



**HLAB**

HIGH-LEVEL ADVISORY BOARD ON  
EFFECTIVE MULTILATERALISM

## **Framing Paper**

# **Definitions, Principles and Objectives**

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## Introduction

The Secretary-General's *Our Common Agenda* comes at a time of growing tension in multilateralism: over the past seventy years, post-war institutions have combined with free trade and technological advancements to drive massive growth into a highly interdependent global economy, which in turn has required a huge expansion of institutions tasked with regulating international cooperation. But even as the need for greater global institutional cooperation has continued to grow, today's supply of cooperation appears to be dwindling. In areas as diverse as nuclear proliferation, biodiversity loss, financial market instability, and cyberspace, the instruments of international cooperation are increasingly inadequate to the task and may even be in a state of retreat. Indeed, today's multilateral system is best described as suffering from a gridlock caused by the combination of increasing multipolarity, institutional inertia/fragmentation, and increasingly complex problems.<sup>1</sup>

In this context, the concept of global public goods (GPGs) in *Our Common Agenda* offers a helpful framing. Described in economic terms as vital resources that cannot be excluded or competed over, GPGs capture the bedrock issues of our collective survival: a sustainable environment, a stable global economy, healthy populations, and peaceful coexistence. Across these, the language of GPGs – based on ecosystems, equitable distribution of resources, and collective action – could be used to break through the polarized discourse of today's international relations. As the Secretary-General states in *Our Common Agenda*, what distinguishes these domains is that their protection is an increasingly urgent task that we can only undertake together. But he notes the multilateral system is not yet geared for the strategies, investments or solidarity needed to protect them, leaving us all vulnerable to crises. The work of the High-Level Advisory Board will be about offering concrete recommendations for addressing these challenges collectively.

This briefing note aims to clarify the utility of GPGs as a framework for addressing the major risks laid out in the Secretary-General's *Our Common Agenda*, in support of his initiative to form a High-Level Advisory Board on Effective Multilateralism (HLAB). It offers:

1. A broad overview of the key gaps in current regimes to govern GPGs;
2. A set of principles inherent in GPG discourse that can help guide new proposals;
3. A goal-driven approach for HLAB to consider in its development of its report for the Common Agenda process.

Ultimately, the success of a GPG-driven approach is how it can help to unlock today's multilateral gridlock and lead to meaningful action.

## Four gaps in the governance of global public goods

At its broadest, the challenge of global governance can be described as one of anarchy: there is no world governing body, and Member States therefore are only obliged to follow rules they have voluntarily accepted.<sup>2</sup> Even where obligations are clearly laid out – e.g. the Non-Proliferation Treaty governing nuclear weapons – sovereignty and national interest tend to lead to massive undercompliance without meaningful enforcement mechanisms. When addressing GPGs like global financial systems, health, peace, and the environment, these challenges can be described as gaps in: (1) jurisdiction; (2) participation; (3) incentives; and (4) information.<sup>3</sup>

First, the **jurisdiction gap** appears because States are not accountable for a range of externalities beyond their territorial boundaries. Heavy polluters face no repercussions for the global effects of their activities; countries may cut down rainforests that reduce global carbon levels with legal impunity; national financial regulations can trigger massive shocks across the world without a corresponding response from an international authority.<sup>4</sup> While there are some limited obligations – e.g. to avoid polluting shared water sources – there is no generally applicable law governing the global effects of States. As a result, the overriding majority of regulations involving GPGs are either non-binding (e.g. the Paris Treaty), not fully global (e.g. collective security arrangements under NATO) or selectively enforced (e.g. the Non-Proliferation Treaty).

Second, the **participation gap** arises from the fact that international relations remain dominated by Member States, despite a growing role for non-State actors (civil society, business) and a clear shift towards multinational corporations as influential actors around the globe. But the participation gap runs deeper than the exclusive club of the General Assembly: access barriers for many populations to key public goods are equally important to the participation gap in the arenas of environment, health, security, financial markets, and knowledge. Huge populations in the Global South face practical and economic access constraints to public health systems and are extremely unlikely to see the benefits of market growth. Indeed, when financed by public taxes, attempts to deliver public goods like security and health can have the regressive effect of penalizing the poor. The participation gap becomes even greater when one considers future generations: lacking any meaningful forum or representation in international (or most national) systems, the rights of future generations are trampled with impunity.<sup>5</sup> This is most obvious in the environmental arena where biodiversity loss, global warming, and pollution are all likely to affect future generations even more than today's, but also important in the realms of health (e.g. antibiotic resistant infections) and finance (e.g. failing social security systems).

The **incentive gap** is most easily understood by the two phrases commonly associated with GPGs: the prisoners' dilemma, and the free-rider problem. In the prisoners' dilemma, lack of information about the intentions of others leads prisoners to make poor decisions, for themselves and others. Similarly, in the international sphere, highly competitive relationships among States lead to information asymmetries, nationalist protections, and ultimately decisions that are suboptimal for all. Clearly, we would all be better off in the long run if we switched to clean energy, but developing countries in particular see an unfair short-term loss if they are made to abandon the cheapest form of energy after others have gotten ahead, leading some countries to claim a different responsibility under international law to decarbonize.<sup>6</sup> As we saw in the COVID-19 response, countries will hoard vaccines for themselves, even when equitable global distribution of the vaccine is the best outcome for the world population. Similarly, effective delivery of GPGs is inhibited

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by the free-rider problem: if everyone benefits from the decarbonization of several large economies, the incentive for others to also decarbonize will be reduced. The free-rider problem is especially acute on issues requiring large-scale accumulation by many actors, such as moving to clean energy, but is also prevalent across finance, health, and investments in global security arrangements.

Finally, global governance of public goods suffers from an **information gap**, which can also be thought of as the **problem of uncertainty**. In a world of perfect information flows, the value of GPGs would be clear: everyone will benefit from more peaceful coexistence in the long run, and humanity is almost certainly better off if global warming is limited. But our information regarding these benefits – and in particular the causal chain between actions we take now and improvements in the longer term – is both poor and poorly distributed. Some of this paucity of information can be overcome through research, for example illuminating the causal links between global warming and instability. But some is the product of intentional nationalist strategies and protectionism: in a highly competitive global market, countries will hoard resources and pollute if it offers them short-term gains, refusing to acknowledge information about the broader harm such actions might cause. The continued use of charcoal-based energy is one such example, as are national protections for damaging industries like deforestation, unsustainable forms of agriculture, and data.<sup>7</sup> Uncertainty and incomplete knowledge are the shifting sands that make concerted action across the GPGs difficult to generate, and those in power have a strong incentive to keep waters muddied.

These gaps in the global governance regimes around GPGs have been widened by the trends described above, particularly the international gridlock caused by a combination of institutional fragmentation and inertia, along with the rise of national protectionism in many parts of the world. Other trends, such as the growth of Uber-like industries that lack a social safety net for workers, mean that the risks of deepening divides between rich and poor will only worsen the participation and access gaps that existed.<sup>8</sup> And as populations age in the world's wealthiest countries, those with the power to make global policy will have a diminishing personal stake in the kinds of long-term outcomes that are needed to protect us all from existential risks.

To overcome these problems, HLAB's approach will need to be based on a flexible application of broad principles, and be driven by a set of tangible goals, both of which are discussed below.

## Principles inherent to GPGs

To a certain extent, the term global public goods itself refers to the principles that should guide their delivery. By being global, they require geographically comprehensiveness, looking to distribute both costs and benefits without differentiating along national borders. Indeed, the difference between international (concerning relations between States) and global (without reference to States) suggests that GPGs should be about people rather than States. Moreover, GPGs should not distinguish between present and future generations: they should be global across time and space, accounting for the benefits and risks of today's actions on people everywhere and everywhen. This is the **principle of universality** underpinning GPGs, which may be uncontroversial in theory but is highly contested in practice.

Related to the universal aspects of GPGs is the **principle of inclusion**. A top-down executive decision may have worked to solve the public health emergency caused by London's overflowing sewers in the 1900s, but it cannot solve the kinds of complex, multilayer problems like climate change, global pandemics, or shocks to the financial system. There are moral, practical, and legal rationales for basing GPGs on meaningful participation by those who are affected by them: i.e. everyone.<sup>9</sup> But this is far from clear in practice, and may come down to whether we treat resources as goods or commons. For example, if we think of forests as a GPG with global impacts on our climate, the solution may indeed be a top-down treaty among those States holding the majority of rainforests, potentially attached to some form of coercive action.<sup>10</sup> In contrast, if we think of forests as a shared common of the people who live in them, their livelihood is the issue of concern, and the response will be more bottom-up, inclusive, and possibly less coercive.<sup>11</sup> As *Our Common Agenda* describes, inclusion can be the participation of smaller States in decision-making, a greater role for the private sector in some processes, and/or a set of processes to involve marginalized communities in a global process.

Universality and inclusion are linked to GPGs' **principle of equity**. This can be described in access terms: everyone has the same rights to access the light emanating from a lighthouse, and all people benefit from the eradication of polio. But it can also be described in terms of rights: all people have a right to breathable air, while Small Island States may describe rising sea levels as an infringement on their right to exist.<sup>12</sup> In this sense, GPGs demand equitable distribution of resources and fair allocation of rights, which in some cases requires significant regulations to offset the tendency of markets to benefit only a few. For example, when a new vaccine is created, the initial market response means that only a few people benefit the most (i.e. those who reap the financial benefits of the scientific discovery, and those who can afford early doses). Intellectual property rights may, in fact, be necessary to incentivize innovation and consolidate resources for research, but a key aspect of considering vaccines a GPG is the subsequent steps to ensure global distribution, address price barriers, and end intellectual property protections as quickly as possible.<sup>13</sup>

Equity concerns exist across the GPGs and raise thorny questions in each. If stable financial markets are a GPG, what happens when stability appears to require bailing out big banks and wealthy hedge funds, as occurred in 2008? If decarbonizing is a necessary step in addressing climate change, is it fair to ask developing countries to phase out charcoal when it is the cheapest route to energy today (and what role should developed countries play in offsetting these costs)? Equity may be a principle inherent to GPGs, but the devil is in the balancing acts of the real world.

## GPGs as a tool for *Our Common Agenda*

In September 2023, the Secretary-General will present the report of HLAB at the Summit for the Future. This report will need to navigate the challenges described above and find a clear, accessible way to answer the question: “what should we do next?” It will need to lay out recommendations that are sufficiently ambitious to meet the enormous challenges facing us today, but they must also be realistic and able to accelerate through the gridlock caused by deeply polarized politics and bureaucratic inertia in the multilateral system. This final section suggests what HLAB’s approach to GPGs may need to consider and accomplish, concluding with a broad sense of the role the UN might play in helping to address these considerations.

### Form follows function

Each GPG has its own “problem structure,” its unique set of characteristics that must be addressed. How a GPG is defined and described should be linked to the type of action required.<sup>14</sup> GPG language should “facilitate our ability to see the different issue structures ... to design and implement different legal responses.”<sup>15</sup> A “single-best effort” problem (e.g. an incoming asteroid that will destroy life on this planet) may demand a response that empowers a small group of nations to collect resources to take largely unilateral action. An “aggregate effort” problem like global warming requires a combination of legal and behavioural structures that lead to large-scale decarbonization across all major emitters. A “weakest link” problem, like a pandemic, may require greater resources for capacity-building and support to those actors who are not able to hold up their end (e.g. providing smallpox vaccines to poorer States, or offsetting the costs of a shift to green technology for Sahelian countries). Some GPGs tend to emphasize top-down legal frameworks (e.g. the prohibition on unilateral offensive force, or the global regulation of intellectual property), whereas others may lead to more bottom-up activities (e.g. support to green employment in developing countries).

A question for the 23 February convening is: “What structures and regimes are best suited to address the major global governance challenges of today, and how can a GPG framing help deliver them?”

### A place in international law

A key starting point for GPGs (recalling that they are an economic concept) is to position them as much as is useful in international law. Indeed, international law itself is a GPG, a regime for ensuring the effective, equitable distribution of goods. Here, a major challenge is legal plurality: today’s world is characterized by different, competing jurisdictions and bodies of law without a global framework for GPGs. In some arenas, this may require advocating a shift from plurality to pluralism, from separate legal systems to interrelated, interdependent ones.<sup>16</sup> For example, a treaty governing forests may set out a broad obligation to ensure sustainable use of rainforests, but if that is not combined with a range of domestic laws to prevent various forms of deforestation, the treaty will fail in its objectives. Similarly, advocates of greater legal restrictions on cyberspace will need to confront the fact that major technology companies operate across legal jurisdictions, leaving enormous holes in a treaty with any fewer than 193 signatories. The starting point is to understand that GPGs are not themselves legal instruments, but often need to be embedded in laws to gain traction.



A question for the 23 February convening is: “Given today’s political climate, how can key rights and obligations be embedded in international and domestic legal systems as much as possible?”

## Action based on uncertainty

Nearly 100 years ago, it was clear to anyone studying the coal mining industry that long-term presence in mines caused lung cancer. The levels of correlation were astonishingly high, but a combination of lobbying by the coal industry and the length of time for scientific studies to reach definitive conclusions about causality meant that policy response lagged decades behind common sense. The same is true today of American football, where the link between repeated concussions and long-term mental health is clear to any layperson, but the decision to change the rules is mired in a combination of politics, culture and science.

There is no doubt among the scientific community that our climate is getting warmer, and the causal links to human activity have been proven beyond almost any doubt. Yet, as decades of incremental, insufficient action on climate have shown, the combination of political defensiveness, a tendency to rely on markets to solve problems, and the complex causal linkages across our entire ecosystem has meant we simply have not acted in time. The Common Agenda’s approach to GPGs must reckon with this head on and make recommendations that allow for action in the face of uncertainty, for a balancing of risks that tilts us toward behavioural changes and policy shifts without necessarily having every causal link locked in. Indeed, one of the most important potential roles for the UN is to help consolidate scientific consensus and accelerate the normative shifts that can result from them.

A question for the 23 February convening: “How can HLAB’s approach to different problem areas be geared around collective approaches/agreement on scientific data? Can the GPG framing help build more collective data/information sharing?”

## Contending with non-rational behaviour

A long-held assumption of our economic models was that individuals behave rationally when selecting from among options that affect their material interests. The behavioural turn in the social sciences has proven this is not true. And recent work by behavioural international relations scholars argues that it is time that we move away from viewing States as black boxes and instead take a more nuanced view of the reasons that motivate decisions regarding participation in collective action schemes. The approach taken to the design of international cooperative arrangements must account for spoilers, spite, and rivalry that fosters litigious action and stalls progress on achieving the positive collective outcomes we aim for.

A question for the 23 February convening: “How can HLAB’s proposals on GPGs be geared at meaningful behavioural changes, not just at the State level but also across individuals and communities?”

## Unintended consequences

The converse of the need to act without certainty is the risk of unintended consequences, captured by the well-known precautionary principle. For example, the creation of exclusive economic zones was a well-intentioned international effort to regulate fisheries and the natural resources of the seabed, recognizing

the need to balance between nationally-owned resources and the global commons of the sea.<sup>17</sup> To a certain extent, the legal regime worked, offering the right kind of incentives for governments to regulate their industries in a way that reduced unchecked overfishing and exploitation.<sup>18</sup> But over time, exclusive economic zone laws also created harmful incentives as governments encouraged expanded fishing and drilling fleets within their own zones to maximize resource production and compete with neighbours. The resulting massive overfishing and exploitation of many exclusive economic zones caused irreparable damage to our highly interdependent ecosystems, despite the clear intention of the regulations to protect the environment.<sup>19</sup>

The most fraught area where this issue is playing out is the growing support for geoengineering to address climate change.<sup>20</sup> Advocates of programmes like solar radiation management suggest that it could radically shift the current trajectory of warming, helping us meet our obligations under the Paris Treaty and head off existential risks of rising sea levels. But such courses of action could cause massive damage to other ecosystems, with potentially devastating consequences.<sup>21</sup>

A question for the 23 February convening: How to balance the growing need to do something drastic on issues like the environment and global financial systems with the risks that it could generate unintended consequences?

### *E uno plures*<sup>22</sup>

The unilateral actions of powerful actors in global markets can have a “diffusion” effect, rapidly becoming a broadly accepted norm by lowering the costs and incentivizing others to follow suit.<sup>23</sup> For example, both wind turbines and photovoltaic cell technology were driven into the global market by a small number of influential States, with regulations that incentivised private actors to adopt the technology. This created a “learning curve” where those who followed the shift to these technologies were able to benefit from the work of the leading States, allowing for rapid-scale increases around the world.<sup>24</sup>

The lessons from these examples are that the actions of a small number of influential leaders can have cascading effects throughout the system, helping to lower costs and other barriers for others to benefit from new technologies. This can help a related problem of zero-sum priorities: if governments see a shift to green energy as a short-term loss to their development, they will be reluctant to accept the cost. But a diffusion effect can rapidly reduce the costs to a much broader range of actors, potentially shifting that balance in favour of carbon-neutral investments.

A question for the 23 February convening: How can HLAB’s recommendations encourage global leaders to take risks that might create a cascade effect of positive behavioural change around the world?

### Dusting off old wheels

*Our Common Agenda* rests upon decades of thought leadership, and we should not ignore good ideas whose time may be coming. For example, the 2006 report by the International Task Force on Global Public Goods proposed the creation of a “Global 25 Forum,” bringing the G20 into a group with developing countries to discuss global financial stability and development. That idea may be even more relevant today. It also proposed several ways to weaken the current veto system in the Security Council, potentially addressing the deep problems of legitimacy and inaction that have plagued the body for decades. There

are longstanding proposals to repurpose the Trusteeship Council to represent the environment and/or future generations, which should not be discarded merely because they have not yet succeeded. Part of the work of HLAB will be to review past proposals and identify whether and how new life could be breathed into them today.

## A role for the UN

The term “global governance” is often interpreted to mean a set of rules that are administered at the global level, a rules-based international system.<sup>25</sup> But governance of GPGs is better understood in systemic terms as the various ways in which order occurs, sometimes via top-down rules, but often as a result of networks, the influence of markets, and the behaviour of individuals and organizations. A starting point for GPGs is not to assume the UN has a necessary role in regulating all areas. Indeed, some may benefit from a much more central role for the private sector, for subnational constellations of actors, or for States acting without UN involvement, depending on their influence within the system. As such, the UN’s roles should be calibrated by its ability to help others deliver universal, inclusive, equitable distribution of GPGs, creating incentives that help to distribute both the risks and rewards of collective action (indeed possibly working to indemnify those leaders willing to take on the risks of early action).

For example, we could consider the following roles for the UN in helping to address the aggregate action challenges of climate change:

1. Providing a forum that reduces transactions costs in creating new obligations and commitments among States;
2. Creating common knowledge platforms to address prisoners’ dilemma problems and demonstrating the common benefits of decarbonization;
3. Helping to shape incentive structures and change behaviour by offering new models of cooperation and connecting technological leaders with developing countries;
4. Building towards common norms, for example, by supporting a growing taboo on charcoal-based energy and a default for renewables, or advocating for lowering the voting age to grow the stake of young people in today’s gerontocracy.

A different set of roles will likely exist for global finance, peace/security, and health, though common across all of them is likely to be structures to broaden participation in decision-making and help reach scientific consensus.

## Power over versus power with

Ultimately, discourse around GPGs may require revisiting our conceptualization of power. Goods that humankind needs for its existence demand that we shift from thinking of power as something held “over” people and resources, the kind of hegemonic control advocated by thinkers like Hobbes and Weber. Instead, we may need to reconceptualize power as “in” or “with,” something that arises through the act of cooperation around public goods. Erin Ostrom was awarded the Nobel Prize for showing that people have an extraordinary capacity to create shared institutions and rules for the equitable management of resources. This “power with” concept, espoused by writers like Hannah Arendt and Jürgen Habermas,<sup>26</sup> suggests that cooperation itself is the most important GPG, and should be the basis for all the work in *Our Common Agenda*.

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- <sup>3</sup> Inge Kaul, *Providing Global Public Goods: International Cooperation* (Oxford: UNDP and Oxford University Press, 2003).
- <sup>4</sup> This is changing quite quickly. The Inter-American Court of Human Rights' Advisory Opinion OC-23/17 (14 November 2017), clarifies the scope of extraterritorial jurisdiction in relation to environmental protection. Today, countries can be held liable for the negative impacts of carbon emissions on outside the emitting country's jurisdiction. This advisory opinion was just confirmed in a decision of the Committee on the Rights of the Child.
- <sup>5</sup> United Nations General Assembly, "Report of the World Commission on Environment and Development," United Nations, 4 August 1987, A/42/427.
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- <sup>11</sup> Christiaan Boonen et al., "Governing as commons or as global public goods: two tales of power," *International Journal of the Commons* 13, 1 (2019): 553-577.
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<sup>19</sup> Jennifer L. Bailey, "States, Stocks, and Sovereignty: High Seas Fishing and the Expansion of State Sovereignty," *Conflict and the Environment* ed. Nils Petter Gleditsch (Dordrecht: Springer, 1997); J. Samuel Barkin and Elizabeth Desombre, *Saving Global Fisheries: Reducing Fishing Capacity to Promote Sustainability* (Boston: MIT Press, 2013).

<sup>20</sup> Scott Barrett, "The Incredible Economics of Geoengineering," *Environmental & Resource Economics* 39 (2008); David Victor, "On the Regulation of Geoengineering," *Oxford Review of Economic Policy* 24, 2 (2008): 322.

<sup>21</sup> See, Phoebe L. Zarnetske et al., "Potential ecological impacts of climate intervention by reflecting sunlight to cool Earth," *Proceedings of the National Academy of Sciences* 118, 15 (2021).

<sup>22</sup> The converse of *e pluribus unum*.

<sup>23</sup> Thomas Hale and Johannes Urpelainen, "When and how can unilateral policies promote the international diffusion of environmental policies and clean technology?" *Journal of Theoretical Politics* 27,2 (2015): 177-205.

<sup>24</sup> *Ibid.*

<sup>25</sup> See, Jeffrey Cimmino and Matthew Kroenig, *Strategic context: The rules-based international system* (Washington DC: Atlantic Council, 2020), <https://www.atlanticcouncil.org/content-series/atlantic-council-strategy-paper-series/strategic-context-the-rules-based-international-system/>.

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