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De-Dollarization is a Plausible Outcome of the New Washington Consensus

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ABSTRACT

A trend towards de-dollarization of the global economy in which the US dollar ceases to be used as the world's reserve currency for international transactions confronts some of the existing structures of international economic law, built upon the rules set out by US-led organizations like the WTO, the IMF and the World Bank. This article will consider the legal impediments which could frustrate de-dollarization initiatives as well as potential ways that the framework of international economic law could facilitate this process. It will explore how trade and monetary law has prohibited currency manipulation, how international investment law has promoted currency exchange, the importance of the lending activities of new development banks, and the extent to which modern digital trade agreements may usher in digital currencies which could undermine dollar dominance. The various legal challenges which could be raised by de-dollarization suggests that this process, should it occur, will probably be gradual and multi-polar with numerous alternatives to the US dollar playing roles in a dynamic, if unstable global economy.

KEYWORDS: de-dollarization, international trade law, international investment law, WTO, digital trade, currency manipulation, IMF, development banks

POLICY IMPLICATIONS:

1. De-dollarization is not expressly prohibited by international economic law, therefore there is some latitude for states to take lawful policy steps to either induce it or prevent it.
2. International trade treaties, along with the IMF, prevent currency manipulation and promote free currency exchange, which would appear to limit countries' various measures to alter the

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exchange value of currencies on international markets, although the extent to which these facets of international law genuinely constrain currency manipulation is unsettled

3. Development bank lending policies which enable sovereign loans denominated in currencies other than the US dollar, could pave the way towards greater use of alternative currencies.

4. Digital trade treaties, in as much as they foster the use of new financial technologies and promote the free flow of data, could encourage take-up of digital currencies, which could ultimately displace the US dollar's hegemony.

1 A Declining Role for the Dollar in the Global Economy

The Washington Consensus was strongly tied to the dominance of the US dollar as the world's reserve currency. De-dollarization, meaning the shift away from the long-standing dominance of the US dollar as the world's reserve currency for the purposes of international trade and financial transactions, would herald a transformation in the global economic landscape with the potential to reshape international trade and financial systems. While there is an abundance of economic literature on the phenomenon of de-dollarization in terms of its potential causes and impacts (Green, 2017, Todorova et al, 2024)), there is a remarkable dearth of academic legal commentary, particularly from the perspective of how de-dollarization might be achieved or curtailed by the rules-based framework of international economic law. The various policies that characterize the New Washington Consensus, evidently less wedded to free markets than its previous iteration, may therefore either arrest or accelerate the trend towards de-dollarization.

This article will accordingly consider some of the features of the landscape of international economic law which could affect the shift away from the US dollar as the principle means of exchange in the global economy. Some of these constitute binding legal constraints whereas others are better described as non-binding norms or practices, the latter of which create *de facto* restraints. The first section of the article will evaluate prohibitions on currency manipulation and obligations on the free flow of currency associated with world trade law and international investment law respectively. The next part will explore the role of development banks in promoting the use of alternative national currencies, undermining the dominance of Western-led development organizations. The final part of the article will examine policies which support

digital currencies as alternatives to the dollar, such as provisions fostering cooperation and innovation in finance contained in modern digital trade agreements. Before embarking on this discussion, some brief comments regarding the traditional importance of the US dollar in the global economy will be made.

The US dollar's rise to prominence began after World War II, bolstered by the strength of the US domestic economy and its role in European reconstruction. The Bretton Woods Agreement of 1944 established a fixed exchange rate system under the International Monetary Fund (IMF), with the US dollar pegged to the value of gold and other currencies pegged to the dollar. The 1970s saw the dollar transition to a floating currency, with its value determined by market forces rather than backed by gold. The rise of the petrodollar, an agreement between the US and Saudi Arabia to price and trade oil in US dollars, further cemented the currency's global position as the principal medium of exchange. The US's continued status as the world's largest economy has ensured that the dollar has remained the world's reserve currency well into this century.

Several factors are contributing to the speculated move towards de-dollarization through which other currencies will be increasingly used in international transactions. Geopolitical tensions, notably the Russia-Ukraine war, have led the use of sanctions imposed by the US government, undermining the perceived stability of the dollar. Countries which are heavily reliant on the US dollar are aware that they could struggle to access essential goods and services if subject to such sanctions. While sanctions are intended to coerce adversaries and protect American interests, they often fail to achieve their goals and can inflict significant economic harm without changing the behaviour of targeted states (Demarais, 2022). The emergence of new reserve currencies, such as the Chinese renminbi, itself spurred by China's economic dominance, as well as a potential BRICS (Brazil, Russia, India, China, South Africa) currency, seek to challenge the US dollar's dominance. Concerns about US economic policy, including its high inflation, quantitative easing and threat of widespread tariffs have raised further questions about the dollar's stability. Additionally, the rise of digital currencies, especially Bitcoin, could fundamentally alter how commerce is conducted, with implications for the use of the dollar.

While it is not the place to explore the implications of these trends here, a rapid shift away from the dollar could lead to market volatility and uncertainty, potentially destabilizing global financial systems. Transactions between countries using different currencies could become more expensive due to exchange rate fluctuations and fees. A decrease in US dollar usage could

further lead to a decline in global liquidity, potentially affecting access to credit and capital, harming foreign direct investment. As countries cease to rely on the dollar, US sanctions may also become less effective, potentially undermining the US's role in maintaining peace and security. A decline in the dollar's dominance could therefore lead to a shift in global power dynamics, with other countries gaining more influence not only in international trade and finance but also geo-strategically (Al Mosharrafa, 2024). The resurgence of great power competition is fundamentally reshaping the international financial system, challenging the foundational norms and principles of its governance regime. As states increasingly weaponize financial infrastructure, impose security-based restrictions on capital flows, and redirect resources toward allies and strategic industries, these actions strain the cooperative frameworks that have traditionally underpinned global financial stability. The international financial regime, which has long relied on informal cooperation and soft law rather than formal treaties and organizations, is particularly vulnerable to fragmentation and politicization in this new geopolitical landscape. This process may erode global stability, drive financial activity into less regulated spaces, and complicate efforts to address collective economic and security challenges (Verdier, 2025). Given the profound consequences of de-dollarization, it is crucial to consider the extent to which the policies underpinning such a transition conform to international law as it currently stands. Although there are no rules of international economic law which directly affect the capacity of countries or companies to move away from the US dollar in conducting transactions or settling debts, several aspects of this framework could indirectly be relevant.

It needs to be mentioned that de-dollarisation remains largely speculative. Empirical data and forecast regression analysis of the actual turnover of currencies in global trade indicate that, despite widespread discussion, the process of de-dollarisation is proceeding slowly and with considerable uncertainty, resulting in only marginal changes to the currency composition of international payments in the short and medium term. For now, the US dollar's dominant position remains largely unchallenged, and any significant shift in the global payments landscape is likely to be gradual and limited (Todorova et al, 2024).

2 Currency Manipulation and Transfer

Under international law, states are generally free to pursue their own monetary policy as an aspect of their sovereignty. This includes the right to regulate their currency, set exchange rates, and control monetary affairs within their territory. However, this freedom can be limited by

international agreements or membership in monetary unions, where states voluntarily share or delegate such powers. While other states must respect a country's monetary sovereignty, actions that have significant extraterritorial effects may attract international scrutiny. Overall, the core right to conduct independent monetary policy remains a fundamental principle of state sovereignty. (Zimmerman, 2013, Pistor, 2017). Certain states possess greater monetary sovereignty because their currencies are widely accepted and used internationally, which enhances their financial autonomy and resilience to external shocks. The international monetary system is hierarchical, with core currencies like the US dollar facilitating greater monetary sovereignty whereas states with peripheral currencies facing higher risks of insolvency. Sovereign debt crises are thus seen as structural outcomes of this currency hierarchy and the uneven distribution of monetary power (Lima, 2022). Some view the traditional, Westphalian view of monetary sovereignty—as a state's ability to issue and regulate its own currency—is outdated in the context of today's globalized financial system. Effective monetary sovereignty instead focuses on what states are actually able to achieve in the era of financial globalization, rather than simply on currency issuance. Since private and offshore actors including unregulated banks frequently operate beyond the direct reach of central banks, states face significant challenges in governing all segments of their monetary system, even as they act within the confines of international law. Real monetary sovereignty therefore consists of a state's capacity to effectively govern this complex, multi-layered system in order to achieve its economic policy objectives (Murau and van't Klooster, 2022).

i) Currency Devaluation and De-Dollarization

One key aspect of international economic law that could influence a move away from dollar-denominated transactions are the rules related to currency devaluation. Allegations of currency manipulation (and the related notion of global imbalances) have been a frequent feature of global economic governance since at least the global financial crisis in 2007-8. Currency devaluation is a strategic tool that some countries may employ as part of their trade strategy. By intentionally lowering the value of their own currencies, countries may achieve several interconnected objectives that align with de-dollarization goals. When a country reduces its currency's value relative to the dollar, its goods and services become less expensive for all or most foreign buyers because the US dollar is widely held by importing companies around the world. The rise in export volumes can make that country an attractive destination for

investment as US dollars buy more assets denominated in the local currency. This process help shifts trade and investment activity away from dollar-denominated transactions.

Moreover, as countries export more goods and services denominated in their local currencies, they can encourage trading partners to accept these currencies instead of the dollar. Since currency devaluation can decrease the attractiveness of imports by making foreign goods more expensive, as domestic consumers face higher prices for imported products, they may turn to locally produced alternatives. This shift not only stimulates domestic industries but also reduces the demand for dollar-denominated imports, further contributing to a decline in reliance on the US dollar (Musoke, 2017). If a country successfully increases its exports and reduces imports through devaluation, it can create a favourable balance of payments situation that strengthens its currency over time. Large capital inflows, often stimulated by success in manufacturing and exports, can lead to an appreciation of exchange rates. A stronger local currency may facilitate further de-dollarization efforts by making it easier for the country to conduct trade without relying on the dollar. Currency manipulation therefore has significant implications for the level playing field which is central to international economic law, apart from its traditional emphasis on eliminating regulatory differences and ensuring non-discriminatory application of laws (Tokas, 2024). The issue of whether a country may rightly be labelled a currency manipulator and the effectiveness of so doing is a complex one. Designating a country as such unilaterally, as the US has done with regards to China, is seen as unhelpful by some commentators who advocate sustained negotiation and reciprocal international agreements (Evenett, 2010). The international legal frameworks governing trade and monetary matters, though deeply interconnected, have developed as distinct and sometimes misaligned legal orders. While trade and monetary transactions are inseparable in cross-border commerce, the legal regimes governing them are administered by different international organizations (as well as domestic government departments), each with its own priorities and expertise. Closer alignment exists in some areas, such as trade restrictions for balance of payments purposes, whereas significant misalignment and contestation arise in others, notably in the regulation of exchange rates and capital controls, leading to policy conflicts like currency wars. The reasons for and consequences of this (mis)alignment have significant implications for global economic governance, requiring ongoing negotiation and coordination between the two legal orders (Shaffer and Waibel, 2015)

ii) The International Monetary Fund (IMF)

Currency manipulation is prohibited by the IMF, the organization responsible for ensuring free exchange of currencies and of which most countries in the world are members. Article IV:l iii) of the IMF Articles of Agreement provides that each member shall “avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members.” Unfortunately, the Articles do not define the term “manipulation” or “unfair competitive advantage” and there remains limited guidance as to the meaning of these concepts. Commentators suggest that in order for an IMF member to be found to have engaged in illegal currency manipulation, it must have deliberately affected the exchange rate to a degree sufficient to cause fundamental misalignment in trade and must have done so for the purpose of increasing net exports (Staiger and Skyes, 2010). Moreover, promoting one’s own currency as the world’s reserve currency instead of the dollar may conceivably be construed as an advantage, although it is hard to see in what way it would be “unfair.”

Article IV of the IMF’s Articles allows members to choose their preferred exchange rate system, with the notable exception of pegging to gold. The Articles oblige members to collaborate with the Fund to promote exchange stability and maintain orderly exchange arrangements. There are also requirements for members to provide the IMF with information about their monetary and financial policies. These provisions accord countries significant flexibility in their currency arrangements, potentially facilitating de-dollarization efforts. On the other hand, since they also require ongoing cooperation with the IMF, this could constrain radical departures from dollar-based systems.

It must be emphasized that the IMF is not able to pressure countries to change their conduct with regards to currency devaluation as part of a de-dollarization strategy because the organization lacks an effective enforcement mechanism. The primary enforcement mechanism of the IMF is the threat that a member may be cut off from IMF borrowings if it does not pursue the appropriate policies. This will have limited effect on economic powerful countries – the very ones which are in the strongest position to undermine the US dollar. In that sense, the IMF regime arguably constitutes more of a soft-law norm than a binding, enforceable obligation under international law.

ii) The WTO

Established in 1995, the World Trade Organization (WTO) focus is on liberalizing trade in goods has services and has a membership of 166 states. The rules of the WTO have implications for currency practices, including artificial currency devaluation as a way of promoting exports, conceivably as a route towards de-dollarization. The General Agreement on Tariffs and Trade (GATT), which formed part of the Bretton Woods arrangement from the 1940s and was subsequently subsumed within the WTO, addresses currency manipulation, although it does not explicitly prohibit it.

Article XV:4 of GATT provides that WTO members “shall not, by exchange action, frustrate the intent of the provisions of this Agreement.” This article aims to prevent countries from using exchange rate policies to undermine the trade concessions, e.g. tariff reductions. The language is vague, though, as it does not clearly define what constitutes “frustrating” the intent of GATT provisions or what qualifies as “exchange action.” There has never been a definitive ruling by a WTO panel on its precise meaning or implementation in the context of currency manipulation. Commentators hold that it is unlikely that a member would be able to prove another members’ frustration given the difficulty in identifying the trade effects of currency practices, i.e. how trade levels change in response to currency valuation changes. Moreover, calibrating appropriate retaliation against a member’s refusal to remove an unlawful trade measure (such as that which would constitute “frustration” of GATT) would be problematic for currency manipulation, as again, the trade effects would be hard to ascertain.

Apart from lowering the value of one’s own currency, it is difficult to imagine that a purposeful shift away from the use of the US dollar in trade transactions would itself constitute “frustration” of the GATT. There is nothing in the WTO Agreement which indicates that the US financial system should have primacy in facilitating global trade, although that may have been a presumption at the time GATT was signed. Indeed, it is arguable that de-dollarization might be construed as an aid to development of the world’s weaker economies, as outlined in the preamble of the Marrakesh Agreement establishing the WTO: “there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development.” The promotion of alternative currencies could lead to greater demand for those currencies, raising their value and augmenting the purchasing power of those countries for the goods and services that could stimulate development.

The WTO's Agreement on Subsidies and Countervailing Measures (SCM) disciplines the use of subsidies and regulates the actions countries can take to counter the effects of subsidies. Currency manipulation could conceivably be considered a form of subsidy under the SCM Agreement. The rationale is that an artificially undervalued currency effectively makes exports cheaper and imports more expensive, potentially conferring a benefit to domestic producers similar to an export subsidy. The SCM Agreement could also be relevant to de-dollarization efforts in the context of government support for financial infrastructure. As countries seek to reduce reliance on the dollar, they may provide subsidies or other forms of support to develop domestic or regional financial systems. Such measures could potentially be scrutinized under the SCM Agreement if they are seen as conferring unfair advantages to certain industries or sectors (Collins, 2020).

The problem with attempting to curtailing de-dollarization efforts via subsidies disciplines is that Article 1 of the SCM defines a subsidy as a financial contribution by a government that confers a benefit which must be specific to certain enterprises or industries. Most commentators agree that currency policies, being economy-wide measures rather than "specific" ones, do not easily fit this definition. This has not prevented some WTO members from regarding them as such in order to facilitate the imposition of countervailing duties. For example in 2020, the US Department of Commerce allowed currency undervaluation to be treated as a countervailable subsidy. If widely adopted, this approach could potentially discourage countries from maintaining undervalued currencies as part of a de-dollarization strategy. Unlike the IMF, WTO rules are enforceable through its state-to-state dispute settlement system, with non-compliance potentially resulting in authorized countermeasures such as tariffs.

iii) Bilateral and Regional Trade Agreements

Many countries have entered into bilateral or regional trade agreements, collectively referred to as free trade agreements (FTAs), that include provisions on currency practices and exchange rates. Provisions designed to liberalize currency exchange with a view to facilitating capital movement are common in FTAs. For example, Article 30.4 of the Comprehensive Economic and Trade Agreement (EU-Canada) states "Parties shall authorize, in freely convertible currency ...any payments and transfers on the account of the balance of payments between the Parties." These commitments are designed to create an open macroeconomic policy framework

(Mercurio, 2023), which would presumably be conducive to foreign investment, strengthening the local currency as a route towards de-dollarization.

Currency manipulation itself tends to have been omitted from FTAs and those which mention it offer limited obligations beyond those which exist for members of the IMF. Although it is unlikely that the Canadian dollar or Mexican peso will replace the US dollar as the world's reserve currency, the United States Mexico Canada Agreement (USMCA) includes a weak chapter on macroeconomic policies and exchange rate matters. The main element is merely an affirmation of the commitment of the parties to market-determined exchange rates and adherence to the IMF's Articles of Agreement. The agreement does establish transparency and reporting requirements, mandating public disclosure of monthly data on international reserve balances and intervention in foreign exchange markets, as well as quarterly balance of payments data. Furthermore, the USMCA creates a Macroeconomic Committee to monitor the implementation of these provisions, meeting at least annually. Transparency about de-dollarization initiatives could help mitigate harmful effects of a transition to other currencies through gradual acclimatization.

Before it became the Comprehensive Progressive Trans-Pacific Partnership (CPTPP), the Trans-Pacific Partnership (TPP) also addressed currency manipulation concerns. The old TPP included a side agreement on currency practices. It contained promises from the signatory countries to avoid unfair currency practices and refrain from competitive devaluation. It also required the provision of data on foreign exchange holdings. This aspect of the agreement was not subject to the TPP's enforcement mechanisms, limiting its effectiveness. If ever enacted, such an instrument might help countries adjust to de-dollarization, avoiding any resulting shocks to the economy.

iv) International Investment Agreements (IIAs)

The capacity of a currency to be exchanged for another one is a vital aspect of international investment. Currency exchange and transfer provisions in IIAs, which are treaties designed to protect foreign investors from regulatory excesses of host states, are therefore relevant to de-dollarization efforts. While such provisions are designed to protect investors by ensuring the unrestricted movement of capital, they are not absolute and must be balanced against legitimate regulatory interests of host states, especially in times of crisis or overriding public interest. Commentators observe a trend in investment arbitration awards toward recognizing the need

for flexibility and proportionality when states impose restrictions, such as during financial emergencies. Free transfer provisions and other international legal obligations may conflict when states invoke exceptions or seek to justify restrictions under customary international law or treaty carve-outs. Commentators urge a nuanced approach that respects both the protection of investors and the regulatory autonomy of states, emphasizing the importance of context and proportionality in adjudicating disputes over fund transfers (Turyn and Perez Azner, 2010). Others have noted that, prior to the dominance of arbitration, international investment law as enshrined in treaties placed greater emphasis on provisions such as free transfer clauses, while concepts like fair and equitable treatment were less prominent, anticipating issues that would become problematic in future times (Hepburn et al, 2020). IIAs typically guarantee foreign investors the right to transfer funds, including profits, dividends, or proceeds from the sale of investments, in a “freely convertible currency” without undue restrictions or delays. These assurances may have encouraged the dollar’s role as the default currency for international transactions by limiting a host state’s ability to insist on the use of alternatives such as local or regional currencies. If an investor is entitled under an IIA to repatriate profits in dollars, the host state cannot compel the use of its local currency or another non-dollar alternative for such transfers without breaching its treaty obligations. One investment tribunal, *Bernard von Pezold and Others v Zimbabwe*, found the host state to be liable for breach of the relevant IIA’s transfer clause precisely because it forced the claimant to be paid in local Zimbabwean dollars and to exchange sales proceeds in US currency for Zimbabwean dollars. Other tribunals, e.g. *OI European Group v Venezuela*, have taken a narrower view of such obligations, ruling that free transfer provisions do not constitute an absolute guarantee, and that the introduction of exchange control systems is part of the economic sovereignty of the state. This understanding could raise issues of national security, to be discussed further below.

The Hull Formula for gauging compensation in the event of expropriation of a foreign investment by a host state, found in many modern IIAs, specifies that compensation must be “effective” – which means that the currency must be payable in the investor’s own national currency or readily convertible into other currencies. This would appear to support US dollar dominance, or certainly undermine efforts of certain host states to pay compensation in their own currency as they wish. In *Siemens AG v Argentina*, for example, the tribunal ruled that compensation should be paid in US dollars, not the currency of the contract, which was the heavily devalued Argentine pesos.

Some older treaties, e.g. UK-Singapore, expressly permit transfers not only in the currency originally invested but also in any other convertible currency agreed upon by the investor and the host state. This flexibility could be leveraged by states seeking to promote regional currencies as part of their de-dollarization strategies. Furthermore, the presence of exhaustion of local remedies clauses in modern IIAs which require investors to use local courts before international arbitration, may lead to an increased role for domestic courts in the adjudication of investment treaty claims. This is important because domestic courts are inclined to award damages in their own currencies. Exhaustion of local remedies rules could indirectly promote the use of local currency in awards or settlements in contrast to arbitration which often involves dollar-denominated awards.

Transfer provisions in IIAs can intersect with de-dollarization initiatives when governments impose restrictions on capital outflows during balance-of-payments crises or to protect financial stability. The maintenance of adequate financial reserves of local currency would likely be a key component of a de-dollarization strategy. While such restrictions might violate treaty obligations guaranteeing free transfers, many treaties include exceptions allowing states to temporarily derogate from these obligations under specific circumstances. Article XI of the IMF Articles of Agreement permits temporary restrictions on capital movements if necessary to address balance-of-payments difficulties – essentially economic crises. The WTO's General Agreement on Trade in Services (GATS) includes a similar exception, permitting breach of market access and discrimination commitments, in order to address balance of payment difficulties.

Such exceptions provide legal space for states to limit dollar outflows and encourage the use of alternative currencies during periods of economic stress. Such exceptions would need to be implemented in a non-discriminatory way (i.e. they could not specifically target flows of US dollars). They would also have to be temporary and only applied to the extent necessary to deal with the crisis. These limitations would probably also undermine resort to the prudential measures exception of the GATS Annex on Financial Services, in the event that a country sought to restrict currency outflows as an element of a de-dollarization initiative. The mere desire to shift away from the dollar would almost certainly not constitute a crisis justifying the use of these measures. Some mention must be made here of the *Certain Iranian Assets* dispute before the International Court of Justice (ICJ). Commentators have argued that the ICJ missed a crucial opportunity to clarify the meaning of Article VII of the 1955 Treaty of Amity between the US and Iran, which governs the free transfer of funds between the parties. The court's

narrow interpretation of Article VII as only prohibiting exchange restrictions, rather than broader capital controls, is thought to undermine the Treaty's purpose of fostering close economic relations and protecting reciprocal interests. The court arguably failed to adequately address the relationship between the Treaty and the IMF's legal framework, especially concerning the tacit approval by the IMF of unilateral security-related restrictions like asset freezes. The court's dismissal of Iran's claim on Article VII unfortunately leaves unresolved significant issues about the legitimacy of unilateral sanctions and their compatibility with international economic law (Viterbo, 2024).

Another potential linkage between IIAs and de-dollarization arises in disputes over exchange rates used for transfers under IIAs. The tribunal in *Casinos Austria v Argentina* interpreted the transfer clause to require that transfers be made at market exchange rates rather than official rates that might undervalue a local currency. The tribunal held that a transfer clause would not allow investors to invoke an official exchange rate that is more favourable to the investor than that which banks apply to commercial transactions, for instance because of existing foreign exchange restrictions. This approach could constrain states' ability to use exchange rate policies as tools for de-dollarization. The imposition of higher reserve requirements for foreign currency deposits compared to local currency deposits or the requirement that payment under certain contracts be conducted in local currency, could give rise to new types of IIAs claims. If a host country's conversion away from a dollar-denominated economy are viewed as discriminatory or as fundamentally altering the investment environment, investors might argue that this violates treaty protections, such as Fair and Equitable Treatment, or stabilization clauses under investment contracts. The conversion to pesos of dollar-denominated debts by Argentina during its financial crisis of 2001-2002 illustrates the potential risks of abrupt changes in currency regimes. Disputes such as *CMS v Argentina* and *LG & E v Argentina* in which such actions were held to be breaches of IIA obligations demonstrate the potential tensions that can arise when currency policy adversely affect foreign investors. Since countries pursuing de-dollarization will presumably seek to persuade tribunals to award compensation in other currencies or baskets of currencies, reforms of investor-state dispute settlement might accordingly need to consider guidance on how to manage currency-related issues in damages calculations.

v) Regional Currency Arrangements

While not traditional treaties, the network of bilateral swap agreements between central banks creates a web of commitments that could influence de-dollarization. These agreements often facilitate trade in local currencies, potentially reducing dollar dependence. Currency swap arrangements allow central banks to exchange their local currencies, providing liquidity support and promoting international trade and investment.

China has been at the forefront of establishing such swap arrangements, with the People's Bank of China having signed bilateral currency swap agreements with more than forty foreign central banks or monetary authorities. Thirty-one of these agreements are in force, totalling approximately 4.16 trillion yuan (about US \$586 billion). These swap lines serve multiple purposes, including supporting trade and investment, promoting the international use of the renminbi, and in some cases, providing emergency liquidity support to countries facing financial distress (Jiang, Liu, Zhang, 2023). Russia has also been actively engaging in currency swaps, particularly with countries like China and India, as part of its strategy to reduce US dollar usage in response to Western sanctions. These efforts include exploring alternatives to the US dollar in the energy sector and developing its own international payment system called Mir (Xu, 2023). Other emerging markets are exploring similar arrangements to diversify their currency exposures and reduce dollar dependence. For instance, the Reserve Bank of India has permitted eighteen countries to transact in rupees instead of US dollars.

The Chiang Mai Initiative (CMI) is a significant regional financial cooperation mechanism that may have a role in de-dollarization efforts. Established in May 2000 by the ASEAN+3 countries (ASEAN members plus China, Japan, and South Korea) in response to the 1997-98 Asian financial crisis, the CMI initially consisted of an expanded ASEAN Swap Arrangement and a network of bilateral swap arrangements between ASEAN+3 countries. In 2010, the CMI was transformed into the Chiang Mai Initiative Multilateralization (CMIM), which started with a pool of US\$120 billion, later doubled to US\$240 billion. Its primary purpose is to address balance of payments and short-term liquidity difficulties in the region and to supplement existing international financial arrangements. Commentators note that the CMIM represents a significant step towards regional financial independence and potentially plays a role in the broader trend of de-dollarization in the global financial system.

The BRICS countries have been working on creating alternative financial institutions and payment systems for some time. In 2024 the group announced plans for a BRICS Cross-Border Payment Initiative (BCBPI) that would use national currencies instead of the US dollar for

trade between member countries. This initiative aims to create a multi-currency system that would not only facilitate de-dollarization in trade but also encourage investment in BRICS members and other emerging markets. The proposed BCBPI would include new mechanisms such as a BRICS Clear platform and a new system for securities accounting and settlement. These tools are designed to circumvent the SWIFT system of interbank communication, which is overseen by the US and subject to Western unilateral sanctions (Norton, 2024). SWIFT itself is a voluntary cooperative organization – it is not mandated under international law, therefore attempting to sidestep it in this manner is not unlawful. It is noteworthy that US President-Elect Donald Trump threatened to impose 100% tariffs on the BRICS countries if they create a currency to rival the US dollar. Such a tariff might arguably be justifiable on the basis of GATT Art XV:4. If the New Washington Consensus⁷ is characterized by the strategic use of tariffs to achieve other economic goals, one of these may be to maintain the dollar's dominance.

It should be emphasized that, despite BRICS' significant share of global trade, their currencies remain marginal in international markets, prompting the group to pursue various de-dollarization initiatives to mitigate currency risk and circumvent US sanctions. While BRICS have laid important groundwork for a potential nondollar alternative, the coalition's efforts are still in the early stages and face substantial challenges, such as limited market acceptance and coordination among members. Commentators urge that although BRICS have made progress in building the infrastructure for de-dollarization, the US dollar's entrenched position means that any significant shift in the global financial order will be gradual and uncertain (Liu and Papa, 2022, Al Mosharrafa, 2024). As noted above, currency swap arrangements are not true instruments of international law. They are better construed as state contracts, enforceable under the domestic legal systems of the relevant signatory countries. Were aspects of these arrangements to breach international treaty obligations undertaken by the signatories, it is conceivable that they could be void for illegality, depending on the applicable domestic law. In this regard, it is noteworthy that the CMIM was designed to complement rather than replace IMF support and, in that sense, it fits into the existing architecture of international economic law. Indeed, the CMIM maintains a link to the IMF, with only 40% of each member's maximum arrangement amount available without an IMF program. The IMF itself has acknowledged the growing importance of bilateral currency swaps and has provided guidance on their statistical treatment. This suggests that the IMF, with its traditional emphasis on the US dollar, is adapting to the presence of these arrangements rather than viewing them as a breach of its rules. These regional currency initiatives could eventually lead to new formal legal frameworks supporting

de-dollarization, possibly taking the form of enforceable treaty obligations. Commentators are doubtful that will come into fruition in the near future (Todorova, Moraliyska, Raycheva, 2024).

3 Development Bank Lending

Lending for development purposes or to address a short-term liquidity crisis in non-dollar currencies might be conducive to de-dollarization. In the past, these roles were historically performed by Western-led institutions, especially the World Bank (for development) and the IMF (for issues relating to sovereign debt and liquidity). Increasingly, non-Western alternatives to these institutions are gaining ground. The Articles of Agreement of the two most important organizations in this regard, the New Development Bank (NDB) and the Asian Infrastructure Investment Bank (AIIB) are multilateral treaties. They create binding obligations for the member states that have ratified the agreements, aligning with the definitions and principles set forth in the Vienna Convention on the Law of Treaties.

i) The New Development Bank (NDB)

The Shanghai-based New Development Bank (NDB) may have a role to play in creating space for alternative currencies. Established in 2014 and operational since 2015, the NDB represents a significant departure from the traditional Western-dominated financial institutions (the IMF and the World Bank), offering financing in a manner that aligns with the development needs of emerging economies. The NDB was conceived as means for the BRICS countries to hedge against Western influence (Seyad, 2016).

Unlike traditional multilateral development banks like the World Bank that predominantly lend in dollars, the NDB actively encourages loans denominated in local currencies. This policy helps borrowing countries avoid accumulating dollar-denominated debt and reduces their exposure to exchange rate fluctuations, particularly during periods of dollar strength. By adding new members beyond the original BRICS countries, the bank is creating a broader network for non-dollar financial flows. This expansion increases the potential for cross-border transactions and development finance without using the dollar as an intermediary currency. The NDB has articulated an objective of reducing reliance on the US dollar in its lending practices, setting a target of conducting 30% of its lending in local currencies of member nations by 2026. This

approach allegedly serves multiple purposes: it mitigates foreign exchange risks for borrowing countries, reduces their vulnerability to US monetary policy fluctuations, and fosters greater economic autonomy among BRICS members and other developing nations. While the NDB lacks the financial power of the IMF (it has less than one tenth of its resources) the NDB was envisaged to generate market confidence in financially unstable countries. It may also be able to deter currency speculation which is among the most destabilising outcomes of a financial crisis.

The NDB is governed by its Articles of Agreement which is an international treaty which creates binding obligations among the participant states. Article 1 of the Articles outlines that the purpose of the NDB is to “mobilize resources for infrastructure and sustainable development projects in BRICS and other emerging economies and developing countries, complementing the existing efforts of multilateral and regional financial institutions for global growth and development.” This broad mandate allows the bank to support projects that could reduce reliance on the US dollar. Article 24 of the NDB’s Articles provides that “The Bank may provide financing in its operations in the currency of the country concerned, in accordance with policies that minimize currency risk.” This provision enables the NDB to conduct operations in local currencies, potentially reducing the need for dollar-denominated transactions. Additionally, Article 7 gives the NDB the power to “borrow funds in member countries or elsewhere, and in this connection to furnish such collateral or other security therefor as the Bank shall determine.” This allows the NDB to issue bonds in various currencies, including those of BRICS nations, which could support the development of local currency bond markets.

As it continues to evolve and expand its operations, the NDB’s impact on global de-dollarization efforts and the broader international economic order is likely to become increasingly pronounced, potentially heralding a new era of financial multipolarity. The bank still operates within a global financial system where many key functions – from trade settlement to reserve holdings – remain predominantly dollar-based. The NDB’s most significant contribution to de-dollarization may therefore be in demonstrating the viability of alternative approaches to development finance. Commentators hold the view that its impact should be understood as part of a longer-term evolution in the international financial architecture towards diversification of currencies rather than a dramatic short-term shift away from the dollar (Seyad, 2016).

ii) The Asian Infrastructure Investment Bank (AIIB)

The Asian Infrastructure Investment Bank (AIIB) is a multilateral development bank headquartered in Beijing that aims to improve economic and social outcomes in Asia and beyond. Established in 2016 with \$100 billion in capital, the AIIB provides financing for infrastructure projects, focusing on sustainability, innovation, and regional connectivity. The AIIB has already led to an observed decrease in the number of World Bank financed infrastructure projects potentially undermining the political influence the US has enjoyed over developing countries through its leadership of the World Bank (Qian, Vreeland and Zhao, 2023). This change may be primarily due to perceived intrusiveness of the World Bank's conditionality policies as well as the cumbersome approval process in contrast with the AIIB's streamlined, light-touch approach. The AIIB's shareholding structure departs from traditional models by balancing capital contributions, regional representation, and the interests of both founding and new members. Commentators have praised the innovative aspects of the AIIB's approach, such as its flexible allocation of shares and voting rights, which aim to avoid dominance by any single country or bloc. The AIIB is thought to offer valuable lessons for designing shareholding and governance structures in future to enhance inclusivity and institutional effectiveness (Gu and Tong, 2022).

Like the NDB, the AIIB's lending practices could have critical implications for de-dollarization. The AIIB provides an alternative source of infrastructure financing that is not dominated by the US dollar. Indeed, one of the reasons that China spearheaded the establishment of development finance alternatives to the World Bank was its own experience as a borrower from the World Bank in the 1980s where repayment had to be made in dollars, not Chinese renminbi (Gu, 2024). The AIIB does not exclusively use the renminbi for its operations but does have the capacity to issue loans and conduct transactions in various currencies. This flexibility allows member countries to reduce their reliance on US dollar-denominated financing for infrastructure projects.

Article 6, Section 2 of the AIIB's Articles of Agreement, which constitute a treaty binding under international law, provides that "Each instalment of the payment of initial subscriptions to the original paid-in capital stock shall be paid in dollars or other convertible currency, except as provided in paragraph 5 of this Article." Article 5, Section 5(b) provides an option for less developed countries to pay a portion of their subscription in their own currency. This privilege is thought to be particularly welcomed by small economies with a limited foreign reserve (Gu,

2024). Article 24 further specifies that “The Bank may provide financing in its operations in the currency of the country concerned, in accordance with policies that minimize currency risk.” Again, this provision enables the AIIB to conduct operations in local currencies, potentially reducing long-term reliance on the US dollar. The bank currently offers non-sovereign-backed financing in twenty-one local currencies. The AIIB’s role in supporting China’s massive Belt and Road Initiative (BRI) further indirectly contributes to de-dollarization. The BRI, which aims to enhance connectivity across Asia and beyond, often involves projects that can be financed in renminbi or other local currencies. By providing funding for BRI projects across the developing world, the AIIB helps create and sustain demand for renminbi-denominated financial instruments and investments.

4 Digital Currencies

That the rise of digital private money presents unprecedented challenges to traditional monetary sovereignty, posing risks to systemic financial stability and democratic decision-making. Competition between private digital currencies and public money is thought to require a careful balance to preserve state control while harnessing the efficiency gains of new technologies. Legal frameworks, including at the international level, play a crucial role in managing the risks and benefits of digital private money to protect monetary sovereignty in the digital age (Martino, 2024).

The US dollar could decline in importance, potentially to the point of being displaced as the world’s reserve currency, as a consequence of the increased use of digital currencies in international settlements. That the US appears to be supportive of digital currencies may indicate that this phenomenon is central to the New Washington Consensus. The evolving landscape of digital currencies, including private cryptocurrencies and state-backed Central Bank Digital Currencies (CBDCs), has the potential to reshape global financial flows and challenge dollar hegemony. The extent to which they will contribute to de-dollarization will depend on technological advancements, regulatory developments, and the willingness of nations to adopt these new financial instruments in their quest for monetary sovereignty. The international legal framework applicable to digital currencies is nascent and dynamic, consisting primarily of obligations in relation to cooperation and monitoring rather than binding laws.

i) Cryptocurrencies and Central Bank Digital Currencies (CBDs)

Cryptocurrencies have emerged as a potential catalyst in the ongoing process of de-dollarization, offering alternative mechanisms for international transactions and a store of value. The decentralized nature of many cryptocurrencies, particularly Bitcoin, presents a neutral reserve asset that may appeal to nations seeking to reduce their reliance on dollar-denominated holdings. The rise of stablecoins, cryptocurrencies pegged to fiat currencies or assets, further amplifies the potential for de-dollarization. These digital assets can facilitate cross-border transactions with greater efficiency and lower costs compared to traditional banking systems (Mayer, 2024).

Some countries under sanctions, such as Iran, have begun exploring the use of cryptocurrencies for international trade to circumvent restrictions imposed through dollar-based financial networks (Rezaei, 2023). In December 2024, Russian companies began using Bitcoin and other digital currencies in international payments following legislative changes that allowed such use in order to counter Western sanctions. While private cryptocurrencies offer novel pathways for de-dollarization, their impact remains uncertain.

State-backed Central Bank Digital Currencies (CBDCs) could potentially challenge the US dollar's hegemony in similar ways (Ahnert, Hoffmann, and Monnet, 2022). CBDCs will be an entirely new type of money; a digital currency proper consisting of digital tokens, kept and managed in an e-wallet, with the transactions between wallets being verified by the computer nodes in a central-bank payment system (Huber, 2023). This technology could reduce the network effects that have sustained dollar dominance. Central banks in some advanced economies appear to be considering CBDCs to promote safety, robustness, and domestic payments efficiency (Boar and Wehrli, 2021).

As countries develop their own digital currencies, they could create new avenues for bilateral and multilateral trade settlements that bypass the need for dollar intermediation. China's digital yuan (e-CNY) initiative, for instance, is viewed as a strategic move to enhance the internationalization of the renminbi and potentially erode the dollar's dominance in global trade. Nigeria has introduced a CBDC and the European Central Bank (ECB) has investigated the digitalization of the euro in part to strengthen the international importance of the euro and to avoid digital dollarization (Kriese, 2023). The BRICS nations have shown interest in leveraging blockchain technology and digital currencies to create alternative financial infrastructures. Projects like the mBridge initiative, which is a multiple CBDC platform,

demonstrates the potential for digital currency systems to facilitate cross-border payments outside of traditional dollar-centric channels (Gusarova, Gusarov and Smeretchinskii, 2021).

Commentators have proposed a model of dynamic competition among national fiat currencies, cryptocurrencies, and CBDCs (Cong and Mayer, 2023), predicated on the notion that rise of cryptocurrencies and CBDCs may benefit weaker fiat currencies by reducing competition from stronger ones, potentially undercutting US currency dominance. Others hold that CBDCs will have no material impact on dollar dominance, barring significant geopolitical changes (Ahnert, Hoffmann and Monnet, 2023). This is based on the reality that the dollar's appeal is rooted in factors unrelated to technology, such as a stable government, strong judiciary, and liquid capital markets – issues that are relevant to other policy tools discussed earlier, such as currency devaluation or exchange controls. While institutional innovations by China and the BRICS demonstrate a demand for de-dollarization, they do not yet offer credible alternatives to the dollar's value characteristics (Mayer, 2024). Moreover, complex agreements on standards, design, and governance would need to be negotiated for CBDCs to bypass the US-dominated international payments system.

ii) The Financial Stability Board (FSB)

However, the Financial Stability Board (FSB) plays a significant role in the global financial system, indirectly influencing the dynamics of digital currencies as an aspect of de-dollarization while primarily focusing on promoting international financial stability. Established in 2009, the FSB serves as a key coordinating body for national financial authorities and international standard-setting bodies. The FSB's mandate centres on developing strong regulatory and supervisory policies to foster a level playing field across sectors and jurisdictions.

Digital currencies are not currently regulated under international law. Unlike treaty-based organizations such as the IMF or the WTO, the FSB lacks formal legal power. Instead, it was established via a memorandum of understanding and relies on the voluntary cooperation of its members, which include all G20 major economies, the European Commission and the IMF itself, with which it cooperates closely (Cecchetti, 2024). This informal structure allows the FSB to be more flexible and responsive to emerging financial challenges, but it also means that its recommendations are not legally binding. Despite its lack of formal legal authority, the FSB wields considerable influence through its role as a coordinating body and its close relationship

with the G20. It is noteworthy that neither the AIIB nor the NDB are members of the FSB, despite their overlap with IMF mandates. The policies agreed upon by the FSB are often implemented by national authorities, giving them practical effect even without a formal treaty basis. This soft power approach allows the FSB to shape the global financial landscape in ways that could indirectly affect the process of de-dollarization.

One of the FSB's primary functions is to monitor and assess vulnerabilities affecting the global financial system. In this capacity, the FSB has examined the potential risks associated with decentralized finance and crypto-asset markets. The FSB's work on enhancing cross-border electronic payments is particularly relevant to the de-dollarization debate, although these are not specifically referenced in its Charter. By promoting more efficient and inclusive payment systems, the FSB may inadvertently create conditions that could facilitate the use of alternative currencies, including cryptocurrencies, in international transactions. Again, though, this work is primarily aimed at improving the overall functioning of the global financial system rather than promoting any specific currency arrangement (Mayer, 2024).

The FSB's focus on reducing vulnerabilities in the financial system might lead countries to consider the stability implications of rapidly shifting away from the dollar. In that sense it could work to preserve the dollar's dominance. On the other hand, by promoting greater financial stability and regulatory consistency across jurisdictions, the FSB may enhance the attractiveness of non-dollar currencies, including cryptocurrencies and CBDCs, particularly should the US dollar decline in value, or worse, become more volatile and therefore less predictable as a store of value in exchange.

iii) Digital Trade Agreements

The digital trade chapters of FTAs primarily aim to facilitate cross-border digital commerce and data flows, which can indirectly support alternatives to dollar-denominated transactions. By encouraging the development of new financial technologies and digital payment methods, these agreements may create opportunities for transactions to occur outside traditional dollar-based systems. Provisions that support the recognition of electronic authentication and signatures across borders could further make it easier for parties to use digital currencies or alternative payment platforms in international trade.

When exploring the implications of advances in the regulation of digital trade on de-dollarization it is important to consider the new breed of digital-only trade agreements, notably the Digital Economy Partnership Agreement (DEPA), signed by New Zealand, Chile, Singapore and South Korea, and which is open to all WTO members. Article 2.2 of DEPA on paperless trading promotes the use of electronic versions of trade administration documents, which could potentially facilitate the use of alternative currencies or payment methods in international trade. DEPA moreover includes provisions for cooperation on fintech which could lead to the development of new financial technologies that may operate outside traditional dollar-based systems. DEPA furthermore supports cross-border authentication and electronic know-your-customer processes using digital identities. Such technologies could make it easier for individuals and businesses to engage in international transactions without relying on dollar-based intermediaries. Building upon this, DEPA parties are expected to promote the use of regulatory sandboxes for introducing new financial and electronic payment products and services. This could facilitate the testing and implementation of alternative currency systems or payment methods.

The success of new forms of digital currencies may rely on the computational power of Artificial Intelligence (AI). In this regard, Article 8.2 of DEPA acknowledges the benefits of developing mutual understanding and international alignment of AI frameworks. This could potentially support the development of AI-driven financial systems that are not tied to traditional, dollar-centric infrastructure. Finally, Article 7.1 covers digital identities, which could lead to the development of new financial systems that are not tied to traditional, dollar-centric banking infrastructure.

Since Arts 4.3 and 4.4 of DEPA promote cross-border data flows and prohibit data localization respectively, the agreement could enable the creation of financial services and payment systems that are not tied to specific currencies or financial centres. Digital trade chapters of FTAs often include commitments to avoid imposing customs duties on electronic transmissions. While the elimination of customs duties on electronic transmissions is primarily intended to promote the free flow of digital goods and services, it could also facilitate the use of digital currencies or alternative payment methods that might otherwise face regulatory hurdles, such as tariffs linked to currency denomination, were such a strategy ever applied. The emphasis on data flows and prohibitions on data localization requirements in digital trade chapters, could also play a role in de-dollarization efforts. By allowing for the free movement of financial data across borders without the requirement of storage in a particular jurisdiction, these provisions may enable the

creation of digital cross-border payment systems such as those using cryptocurrencies. This could potentially support the development of regional payment networks or alternative currency arrangements that reduce reliance on dollar-based settlement systems.

Digital trade chapters tend to include exceptions on the free flow of data which can also justify data localization requirements, typically by reference to a “legitimate public policy objective,” as in Art 14.11(3) of the CPTPP, which are typically not specified. Public policy exceptions to free flow of data or to localization requirements are often circumscribed, however, by the requirement that they are applied in a non-discriminatory way. This would likely preclude policies which were expressly designed to deter use of the US dollar (e.g. customs duties on dollar-based transactions only). Among the most significant plausible public objectives is that of national security – the scope of which is a source of much controversy in digital trade as with international economic law generally (Peng, 2024). If excessive reliance on the US dollar were framed as an issue of national security, which is arguable because of the adverse impact of US sanctions on economies like Russia, it could open the door to all sorts of restrictions on digital transactions. A restriction of dollar-denominated transactions on the basis that this serves the interest of a country’s national security, could therefore operate to accelerate the adoption of digital or other fiat currencies. The New Washington Consensus’s evident emphasis on national security may therefore reflect an effort towards maintaining the US dollar’s supremacy.

Most FTAs, IIAs as well as the GATT and GATS, contain an essential security exception, often framed in self-judging language, making scrutiny by international tribunals difficult. Such provisions could be used to justify restrictions on the transfer of data where it determines that this poses a danger to essential security. Were US dollar dependence to be viewed as a risk to a treaty party’s essential security, possibly because of the impact of US sanctions on the nation’s acquisition of vital supplies, then restricting dollar transfers with a view to promoting digital or local fiat currencies may well be compliant with the FTA’s digital trade obligations.

5 Conclusion

The international financial architecture has arguably been weakening since the early 2010s, with multiple factors impeding its reorganization and accelerating the fragmentation of global financial relations. The US dollar remains the world’s primary reserve currency and American institutions, such as the Federal Reserve and Treasury, have acted as the only reliable

international lenders of last resort since 2008. China's regional initiatives in particular, including central bank swap agreements, the AIIB and the NDB, are reshaping international financial architecture, altering the balance of power between sovereign debtors and creditors, as well as among creditors themselves (Gaillard and Waibel, 2023).

De-dollarization would represent a significant challenge to the established global economic order. The New Washington Consensus, in which the dollar plays a subordinate role in global finance could offer opportunities for a more diverse and balanced international financial system. It also brings risks and uncertainties that will need to be carefully managed. This article has argued that international economic law may operate to frustrate strategies designed to support the transition away from the US dollar. These include restrictions on currency manipulation and subsidization found in world trade law, guarantees of free transfer of currency in IIAs and the dollar-based lending practices of Western-dominated IMF and World Bank. At the same time, leeway accorded to currency transfer restrictions found in IIAs and innovation-supporting elements of modern digital trade agreements could work to foster de-dollarization. The rise of new development banks, like the AIIB and the NDB which have de-emphasized dollar-based lending, could further contribute to this process. Linking dollar dependence to national security risks could preclude application of some elements of international economic law which have preserved the dollar's hegemony. Taken together, these features of the rules-based international economic system point to a more gradual move away from the US dollar, likely towards a more multipolar currency system. This could lead to increased regional economic integration, the emergence of new financial centres outside the West and ultimately a more dynamic, if volatile, global financial landscape.

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