### **Navigating Reform Analogies**

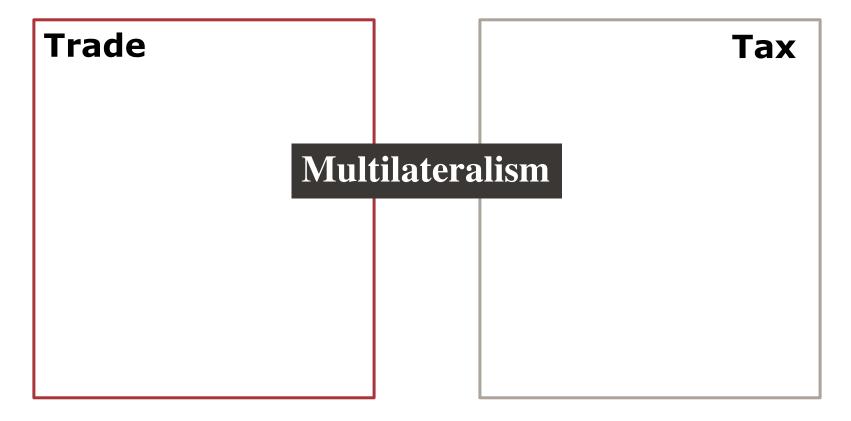
Comparative insights from the tax, trade and investment regimes

Wolfgang Alschner, 03 June 2021

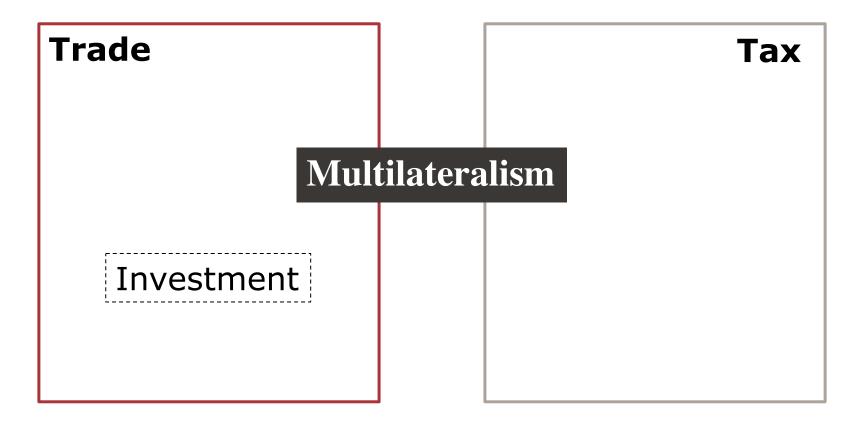
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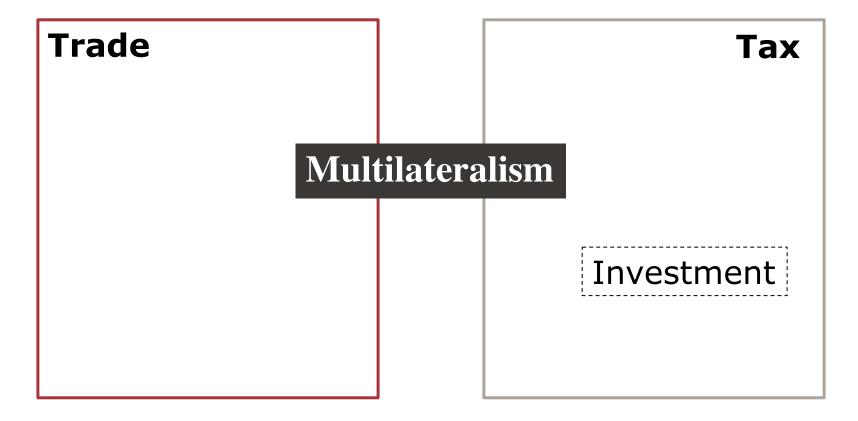
# **The Argument**

WHEN
INVESTMENT
MET
TAX ....





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# **Agenda**

1) Framing and reform analogies

2) Competing multilateralism frames in IEL

3) Reform analogies and investment law



## Framing – What is it?



Frames are **conceptual windows** through which we see the world

#### Frames ....

- Organize ideas
- Identify what is important and what is not; what is "good" or "bad"
- Guide our actions



# Framing – Why does it matter?

Looking at the same issue through different frames yields different problem diagnoses and suggests different policy solutions.

#### **Opportunity**

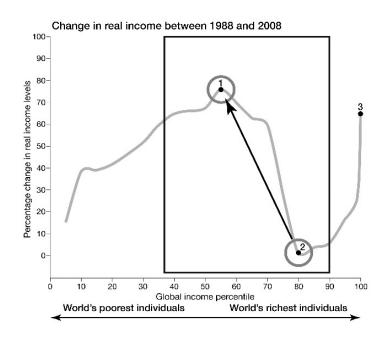
By **switching** frames we can assess a problem from different angles and detect new solutions

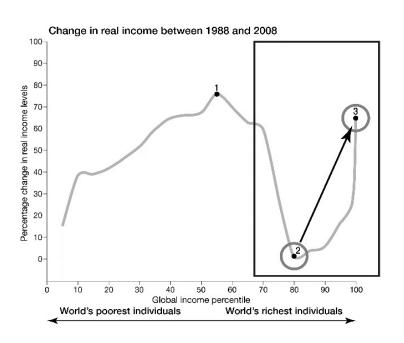
#### Challenge

We are often **stuck** in a frame without knowing it and talk past those with a different frame



## Framing – Why does it matter?





Anthea Roberts & Nicolas Lamp. Six Faces of Globalization: Who Wins, Who Loses, and Why It Matters. Cambridge, Massachusetts: Harvard Univ Press, 2021.



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1) Framing and reform analogies

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# **Trade**

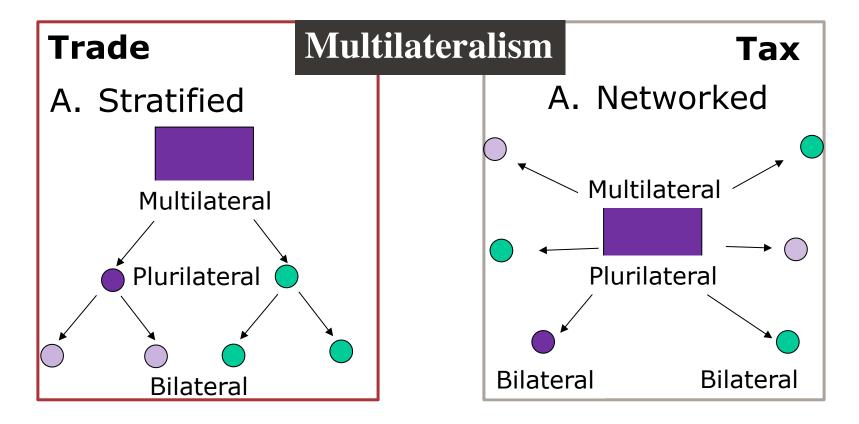
#### Multilateralism

#### Tax

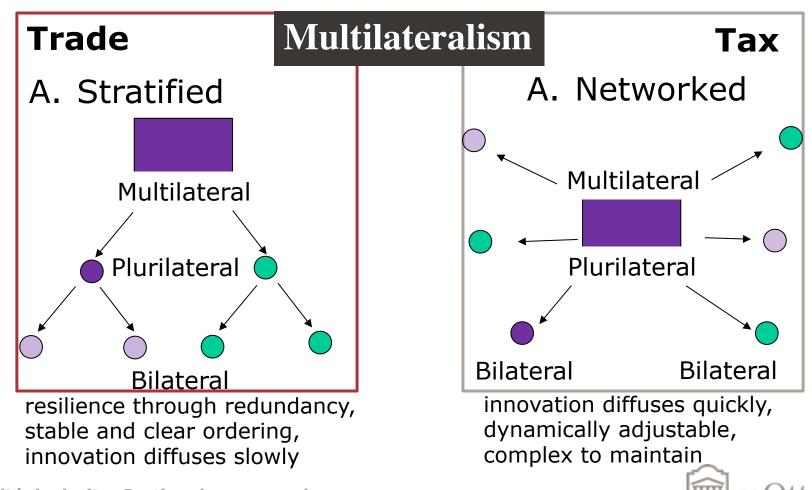
- A. Stratified
- B. Centralized
- C. Rigid

- A. Networked
- B. Decentralized
- C. Flexible









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#### **Trade**

#### Multilateralism

#### Tax

#### B. Centralized

- Clear hierarchies
- Strong institutions
- Centralized dispute settlement

#### B. Decentralized

- Diffuse hierarchies
- Weak institutions
- Decentralized dispute settlement



#### **Trade**

#### Multilateralism

#### Tax

#### B. Centralized

- Clear hierarchies
- Strong institutions
- Centralized dispute settlement

#### B. Decentralized

- Diffuse hierarchies
- Weak institutions
- Decentralized dispute settlement

More consistency Less experimentation Less consistency More experimentation



# Trade

#### Multilateralism

Tax

#### C. Rigid

- Big bang rulemaking
- One size fits all
- Formal rulemaking

#### C. Flexible

- Gradual rulemaking
- A la carte rules
- Informal rulemaking



#### **Trade**

#### Multilateralism

Tax

#### C. Rigid

- Big bang rulemaking
- One size fits all
- Formal rulemaking

More stability, but also more static

#### C. Flexible

- Gradual rulemaking
- A la carte rules
- Informal rulemaking

More differentiation, more adaptation



# **Agenda**

1) Framing and reform analogies

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#### **Trade**

#### Multilateralism

#### Tax

- A. Stratified
- B. Centralized
- C. Rigid

MAI 1998 Multilateral Court

- A. Networked
- B. Decentralized
- C. Flexible



# **The Argument**

WHEN
INVESTMENT
MET
TAX ....





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# A. Stratified B. Centralized C. Rigid A. Networked B. Decentralized C. Flexible Flexible Framework



#### Thank you!

Coming soon:

# Investment Arbitration and State-Driven Reform: New Treaties, Old Outcomes

Wolfgang Alschner (forthcoming with OUP in 2022)

