Tim Lang, *Feeding Britain: Our Food Problems and How to Fix Them* (London, 2020); James Rebanks, *English Pastoral: An Inheritance*. (London, 2020).

Governing Global Capitalism: A Lawyer's Perspective

Nicolás M. Perrone

April 1959, Editor-in-Chief of Time Magazine, Henry Luce, spoke vehemently to the World Congress of the International Chamber of Commerce, encouraging business leaders “to unite [their] energies on something which is really fundamental – fundamental to civilization and economic progress. That something is the advancement of the rule of law.” Together with lawyers, business leaders had “the responsibility to see that the rule of law prevails in every corner of the business world.” Luce insisted that international trade needs “legal certainty” and business leaders would do better by focusing less on “certain rules and regulations” and more on “basic and universal rules under which all business could prosper.”¹¹⁹ One of the proposals he asked the audience to endorse was German banker and politician Hermann Abs’s Magna Carta (a formative proposal to what is known today as investor-state dispute settlement or ISDS).

In this speech Luce articulated central intuitions about the relationship between business, history, and law. First, he distinguished market competition from the world-making project of business leaders. Businesspeople have long been interested in shaping the law; regulations are a source of commercial advantage—or barriers to market entry for competitors. But business associations have also worked hard to shape the world order to increase profits and consolidate political influence. Luce’s 1959 appeal for business leaders to unite against development policy and support Abs’ Magna Carta was motivated by his concerns about New Deal Liberalism and its projection onto the world. The US government resisted Abs’ Magna Carta despite pressures from the US Council of the International Chamber of Commerce (ICC) and the American Bar Association.¹²⁰ As Luce noted in his speech, the tension herein was not about “certain rules or regulations;” it was about the underlying principles, the grammar, or, as I prefer to call it, the legal imagination.¹²¹ This imagination reflects certain order of the world, and business leaders—particularly transnational capitalists—want to have a loud voice about order.

Secondly, Luce saw lawyers as fundamental. They not only help to advance specific objectives in administrative or legal proceedings, but lawyers also assist businesses in defining the underlying rules of the game. The centrality of lawyers lies in their skills to determine the vocabulary of world-making, its meta-language, specifying notions such as property, contracts, states, sovereignty, investment, trade, rights, obligations, corporations, treaties, and how they relate to each other. There are various strategies in this regard. One that repeats itself in international law is the claim that the law should move toward the standards of civilization, that is the prevailing forms of governance in the Global North, and economic progress. These “universal rules” are represented as objective and desirable. Behind these arguments, however, there is always an individual or group project that asserts itself against competing visions. In fact, business leaders and lawyers normally engage in intense work and networking about the grammar of world order when events seem capable of steering the law away from its “universal” path. For instance, ISDS was imagined as a means to maintain control over natural resources in a world dominated by decolonization and the Cold War.¹²²

¹¹⁹ Henry Luce, “Peace through Law,” Speech before the International Chamber of Commerce, 1959 Washington Congress, in “Society to Advance the Protection of Foreign Investments, Convention on Investments Abroad with Comments, Speeches and New Literature,” Publication No. 3 (Bergisch Gladbach, 1960): 36–40, 36, 39.

¹²⁰ See: Kenneth J. Vandeveld, *The First Bilateral Investment Treaties U.S. Postwar Friendship, Commerce, and Navigation Treaties* (Oxford, 2017): 1-5.

¹²¹ Perrone, *Investment Treaties*: 3-4.

¹²² *ibid*, 51.

History is central to understanding the multi-level strategies employed by business leaders and their lawyers. Past battles over specific standards and the grammar of world order produced current international law. “Over time, victories and defeats on the terrain of law add up, reproducing patterns of empowerment and disempowerment.”¹²³ As Orford explains, “law is already shot through with history, that history is already shot through with law, that the two are intimately related.”¹²⁴ Or, to put it differently, present law can only be understood as a historical artifact in which present, past, and future are intertwined in the analysis as much as the arguments to shape the future. Lawyers cannot talk meaningfully about the law without having this struggle in mind, consciously or unconsciously.

The way lawyers work with the law partly explains why historians often see lawyers as having a “presentist” tendency. From a lawyer’s perspective, however, this is not a methodological flaw.¹²⁵ Even legal academics, who may have never practiced law, cannot escape the fact that the meaning they produce in their articles or books is inevitably related to ongoing battles concerning “certain” or “universal” rules. Irrespective of whether historians can resist this presentism, a question I prefer to leave to historians, I suspect we are all inevitably caught in these battles if we choose to look at the law as lawyers do.

The work of business historians can be crucial for this way of thinking about economic global governance. For decades, international lawyers have mainly focused on the history of law’s struggle from the perspective of professors, intellectuals, and diplomats, paying limited or no attention to business leaders and their lawyers. The history that has attracted the attention of most law academics are stories of people who were closely related to ideas in one way or another. Of course, ideas matter. However, we should not overlook the project of business leaders such as Luce or Abs. Business lawyers borrow ideas from intellectuals, but their work is more about practice and outcomes. Lawyers and law firms gain a reputation and earn higher fees when they show results. On this side of history, law firms, general counsels, and legal advisors appear more prominently than law professors and intellectuals. The ISDS story illustrates this well.¹²⁶ Many of the business leaders and lawyers that promoted this project in the 1950s and 1960s worked for or were involved with oil firms. In this capacity, they hired prominent international law professors as consultants: for instance, Hartley Shawcross and John Blair, Royal Dutch Shell’s employees, hired famous English professors Elihu Lauterpacht and Robert Jennings to advise on questions of arbitration and state contracts in international law.

Focusing on these projects from the perspective of business can be productive in numerous ways. No doubt, states remain the masters of international law; they sign treaties and are protagonists of most international disputes. Scholars of international law rightfully tend to concentrate on the actions of diplomats and international bureaucrats as those speak for states. At the same time, this way of looking at international law partly distorts our understanding of international law-making and runs the risk of overstating the influence of the state, including the impact of inter-state tensions (for instance, North and South tensions). Historians have shown that states have often acted in international law representing the interests of their business and commercial interests. Beckert notes that “[c]otton

¹²³ David Kennedy, *A World of Struggle: How Power, Law, and Expertise Shape Global Political Economy* (Princeton, 2016): 61.

¹²⁴ Anne Orford, *International Law and the Politics of History* (Cambridge, 2021): 10.

¹²⁵ *ibid*, 285, 287, 314-17.

¹²⁶ See: Perrone, *Investment Treaties and the Legal Imagination*, Chapter 2.

industrialization was thus not only a project of capitalists, as we know, but equally a project of governments.”¹²⁷

The point is not only that business projects can help us to explain state policies but also that business leaders and their lawyers may promote their interests through means other than influencing states or international organizations. When discussing his vision for international investment after the nationalizations in Egypt or Indonesia, Abs insisted that foreign investors must not overlook local business elites but work with them. David Rockefeller similarly concentrated on the multiple business opportunities that foreign investment could create for local businesses in Latin America.¹²⁸ According to business scholars, it is the job of corporate advisors and lawyers to locate actors with similar interests, including and especially in the South.¹²⁹ Distribution is always a question for commercial partners, but ultimately leaders like Luce and Abs wanted to do business with people who shared their world-making project.¹³⁰

When trying to understand why some conceptions of rights or duties prevail in the struggle for law, I suspect these transnational alliances have been of utmost importance, bringing together actors from the South and the North in still unexplored ways. The operation of ISDS suggests how this may work out in practice. Analyzing the impact of ISDS on regulatory action, Broad and Cavanaugh have found that states tend to minimize or disregard the risk of ISDS litigation when local elites have no or limited interests in the extractive sector.¹³¹ This attitude favors regulation that benefits the environment or communities. On the other hand, when local elites care about extraction, the risk of ISDS may be taken more seriously and chill regulation. Extrapolating these dynamics reveals that the same local elites that supported extractivism may have seen in ISDS a policy favorable to their own goals, as well as an obstacle for competing nationalist elites or indigenous peoples.

The long relationship between business, law, and history provides insight into how we govern capital today, the history of “victories and defeats,” and the future of global regulation. Since World War II, business associations, MNCs, and their lawyers have defended a relatively consistent view of international rights and obligations that reflects a vision of world order. This consists of strong rights, which firms can enforce internationally or transnationally through arbitration or strategic jurisdictions, and the impossibility of having international corporate obligations. For business associations, however, the last backstop was and continues to be that MNCs cannot be sites of international or global regulation. While investment treaties and ISDS have received some attention from lawyers and historians alike, examining closely the position of business during the post-War World II formative years shows that most business actors were concerned about international state rights (and correlative corporate obligations), like those established in the charter of the International Trade Organization (ITO). Oil and other natural resource MNCs were interested in ISDS, but the ICC closed ranks against

¹²⁷ Sven Beckert, *Empire of Cotton: A Global History* (New York, 2015): 164.

¹²⁸ David Rockefeller, “What Private Enterprise Means to Latin America,” *Foreign Affairs* 44, no. 3 (1966): 403–16.

¹²⁹ Martin Heidenreich, “The Social Embeddedness of Multinational Companies: A Literature Review,” *Socio-Economic Review* 10, no. 3 (2012): 549–79.

¹³⁰ Quinn Slobodian highlights the importance of this project for business associations and neoliberal intellectuals. Slobodian, *Globalists*.

¹³¹ Robin Broad and John Cavanaugh, “Poorer countries and the environment: friends or foes?” *World Development* 72, issue C (2015): 419-431.

international state rights (and corporate obligations).¹³² As Philip Cortney put it, the ITO charter “would actually block future ICC efforts.”¹³³

These efforts were related to making a world where MNCs could take advantage of the “governance gaps” between national regulations. After the demise of the ITO Charter, business leaders and their lawyers continued to strongly resist international corporate obligations. In the late 1960s and early 1970s, the voices representing MNCs as a site of regulation—as actors that should be regulated through inter-state coordination—gained significant momentum in the North and the South, including influential academics and trade unions.¹³⁴ Business associations, notably the ICC, took the issue seriously and deliberated on how to change this perception and counterbalance the demands of the Global South and Trade Unions in Europe and the United States.

The discussion found the ICC divided into two camps: those who thought nothing should be done, that MNCs should be treated as any other corporation, and those who proposed an alternative grammar for business obligations to respond to the regulatory efforts. This was the language of guidelines and voluntary standards. In the late 1960s, this solution was proposed by intellectuals like the Atlantic Council's Director Sidney Rolfe, and by business leaders such as Shinzo Ohya and Pieter Kuin, and was executed by Shell's John Blair, who led the ICC working group that drafted its 1972 Guidelines for International Investment.¹³⁵ Business leaders used these guidelines to resist regulatory attempts at the United Nations and as a means to occupy the agenda at the OECD. The 1976 OECD Guidelines on MNCs represents a significant victory for the ICC and the Business and Industry Advisory Committee to the OECD.

Despite the resistance of Trade Unions and the Global South, this vision of international corporate “obligations” occupied the space of global capital governance in the 1980s and 1990s. This grammar has remained dominant, reproduced and consolidated by the 2000 UN Global Compact, the 2006 demise of the UN Norms, the 2011 UN Guiding Principles on Business and Human Rights, and the ongoing resistance to a legally binding instrument to regulate the activities of MNCs. The ICC and some important MNCs, such as Royal Dutch Shell, participated in each of these battles to define the rules of economic globalization, promoting CSR as a response to the 1999 Battle of Seattle, the discontent with globalization, or as a more economically efficient alternative to international binding obligations.

For lawyers, this history of victories and defeats is highly relevant to the present struggle for law. Scholars often talk about business and human rights in terms of “governance gaps”¹³⁶ as a result of globalization complexities, yet the history of these legal struggles suggests that these “gaps” were carefully crafted by business leaders and lawyers. They played with legal concepts and language to

¹³² The I.C.C. would have been satisfied had the Havana Conference adopted no further provisions in addition to those quoted above. It was Article 12 that gave rise to the I.C.C.'s major apprehensions and criticisms. ICC, “Fair Treatment for Foreign Investments: International Code”, Brochure 129, August 1949, 18.

¹³³ Cited in George L. Ridgeway, *Merchants of Peace. The History of the International Chamber of Commerce* (Boston, 1959): 194.

¹³⁴ Paul M. Goldberg and Charles P. Kindleberger, “Toward a GATT for Investment: A Proposal for Supervision of the International Corporation,” *Law and Policy in International Business* 2 (1970): 295; Francesco Petrini, “Capital Hits the Road: Regulating Multinational Corporations during the long 1970s,” in Knud Andresen and Stefan Müller (eds.), *Contesting Deregulation: Debates, Practices and Developments in the West Since the 1970s* (New York, 2017): 185–98.

¹³⁵ I discuss these events in Nicolás M. Perrone, “Bridging the gap between foreign investor rights and obligations: towards reimagining the international law on foreign investment,” *Business and Human Rights Journal*, forthcoming.

¹³⁶ See, e.g., John G. Ruggie, *Just Business: Multinational Corporations and Human Rights* (New York, 2013).

produce non-binding obligations and self-regulation. There were numerous calls to create international mechanisms to focus on MNCs as sites of global regulation. What prevailed instead, however, is a grammar of investor rights, ISDS, investment facilitation, CSR, and business and human rights – a grammar, it is worth noting, that has created multiple business opportunities for local elites dedicated to what Surya Deva calls the “business” of business and human rights.¹³⁷

Working hand in hand, lawyers and business historians can shed more light on the struggles over the grammar of global governance, the tactical moves, strategies, networks and multiple tools through which business associations, MNCs, and law firms created the international legal frameworks in which today’s companies operate. The goal, I believe, is not only to identify proposals, competing alternatives, contingencies, and critical junctures. We should also consider how business leaders and associations, such as Luce, Abs, and the ICC, helped create the conditions in which the dominant legal imagination could thrive and remain at the core of most present policy discussions concerning the global economy. The past and the present appear inherently intertwined here, at least to those progressive lawyers who continue believing that a more sustainable and inclusive future is possible.

Business and Global Capitalism: Continuities and Change **Neil Rollings**

It is common for historians to focus their attention on turning points in the past. The risk with this is that it overstates how dramatic change was and the extent of stasis and stability in between those turning points, at its most extreme form in notions of punctuated equilibriums. We need to remember the importance of continuities across those turning points and transitions in order to understand the roots of change and have a more nuanced picture of the nature of change. This is as valid for the relationship between firms, governments and global governance frameworks as it is for any other historical subject.

With that caveat, I would point to two key turning points in the historical relationship of business and governance. My long-standing response would be the Second World War and post-war reconstruction. A much wider range of international organizations emerged and, with it, a burst of growth in non-governmental organizations, including transnational business associations, on a scale never previously seen.¹³⁸ In addition, with trade liberalization, European integration, and the golden age of growth experienced by the advanced economies, the world for economic and political actors became totally different, and the assumptions on which these had operated no longer held. One example of this is the shift in trade from the exchange of manufactures for raw materials and foodstuffs to exchanging manufactured goods for other manufactured goods, which widened the gap between those economies which were part of this growth phenomenon and those that were not.

More recently, I have also become interested in the shifts which emerged in the 1970s. The decade was marked by the two oil crises, stagflation in many advanced industrial economies and the emergence of what is often depicted as the first neoliberal government with the election of Margaret Thatcher as the UK’s Prime Minister in 1979. It was also then that the West’s share of global GDP began to decline and the start of the rise of emerging economies, here, materially, in the form of the

¹³⁷ Surya Deva, “From business or human rights to business and human rights: what next?” in Surya Deva and David Birchall (eds), *Research Handbook on Human Rights and Business*. (Cheltenham, UK and Northampton, MA, 2020): 1, 5-6.

¹³⁸ Rollings, “The Development of Transnational Business Associations”..

OPEC countries, but also with Deng Xiaoping becoming leader in China. Many of these changes had roots in the post-war period – for example the rise of neoliberalism - while others took time to have a significant effect, as in the case of China.

What role did business play in these developments? The events of the 1940s offer some perspective. The years after WWII are often seen as the start of the hey-day of the nation-state, most famously by Alan Milward in his *European Rescue of the Nation-State*.¹³⁹ This framework downplays the role of non-state actors, including business. Yet, the more recent historiography of European integration has directly critiqued this aspect of Milward's framework and, in so doing, has emphasized the role played by business in contributing to the process of European integration.¹⁴⁰ Business was not simply an institution taker at this time.

Similarly, in the 1970s one common depiction of the oil crises is as a turning point in the relationship between Western oil companies and oil-producing countries with a shift in power to the governments of the oil producers. It was also in this period that leading oil companies, the so-called “Seven Sisters,” permanently lost their grip on world oil. But, again, business played a key role in promoting these changes, here in the form of the oil trading companies. These and other commodity trading companies performed a crucial intermediary function around the world throughout the post-war period, be it in trading grain between Cold War enemies, assisting Russian oligarchs to build up their wealth in the aftermath of the collapse of the Iron Curtain, and opening up the Chinese economy by supplying it with raw materials to help sustain the extraordinary growth rates achieved by that country since its economic reforms.¹⁴¹

From an historian's perspective, I would see many of the same themes as relevant to global governance today. In general, an historical perspective can caution against some of the wilder claims sometimes made about the present and the novelty of developments: it is important not to ignore the ongoing continuities in the current world. There are plenty of ways in which globalization is continuing to develop, despite the emphasis today on deglobalization, nationalism, and populism. Global trade as a share of global GDP has not returned to the heights of just before the global financial crisis but it was only just over two percentage points below that peak in 2019 and for most of the period since the GFC had hovered above that level. Global foreign direct investment as a share of GDP in 2019 was higher than it was in any year between 1970 and 1996. Clearly the pandemic has impacted both of these but trade flows by volume are back above pre-pandemic levels. Similarly, in terms of global governance, 2021 marked the signing of the plan for revising international corporate tax rules by 136 countries. Now this is a long way from being implemented, but given the failure to reach agreement on reform for decades before, we need to be careful to assume that the wave of deglobalization and diminishing global governance is occurring across the board.

¹³⁹ Alan Milward, *The European Rescue of the Nation-State* (London, 1992 and 1999).

¹⁴⁰ Kaiser and Meyer (eds), *Societal Actors in European Integration*. Recent examples are: Sigfrido M. Ramírez Pérez, “Crises and Transformations of European Integration: European Business Circles During the Long 1970s,” *European Review of History* 26, no. 4 (2019): 618-635; Alexis Drach, “Reluctant Europeans? British and French Commercial Banks and the Common Market in Banking (1977-1992),” *Enterprise & Society* 21, no. 3 (2020): 768-98; and Ballor, “Agents of Integration.” See also the special issue “Business History and European Integration: How EEC Competition Policy Affected Companies' Strategies,” *Business History* 62, no. 5 (2020), 717-878.

¹⁴¹ Javier Blas and Jack Farthy, *The World for Sale: Power and the Traders Who Barter the Earth's Resources* (Oxford University Press, 2021). See also the ongoing Ph.D dissertation by Rob Konkel “Building Blocs: Raw Materials and the Global Economy in the Age of Disequilibrium.”

Similarly, it is possible to overstate the coherence of governance during the period from the late 1970s associated with the height of neoliberalism. Quinn Slobodian's recent article points to tendencies in business and beyond in the US calling for protection long before Donald Trump became President and to Ronald Reagan's use of trade quotas.¹⁴² In the UK, Margaret Thatcher's government looked for ways to circumvent EEC regulations against state aid to industry as a way of supporting British business against foreign competition just as she was championing the need for the European single market.¹⁴³

One further aspect that is highlighted by an historical approach is the importance of incorporating uncertainty into our understanding of the world. If there is one lesson the current set of crises has shown it is this. Many social scientists have moved away from what might be termed 'the uncertainties of uncertainty' to the 'certainties of risk' and their probabilistic measurement. But these certainties are dependent on stable relationships which do not take contingencies into consideration, nor do they attend to dynamic interdependencies and the role of actors in bringing about the unexpected. The assumptions that underpin the measurement of risk have been shown to be too sweeping and have only added to the problems of effective governance.¹⁴⁴

Looking forward, I see great potential for increasing our understanding of the role of business in the history of global governance. I often like to talk about the ubiquity of business – not just today, but also in the past. Yet it always astonishes me how infrequently it is incorporated into broader historical accounts as an actor. Global governance is one area where to some degree this situation is changing, perhaps because of the less central role afforded to the nation-state. I am very optimistic and genuinely excited about the future. The emerging generation of business historians, including the organizers of this roundtable, seem highly engaged with the role of business in society and in global governance more specifically. This has always been one element of business history research, but I think it is becoming significantly more pronounced and this provides a great opportunity to develop a better dialogue with other historians and, in particular, those researching the history of global governance.

The situation is more problematic when it comes to archives. Rodney Lowe used to refer to the period after the Second World War as the golden age of archives because there was just so much material preserved from government.¹⁴⁵ But, at the same time, there are now increasing issues about the impossibility of preserving more than a very small proportion of records and the challenges, including the cost, of preserving digital records in an accessible form. Equally, despite freedom of information legislation, governments can be less than willing to release information. For example, in the UK the Cabinet Office response to a FoI request for material on the Advisory Committee on Business Appointments, set up in the 1970s to vet ministers and civil servants joining companies related to their government work, was that it held no such material despite being the responsible department.¹⁴⁶ For business records there is the ongoing issue of reputation management where it can be simpler to keep records closed than to have the prying eyes of historians locating behind the scenes lobbying, let alone

¹⁴² Quinn Slobodian, "The Backlash Against Neoliberal Globalization from Above: Elite Origins of the Crisis of the New Constitutionalism," *Theory, Culture and Society* 38, no. 6 (November 2021): 51-69.

¹⁴³ For example, M. Kilroy to Malcolm Day, "Micros for GPs", 1 October 1982 and Alan Paul to Day, "Micros for GPs", 6 October 1982, UK National Archives, CAB193/342.

¹⁴⁴ Peter Katzenstein and Lucia Seybert (eds), *Protean Power: Exploring the Uncertain and Unexpected in World Politics* (Cambridge, 2018).

¹⁴⁵ Rodney Lowe, "Plumbing New Depths: Contemporary Historians and the Public Record Office," *Twentieth Century British History* 8 (1997): 239-65.

¹⁴⁶ A small number of files have subsequently been released.

illegal activities like cartels. Again, businesses sometimes preserve records even on their illegal activities.¹⁴⁷ Another useful source in this respect is the Industry Documents Library hosted at UC San Francisco.¹⁴⁸ Originally created in the 1990s as the then Legacy Tobacco Documents Library, it now covers records from other industries related to health such as food, chemicals, fossil fuels, opioids, and drugs. Other cases of litigation and investigation can also provide source material.

In other words, while difficult, this type of research is possible and can prove extremely informative. Here Vanessa Ogle's work on tax havens stands out as a prime example of what can be achieved.¹⁴⁹ The historical development of tax havens is clearly an important and contemporarily relevant topic, but one which is difficult to study because of the secrecy involved in those activities. Yet, in her articles, and no doubt in the book to follow, she has been able to construct meaningful and illuminating narratives, based on material from a host of different archives.

To sum up, there is one common theme relating to the past, present, and future which certainly informed my research: the concept of interdependency. Too often studies of global governance argue that, with globalization, state power has been replaced with business or corporate power in some simple zero-sum game. Rather, I would argue, we need to understand the interdependencies between these states, international organizations and companies. Here I strongly endorse the argument made recently by Babic et al.: "The specific dynamics playing out within these power relations need to be understood and explained in their actual context: even though we live in a world of transnational capitalism, state power has not disappeared but merely been transformed. Contemporary phenomena in international politics are in this sense determined by neither state nor corporate power, but they need to be examined as shaped by power relations between the two of them," continuing, "[t]he concrete (empirical) constellations in which they meet, compete or cooperate for power should be analyzed without pre-determining these power relations."¹⁵⁰

Taking this further, these interdependencies blur the distinction between public and private actors engaged in all forms of governance. The work of James Rosenau is particularly helpful here. He is probably most associated with the notion of "governance without government," but the work I have found most helpful is *Along the Domestic-Foreign Frontier: Exploring Governance in a Turbulent World*.¹⁵¹ Here he develops the concept of the frontier rather than the border or boundary, highlighting the porosity and permeability of supposed dividing lines underpinned by the resulting interaction and interdependencies. In that sense, it is not so much governance itself that matters, but understanding the combination of relationships amongst actors, the fluidity of those relationships and how they change over time, that helps us understand phenomena. Rosenau's idea was presented in spatial terms, but it can also be applied effectively between groups of actors and across time in thinking about turning points.

¹⁴⁷ For example, Neil Rollings, "Babcock and Wilcox Ltd., The 'Babcock Family' and Regulation 17/62: A Business Response to New Competition Policy in the Early 1960s," *Business History* 62, no. 5 (2020): 743-62.

¹⁴⁸ See: Industry Documents Library, (accessed 28 June 2022): <https://www.industrydocuments.ucsf.edu>.

¹⁴⁹ Vanessa Ogle, "Archipelago Capitalism: Tax Havens, Offshore Money, and the State, 1950s-1970s," *American Historical Review* 122, no. X (December 2017): 1431-58 and "Funk Money?: The End of Empires, The Expansion of Tax Havens, and Decolonization as an Economic and Financial Event," *Past & Present* 249, no. 1 (2020): 213-49.

¹⁵⁰ Milan Babic, Jan Fichtner, and Eelke M. Heemskerk, "States versus Corporations: Rethinking the Power of Business in International Politics," *The International Spectator* 52, no. 4 (2017): 29.

¹⁵¹ James Rosenau, *Along the Domestic-Foreign Frontier: Exploring Governance in a Turbulent World* (Cambridge, 1997). See also James Rosenau and Ernst-Otto Czempiel (eds), *Governance without Government: Order and Change in World Politics* (Cambridge 1992).

Competing Projects in Global Governance

Quinn Slobodian

The twentieth century is a fascinating time to follow the relationship between global governance and firms because of the persistent tension between principles of mass democracy and private ownership and control. It is possible to narrate the entire century as a series of contestations between firms and international organizations. At times, firms have had the upper hand. At other times, the principle of popular sovereignty has threatened the self-perceived rights and prerogatives of business. In my own work, I have homed in on ruptures at two main points.

The first is the First World War, when governments first gained access to the inner workings of firms. The total war footing of belligerent powers broke down the long-standing public-private divide as all of the nation's available resources were mobilized for the military effort. The outcome was a new horizon of what the Germans call *Machbarkeit*, or doability, that one can witness in political economic projects from Soviet communism to the U.S. New Deal to the breakneck pace of Nazi rearmament. Business leaders feared, with good reason, that their autonomy had been compromised permanently in a new era of mass politics. We can see the interwar efforts of organizations like the International Chamber of Commerce as what they saw as a rearguard attempt to defend the sovereignty of business, the interdependence of the world economy, and the priority of property rights over projects of nationalization and expropriation.¹⁵² I adopt the categories of midcentury intellectuals to describe this as a conflict between the principle of dominium—the domain of ownership and the government of things—and imperium—or the domain of sovereignty and the government of people.¹⁵³ It is a helpful shorthand for much of what followed.¹⁵⁴

The end of saltwater empires after the Second World War was another rupture in the nexus of global governance and business. The United Nations granted a seat in the General Assembly to every new nation, tipping the balance toward the poorer world over time and creating a forum to contest the power of corporations in the period from the 1950s to the 1970s. The Code of Conduct for Transnational Corporations (TNCs), first discussed in 1972, can be seen as a high point of pushback from international organizations vis-à-vis corporate power.¹⁵⁵ The eclipse of attempts at regulation by the late 1980s and the rise of international investment law and third-party arbitration such as Investor-State Dispute Settlements (ISDS) gave corporations the upper hand over states.¹⁵⁶ The success of U.S. sectoral corporate lobbying in the Uruguay Round that transformed the GATT into the World Trade Organization put new emphasis on intellectual property, in particular.¹⁵⁷

¹⁵² David and Eichenberger, "A World Parliament of Business".

¹⁵³ Wilhelm Röpke, *International Order and Economic Integration* (Dordrecht: D. Reidel, 1959): 79. Carl Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum* (New York: Telos Press, 2003): 137.

¹⁵⁴ See Slobodian, *Globalists*.

¹⁵⁵ Jennifer Bair, "Taking Aim at the New International Economic Order," in *The road from Mont Pèlerin: the making of the neoliberal thought collective*, ed. Philip Mirowski and Dieter Plehwe. (Cambridge, Mass., 2009): 347-67.

¹⁵⁶ A. Claire Cutler, *Private Power and Global Authority: Transnational Merchant Law in the Global Political Economy* (New York, 2003). Vanessa Ogle, "State Rights against Private Capital: The 'New International Economic Order' and the Struggle over Aid, Trade, and Foreign Investment, 1962–1981," *Humanity* 5, no. 2 (Summer 2014): 211-34. Perrone, *Investment Treaties & the Legal Imagination*; Ntina Tzouvala, "The Ordo-liberal Origins of Modern International Investment Law: Constructing Competition on a Global Scale," in *European Yearbook of International Economic Law*, ed. John D. Haskell and Akbar Rasulov (New York, 2019).

¹⁵⁷ See Sylvia Ostry, "The Uruguay Round North-South Grand Bargain: Implications for future negotiations" in *The Political Economy of International Trade Law*, ed. Daniel M. Kennedy and James D. Southwick. (New York, 2002): 285-99; Susan K. Sell, *Private Power, Public Law: The Globalization of Intellectual Property Rights* (Cambridge, 2003).

Focusing on episodes of conflict with close attention to not just national power but sectoral pressure groups helps us to see the twentieth century as less a period of one-way secular trends than one of continued conflict, with diverse blocks forming and dissolving over time.¹⁵⁸ A historical approach can also help us deflate what is often the excessive sense of shock and novelty in the narration of ongoing events in the present. Reading editorials in the financial or popular press, one is struck by what is either an extremely short-term memory or a highly stylized (and often distorted) version of the past. Take the example of deglobalization which has become something like common sense for the punditry since the outbreak of the COVID-19 pandemic. One reads and hears all too often about the supposed swing of a pendulum from the world governed by global markets and a world governed by national states. In the latter, it is assumed, economic interdependence wanes and the volume of traffic in goods, money, and people decreases. Yet a closer look at previous moments of global economic crisis, whether it is the interwar period—when trade bounced back very quickly after the rupture of the First World War—or the 1970s—when financial services in the midst of an energy crisis—suggests that we need to scrutinize empirical assumptions and also avoid unhelpful binaries which gives the impression that the power of states somehow receded in earlier moments of globalization.¹⁵⁹ Even in the high point of what is often called “unfettered” globalization, states played an essential enabling and coordinating role. The history of international economic law is an especially fertile site of study here. In the very period that markets were supposedly set free, they were actually increasingly encased through new forms of investment agreements, trade arrangements, competition law and, in many cases, the prioritization of private rights over national rights.¹⁶⁰

A historical approach to the present can also help us see that the assumption that we have only recently departed from a “free trade world order” itself occludes the many ways that the past decades have included numerous deviations from free trade, above all, in the core countries like the United States itself.¹⁶¹ The fields of International Political Economy and, especially, Third World Approaches to International Law, are too often overlooked by both pundits and historians. Scholars who work, by nature, with macro frameworks are perfect resources and conversation (and collaboration!) partners for historians who tend to have specialization framed by a specific nation or language. Finding a way to move between scales is essential for understanding what is truly novel in our present conjuncture. To use a relevant example, understanding indigenous perceptions of international relations in a rising power like China can also help us understand what may be different about a global economic order in which one of the dominant powers does not have the same will to world power or close relationship to corporate leadership that shaped the Anglo-American tradition and mindset of the British Empire and the misnamed Pax Americana.¹⁶²

¹⁵⁸ For an example from the NAFTA negotiations see Malcolm Fairbrother, *Free Traders: Elites, Democracy, and the Rise of Globalization in North America* (New York, 2019). On the influence of the steel lobby in the U.S.-China trade war see Quinn Slobodian, “The Backlash Against Neoliberal Globalization”.

¹⁵⁹ For an incisive critique see Stefan Link, “How Might 21st-Century De-Globalization Unfold? Some Historical Reflections,” *New Global Studies* 12, no. 3 (2018): 343-65.

¹⁶⁰ See Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (New York, 2007); Honor Brabazon, *Neoliberal Legality: Understanding the Role of Law in the Neoliberal Project* (London, 2017); David Schneiderman, *Constitutionalizing Economic Globalization: Investment Rules and Democracy's Promise* (New York, 2008); Antoine Vauchez and Pierre France, *The Neoliberal Republic: Corporate Lawyers, Statecraft, and the Making of Public-Private Finance* (Ithaca, 2020).

¹⁶¹ See Nitsan Chorev, *Remaking U.S. Trade Policy: From Protectionism to Globalization* (Ithaca, 2007); Kristen Hopewell, *Breaking the WTO: How Emerging Powers Disrupted the Neoliberal Project* (Stanford, 2016).

¹⁶² For the Anglo-American world order see Jamie Martin, *The Meddlers*; Kate Miles, *The Origins of International Investment Law: Empire, Environment and the Safeguarding of Capital*. (New York, 2013). On China see Maria Adele Carrai, *Sovereignty in*

It has become ever more intuitive for scholars to place global governance and global capitalism in a single frame of analysis. But this was not always the case. As recently as the 1990s, there was still a sizable gulf between those who studied the history of international organization, empire, and decolonization, and those who studied the history of business and banking. How was the gap narrowed? One could narrate many versions of the trajectory but I can share one my own. It begins in the immediate wake of the US invasion of Iraq in early 2003, when many began searching for historical parallels and precedents for both analogous acts of military imperialism but also effective acts of transnational solidarity. Interest in the 1950s, 1960s, and 1970s was strong in this moment with a special emphasis on three episodes. First was the Afro-Asian Solidarity Conference in Bandung, Indonesia in 1955—the first major gathering of nations without the participation of white-majority powers—and one of the birthplaces of the Non-Aligned Movement, a breath of archival fresh air in its prospect of escape from the stultifying confrontation of Cold War historiography and its centering of South-South cooperation.¹⁶³ Second was the anti-Vietnam war mobilizations of the 1960s and third was the New International Economic Order articulated by the group of poor nations at the United Nations known as the G-77 in 1974. This scholarship was housed more in the subfields of political and cultural history at first. There was an interest in the forms of symbolism, rhetoric, and affect that united people across cultural and geographic divides. There was also an interest in the political connections made by minority and indigenous groups within northern countries as they began to reconceptualize themselves as colonized populations with potential points of solidarity in the global south.¹⁶⁴

Soon, however, especially in the wake of the convulsions of the Global Financial Crisis, this political impulse moved from the realm of politics into those of political economy and international economic law. The longer people looked at the divides created in the modern period, the more they realized they were not merely episodes of military invasion countered by often ephemeral acts of political solidarity but relationships hardwired into the architecture of commerce and investment. Empire and imperialism were not passing historical episodes but enduring relationships of asymmetrical power mediated by the power of finance and law.¹⁶⁵ To understand the lasting gulf between countries of the North Atlantic and those of Africa, Latin America, and Asia, it was necessary to delve into what Katharina Pistor calls “the code of capital.”¹⁶⁶ The mobilization around Occupy Wall Street in 2011 gave new fuel to this push into political economy as talk of debt, bailouts, and interest rates migrated from the business pages (and the private anxiety of the letter from the collection agency) onto the front pages and discussions in the streets.¹⁶⁷

Since that time, historians have begun to open up what had previously been something of a black box of scholarship. Archival records of negotiations over apparently dry topics like double taxation, access

China: A Genealogy of a Concept since 1840 (Cambridge, 2019); Meg Rithmire, "Going Out or Opting Out? Capital, Political Vulnerability, and the State in China's Outward Investment," *HBS Working Paper*, no. 20-009 (2021).

¹⁶³ See, e.g. Christopher J. Lee, ed., *Making a World after Empire: the Bandung Moment and its Political Afterlives* (Athens, 2010); Vijay Prashad, *The Darker Nations: A People's History of the Third World* (New York, 2007).

¹⁶⁴ See, e.g. Quinn Slobodian, *Foreign Front: Third World Politics in Sixties West Germany* (Durham, 2012); Sean Mills, *The Empire Within: Postcolonial Thought and Political Activism in Sixties Montreal* (Montreal, 2010). Cynthia A. Young, *Soul Power: Culture, Radicalism, and the Making of a U.S. Third World Left* (Durham, 2006).

¹⁶⁵ See Sam Gindin and Leo Panitch, *The Making of Global Capitalism: The Political Economy of American Empire* (Brooklyn, 2012).

¹⁶⁶ Katharina Pistor, *The Code of Capital: How the Law Creates Wealth and Inequality* (Princeton, 2019).

¹⁶⁷ An influential book in this context was David Graeber, *Debt: The First 5,000 Years* (Brooklyn, 2011).

to waterways, extraterritorial capitulations and enclaves, commodity agreements, arbitration agreements, and land claims, have become live topics vibrating with political import. As the global economic landscape continues to move to what seems like a period of more regionalized fragmentation, the task of historians becomes even more acute. New questions present themselves. How much autonomy do corporations have from states? How do investors deploy aspects of private governance to evade public accountability? How can we historicize the interest in trends like Corporate Social Responsibility, ESG investing, and stakeholder capitalism? How does the move to services, digitization, and globally enforceable intellectual property rights change the balance of power between public and private actors—and richer and poorer nations? How can we excavate histories of collaboration between states and firms in the so-called mixed economy, especially in regional, continental, or municipal arrangements at a moment when the unipolar model of world economic order seems to be on the ropes? How does the mediation of public debt by globally active financial institutions create both new opportunities and new vulnerabilities? These and other questions are enough to keep historians well occupied in coming years and decades. But there is a precondition: namely, that the very possibility of academic production—the secure position, the research institution, the graduate and postgraduate funding—is not itself eroded beyond salvage by the tendency towards a narrow idea of instrumentalizing higher education toward immediate marketable outcomes. Even as historians study the material conditions for the reproduction of the global economy with one eye, they have to keep the other on the more immediate concern of the material conditions for the reproduction of their own existence. The need for double vision will go nowhere soon.

Conclusion

As these roundtable contributions have shown, bringing business history in discussion and collaboration with related historical disciplines such as histories of international relations, economic thought, international law, and global history open promising venues for further research on the nexus of capitalism and global governance. All contributors indeed recognize the centrality of business to both capitalism and global governance and stressed the need to analyze the nature and the evolution of these complex and porous relations over time through the lens of firms. While this roundtable has focused on historical studies, the topics and questions tackled here resonate closely with contemporary scholarship developed by other social sciences, such as international political economy,¹⁶⁸ international business,¹⁶⁹ sociology of elites,¹⁷⁰ political and economic sociology,¹⁷¹ and organization studies.

¹⁶⁸ See for instance: Christian May and Andreas Nölke eds, *The Handbook of the International Political Economy of the Corporation*, (Cheltenham, 2018); Rawi Abdelal, “The Multinational Firm and Geopolitics: Europe, Russian Energy, and Power”, *Business & Politics* 17, no. 3 (2015): 553–576.

¹⁶⁹ For a precursor work, see Raymond Vernon, *Sovereignty at Bay: The Multinational Spread of U.S. Enterprises* (New York, 1971). And for appeals to renew the field: Peter J. Buckley, Jonathan P. Doh, and Mirko H. Benischke, “Towards a Renaissance in International Business Research? Big Questions, Grand Challenges, and the Future of IB Scholarship”, *Journal of International Business Studies* 48, no. 9 (2017): 1045–64.

¹⁷⁰ Bernhard Reinsberg, Thomas Stubbs, Alexander Kentikelenis, and Lawrence King, “Bad Governance: How Privatization Increases Corruption in the Developing World,” *Regulation & Governance* (2019): 1-20; Alexander Kentikelenis and Sarah Babb, “The Making of Neoliberal Globalization: Norm Substitution and the Politics of Clandestine Institutional Change,” *American Journal of Sociology* 124, no. 6 (2019): 1720-1762; Babb and Kentikelenis, “Markets Everywhere: The Washington Consensus and the Sociology of Global Institutional Change,” *Annual Review of Sociology* 47 (2021): 521-541; William K Carroll, *The Making of a Transnational Capitalist Class: Corporate Power in the 21st Century* (New York, 2010); Leslie Sklair, *The Transnational Capitalist Class* (Oxford, 2001).

¹⁷¹ Neil Fligstein, *The Banks Did It: An Anatomy of the Financial Crisis*. (Cambridge, Mass., 2021).

Widespread scholarly and public interest in these topics is likely to persist given the sustained backlash against globalization, the persistence of economic inequality, the rise of populism, the resurgence of open conflict in Europe in which economic sanctions and energy dependency are crucial, and the ways the Covid-19 pandemic exposed the fragility of global value chains and the urgency of the climate change crisis. Solutions to many of these challenges, which are closely tied to capitalist dynamics, simultaneously require interventions on a scale that only institutions of global governance can provide.¹⁷² But they also pose tremendous challenges to the functioning of such institutions and make them susceptible to influence. Moreover, some forms of global governance such as powerful philanthropic institutions, private summitry forums, and international organizations that enforce economic globalization upon nation-states, are being accused of escaping the reach of democratic debate and are increasingly contested.¹⁷³

Such developments have prompted historians to engage increasingly with contemporary issues and apply their analyses of the past to the possible futures of economic activity, policy, regulation, and collective efforts to provide for the wellbeing of humans and their environments.¹⁷⁴ One multidisciplinary group has coalesced around examining history and political economy,¹⁷⁵ and others are using historical insight to take stock of efforts to design economic, social, and environmental policies beyond the neoliberalism that characterized so much of the twentieth century convergence of capitalism and global governance.¹⁷⁶ The challenges of the present demand continued analysis in this vein. Only by studying the present in its long historical context and by attending to the many complex dimensions of the systems and structures in which we live, can we hope for any change.

Biographies

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Grace Ballor is Assistant Professor of International and Economic History at Bocconi University. Her research examines the historical intersections of business and governance, particularly in the context of contemporary Europe. Her book, *Enterprise and Integration: Big Business and the Making of the Single*

¹⁷² Michael N Barnett, Jon C. W. Pevehouse, and Kal Raustiala, eds. *Global Governance in a World of Change*, (Cambridge, 2021).

¹⁷³ For an overview of current debates see: Christopher May, “Who’s in Charge? Corporations as Institutions of Global Governance,” *Palgrave Communications* 1, no. 15042 (2015): 1–10; Jinseop Jang, Jason McSparren and Yuliya Rashchupkina. “Global Governance: Present and Future,” *Palgrave Communications* 2, no. 1 (2016): 1–5; Bartley, *Transnational Corporation*.

¹⁷⁴ See for instance Adam Tooze’s recent publications: Adam Tooze, *Crashed: How a Decade of Financial Crises Changed the World* (New York, 2018); Adam Tooze, *Shutdown: How Covid Shook the World’s Economy* (New York, 2021).

¹⁷⁵ Quinn Slobodian and Christy Thornton, History & Political Economy Project (accessed 8 June 2022): <https://www.hpeproject.org>

¹⁷⁶ Quinn Slobodian, “The New Paradigm: How Fares Neoliberalism?” *Democracy Journal* 64 (2022).

European Market, under contract with Cambridge University Press, reconstructs the history of regional market integration from the perspective of European corporations.

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