

Challenging Times for Multilateralism

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In 2012, a grand total of four new multilateral treaties were concluded². By way of comparison, over a similar period, the 112th Congress of the United States of America, which was considered on this measure to be an exceptionally unproductive Congress, passed 284 laws. At the same time, an indeterminate, but large, number of bilateral free trade agreements were under negotiation or being concluded, as well as several high-profile plurilateral agreements. By any reckoning, the multilateral harvest seems to be affected by a prolonged drought.



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The absence of need or a shortage of appropriate subject matter for multilateral attention would seem to be an unlikely explanation for the lack of outcomes. Globalisation and interconnection have produced a regrettably long list of suitable problems, many of which seem inherently to lie beyond the power of any one State to resolve because they involve the movement of persons, arms, pollution, germs, capital or products across multiple

borders. Indeed, the enumeration of potentially suitable subjects would suggest that the size of the capacity for multilateral policy response is varying in inverse proportion to the size of the problems. Why is this so?

Competition would seem to be a large part of the explanation. Once, international organisations and multilateral treaties were just about the only vehicles that States considered as means for achieving international outcomes. Both have competitors now. There is a rich variety of public-private partnerships, wholly private institutions, such as the Bill and Melinda Gates Foundation, and multistakeholder collaborations for specific purposes that are now used to address international problems, frequently with great success. Likewise, it is widely accepted that not all international problems need or should be regulated by a treaty. A range of other practical platforms can often be as, or more, effective. These platforms can be formed through all sorts of arrangements that fall short of the solemnity of a multilateral treaty and can be established and decommissioned with much greater ease. The advent

of this competition is not necessarily a negative thing. On the contrary, it may be seen as reflecting a greater level of maturity in international relations, which responds to the complexity that globalisation has introduced.

Geopolitical change appears to be another large part of the explanation. The momentous geopolitical shifts that are underway are dynamic and have not found their full institutional expression. The economic shifts that have occurred do not yet seem to be expressed in the political

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architecture, which reflects a different economic reality. Change is working its way through the system but, until it completes its journey, the design of the system does not provide the necessary capacity to address the external environment. While we wait for the requisite capacity to develop, agreement seems possible only on the technical and the specific, and rarely on the political and the general. Thus, a multilateral agreement can be reached on mercury³, but one on climate change is elusive. All four of the multilateral treaties concluded in 2012 were very specific and technical.

Multilateralism remains dear to hearts of many. It has the virtue of universality and thus continues to be the highest expression of inclusiveness and legitimacy of the international community. But those virtues come at the cost of slow and laborious processes in a fast-moving world that sometimes cannot wait, and often simply does not want to wait. Our collective political responsibility is to develop the design that will help multilateralism to deliver and to retain its relevance.

¹ The views expressed in this article do not necessarily reflect the views of the Member States of WIPO.

² Protocol to the Cape Town Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets, concluded on March 9, 2012; Food Assistance Convention, concluded

on April 25, 2012; Beijing Treaty on Audiovisual Performances, concluded on June 26, 2012; and Protocol to Eliminate Illicit Trade in Tobacco Products, concluded on November 12, 2012.

³ The proposed Minamata Convention on Mercury.