

The New International Economic Order (NIEO)

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Introduction

Para 3 of the [1978 Alma-Ata Declaration on Primary Health Care](#) (WHO and UNICEF 1978) reads:

III. Economic and social development, based on a New International Economic Order, is of basic importance to the fullest attainment of health for all and to the reduction of the gap between the health status of the developing and developed countries. The promotion and protection of the health of the people is essential to sustained economic and social development and contributes to a better quality of life and to world peace.

The Alma-Ata Declaration is unique among global health policy documents in affirming the importance - for global health - of radical reform in global economic governance. However, in subsequent global health policies, the call for a [NIEO](#) has been ignored or buried in generalities, including 'intersectoral action for health' (World Health Organisation, Health and Welfare Canada, and Canadian Public Health Association 1986), 'health in all policies' (WHO and Government of South Australia 2010), 'advocacy', and 'community empowerment' (Global Conference on Primary Health Care 2018).

The caution of health officials regarding practical steps to address the economic determinants of health reflects the influence of neoliberal ideology as well as imperial intimidation. On the ground however, there are many health activists who are making the links between the global economic regime and people's health, both conceptually and in practice. In a six nation study of [civil society engagement in the struggle for Health for All](#) (Bodini et al. 2018) a wide range of practical initiatives were documented including publications, training, new models of service delivery, movement building, policy advocacy, and networking. Many of these were directed in different ways to challenging the prevailing structures of global governance, reflecting in many cases how PHC practitioners and health activists were working with their communities on the structural barriers to better health.

Imperialism and neoliberal capitalism are deepening economic inequality globally as well as driving environmental degradation. Inequality and marginalisation are associated with a huge avoidable burden of disease as well as barriers to accessing decent health care. Too often the political and economic factors are obscured or denied, and the health system responses are restricted to gestures of amelioration and individualistic prevention.

When the economic and political factors responsible for particular health issues are recognised, the common response is campaign around those immediate factors: intellectual property rules (IPRs) in relation to medicines; investor state dispute settlement (ISDS) in relation to action on tobacco; campaigns against environmental destruction; protests against privatisation, marketisation, austerity, precarity; campaigns against big food (from both the consumer and agroecological perspectives); campaigns against structural adjustment; protests against imperial wars and covert interventions; protests against oppressive governments.

However, while activists focus on the political and economic factors directly responsible for specific health issues, the underlying commonalities, the potential synergies and the need for solidarity across different struggles can be neglected.

The NIEO provided an authoritative recognition of the systemic dimensions of the various disabilities facing the countries and peoples of the Global South. Its presence in the Alma-Ata Declaration signalled to politicians and health care professionals that the prospects for better health in the Global South were inextricably tied to reform of the international economic order.

The story of the [NIEO](#) is relevant to contemporary health activism, partly as a source of inspiration but also because of the lessons for strategy that can be drawn from this history. The need for a new international economic order today is every bit as urgent as it was in 1974 although contemporary policy goals and strategies for change will be somewhat different (in part because of lessons learned from the 1974 NIEO).

The purpose of this chapter is to redirect attention to para 3 of the Alma-Ata Declaration and the need for health activists to have regard to the links between the international economic order and the burden of disease and to approach their immediate and local challenges in ways which also contribute to driving change at the wider scale and longer term. The chapter reviews the emergence of the NIEO and its associations with the Group of 77 and China ([G77](#)) and the Non-Aligned Movement; recalls the forces mobilised to suffocate the movement for a NIEO; highlights contemporary movements toward a new NIEO; and considers some possible lessons for strategy from the 'old' NIEO. The chapter concludes with reflections on how this agenda might articulate with the struggle for health, in particular, through the implementation of comprehensive primary health care.

What was the NIEO?

The [NIEO](#), adopted by the Sixth Special Session of the UN General Assembly in April/May 1974 (UNGA 1974c), crystallised the grievances and demands of the Global South regarding the unequal and unfair exchange relationships embedded in the way the global economy operated in the preceding decades and the asymmetric power relations between the countries of the North and South in regulating the global economy. The adoption of the NIEO remains an inspiring reminder of the potential power of a unified Global South and provides important lessons about how to negotiate such collaboration.

The NIEO did not focus on the determination of health or access to health care. Rather, it focused on the opportunities for and barriers to economic development, including decent jobs and public revenues sufficient for infrastructure and services. As the Alma-Ata Declaration pointed out: *“Economic and social development, based on a New International Economic Order, is of basic importance to the fullest attainment of health for all”*.

The central economic concern behind the NIEO in 1974 was the continuing decline in the terms of trade experienced by developing countries and balance of payments crises as a consequence of this. The NIEO called for a:

Just and equitable relationship between the prices of raw materials, primary commodities, manufactured and semi-manufactured goods exported by developing countries and the prices of raw materials, primary commodities, manufactures, capital goods and equipment imported by them with the aim of bringing about sustained improvement in their unsatisfactory terms of trade and the expansion of the world economy...

‘Terms of trade’ refers to the relationship between the prices being received for exports as compared with the prices being charged for imports. Exporters of manufactured goods from the North had much stronger pricing power (associated with scale, proprietary technologies and

monopoly status) than exporters of basic commodities or low level manufactured goods. With declining terms of trade, the volume of commodities exported had to continue to increase to buy the same volume of manufactured goods. Developing country exporters were much more likely to be price takers, subject to the demands of trading monopolies.

The declining terms of trade was a continuing pressure on balance of payments with flow on implications for debt servicing capacity, exchange rates, and access to foreign currency for capital purchases. The NIEO was closely focused on regulating commodity trade (including provision for UN stock piling to reduce volatility of prices and supply).

Balance of payments remains a key vulnerability for developing countries, including on account of declining terms of trade in relation to commodities. However, the pressure on developing countries to remove controls on capital flows has added new threats including speculative attacks on the domestic currency and global interest rate hikes. Developing countries are increasingly obliged to 'insure' their currency against speculative attack by buying US dollars and US bonds to defend their currency as needed. This is effectively lending money to the US, supporting the value of the US dollar and subsidising US consumers by keeping the prices of imports into the US artificially low. This is not the best use of foreign earnings.

The [UNGA resolutions](#) which defined the NIEO - Resolution 3201 (S-VI) and Resolution 3202 (S-VI) - called for:

- Preferential and non-reciprocal treatment for developing countries, wherever feasible, in all fields of international economic co-operation whenever possible [Special and Differential Treatment or SDT],
- Financial transfers, and
- Transfer of technology.

The NIEO resolution called for "Full and effective participation on the basis of equality of all countries in the solving of world economic problems in the common interest of all countries ..." [4(c)]. This remains a key issue, exemplified by the continuing pressures from the Global North to manage global economic governance in the G7 or G20, outside the UN system (where developing countries vote).

The NIEO resolution affirmed the state's "*right to nationalization or transfer of ownership to its nationals, this right being an expression of the full permanent sovereignty of the State. No State may be subjected to economic, political or any other type of coercion to prevent the free and full exercise of this inalienable right ...*" [4(e)]. The inclusion of investor protection provisions in the cloud of bilateral investment treaties concluded since 1974 is a direct response by the corporate sector and their political allies to this challenge. However, the rejection of the OECD-proposed 'multilateral agreement on investment' in 1998 illustrates the power of the combined resistance from the states of the Global South and from civil society globally.

The NIEO resolution called for the "*Regulation and supervision of the activities of transnational corporations by taking measures in the interest of the national economies of the countries where such transnational corporations operate on the basis of the full sovereignty of those countries...*" [4(g)]. The need for regulation of TNCs is no less urgent 50 years later, perhaps more so.

The NIEO resolution called for "*Preferential and non-reciprocal treatment for developing countries, wherever feasible, in all fields of international economic co-operation whenever possible ...*" [4(n)]. Special and differential treatment (SDT) remains a critical demand of developing countries in trade negotiations. It is of relevance to the refusal of the rich world to reform the Agreement on Agriculture; to the continuing negotiations over trade in services and to the provision of financial support for climate mitigation and adaptation and compensation for loss and damage arising from climate change.

The NIEO resolution called for *“Giving to the developing countries access to the achievements of modern science and technology and promoting the transfer of technology and the creation of indigenous technology for the benefit of the developing countries in forms and in accordance with procedures which are suited to their economies...”* [4(p)]. The urgency of this demand has increased manifold with the adoption in 1994 of the TRIPS Agreement and the inclusion of TRIPS plus measures in many preferential trade agreements since then. Green technology transfer for climate change mitigation and adaption is of existential importance for humanity. The refusal of pharma to countenance WHO’s Covid Technology Access Pool (C-TAP) proposal and its rejection of the proposed TRIPS Waiver both illustrate the ongoing importance of this issue in the health sector.

The NIEO resolution called for the *“Extension of active assistance to developing countries by the whole international community...”* [4(k)]. The need for financial transfers to support development (as well as climate change mitigation and adaptation) remains a critical need although the prospects of the core capitalist countries agreeing to such transfers, in the magnitude required, are bleak.

The NIEO resolution called for *“Ensuring that one of the main aims of the reformed international monetary system shall be the promotion of the development of the developing countries and the adequate flow of real resources to them...”* [4(l)]. This call remains current. The US economy continues to benefit from the privileges associated with the role of the US dollar as the principal currency of international exchange. The pressures on developing countries to buy US Treasury bonds to insure against speculative currency attacks has been mentioned above. The privileges of US dollar hegemony also include its ability to impose unilateral sanctions on other countries through its power over international banking. The use of ‘special drawing rights’ (SDRs) to replace the US dollar as the currency of global exchange remains on the agenda for a contemporary NIEO.

There are some contemporary issues in North South relations which were not foreseen in the 1974 resolution.

The global reach of TNCs was recognised in 1974 but not the structural transformation of the global economy into ‘global value chains’ (GVCs) controlled in each case by a small number of transnational corporations. This has created new possibilities for the transfer of surplus value from the South to the North (South Centre 2013). Smith (2016) elaborates on the role of ‘labour arbitrage’ enabled by such control and its role in the continuing expropriation of value from developing countries, their governments and their workers. This transformation is a consequence of the liberalisation of trade and investment and the power of private capital to extort favourable tax treatment and weak regulation in the international competition for foreign investment.

The resolution did not foresee the economic transformation associated with the **financialisation** of the global economy including the role of private finance in supporting (or throttling) economic development and the power of ‘market sentiment’ through its influence on share prices, exchange rates, interest rates and capital flows. The debates over capital controls versus liberalisation remained in the future in 1974 but the need to control capital flows (at both ends) is clearly on today’s agenda.

Another key development since 1974, which reflects both **financialisation** and the power of TNCs through their control of global value chains, is the declining share of labour compensation in economic activity generally and the associated deepening of inequality in both the North and South. It is interesting that there is no reference in the 1974 NIEO to international corporate tax reform. This would certainly be a key feature of a contemporary NIEO.

The outstanding omission from the 1974 NIEO was global warming and the challenges associated with mitigation and adaptation. In both respects there is a pressing need for North South finance and technology flows.

The political economy of unequal exchange

There are important continuities but also ruptures between the theoretical narrative which informed the original NIEO and that which might inform a contemporary NIEO.

Rostow's 'Stages of economic development' (Rostow 1960) underpinned development orthodoxy in the North for many decades. Rostow considered the economic development of one country as a standard process which all countries would need to go through regardless of their location in international trade and finance flows and regardless of their place in the sequence of industrialisation. The Rostovian sequence would include mechanisation of agriculture which would release labour and provide food for industrial workers supporting early industrialisation which would generate capital for investment in heavy industry. This linear theory of 'take off' had superficial plausibility. However, it was only in relatively insulated economies (such as the early Soviet Union, Japan, Taiwan and South Korea under US protection in the 1960s and China in the 1980s and 1990s) that it contributed usefully to policy. In the increasingly integrated global economy of the 1970s it was evident to economists, politicians and ordinary people in the Global South that unequal exchange associated with asymmetrical power relations in a closed global economy had rendered Rostow's model largely irrelevant.

In contrast, dependency theory (Frank 2019 [1986]; Hettne 1995; Blomstrom and Hettne 1984), influential in the genesis of the NIEO, emphasised the dynamics prevailing in an integrated global economy. Dependency theory argued that the ongoing stream of South to North value transfer was inevitable in the kind of asymmetric trade between developing and developed economies. Since underdevelopment resulted from close ties with the capitalist metropolis, Frank reasoned that, in order for development to occur, those ties should be loosened, replaced by South South trade.

While the NIEO did not argue for restraints on North South trade, it did emphasise the need to develop South South trade and economic cooperation. This emphasis on developing South South trade and finance was strongly promoted by Amin (1985) and remains prominent in UNCTAD's South-led Scenario (UNCTAD 2022).

By the late 1970s establishment economists in the Global North were calling for the liberalisation of finance as well as trade as a condition for continued economic growth in the Global North (and the promise of development in the Global South). By the early 1990s economic liberalism had morphed into neoliberalism, the difference being its intensified rejection of any government intervention in the economy except to nourish the industrial and financial corporations and imperial power. The promises of this free market ideology were used to justify the brutality of structural adjustment in the 1980s, and also found some purchase in conservative politics in the Global South.

Smith (2016) used the T-shirt, the cup of coffee, and the iPhone to explore the political economy of unequal exchange. He demonstrated how these products generate enormous outflows of value from the countries of the Global South to transnational corporations headquartered in the core capitalist nations of the Global North. Smith argued that the core capitalist countries need no longer rely on military force and colonialism but are able to extract profits from workers in the Global South through market mechanisms and, by aggressively favouring places with lower wages (and laxer regulatory standards).

In the present period the insights of dependency theory have been integrated into a more complex narrative regarding the global economy and the barriers to development. Some of the key elements of this narrative include:

- A recognition of the crisis of **over-production** (qv) and its complement, the **financialisation** of the economy (qv);
- A recognition of the impact on employment (jobs, wages, conditions, security) of increasing productivity (technology enabled) and the increasingly tight management of global trade through TNC-controlled GVCs;

- A focus on access to finance to support development while controlling the drivers of unsustainable debt;
- An insistence on locating the challenges of development and climate finance in the context of neoliberal capitalism and waning US imperialism.

Where did it come from? From NAM to G77 to UNCTAD and the NIEO

The story of the NIEO remains relevant today. It provides entrée into the policy debates regarding global economic governance and the underpinning theories and perspectives regarding global political economy. The policy concerns which drove the NIEO remain relevant although the dynamics of unequal exchange and the modalities of power have evolved. The story also provides insights into the geopolitics of South South policy collaboration.

The focus of this section is on the emergence of two important leadership institutions – the Non-Aligned Movement (NAM) and the Group of 77 (G77) – and two key victories which they achieved – the creation of UNCTAD and the Declaration of the NIEO. (Except where otherwise indicated, the following account draws from those of Alden and colleagues (2010b) and Toye (2014)).

Bandung 1955

The Asia Africa Conference, held in the Indonesian city of Bandung in 1955, is a convenient place to pick up the story. The Conference was convened by Burma, Ceylon, India, Indonesia, and Pakistan and attended by Afghanistan, Cambodia, China (People's Republic), Egypt, Ethiopia, Gold Coast, Iran, Iraq, Japan, Jordan, Laos, Lebanon, Liberia, Libya, Nepal, the Philippines, Saudi Arabia, Sudan, Syria, Thailand, Turkey, two Vietnams and Yemen. Indonesia's President Soekarno played a key role in convening the Conference.

Bandung's final communiqué set out four general purposes of the conference:

1. to promote goodwill and cooperation among the nations of Asia and Africa;
2. to consider the social, economic, and cultural problems of the countries represented;
3. to consider problems of special interest to Asian and African peoples, for example, those affecting national sovereignty and also problems stemming from racialism and colonialism;
4. to assess the position of Asia and Africa and their peoples in the world and the contribution they could make to the promotion of world peace and cooperation.

The communiqué referred to the urgency of promoting economic development in the Asian-African region and the need of that region for foreign capital investment, and for the stabilising of commodity trade.

The conference endorsed five principles for South South collaboration:

1. mutual respect for each other's territorial integrity and sovereignty,
2. mutual non-aggression,
3. mutual non-interference in each other's internal affairs,
4. equality and mutual benefit, and
5. peaceful coexistence.

First Non-Aligned Movement (NAM) Summit in Belgrade in September 1961

South South networks deepened as more decolonised countries joined the UN. Regional cooperation also developed (eg the formation of the Africa Group in the UN in 1958) and inter-regional links developed (Asia African and Asia Arab links).

The first summit of the NAM took place in Belgrade in September 1961. Yugoslavia had not been present at Bandung, but Yugoslav's President Tito had come to play a prominent role in promoting the concept of non-alignment and in the convening of the Summit. The Summit was focused more on geopolitics (the Cold War, the Berlin Wall, China's admission to the UN, and Palestine) than the economics of development. The 25 participants included only one country from Latin America (Cuba) but there were three observers (Brazil, Ecuador and Bolivia).

The Cairo Conference on the Problems of Developing Countries

Ten months later (July 1962) the non-aligned countries met again, to consider the problems of developing countries, including economic development. Thirty six countries attended including eight from Latin America (four as formal participants: Bolivia, Brazil, Cuba, and Mexico, and four as observers: Chile, Ecuador, Uruguay and Venezuela).

Among those present was Raúl Prebisch, the executive secretary of the UN Economic Commission for Latin America. Through his participation, Prebisch was inspired by the prospect of deeper cooperation between Third World countries across three continents. (He would later become the first Secretary General of UNCTAD).

Prebisch and the Latin American countries brought with them analyses and policies which had been under discussion in Latin America for some years. These included the protection of infant industries at home while endeavouring to negotiate better terms of trade with the leading industrialised countries at the international level.

The Cairo Declaration called for an international conference within the framework of the UN on 'all vital questions relating to international trade, primary commodity trade and economic relations between developing and developed countries'.

UNGA (Dec 1962) agrees to hold a conference on trade and development (and the G77 consolidates)

The need for a conference on trade and development had previously been raised by Argentina in the UN's Economic and Social Council (EcoSoc) in 1961 and was considered in the General Assembly in December 1962.

The developing countries who voted for the proposed conference subsequently issued the 'Joint Declaration of the Seventy Seven Developing Countries' formalising the G77 as an organised grouping within the UN. (The Joint Declaration of the G77 was later endorsed at the Second Non-Aligned Summit, in Cairo, in October 1964.)

The proposed UN conference was initially authorised as a one-off meeting and scheduled for March June 1964. During the first meeting of the Preparatory Committee (early 1963) Prebisch was appointed Secretary General of the Conference.

Later in 1963 Tito visited Brazil, Bolivia, Chile and Mexico. This visit may have been directed to gaining support for Tito's focus on non-alignment versus that of Soekarno on anti-imperialism. Tito was concerned to encourage peaceful coexistence, and cooperation through the UN whereas Soekarno envisaged a more militant Afro Asian movement organised outside the UN and directed to confronting colonialism and imperialism.

UNCTAD I, March to June 1964, Geneva

The Conference lasted 11 weeks and worked through five committees which addressed: international commodity problems, trade in manufactures and semi-manufactures, improvement of the invisible trade of developing countries and financing for expansion of international trade,

institutional arrangements, and expansion of international trade and its significance for economic development and implications of regional economic grouping.

The Final Act of the Conference (UNCTAD 1964) includes an extensive set of 'findings' regarding the experience of and prospects for development and a set of principles (many of which would later feature in the NIEO).

The G77 issued a ten-paragraph [Joint Declaration](#) at the end of the conference (G77 1964), recalling its Joint Declaration at the General Assembly in 1962, and noting that the Conference had been 'a significant step towards creating a new and just economic order'.

However, in para 4 of its new Joint Declaration the G77 expressed some disappointments.

The developing countries declare, however, that they consider the final recommendations of the Conference as only an initial step towards an international endorsement of a new trade policy for development. They do not consider that the progress that has been registered in each of the major fields of economic development has been adequate or commensurate with their essential requirements. There has not, for instance, been an adequate appreciation of the problem of the "trade gap" of developing countries. Only the most limited approaches were made regarding trade in primary commodities, and of preferences for exports of manufactures. Similarly, only preliminary steps were possible relating to schemes for compensatory financing to meet long-term deterioration in the terms of trade. The developing countries have, nevertheless, accepted the results of this Conference in the hope that these results would lay the foundation for more substantial progress in the period ahead. They have also accepted these resolutions in recognition of the need for a co-operative effort in the international field. To this end they have chosen to arrive at the widest measure of agreements possible, rather than to register their aspirations by majority decisions.

One of the issues around which there was significant debate was the proposal for the creation of a new international trade organisation. This had been considered but rejected at Bretton Woods in 1944 and was again not supported. The fallback position was a plan for periodic UNCTAD conferences, with a standing committee and an independent secretariat, in effect constituting a continuing organisation. A recommendation along these latter lines was adopted at the end of the Conference. In para 6 of its Joint Declaration the G77 stressed the need for continuing institutional development, beyond UNCTAD, leading to the ultimate emergence of a comprehensive international trade organization.

Second Non-Aligned Summit, Cairo, October 1964

The second NAM summit was held in Cairo in October 1964, following UNCTAD I but before the UNGA meeting where a continuing UNCTAD would be formalised.

Again, there was some tension regarding the balance between non-alignment as a geopolitical value versus the struggle of the Global South for economic development and political sovereignty, but the summit endorsed both. The Summit participants supported the Joint Declaration of the G77 following UNCTAD I and called upon members of the Group to consult during the next General Assembly in order to consolidate their efforts and harmonise their policies.

UNGA (December 1964) establishes UNCTAD as an ongoing organ of the General Assembly

The status of UNCTAD remained contested at the General Assembly, in particular, whether it should be a creature of EcoSoc, where the Northern countries exercised more power or, as was finally approved in GA Resolution 1995(XIX), should report directly to the Secretary General as an organ of the General Assembly.

G77 consolidates: First ministerial meeting of G77, October 1967, Algiers

The G77 as an institution was forged in the negotiations around its joint declarations at the UNGA meeting in Dec 1962 when the first UNCTAD conference was authorised and in 1964 at the first conference. The Group held its first ministerial meeting in October 1967 in Algiers where the main agenda item concerned preparation for the forthcoming UNCTAD II, scheduled for February 1968. The ministers articulated its negotiating position for UNCTAD II as the Charter of Algiers that proposed a short agenda of commodity agreements, supplementary financing, and trade preferences for manufactured products.

UNCTAD II, Feb Mar 1968, New Delhi

At New Delhi the developed countries refused further progress on commodities and supplementary financing, but in the committee on manufactures they agreed to the principle of a general system of non-reciprocal trade preferences (which became the General System of Preferences or GSP). Controversy remained over the products that would be eligible, safeguards for domestic manufacturers, and the point of graduation from eligibility.

Toye reports some conflict in the discussions in New Delhi, arising from the different circumstances of the different groupings. The African regional grouping thought that the GSP was really a Latin American issue, while the Latin American countries resented the Africa group's attempt to retain the trade preferences that they already had with Europe. A special committee was approved to continue work on the GSP once UNCTAD II was over.

Three streams of negotiation lead to the NIEO, endorsed at UNGA in April/May 1974

While the broader political agenda of the South, vis a vis the East and the West, was promoted through the NAM, the economic agenda was driven primarily by the G77 and the newly created UNCTAD.

The G77 ministers met again in Lima, Peru in October/November 1971 to discuss positions for UNCTAD III (held in Santiago, Chile, April/May 1972). However, UNCTAD III followed immediately on the devaluation of the dollar and the expansion of the EEC and Western states were more concerned to negotiate their own international and monetary relations than to make concessions to the G77.

The Fourth Non-Aligned Summit was held in Algiers in September 1973. Seventy-five countries took part: these now made up half the member states of the international community and the meeting concluded with a call for a New International Economic Order (NIEO).

In January 1974 President Boumedienne, of Algeria, proposed a sixth special session of the UN General Assembly on raw materials and development. This proposal followed the raising of oil prices by OPEC following the Arab Israeli war in October 1973. At the Sixth Special Session of the UNGA the Declaration of a NIEO and the Program of Action (UNGA 1974c) were adopted by the General Assembly.

Four years later the WHO/UNICEF Conference on Primary Health Care affirmed in its Declaration the basic importance for Health for All of economic and social development, based on a New International Economic Order.

What happened to it? NIEO refused

The promise of the NIEO was drained first, by the debt crisis and structural adjustment, second by the Uruguay Round which led to the launch of the WTO in 1994, and third by the rise of neoliberalism.

Stagflation, the debt crisis and structural adjustment

Two developments in the world economy provide the keys to understanding the defeat of the G77 and NAM over the NIEO. These were stagflation in the industrialised world, and the debt crisis in the developing world.

Stagflation, the combination of stagnation and inflation, was a persisting and growing challenge in the advanced economies of the 1970s. A structural decline in aggregate demand in the Global North is the most plausible explanation for the slowing growth rates. The high growth rates in the two decades after the Second World War reflected pent up demand from the war years plus rapid growth in productivity associated with new technologies. However, by the mid-1970s (just as the demand for a NIEO was being articulated) aggregate demand and investment were slowing. Those who could afford to buy had enough and those with pressing needs could not afford to buy.

The cause of the inflation is less clear. Establishment commentary at the time attributed it to a 'wage price spiral' with union demands for wage increases (to compensate for price increases) leading to further price increases (and further wage pressure). However, it is likely that the flood of US dollars into the global economy to meet the costs of the Vietnam War played a major part. In 1971 President Nixon was forced to abandon the fixed gold price commitment as Europe was progressively exchanging dollars for gold and US gold stocks were seen to be under pressure. The price of the dollar in terms of gold commenced a long term decline from that time.

In 1979 Prime Minister Thatcher declared a policy of 'fighting inflation first' which was code for breaking the wage price spiral by creating a deeper recession and thereby breaking the unions. In 1980 the US Federal Reserve under Paul Volker commenced a program of aggressive interest rate increases with the same purpose.

In 1973 and again in 1978 OPEC, the Organisation of Petroleum Exporting Countries, raised the price of oil. These price rises were partly a political gesture in the context of the Arab Israeli War of October 1973, but they were also a response to rising inflation globally.

The price rises of 1973 generated increased revenues to the oil exporting countries most of whom did not have corresponding investment opportunities and so the surplus was deposited in the international banking system. The banks were keen to on-lend and in the years from 1974-9 the bankers scoured the world to sell loans to governments and businesses in both the North and South. However, in the context of excess cash they were obliged to accept very low interest rates and in the presence of rising inflation the real interest rates were commonly negative, that is, they were paying borrowers to borrow. The debt trap was set.

With the progressive increases in US interest rates from 1979, to a peak of 20% in 1981, the debt trap was sprung. The interest burden associated with government borrowings (and government guarantees of corporate borrowings) increased rapidly and as earlier loan contracts expired, more developing countries found they were not able to refinance through private sources and were forced to turn to the IMF as the lender of last resort to restructure their debts.

IMF bail outs were associated with sharp conditionalities ('structural adjustment') which were directed solely to generating international currencies (especially US dollars) in order to pay down debts. These conditions therefore included cutting public expenditure on social programs (health, education, food, housing, urban infrastructure), depreciating currencies to make exports cheaper, and reducing tariffs to enable cheaper imports, in particular capital goods for export industries (but thereby removing the protection of infant industries).

Virtually all the policy directions of the NIEO were reversed. It is plausible that Thatcher and Reagan intended the interest rate hikes of 1980/81 to discipline the developing countries as well as the unions. In the context of a high level of Third World debt, it certainly had that effect. The strategists of the Global North had been challenged by the demands of the Global South which were

packaged in the NIEO and would have been aware of the extent of Southern exposure to debt which would be unsustainable in the context of high interest rates.

The Uruguay Round and the creation of the WTO

The 'Uruguay Round' refers to the string of negotiations over an eight year period from 1986 directed to the establishment of the World Trade Organisation and the finalisation of the suite of trade agreements which the WTO was to oversee. The Uruguay Round was undertaken under the aegis of the General Agreement on Tariffs and Trade (GATT) which had been initiated in the context of the Bretton Woods summit of 1944. Accordingly, the members of the GATT (largely the trading nations of the North) were in a strong position to determine the direction of the negotiations when they were launched in 1986.

In many ways the Northern agenda under the Uruguay Round was a direct response to the threats implicit in the NIEO. The NIEO demanded technology transfer, but the TRIPS Agreement extended the reach and duration of intellectual property protection and instituted new disciplines over non-compliance. The NIEO demanded special and differential treatment (SDT) for developing countries, but the WTO agreements included only token SDT provisions and the Northern negotiators resisted extending such provisions to Agriculture and Services. The NIEO envisaged a system of reserves or stockpiles of various commodities which would help to stabilise commodity prices and where necessary could restrict supply to support prices. Such provisions were resisted by the Global North which argued that hedging via the futures markets would be sufficient to manage volatility (but which actually facilitates price manipulation by corporate traders).

The Northern agenda under Uruguay included investor protection provisions (to counter the claim under the NIEO that sovereign states have the right to nationalise foreign owned assets) but it was not able to overcome the resistance to these provisions under the Uruguay negotiations. The OECD then sought to create a new 'multinational agreement on investment' in 1998 which was again resisted by opposition from the developing countries and civil society globally. Meanwhile Northern countries were negotiating a blizzard of bilateral investment treaties most of which contained investor state dispute settlement disciplines.

Neoliberalism

Neoliberalism is a strategy, a policy framework and a promise. It is a strategy to protect the interests of the transnational capitalist class in the face of the macroeconomic crisis of **over-production** and the environmental crisis of global warming. Neoliberalism is also a policy framework which includes policy guidance for domestic and global economic management. Policies for the domestic economy include low tax and austerity, flat tax and reduced corporate tax, and marketising and privatising public services and infrastructure. Policies for the global economy include free trade in goods and services, free movement of private capital, strong protection of intellectual property, and brutal control of the movement of people. Neoliberalism is also a promise (hollow and self-serving but nonetheless a promise) to the people of the world that markets can deliver human services, urban infrastructures, economic development and ecological sustainability; that best outcomes will be yielded if the role of government reduced to simply supporting private enterprise, free trade and the military.

Neoliberalism has contributed to widening inequality (and the preventable disease burden associated) and to uncontrolled environmental degradation. However, by the early 2000s the shine had come off the policy framework and the promises were wearing thin. The need for a new NIEO was becoming clear.

‘Market sentiment’

It is worth highlighting the interplay between ‘market sentiment’ and financial liberalisation in disciplining the developing economies of the Global South.

Market sentiment refers to the currents of fear and greed which swirl among ‘investors’; in particular the institutional and individual owners of shares and bonds. These currents are notoriously sensitive to rumor and to the speculations of financial journalists and can lead to waves of cross border capital movement, sometimes with potentially disastrous impacts on exchange rates, global ratings, debt servicing costs and balance of payments.

The liberalisation of financial markets (with ongoing pressures on countries to dismantle controls on capital flows) has greatly increased the power of ‘market sentiment’ to discipline developing countries who might seek to implement NIEO policies, such as the protection of infant industries or the regulation of transnational corporations.

With the financialisation of the global economy and the privatisation / marketisation of health, education, housing, infrastructure, etc, the amount of money controlled by pension funds, sovereign wealth funds, municipal funds, insurance companies, hedge funds, and other managed funds has increased greatly, all with fund managers watching the tea leaves closely and adjusting their portfolios accordingly.

The significance of ‘market sentiment’ as a modality of control lies in its dispersed and unaccountable character. However, there are policy strategies which could ameliorate its impact, including a tax on international financial transactions, the return of national level capital controls, and the return to public administration of pensions, health and education funding, and infrastructure development and utility provision.

Imperial power

The most obvious manifestation of imperial power is the threat (or reality) of regime change, ranging from covert operations (Indonesia, Iran, Cuba, Guatemala, Haiti, Congo, Chile, El Salvador, Nicaragua, Venezuela, etc) to direct invasion (Philippines, Mexico, Vietnam, Iraq, Afghanistan, etc).

The political behaviours which elicited imperial discipline in all of the above cases involved threats to the freedom of US capital to invest and access resources (including labour). While the instances cited both precede and follow the adoption of the NIEO, many of the political behaviours being disciplined corresponded to demands enshrined in the NIEO, in particular, the right to nationalise foreign companies.

There are limits to imperial power, as was shown most dramatically in Vietnam, but the cost of resistance can be terrible. More common but less obvious are ‘unilateral coercive economic measures’, that is economic sanctions which are not authorised by the United Nations (Hofer 2017).

Hofer comments that unilateral coercive measures are condemned by the UN General Assembly on a yearly basis for being contrary to international law and for having negative effects on human rights and the economy of developing States. The voting on these annual resolutions reflects a sharp divide between developed and developing States on the legitimacy of unilateral sanctions and clearly breach the principles of non-interference adopted by the G77 and enshrined in the NIEO.

One of the most egregious of such measures is the US use of Special Section 301 of the US Trade Act to shape the design and implementation of national patent laws (Correa 2020). Correa argues that the application of Special Section 301 undermines the rule of law as a fundamental principle of a multilateral system based on the sovereign equality of states and the respect for international law. Interference with foreign countries' national intellectual property policies negates their right to independently determine the level and modalities of intellectual property protection within the

framework and policy space allowed by the international law. Access to technology is one of the core demands of the NIEO.

Less well known is the power of the US to financially isolate countries, organisations and individuals through its power over the international banking system. This arises from the central role of the US dollar in international banking. Banks which are seen to have mediated financial dealings with sanctioned entities can be disabled if denied access to the New York money markets.

Neoliberalism, corruption, oppression, and neofascism in the Global South

Among the factors mitigating against the achievement of the goals of the NIEO are the failures of governance in the Global South, commonly involving military coups, as well as corruption, oppression and in some settings, neofascism. Commonly such failures of governance enjoy the support of powerful forces from the Global North ranging from corporate engagement in corruption to covert military assistance from the imperium.

The emergence of neofascism in the Global South warrants special consideration. The deeper and longer people are marginalized and live without hope the more vulnerable they are to demagoguery, sorcery, communalism and scapegoating. Soeharto in Indonesia, Pinochet in Chile, Modi in India and the Taliban's misogyny all illustrate the power of demonising 'the other' while obscuring the realities of power.

A 'new NIEO'?

Notwithstanding these challenges it is clear that a new NIEO is urgently needed to provide an integrated program of global economic reform around which progressive governments and civil society globally can organise. Campaigns around specific reforms must continue, including around IPRs in relation to medicines, ISDS in relation to tobacco or environmental degradation, and the regulation of TNCs generally. However an integrated program of interlocking reforms would contribute to policy coherence and political coordination.

The need for a new New International Economic Order is widely recognised. In the following section three initiatives towards this end are described.

G77: Declaration of Santa Cruz June 2014

The [Declaration of Santa Cruz: For a New World Order for Living Well](#) was adopted by the G77 and China, meeting in Santa Cruz de la Sierra in Bolivia, in June 2014 on the 50th anniversary of the formation of the G77.

After (i), a review of the Overall context, the Declaration proceeds to consider: (ii) Development in a national context; (iii) South South Cooperation; (iv) Global challenges; and finally (v) Particular needs of developing countries in special situations.

In its consideration of the National context, the Declaration recognises the need to improve the practice of democracy; affirms national sovereignty over natural resources; commits to reducing inequality and eradicating poverty; affirms the need for sustained and inclusive economic growth including the creation of employment; highlights the need to provide basic services, including access to public health and medicines; commits to prioritising agricultural development and food security, including demanding reform of Northern subsidies and other market distortions, while also supporting sustainable family farming; affirming the need for industrial development, including through technology transfer; and commits to the inclusion of women and indigenous peoples in development.

In its third section the Declaration recalls previous commitments to strengthening South South Cooperation and calls for South South trade preferences; economic integration and regional cooperation; greater commitment to technology transfer; and further support from the UN for South South cooperation.

In the fourth section the Declaration calls for greater solidarity from the Global North, with a scaled up partnership for development, including fulfilling existing commitments for official development assistance; long term solutions for credit for development without the structural disruption associated with debt crises; reform of the global financial architecture, addressing financialisation, speculative damage, and the governance of the Bretton Woods institutions; reform of the global credit rating system; reform of global economic governance, including strengthening and reorienting the UN system; technology transfer and innovation for development; reform of global trade relations; migration; and action on climate change, biodiversity, forests, land degradation, oceans and seas; internet governance.

[The address by President Evo Morales](#) at the opening of the G77 Special Summit, “Towards a new world order for living well: for a global brotherhood among the peoples”, canvassed many of these same issues but with strong rhetorical tone. He spoke about the continuing dynamic of colonialism,

“A tiny elite of countries and multinational corporations control, in an authoritarian fashion, the destinies of the world, its economies and its natural resources. The economic and social inequality among regions, among countries, among social classes and among individuals has grown abusively. About 0.1% of the world’s population owns 20% of the asset base of mankind. In 1920, a US business manager made 20 fold the wage of a worker; at present, the difference is 331 fold. This unfair manner of concentrating wealth and this predatory way of destroying nature are also giving rise to a structural crisis that is becoming unsustainable over time.”

He outlines nine tasks which must be accomplished in moving to a live-well society:

1. We must move from sustainable development to comprehensive development so that we can live well and in harmony and balance with mother earth.
2. Sovereignty exercised over natural resources and strategic areas.
3. Wellbeing for everyone and the provision of basic services as a human right.
4. Emancipation from the existing international financial system and construction of a new financial architecture.
5. Build a major economic, scientific, technological and cultural partnership among the members of G-77 plus China.
6. Eradicate hunger from around the world.
7. Strengthen the sovereignty of the states, free from foreign interference, intervention and/or espionage.
8. Democratic renewal of our states.
9. A new world rising from the South for the whole of humankind.

UNCTAD’s South-led scenario

UNCTAD’s ‘South-led scenario’ (2022) could also be a candidate for a new NIEO, or at least a first draft.

In its [2022 Trade and Development Report](#) UNCTAD highlights the risks facing developing countries associated with the costs of food, fuel, and credit compounded by the interest rate hike being implemented to address inflation as well as deeper structural changes including financialisation, market concentration and the weakening of labour’s bargaining power.

UNCTAD identifies 46 countries in default or at risk of debt default associated with these conditions. Many of these countries are facing deep currency depreciations and balance of payments distress (Fig 2.3, p47). It concludes (p28):

The world is facing a systemic crisis and only systemic action can solve it. Focusing solely on a monetary policy approach – without addressing supply-side issues in trade, energy and food markets – to the cost-of-living crisis may indeed exacerbate it. Under current supply-chain challenges and rising uncertainty, where monetary policy alone cannot safely lower inflation, pragmatism will need to replace ideological conformity in guiding the next policy moves.

The challenge is complicated by the legacy of forty years of predominantly neoliberal economic policies in the main economies of the world that have left state capacity and international coordination in poor condition.

UNCTAD sketches a scenario for economic reform (p91) which is characterised by four features:

The first feature is a set of policies, designed to adapt in the short to medium term, to first, the realities of extreme IP protection preventing access to advanced technologies; and secondly to the lack of access to international reserve currencies to pay for imports of capital equipment. The scenario envisages the countries of the Global South moving progressively away from technology-intensive employment and de-informalizing large sections of the labour force, consistent with the development of social, education, health and caring services. It would require a proactive government with a clear developmental agenda which would also contribute to alleviate inequalities of income.

The second feature involves South South cooperation in finance and technology to sustain the path of trade integration and industrialization, repairing the ‘broken link’ between credit and development. In the current global institutional set up, access to finance and technology are dominated by advanced economies. Economies in the South need alternative levers. These might range from a “managed” framework for trade (as opposed to “free-trade”) to innovative forms of finance and exchange payments that can eventually be oriented towards formal “South-South clearing unions”. As trade among Southern economies grows, an increasing portion of their total trade flows will be paid in either their own domestic currencies or through regional currency mechanisms. Financial institutions set up at a regional level can be geared to sustain “commodity reserve currencies” with regional funding being increasingly allocated to regional buffer stocks that can help stabilize prices. Based on these mechanisms, the growth of commerce will be associated with a reduction of external imbalances, as well as the reduction of dependency on global finance.

The third feature is a coordinated effort for an agrarian transition that is consistent with industrialization, employment generation, food security and the need to avert environmental degradation. There is sufficient evidence of employment-intensive and traditional agriculture based on small and medium-size units providing food and agricultural inputs and commodities for industrialization. In short, the simulation assumes a coordinated agricultural transformation proceeding as an “agroecological model of industrialization”, where the rise of productivity of agrarian labourers would be such as to avoid displacement that cannot be absorbed in the growing industries and services, even if the scenario also envisages an expansion of social and caring provision by the state.

The fourth feature is close attention to strategies for climate change mitigation and adaptation. The technologies and financing to which Southern economies have access are not sufficient for a self-sustained transformation of production. Only with financial transfers from the Global North could developing economies embark on such transformation at a pace that can meaningfully contribute to global climate change mitigation. But movements in this direction cannot happen overnight, even if advances in low-cost and effective environmentally friendly technologies were currently available.

Under this scenario, most developing economies would continue to rely on relatively more carbon-intensive industries than their Northern counterparts. The model assumes a moderate increase of support from the most industrialized partners, in the form of transfers of technology and aid. Knowing that the experience of “technology transfers” is so far disappointing (particularly apparent during the Covid-19 pandemic), this support is assumed to be marginal but increasing over time. Thus, most of the contribution of the global South to a greener development will result from the ecological-agrarian transformation and the avoidance or minimal use of fossil fuel machinery and fertilizers, together with the emphasis on local production for the satisfaction of basic needs.

This scenario shows a degree of realism regarding its expectations of the Global North in relation to financial and technology transfers. However, in the presence of wide social inequality there will be many in the developing country middle class who will need to be persuaded that they should defer accessing cutting edge consumer technologies in order to support equitable and sustainable development. Opposition would also come from the global corporations (and their home countries in the North) and local distributors seeking to sell those products to the local middle class.

50th Anniversary of the NIEO, 1974-2024, Havana Congress, January 2023

The Havana Congress, was organised by Progressive International, in association with the Cuban Government, and followed Cuba’s ascendancy to the chairmanship of the G77 and China. (See [remarks by Ambassador Pedro Luis Pedroso Cuesta](#) on Cuba taking on the Chairmanship of the G77 and China.)

The Havana Congress issued [a historic Declaration](#) that resolves to build a planetary bloc “led by the South and reinforced by the solidarities of the North”. The declaration contains five key commitments:

Renew the Non-Aligned Movement: Resist the siren song of the new Cold War and to renew the project of non-alignment, grounded in the principles of sovereignty, peace, and cooperation.

Renovate the NIEO: Renovate the vision for a New International Economic Order fit for the 21st century, drawing inspiration from the original Declaration, while accounting for the key issues — from digital technology to environmental breakdown — that define the present conditions for sovereign development.

Assert Southern Power: Through the collective action of the South, work to form new and alternative institutions to share critical technology, tackle sovereign debt, drive development finance, face future pandemics together, and coordinate positions on international climate action and the protection of national sovereignty over the extraction of natural resources.

Accompany Cuba in the G77: The Congress recognizes the critical opportunity afforded by Cuba’s presidency of the Group of 77 plus China to lead the South out of the present crisis and channel the lessons of its Revolution toward concrete proposals and ambitious initiatives to transform the broader international system.

Build a Planetary Bloc: The Congress calls on all peoples and nations of the world to join in this struggle to definitively achieve the New International Economic Order; to build a planetary bloc led by the South and reinforced by the solidarities of the North.

Progressive International has also assembled a [collection of reflections and policy proposals](#) to mark the 50th anniversary of the New International Economic Order and update it for the 21st century.

There will be pushback.

The governors of the global economy responded to the 1974 Call for a NIEO with structural adjustment, the WTO, the neoliberal policy offensive, and covert destabilisation/invasion.

The pushback against the new calls to renovate the NIEO has already commenced. It includes the expansion of NATO (including the prospect of NATO expanding to the Indo Pacific); the new Cold War being mounted by the US and its allies against China; the proliferation of unilateral coercive sanctions; and the attacks on multilateralism (including funding constraints on UN organisations and the transferring of functions out of multilateral agencies into multistakeholder public private partnerships).

Reform of global economic governance

In this section we dig a bit deeper into five key challenges in the reform of global economic governance.

The regulation of global finance

Mobilising long term finance to support economic development and to fund the huge investments needed for climate change mitigation and adaptation are central challenges facing the Global South. Under the present regime of imperialism and neoliberal capitalism such funds are clearly not coming from private financial players or from the treasuries of the wealthy countries. Promise after promise has been broken.

There is no shortage of liquidity in the private markets, but the incentives are directed to driving asset speculation for capital gains, rather than patient investment in long term development or climate change. This kind of speculation has damaging effects on development in the Global South as with the 1997 Asian crisis which started with a speculative attack on the Thai baht; the economic disruption following the 2008 financial crisis (which started with speculation on sub-prime housing in the USA), and commodity market speculation in the current (2022/23) period. (Rather than solving the problems of volatile commodity prices and supplies, the privatisation of commodity stockpiling, forced through the Uruguay Round, has added a new driver of volatility.)

If the governments of the Global North were concerned about sustainable development or climate change, they could mobilise resources through taxation but as captives of the neoliberal myths they are moving in the opposite direction with tax cuts for the corporations and the wealthy.

Where LMICs have been able to generate trade surpluses they have been forced to give priority to insuring their currencies against speculative attack through lending money to the US Treasury and subsidising US consumers by keeping the US dollar strong. This strategy would not have been necessary if countries had preserved pre-existing capital controls rather than liberalising capital flows under pressure from the imperial core and TNCs.

There have been recurring calls for South South cooperation in mobilising finance but until recently fragmentation of the South and imperial / corporate intimidation / co-option have held such initiatives at bay. The decline of the US in the face of a rising China may have changed the balance.

Golub (2013) claims the 'Global South' is restructuring world capitalism from within. Golub reviews the early hopes of the G77 and NIEO and its defeat by 'Northern' resistance (structural adjustment, the WTO agreements, neoliberalism) and national segmentation within the NAM. However, he suggests that the re-emerging states of the Global South are now engaged in a more successful effort to gain voice and challenge the international hierarchy by claiming a central place in the world capitalist system and restructuring it from within. The inclusion of the BRICS in the G20 is

cited in support of this hypothesis but the G20 could equally well be cited as an instance of co-option.

A number of authors (Chen and Chen 2009; Chen and Yang 2015; Tosone 2018) have suggested that economic initiatives taken by China in recent years may provide glimpses of a more successful South South strategy. These initiatives include the Asian Infrastructure Investment Bank (AIIB), the Belt and Road Initiative, the BRICS Finance and Reserve Fund, and challenges to dollar hegemony (calling for the dollar as an international reserve currency to be replaced by a 'super currency' which is beyond the monetary sovereignty of any nation).

Chen and Yang (2015) review the experience of the G77 at 50. Drawing on the Charter of Algiers of G77, they define the project of South South cooperation as comprising three missions: political independence, economic cooperation, and the exchange and proliferation of technologies. The paper includes a view of China's self-positioning in this matter quoting Chinese leaders from her first generation to the present.

Rubial, del Pilar & Siegele (2020) bring together a range of developing country negotiators to review how the different groups within the Group of 77 and China are negotiating their different interests and perspectives to mould a coherent negotiating position on adaptation funding in the context of the United Nations Framework Convention on Climate Change (UNFCCC).

Corporate taxation and fiscal limits

Taxation must be a key element of financial reform, both internationally and domestically.

Internationally the key objective is for an international agreement on the taxation of transnational corporations. This would provide for whole-of-corporation assessment (including activity in different countries), internationally coordinated collection, and the distribution of such revenues in accordance with the economic activity in the different jurisdictions. This framework is radical in itself but the possibilities, depending on negotiation and agreement, are far reaching.

Priority elements of domestic tax reform include: first, rejecting the neoliberal pressures to institute upper bound revenue limits on total tax revenue (as a proportion of GDP); and second, rejecting the neoliberal myths about the distribution of the tax burden (first, that increasing tax on the rich reduces their propensity to work; and second, that reducing tax from the rich will increase consumer demand and increase *productive* investment, as opposed to asset speculation).

Intellectual property

Access to know-how and technology is a critical prerequisite for economic development. Restricting access to advanced technologies has been a long standing strategy of colonialism and imperialism for maintaining relations of unequal exchange (Halabi 2018a). Restricted access to technologies to support local production translates into higher prices for imported products (and the diversion of limited foreign currency to support such imports).

Despite the call for technology transfer in the NIEO, the TRIPS agreement, concluded under the Uruguay Round, included, not just increased terms of protection, but also stronger sanctions than were available under World Intellectual Property Organisation (Drahos 2002).

The close collaboration between pharma and the imperial core to deny access to vaccine technologies to the developing world during the Covid pandemic was on show; first, in the refusal to countenance the WHO-proposed Covid Technology Access Platform (C-TAP), and second, in the refusal to agree to the India and South Africa proposed waiver of TRIPS provisions to allow for more widely distributed vaccine production. A similar united front between transnational corporate monopolies and the imperial core has been evident in relation to the sharing of critical technologies for the mitigation of global warming, and in relation to seeds.

Halabi (2018b) provides a useful summary of the emergence of IP law in the colonial and imperial context and conflicts over the scope of developing nations to preserve the right to development in the face of IP monopoly. Halabi argues that access to protected technologies needs to be considered in relation to the regulation of transnational corporations as well as international agreements addressing more specific IP issues. He reviews the development of the Code of Marketing of Breastmilk Substitutes, and the Convention on Biological Diversity as examples where pressure from the developing countries has succeeded in carving out specific protections.

Notwithstanding the small victories celebrated by Halabi, the authors of UNCTAD's 2022 Trade and Development Report are more pessimistic about the more general issue of technology transfer in support of the 'right to development'. While supportive of continuing advocacy around access to technology generally, UNCTAD's South led scenario (UNCTAD 2022, from page 91) also recommends policies for industry, workforce and agriculture which are designed to adapt to, rather than overcome, the access restrictions imposed through high levels of intellectual property protection.

A third strategy involves utilising to the full the flexibilities which are available under the TRIPS Agreement (as well as more specific provisions of the Convention on Biological Diversity, the Code on the Marketing of Breastmilk Substitutes and other instruments). The process of implementing international agreements such as TRIPS into domestic law has been the site of ongoing struggles involving corporate and imperial pressure to adopt domestic laws that maximise protection and contrary advocacy through the South Centre, Third World Network and other organisations directed to implementing international commitments in the least restrictive forms.

Regulation of transnational corporations

International policy debate about the national and supranational regulation of TNCs was re-launched in 1974 with the NIEO Declaration (UNGA 1974a) which in Clause 4 announced:

The new international economic order should be founded on full respect for the following principles: [...]

Regulation and supervision of the activities of transnational corporations by taking measures in the interest of the national economies of the countries where such transnational corporations operate on the basis of the full sovereignty of those countries;

Several of the other principles which constitute the Declaration would also involve corporate regulation for their achievement. These included: technology transfer, action to stem declining terms of trade, and 'full permanent sovereignty of every State over its natural resources and all economic activities'. (See Maynard (1983) for a discussion of previous international initiatives directed in various ways to the regulation of transnational corporations.)

It is important to recognise that the fundamental demands of the G77 in relation the regulation of TNCs were about reforming the relations of unequal exchange between North and South which are mediated by TNCs. These relations of unequal exchange were (and still are) evident in relation to taxation (including transfer pricing and other strategies for erosion of the tax base). They were/are evident in relation to pricing, including unequal relations between the prices of labour, commodities, and light manufactures compared with the prices of imported consumer and producer goods inflated through monopoly pricing power. They were/are evident in the capacity of TNCs to extort tax and regulatory concessions as a condition for investing. The claims of the developing countries for special and differential treatment in trade and finance, based on claims of solidarity and histories of centuries of exploitation, were also a key plank in the development aspirations of the Global South.

The demands of the G77 regarding the new international economic order confronted the interests of the TNCs and their home governments head on; the corporations seeking to maximising the return on investment; home governments seeking to look after their TNCs and to maximise

import earnings for the country. The rich countries were / are also concerned to defend the perceived legitimacy of foreign direct investment by TNCs in developing countries and to this end were willing to denounce bribery, corruption, extortion and environmental crimes and create schemes which gave the appearance of discouraging such practices.

Code of conduct on transnational corporations

In 1974 the Economic and Social Council of the UN (EcoSoc) set up the Commission on Transnational Corporations and the Center on Transnational Corporations with the mandate to draft a code of conduct for transnational corporations. From 1977 the work of negotiating the Code was centred on the Intergovernmental Working Group on a Code of Conduct for Transnational Corporations (Sauvant 2015). In its 1976 report the Commission included as annexes the claims urged upon the Commission by various country groupings. The issues to be addressed according to the countries of the Global South are revealing.

The notes submitted by the G77 highlighted, as issues calling for regulation:

1. Preferential treatment demanded by transnational corporations (TNCs) in relation to national enterprises.
2. Lack of adjustments by TNCs to the legislation of the host countries in the matters, *inter alia*, of foreign investment and policies concerning credits exchange, fiscal matter, prices and commercial matters, industrial property, and labour policies.
3. The negative attitudes by TNCs towards the renegotiations of original concessions if such exist and if this should be considered necessary by the Government of the host country.
4. The refusal Of TNCs to accept exclusive jurisdiction of domestic law in cases of litigation.
5. Direct or indirect interference in the internal affairs of host countries by TNCs.
6. Requests by TNCs to Governments of the country of origin to intercede with the host Government, with actions of a political or economic nature in support of their private interests.
7. The refusal of TNCs to accept the exclusive jurisdiction of domestic law in the question of compensation on nationalization.
8. Extension by TNCs of laws and regulations of the country of origin to the host country.
9. The activities of TNCs as instruments of foreign policy, including for intelligence purposes, contrary to the interests of the host country.
10. The contribution of TNCs in the maintenance of racist and colonial regimes and support of policies of apartheid and foreign occupation.
11. The role of TNCs in the illegal traffic of arms.
12. Obstruction by TNCs of the efforts of the host country to assume its rightful responsibility and exercise effective control over the development and management of its resources, in contravention of the accepted principle of permanent sovereignty of countries over their natural resources.
13. Tendency of TNCs not to conform to the national policies, objectives and priorities for development set forth by the Governments of host countries.
14. Withholding of information of their activities by TNCs, making host countries unable to carry out effective supervision and regulation of those activities.
15. Excessive outflow of financial resources from host countries due to practices of TNCs and failure to generate expected foreign exchange earnings in the host country.
16. Acquisition and control by TNCs of national, locally capitalized enterprises through controlled provision of technology among other means.
17. Superimposition of imported technology without any adaptation to local conditions, creating various types of distortions.
18. Failure by TNCs to promote research and development in host countries.
19. Obstruction or limitation by TNCs of access by host countries to world technology.

20. Imposition of restrictive business practices, inter alia, on affiliates in developing countries as a price for technical know-how.
21. Lack of respect of the socio-cultural identity of host countries.

The paper submitted by Argentina, Barbados, Brazil, Colombia, Ecuador, Jamaica, Mexico, Peru, Trinidad and Tobago and Venezuela highlighted 11 provisions which should appear in a code of conduct for TNCs with detailed elaboration of each of the 11 provisions:

- A. The transnational corporations shall be subject to the laws and regulations of the host country and, in case of litigation, they should be subject to the exclusive jurisdiction of the courts of the country in which they operate;
- B. The transnational corporations shall abstain from all interference in the internal affairs of the States where they operate;
- C. The transnational corporations shall abstain from interference in relations between the Government of a host country and other States, and from perturbing those relations;
- D. The transnational corporations shall not serve as an instrument of the foreign policy of another State or as a means of extending to the host country provisions of the juridical order of the country of origin;
- E. The transnational corporations shall be subject to the exercise by the host country of its permanent sovereignty over all its wealth, natural resources, and economic activities;
- F. The transnational corporations shall be subject to the national policies> objectives and priorities for development, and should contribute positively to carrying them out;
- G. The transnational corporations shall supply to the Government of the host country pertinent information about their activities in order to ensure that these activities shall be in accord with the national policies, objectives, and priorities of development of the host country;
- H. The transnational corporations shall conduct their operations in a manner that results in a net receipt of financial resources for the host country;
- I. The transnational corporations shall contribute to the development of the scientific and technological capacity of the host country;
- J. The transnational corporations shall refrain from restrictive business practices [followed by a list of 21 restrictive business practices experienced in Latin America];
- K. The transnational corporations shall respect the socio-cultural identity of the host country.

The negotiation of the Code was closely contested from the start (Maynard 1983; Sauvart 2015). The 1983 version (Commission on Transnational Corporations 1983) includes extensive bracketing indicating the key areas of disagreement. In 1988 the UN Secretary General prepared a draft which was distributed informally. In May 1990 the Chairperson of the Commission submitted to EcoSoc a draft based on the Secretary General's 1988 draft (Chairman of the Commission on Transnational Corporations 1990) but with all of the outstanding issues resolved in accordance with the requirements of the Western European and Others Group (Sauvant 2015). However, by this time the debt trap had been sprung, structural adjustment was being implemented, bilateral investment treaties (protecting investors) were widespread and the agreements which comprise the WTO Including TRIPS) were taking shape. The countries of the Global North, the UK and US in particular, were determined not to achieve agreement on the Code (Sauvant 2015).

The death of the Code was not the end of the Commission on Transnational Corporations. Further resolutions at EcoSoc had the effect of reversing the direction of work undertaken through the Commission. In Resolution 1992/36 EcoSoc asked the Secretary-General to boost research, technical assistance and fund raising to support 'privatization, administrative deregulation and demonopolization of economic activities' (expanding the space for TNCs). In Resolution 1993/49 EcoSoc stressed "the importance of the role of foreign direct investment, in particular that of transnational corporations, in privatization processes, and reiterates the invitation to the Secretary-General to enhance studies and technical cooperation programmes in this area, in accordance with

Economic and Social Council resolution 1992/36 of 30 July 1992". Structural adjustment in accordance with the Washington Consensus (Williamson 2000) was the paramount policy paradigm.

In December 1994 the Commission on Transnational Corporations was replaced by a new Commission, on Investment and Transnational Corporations under the aegis of UNCTAD, changed in 1996 to the Commission on Investment, Technology and Related Financial Issues, and abolished in 2008. The Centre was abolished in 1992 (CETIM 2012; Hamdani and Ruffing 2015).

The immediate response of the rich countries to EcoSoc's 1976 code of conduct initiative was the [OECD Guidelines for Multinational Enterprises](#) (OECD 2011). The OECD guidelines put 'national treatment' of foreign owned enterprises right up front (TNCs to be treated no less favourably than domestic enterprises) and then set out a range of corporate 'shoulds', generally along the lines of corporate social responsibility including industrial relations, environmental responsibility, combatting bribery and extortion. The OECD guidelines respond to some of the issues highlighted in NIEO but they are non-binding and many of the principles are widely and publicly flouted with no consequence for the corporations. While the provisions in the Guidelines requiring state compliance are binding, there are no disciplines on TNCs. Human rights were not included in the first version of the Guidelines in 1976 but were added in 2011 after the code of conduct initiative had been defeated and the developing countries had shifted their focus from the Code initiative under EcoSoc to the Human Rights Commission (UN Commission on Human Rights 2003).

Human rights

Following the defeat of the Code, the focus of advocacy around the regulation of TNCs shifted from EcoSoc and UNCTAD to the Human Rights Commission.

In 2003 the Sub-Commission on the Promotion and Protection of Human Rights, an expert subsidiary body of the then Commission on Human Rights, adopted a set of [Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights](#) (UN Commission on Human Rights 2003). The Working Group within the Sub-Commission which drafted the Norms was set up in 1998. The setting up of the Working Group and the development of the Norms reflected, at least in part, continuing civil society advocacy (CETIM 2012).

The focus of the Norms is on human rights generally, not the specific issues of unequal exchange and economic development highlighted in the NIEO in 1974 and raised by the G77 in relation to the proposed code in 1976 (see above). However, the Norms do refer to the Right to Development and respect for national sovereignty:

12. Transnational corporations and other business enterprises shall respect economic, social and cultural rights as well as civil and political rights and contribute to their realization, in particular the rights to development, adequate food and drinking water, the highest attainable standard of physical and mental health, adequate housing, privacy, education, freedom of thought, conscience, and religion and freedom of opinion and expression, and shall refrain from actions which obstruct or impede the realization of those rights.

The Norms were fiercely opposed by business lobbies generally and by the transnational corporations in particular (Campagna 2004). A central plank in the opposition of business lobbies, and their supporters in the governments of the Global North, was the assertion that international law only applies to states and that if there are obligations which the international community wishes to impose on corporations such obligations must be mediated through domestic law adopted and implemented by states (Campagna 2004; Omoteso and Yusuf 2017). Clearly this proposition was not the view of the Working Group or the Sub-Commission. It also seems contradictory in view of the hundreds of investment treaties, adopted by this time, that explicitly bestow international legal standing on transnational investors. (Kelsey and Wallach (2012) comment that ISDS provisions (see more below) threaten fundamental principles of national judicial systems. ISDS elevates individual

corporations and investors to equal standing with agreements' signatory governments, empowering corporations to directly enforce public treaties. Foreign corporations not only circumvent sovereign immunity protections, but are empowered to sue governments to challenge domestic laws and regulations outside of domestic courts.)

The HRC failed to endorse the Norms and in 2005 appointed John Ruggie as Special Representative of the Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises. In 2011 Ruggie presented to the Human Rights Council a set of '[Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework](#)' (UN Human Rights Commission 2011). The Guiding Principles address businesses (from TNCs to small domestic enterprises) and governments. Business entities are urged to obey the law and respect human rights; governments are urged to assist them to do so. There are no binding obligations.

The proposition that international law cannot address transnational corporations directly is absurd. However, as the depredations of TNCs accumulate and the instances of impunity mount (in particular, the decisions of investment tribunals defending the interests of the corporations (Peterson 2009)) the pressure has increased for binding regulation through international law. See Omoteso and Yusuf (2017) for a powerful argument for the establishment of an international legal mechanism which would provide for the criminalisation of breaches of international human rights law by TNCs.

In June 2014, the Human Rights Council adopted resolution 26/9 by which it decided "to establish an open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, whose mandate shall be to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises" (United Nations Human Rights Council 2023). See the text of the [third revised draft](#) of the 'legally binding instrument' being developed by the open-ended intergovernmental working group (Human Rights Council 2022).

At the heart of the draft legally binding instrument is the concept of human rights due diligence that deals with the kinds of provisions in international and domestic law that would be needed to oblige transnational corporations to exercise due diligence in relation to any activities within their penumbra which could breach human rights, and to hold them accountable for such due diligence (Teran 2021).

As with the Norms in 2003, the draft legally binding instrument does not address in detail the specific modalities of unequal exchange which were at the heart of the NIEO. However, it does reference the [Right to Development](#) adopted by the HRC in 1987 (UN General Assembly 1987).

The Declaration on the Right to Development is firmly voiced and quite clear about the centrality of the new international economic order. However, the Declaration is just a statement of 'shoulds': "States *should* realize their rights and fulfill their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and co-operation among all States, as well as to encourage the observance and realization of human rights" (Art 3); "Steps *should* be taken to ensure the full exercise and progressive enhancement of the right to development, including the formulation, adoption and implementation of policy, legislative and other measures at the national and international levels." (Art 10).

In 2017 the HRC appointed the Special Rapporteur on the Right to Development with a mandate to provide practical guidance for the effective realisation of the right to development at local, national, regional and international levels and to explore practical means to promote its implementation. It is perplexing that the 2020 '[Introduction to the mandate](#)' (of the Special Rapporteur on the RTD) (UN OHCHR 2020) makes no mention of the work being undertaken on the legally binding instrument (launched in 2014).

Investor protection

From the corporate view the principal threat from the call for a NIEO was the threat of 'expropriation' (including nationalisation) of foreign-investor-owned property. The response of the imperial core was multiple including the defeat of the Code, the defeat of the Norms, and the establishment of the WTO and all its agreements (including the Agreement on Trade-Related Investment Measures, TRIMS, see below). However, the direct response to the threat of expropriation was the tsunami of bilateral investment treaties (BITs) with investor state dispute settlement provisions (ISDS) and the later round of plurilateral or regional free trade agreements (FTAs) which also included investor protection provisions. Vandeveld in 2009 reported that more than 2,800 investor protection agreements were in place at that time, with the great majority having been concluded since 1990. This number included almost 2,600 bilateral investment treaties (BITs) as well as nearly 250 broader trade agreements that contain investment provisions.

The core idea of ISDS is that the BIT or FTA includes agreement that the country hosting the FDI (host) will comply with certain standards of 'treatment' of the foreign-investor-owned enterprise in the host country and that the foreign investor may bring claims against the host government on the grounds that such standards are not met. Muchlinsky (2009) lists these standards of treatment as:

- General standards may include:
 - 'fair and equitable treatment' (may be expressed in different ways),
 - 'national treatment' (treatment no less favourable than that bestowed on domestic enterprises),
 - 'most favoured nation (MFN) treatment' (treatment no less favourable than that guaranteed for investors from other countries in corresponding agreements),
 - 'observance of obligations' (a reference to more favourable conditions which may be promised by the host government to the foreign investor in the context of attracting investment),
- Specific standards may include:
 - 'free transfer of payments' (including the covert export of profit through inflated or deflated transfer payments),
 - 'compensation for losses due to armed conflict or internal disorder'
 - 'compensation for expropriation' (direct nationalisation or indirect expropriation - generally includes legislative or regulatory action which diminishes the value to the investor of the investment).

Central to investor protection is dispute settlement, through negotiation, mediation or arbitration. The rules governing arbitration may be set out in the original investment treaty; may be negotiated by the parties to the dispute; may be established by the arbitration panel; or may be determined by reference to an existing set of model rules (commonly either the model rules of the UN Commission on International Trade Law, UNCITRAL, or the World Bank's International Centre for the Settlement of Investment Disputes, ICSID).

Arbitration is commonly vested in an *ad hoc* panel of trade lawyers, commonly three: one appointed by each party and an independent chairperson who may be agreed upon or may be appointed by an agreed external authority. Alternatively, the treaty may specify that the arbitration panel will be set up under the aegis of the ICSID. See Muchlinsky (2009) for more detail on arbitration.

UNCTAD (2014) provides a useful [overview of ISDS cases](#) launched from the EU or US and cases directed at EU states or the US. US and EU investors are active users of ISDS. Together they account for 75 per cent of the global number of ISDS claims known at the time of the publication. US corporations are the most common users of ISDS. Most frequent respondents were Canada, Argentina, Ecuador, Mexico, Ukraine, Kazakhstan, Poland and Egypt. Most frequent respondents to

claims brought from within the EU were Argentina, Venezuela, Czech Republic, Egypt, Hungary, Poland, Russia, Bolivia, India.

Known disputes relate to all sectors of the economy. They include oil and gas, mining, forestry, agriculture, construction and management of infrastructure, telecommunications, generation and distribution of energy, financial services, tourism, the provision of water, waste management, and media.

Governmental measures that have been challenged most frequently include the revocation of licences, direct and indirect expropriations, alleged breaches or unilateral terminations of investment contracts, economic measures taken to combat financial crisis, environmental and public health measures, taxation measures, privatisation-related measures, sectoral economic reforms and conduct of national courts.

In 2015 Martin Khor summarised some [major concerns](#) for developing countries regarding investment treaties and ISDS. Among the controversial provisions of investment treaties, he listed:

- Breadth of scope of 'investment' (well beyond FDI in greenfield productive capacity),
- National treatment (in fact favours foreign investors over domestic enterprises),
- Fair and equitable treatment,
- Expropriation including nationalisation or indirect expropriation where the investor claims against loss of future profit expectations,
- Pre-establishment rights (automatic right of entry and expansion including national treatment and MFN treatment),
- Prohibition of performance requirements (eg joint ventures, technology transfer, local content),
- Freedom of capital flows (with implications for taxation and balance of payments), and
- Survival clause (obligations persist years after withdrawal from the agreement).

Among the problems associated with ISDS Khor listed:

- Lack of appeal mechanisms,
- Arbitrary, inconsistent and sometimes incoherent jurisprudence,
- Conflict of interests facing tribunal members (advising an investor one day and adjudicating in a tribunal the next),
- High costs and huge awards.

In summary, BITs can greatly constrain the policy space available to host governments both regarding economic management and quite specific policy areas such as public health.

Mohamadi (2019) highlights the following [policy areas where constrained policy space](#) can be quite critical as a limit on economic development:

- Impact of IIAs on policy space, growth and industrialization
- Challenges in the area of tax reform
- Challenges emerging from IIAs in regard to handling debt crisis
- Impact of IIAs on the use of capital controls
- IIAs and enforcement of intellectual property rights
- IIAs and private-public partnerships
- Implications of IIAs on climate action and policies targeting investment in clean technologies.

Gleeson and Friel (2013) have analysed the outcomes of the Philip Morris challenge to Australia's plain packaging law and demonstrate how the threat of legal action can deter the introduction of pro-public health measures ('regulatory chill'), particularly in low- and middle-income countries that can least afford expensive and protracted litigation.

Baker and Geddes (2016) comment regarding the implications of the expropriation clauses in relation to medicines regulation:

A particularly pernicious feature of investment protections arises in the intellectual property arena where ISDS claims might be brought with respect to alleged diminution of expected profits arising from trade secrets, trademarks, patents, and data protections. In the trade secret arena, foreign pharmaceutical companies might oppose government requirements that they disclose 'secret' proprietary information on clinical trials, suspected counterfeiting, or the content of regulatory filings.

Nichols (2018) explains how ISDS arbitrators have selectively chosen from a body of unsettled US jurisprudence to expand the boundaries of expropriation and, thus, of property rights.

The defeat of the Code took place in the context of the debt crisis and structural adjustment which were accompanied by a powerful ideological drive regarding export driven industrialisation, privatisation of human services and infrastructure, and liberalisation of trade and finance. Foreign direct investment by TNCs in the countries of the Global South was held out to be a critical panacea to enable the development promise. However, in view of the affirmation of the legitimacy of nationalisation in the NIEO, the developing countries were advised (in some cases forced) to agree to investment treaties to reassure the corporate investors. FDI is the solution; ISDS is the price.

However, FDI is not a panacea. Akyüz (2015) offers a range of qualifications which need to be considered in evaluating the [contribution of prospective FDI to economic development](#):

- FDI is not the same as fresh capital inflows (a large proportion is financed from incomes generated by existing investments);
- FDI which buys up existing assets is not the same as greenfield productive investment;
- A lot of so-called FDI is fundamentally speculative, betting on changes in asset values (up or down);
- The value of FDI in terms of balance of payments needs to be qualified where the FDI incurs foreign exchange use to buy capital equipment and/or is used up in profit remittances;
- The promise that FDI is associated with technology transfer, including management as well as production technologies, has to be worked on; it is not assured.

Argentina has had more ISDS cases raised against it than any other country (UNCTAD 2014). [The story](#) (Lavopa 2015) is complicated. Argentina was facing hyper-inflation in the late 1980s and in 1991 adopted a policy package corresponding closely to the Washington Consensus: public austerity, privatisation, trade and financial liberalisation, fixing the peso to the US dollar. As part of its commitment to attract foreign investment, Argentina signed 58 BITs from 1991. At great social cost inflation was brought under control but the economic reforms embedded vulnerabilities and rigidities which exploded in the economic crisis of 2001-03. The policy package adopted to manage the 2001 crisis included a bank freeze, cessation of dollar convertibility with devaluation against the US dollar, a partial default on government debt, termination of the right of foreign owners to adjust tariffs against US inflation, the “pesification” of contracts denominated in dollars, and restrictions on fund transfers abroad. The response of the foreign investors was a flood of ISDS cases. In the period 2001-2012, exactly 50 cases were filed against Argentina. Among the 36 cases which have complete public information available, twenty-seven (75%) were exclusively or mainly related to the package of measures adopted by Argentina to mitigate the economic effects of the crisis of 2001-2002.

The Argentinian case illustrates several of Akyüz’s qualifications. Much of the foreign investment inflow after 1991 involved the purchase of operating enterprises including public enterprises (eg utilities) which were privatised. Through widespread layoffs many of these enterprises were rendered more ‘efficient’ and profitable. There was some importation of producer goods but much of the capital involved was generated by the privatised enterprises. The guarantees provided to

encourage foreign investment included full liberalisation of capital flows which allowed a massive outflow of capital precipitated by external events.

The Argentinian experience of the arbitration process highlights the arbitrary, inconsistent and unaccountable aspects of tribunal awards, logic and jurisprudence. Lavopa (2015) points out that the Argentinian experience provides a 'natural experiment' in evaluating the ISDS process. This is because a large number of cases arose out of the same set of measures taken to manage the economic crisis; that many of these claimed a breach of the same 'fair and equitable' treatment standard; and the Argentinian defence changed little across cases (first denying the violation and then claiming exemption because of the emergency character of the economic measures). For details regarding the arbitrariness, inconsistency and incoherence of many of the arbitrations see [Lavopa](#).

Investment agreements: Policy options

There is a wide agreement that investor protection agreements are a mess. A guide for developing country negotiators prepared by the Commonwealth (VanDuzer, Simons, and Mayeda 2013) observes that "The constraints that IIAs [international investment agreements] impose on host states, combined with costly, inconsistent and sometimes surprising decisions by investor-state arbitration tribunals regarding the meaning of broadly worded IIA obligations, have led many countries to rethink the obligations an IIA should include."

A report by the European Parliamentary Research Service (European Parliamentary Research Service 2014) comments that "Some critics have no hesitation in calling it [ISDS] a "toxic mechanism", which empowers corporations to the detriment of sovereign states' courts and parliament. Others focus more on an elite arbitration industry that promotes ISDS, in particular through its control of the editorial boards of international law journals covering the field." Akyüz (2015) offers a range of lessons for developing country negotiators, lessons that need to be considered in the negotiation of investment treaties.

The international opposition to current practice regarding investment agreements comes from diverse sources, including on one hand the rich countries that have been bitten by 'toxic' treaties and the Global South countries who were told that FDI was the path to 'development' and that ISDS was the price to be paid. To ask whether investor protection agreements are 'fit for purpose' begs the question of 'Whose purpose?'

The Global North sought to include a multilateral agreement on investment among the suite of agreements produced through the Uruguay Round and has repeatedly sought to launch negotiations towards such within the WTO (and in the case of the Multilateral Agreement on Investment (MAI), through the OECD). These drives have been resisted by the Global South and global civil society (in the case of the MAI).

One line of debate among opponents of ISDS is that stronger exceptions need to be included in IIAs and among the stronger exceptions being discussed would be a stronger human rights exemption. A high level authoritative statement, based on human rights, and including the right to development, could be referenced in investment agreements and could constrain arbitration panels.

The NIEO and the Code were about the system, the system of unequal exchange and the wider asymmetry of power which frames it. This system dimension, the systemic parameters of unequal exchange are not fully encompassed by human rights law. The critical questions should be about the mediations of unequal exchange. This appears to have been lost in the move from the Code of Conduct to the Human Rights umbrella.

Lessons from the 1974 NIEO

Global capitalism has enabled amazing technical achievements. However, it continues to destroy the human environment and appears not capable of preserving biodiversity or preventing global warming. Global capitalism has contributed to some improvements in material standards of living for many people. However, it has also generated deepening inequalities in material and spiritual living conditions. Improvements in averages obscure the absolute numbers of people who are still living in dire poverty.

Global capitalism externalises the costs of production and consumption on a truly massive scale; such costs are borne across the biosphere, by workers and communities, and are transferred as debt to future generations. Global capitalism accumulates capital through institutionalised systems of unequal exchange which drive inequality.

The externalisation of costs and the mediators of unequal exchange are protected and cultivated by a global system of agreements, institutions, and asymmetries of power. This system includes trade and investment agreements, international financial institutions, the power of market sentiment, the US military, and transnational corporations.

The NIEO was a bold call for the reform of this global system but its driving power did not match its ambition (Yang 2016). The project was defeated by the stagflation crisis of the late 1970s and the debt crisis of the 1980s; it was defeated by the power of the US Treasury to destroy unions and hobble developing countries through its 1981 interest rate hike; it was defeated by the ascendancy of the ideology of economic liberalism; it was defeated by the network of agreements administered by the WTO; it was defeated by the power of distributed investors through the mediation of 'market sentiment' under conditions of liberalisation of finance.

However, for those who recognise the externalisation of costs, the structured mediations of unequal exchange and the oppressions of asymmetrical power relations, the possibility of an NIEO remains central to the hopes of billions (and to the achievement of the SDGs).

What can we learn from the story of the NIEO?

Keep the broad vision in sight while working towards more specific incremental improvements

Progress will involve pragmatic engagements in specific policy areas, for example, incremental improvements in international trade and investment agreements (eg the EU adopting a slightly better BIT model).

However, there is also a need for visionary declarations which give context and direction to those more incremental engagements. The NIEO and the Charter Economic Rights and Duties of States (UNGA 1974b) were visionary calls for comprehensive economic reform.

In retrospect the NIEO was relatively quiet on human rights, diversity and inclusion, and ecological sustainability. The SDGs traverse this broader canvas but they are simply goals and provide no guidance about the roadmap. By comparison, the 2014 Declaration of Santa Cruz (Summit of Heads of State and Government of the Group of 77 2014; Morales 2014) keeps the call for a new world order but also paints across a much larger canvas.

The role of China

South South Solidarity is critical in the geopolitics of economic reform but it is vulnerable to differences in policy priorities across very different countries of the Global South (Gosovic 2016;

Zondi 2015; Alden, Morphet, and Vieira 2010a) and is weakened by corruption, political opportunism, elite capture, and neoliberalism in the Global South (Cheru 2016; Adesina 2020).

Much has changed since 1974 including the formation of the G20 and the loose affiliation of the BRICS. However, perhaps the most significant change is the rise of China and the sharpening contradictions between China and the US. China was among the early sponsors of the NIEO; Deng Xiaoping spoke warmly in favour of it at the General Assembly in 1974 (Chen and Chen 2009).

However, there is much uncertainty about how the rise of China will play out in geopolitics. These uncertainties may be teased out more clearly by considering three contrasting scenarios regarding China's economic development and geopolitical position:

1. Chimerica – China and the US as co-hegemons;
2. South South Solidarity – China builds common cause; or
3. The return of Chinese imperialism.

Scenario 1, 'Chimerica' with China and the US as co-hegemons (G2), envisages China signing on to the neoliberal, WTO-centred 'rules based order' and agreeing to collaborate with the US in global economic governance. This scenario inspired excitement in the financial markets during the era of Jiang Zemin. The contemporary Chinese leadership say that this is not the path they want to follow (although they have pragmatically accepted many features of the prevailing regime). Chinese workers and state are being exploited by this order through various mediations of unequal exchange; it is not so evident how they might move from victim to predator. Many of the Chinese billionaires, sitting at the top of large Chinese owned TNCs would be quite happy with this pathway. However, it is the working class who are being exploited, not the elites. It is also unlikely that the US would be happy to share global hegemony; they are already facing the looming threat of structural crisis and have unleashed a trade war against China, under the guise of 'security concerns', with a view to obstructing China's economic development;

Scenario 2, 'South South Solidarity', envisages slow but resolute progression towards a (new) NIEO despite US threats and sanctions (Chen and Chen 2009; Chen and Yang 2015; Cheng and Lu 2021). China builds common cause with the BRICS and the Global South more generally. The disproportionate impact of global warming on developing countries brings to the fore the need to challenge the do nothing, share nothing regime of contemporary capitalism. Deepening South South solidarity strengthens the global constituency (states and civil society) resisting the neoliberal, WTO regime; partly by taking opportunities for incremental reform of the global regime (eg wider use of SDRs; de-dollarisation of international trade; equitable voting rights in WB and IMF); partly by creating alternative financial and governance structures; contributing to a more inclusive, equitable, sustainable, managed capitalism, and opening new pathways towards socialism. Chinese workers and the Chinese state are being exploited by the current regime. They need the support of the Global South to push through reforms of the regime in their own interests as well as in the interests of other states in the Global South; the stronger the South South Solidarity the more scope there is for creating a NIEO.

This scenario carries a significant risk of war (underlines the caution the Chinese leadership has shown and is showing). Drum beating is already loudly heard among the US and its allies; with the use of 'security exceptions' to cover the mounting trade war being launched by the US on China. There are comparable hawks within the Chinese military, currently contained by the Communist Party leadership. The strengthening of South South solidarity could drive the Europeans and Japanese further into the arms of the US. Facing a global crisis of over-production and financialisation, US imperialism needs continued access to the Global South under conditions of unequal exchange to maintain the US economy.

The scenario of South South solidarity depends on governments and peoples seeing the long-range benefits of wider solidarity and finding ways of negotiating the contradictions between different national interests within the broader framework of South South solidarity. The quality of

political discourse is a key influence here and the avoidance of nepotism and corruption. It is significant that the Santa Cruz Declaration (Summit of Heads of State and Government of the Group of 77 2014) emphasises 'improving the practice of democracy' as a key principle. ("We reaffirm that while all democracies share common features, there is no single model of democracy and that democracy does not belong to any country or region, and further"). Improving democratic practice calls for a culture of active civic engagement as well as the institutional structures of democratic governance.

Scenario 3 envisages 'The return of Chinese imperialism'. Under this scenario China benefits from some success in mobilising the Global South against US imperialism; but through the growing economic and military strength of China it gradually eclipses but emulates US imperialism as a new Chinese empire. It might be quite acceptable to certain sectors of the Chinese elite and the TNCs of the West could find ways of swapping sides. Many commentators (largely in the West) allege that this is happening already (allegations of Chinese debt diplomacy).

The risk of war looms large in Scenarios 2 & 3. An important uncertainty in relation to the risk of war is how civil society in the Global North responds to the deepening conflict between the transnational fraction of the national ruling class and the domestically oriented fraction including the threat of a new fascism, political instability and war. One pathway involves North South solidarity; the other sees the ascendancy of fascism and war.

Leadership, research, dialogue, communications

The role of leadership proved to be crucial in formulating the institutions and outlooks of the South, with Yugoslavia, India, Algeria and Egypt playing key roles in the creation of the Non-Aligned Movement and Indonesia and the Latin American states in the creation of the G77 (Toye 2014).

In the present period there are many fora for dialogue, there is an over-abundance of communication channels, and there is a growing capacity for South oriented policy research. There are many individuals (academics and politicians) with the status and capacity to project leadership towards a NIEO.

In terms of government leaders who have the status, capacity and political security at home to project such leadership the situation is continually changing. The South Centre and the G77 are critical institutions in supporting the emergence of such leadership.

A range of NGOs also stand out from the jungle of NGOs, in terms of projecting leadership; some of these have a global scope and others a more regional or more sectoral focus.

Civil society

Less evident in most accounts of the NIEO is the role of civil society in projecting leadership, in mobilising around the slogans of the NIEO, and in holding national politicians accountable. The original NIEO was conceived largely around the agency of the Nation State (reflecting the experiences and concerns of the G77).

However, a realistic strategy towards a NIEO, must include an international, intersectoral, and intersectional convergence of social movements working in tandem with progressive governments.

The role of civil society in South Africa and globally in the Treatment Access Campaign of 1997-2001 illustrates the critical role of strong civil society engagement and the possibilities of international solidarity. In the present period the TRIPS Waiver campaign also illustrates a united front involving Southern governments and global civil society working together, albeit unsuccessfully.

The critical modality of civil society power involves delegitimation of imperial and corporate privilege, the withdrawal of social license, drawing on research and communications as well as popular mobilisation and advocacy.

A critical vulnerability of civil society as a driver towards a NIEO is insularity. Two tendencies are at play: solidarity across difference versus parochialism within national and sectional boundaries. The tendency towards solidarity is supported by a culture of inclusion and a consciousness of the ways local and specific grievances reflect the crisis of capitalism and grasping of imperialism. The tendency towards parochialism is cultivated by the divisiveness of racism and misogyny, and by deepening inequality. This divisiveness may be informed by a similar analysis of the economic crisis but is driven by a determination to retrieve and protect privilege against 'the other'. Cultivated by capital, and encouraged by demagoguery this parochialism can tip easily towards fascism.

Implications for health

We return finally to the significance of the endorsement of the NIEO in the Alma-Ata Declaration on Primary Health Care. The reference to the NIEO was a recognition that the old economic order was a major barrier to health for billions of people. Poverty and inequality were being reproduced through various mechanisms of unequal exchange in the global economy, supported by military, political, economic, and cultural imperialism.

Since then the rise of neoliberalism has led to widening inequality and the crisis of global capitalism has deepened. The financialisation of the global economy has progressed (casino capitalism); increasing productivity has driven the evaporation of decent work; and capitalism has proven unable to address global warming. The prevailing economic order as a barrier to health and well-being is writ large in the dramatic shortfalls against the SDG targets; including those directly involving health and health care.

(It is of course acknowledged that capitalism does promote technological development (including medicines and solar power) but with a strong bias towards military uses and the consumer market, and with tight corporate control of such technologies.)

The inclusion of the NIEO in the Alma-Ata Declaration was more than a recognition of the barriers to health arising from the operations of the global economic regime. It was also a call for an approach to health service delivery which contributed to working towards a new international economic order and it pointed towards comprehensive primary health care as an approach to health service delivery which could so contribute.

Chorev (2012) presents Alma-Ata as an attempt by Mahler to advance the commitments made in the NIEO and suggests that the involvement of the World Bank, with the Rockefeller Foundation, in promoting 'selective' primary health care from 1979, was directed in part to obstructing the implementation of the NIEO. There may be some merit in this argument although Litsios's accounts (Litsios 2004, 2002) of the development of Primary Health Care and Newell's 1975 collection of case studies (Newell 1975) suggest that health system policy considerations were the major drivers in the development of PHC and HFA 2000.

The model of primary health care offered in the Alma-Ata Declaration suggests that, as well as focusing on primary care, health care practitioners and agencies can find ways of working with their communities on understanding and addressing the structural barriers to better health, ranging from the locally specific to the global barriers (Sanders 1998; Schaay and Sanders 2008).

The struggle for a NIEO will not be determined in the health sector alone but health is universally valued and perhaps can provide a narrative of change which can be shared across boundaries. The language of social determinants (and social determination) of health provides an existing narrative regarding the links between the local and the global; the micro and the macro.

Inclusiveness is a precondition for building solidarity across boundaries and for the convergence of different social movements in the struggle for a NIEO. The emphasis of primary health care on community involvement, intersectoral collaboration, equitable funding and universal access illustrates the way in which patterns of health services delivery can have an influence on this wider culture of inclusiveness.

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