

Introduction: Good Governance and Modern International Financial Institutions

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In accordance with its Articles of Agreement, one of the reasons that the Asian Infrastructure Investment Bank (AIIB) exists is of course to “improve infrastructure connectivity in Asia.” From the outset, this is to be understood in its broadest sense as the entire sustaining context of successful major infrastructure projects. With the 2017 AIIB Legal Conference, this mandate was to the fore, bringing together and connecting an unrivalled range of diverse experiences and expertise to help the AIIB, as the newest International Financial Institution (IFI), examine and understand the challenges and possibilities of good governance of multilateral development institutions. This debate and discourse surrounding the good governance of IFIs and the broader standards set by intergovernmental institutions was of pressing relevance given how, in today’s era a commitment to globalized trade, investment and interconnectedness comes under pressure.

This first edition of the *AIIB Yearbook of International Law* (AYIL) pursues this theme, to examine the benchmarks of good governance, such as transparency and stakeholder participation, utilizing the insights shared and dialogue begun by the 2017 AIIB Legal Conference. Drawing upon expertise from other IFIs, international law practitioners and eminent academics, this edition of AYIL is divided into three parts to reflect a series of overarching themes. Firstly, the role of the membership of IFIs as expressed through their executive governance organs. Second, the legal basis of governance of IFIs. Third, the interaction around governance between IFIs and external stakeholders.

In his chapter that begins the first part of this edition of AYIL, Stilpon Nestor examines data from a peer group of international and private financial institutions and whilst identifying important distinctive governance features of IFI boards, concludes that IFIs share with private sector governance bodies the same key drivers of superior performance. Next, Marie-Anne Birken and Gian Piero Cigna turn to a specific component of all governance boards—gender diversity—to argue for the deserved prominence of this feature in good governance, drawing upon the experience of private financial institutions and, in turn, IFIs. Lastly this first part concludes with the unrivalled vantage point of Whitney Debevoise on the role of member states, given voice and weighted votes on the governance board of IFIs, to contributing to the good governance of multilateral development institutions and their broader operational success, and sometime shortcomings. The chapter does not shy away from arguing for a particularly essential governance role of an IFI’s leading and largest shareholder.

In the second part of this edition, Yan Liu begins with the case study of the International Monetary Fund, its time tested but evolving purpose, and examines the way in which the Fund’s legal office contributes to the rule of law and so to the effectiveness and independence of this essential global institution. From one of the longest established, to the most recently founded IFI, Natalie Lichtenstein places the recently formed AIIB into a legal comparative context, highlighting the important areas of constitutional continuity and contrast of this newest institution to its IFI peers. This part concludes with an examination by Joan Powers of the only routine judicial oversight of the governance of IFIs, namely that afforded by international administrative tribunals which adjudicate employment disputes in accordance with international administrative law, the law of employment relations of the international civil service. This chapter considers whether the jurisprudence of multiple international administrative tribunals intends towards fragmentation or synthesis, and the resulting implications upon the governance of IFIs.

The third and last part of this edition considers how the good governance of IFIs implicates broader concerns about interactions with, and influence upon, third parties. Catherine Weaver examines the way in which the World Bank led the way in making its operations more open and transparent, with significant ramifications for its own governance, its influence on other IFIs and ultimately with consequences for the operational efficiency and effectiveness of the Bank. Yifeng Chen

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traces the expanding role that employment standards have had in the conditionality of IFI projects and whether or not this has led to a distinct body of IFI labor standards or transposed existing standards expounded by the International Labour Organization. Lastly Pascale Hélène Dubois, David Fielder, Robert Delonis, Frank Fariello and Kathleen Peters co-author a chapter that studies the role of the World Bank Group's sanctions system and considers its contribution to global efforts to promote good governance and thwart the misuse of public monies.

This edition concludes with the text of the 2017 AIIB Law Lecture, delivered by the United Nations Under-Secretary-General for Legal Affairs and Legal Counsel, Miguel de Serpa Soares on the subject of "The Necessity of Cooperation between International Organizations" and a summary report on the proceedings of the 2017 AIIB Legal Conference.

Running through this inaugural edition of AYIL is a constant thread: that whilst rules, regulations, systems and processes are essential to the good governance of modern IFIs, they are not altogether sufficient. Rather, what animates multilateral development institutions are not procedures, but people and their principles. For IFIs to succeed, to entrench and expand their relevance, to deliver upon their high purposes, is to depend everyday upon the professionalism, good conscience and seriousness of purpose of the international civil servants who staff these essential institutions. It is these servants whom are called upon to apply themselves to the constant task and toil of good governance, with a fidelity to the principles of professionalism and a public trust and duty, dependent upon the rule of law, that governs and enables the mandates of IFIs.