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Changing Demands on the Global Trade and Investment Architecture:

Mapping an Evolving Ecosystem

Carolyn Deere Birkbeck and Kimberley Botwright

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Abstract

The global trade and investment architecture (GTIA) plays a critical role in shaping the organisation and structure of international commerce – from production and distribution to consumption. Yet, tensions and questions abound – some longstanding, some new – about whose interests it best advances, its distributional impacts, and its responsiveness to changing market forces and political demands. Although there is a regular supply of proposals on rules and policies for global trade and investment, critical thinking on the trade and investment *architecture* is less prevalent. This paper seeks to update and bolster the analytical foundations for such discussion by reviewing the changing demands on the global architecture for trade and investment, and by mapping its contours.

To begin, we review the changing global landscape for trade and investment, the key policy debates, and the myriad pressures on policymakers – arguing that these have implications for what is needed in terms of a global architecture. Alongside key enduring challenges, we identify important shifts and game changers in trade and investment flows, which in turn spur new policy challenges and implications for the governance architecture. Second, we present a systematic mapping of the contemporary global architecture for trade and investment currently, noting its on-going evolution. In so doing, we underscore that the trade and investment architecture is broader in scope and more complex, with a wider array of actors and functions, than commonly recognised or discussed in scholarly work. We also argue for analysing the trade *and* investment architecture in a unified fashion. Further, the paper highlights the changing ways that governments and stakeholders seek to advance international cooperation on trade and investment. The proliferation of private standards and the emphasis on "behind the border" regulatory matters illustrate the expanding array of relevant actors relevant to international trade and investment diplomacy, and the rising interest in moving beyond treaty negotiations to new modalities for cooperation – ranging from soft law approaches and technical cooperation to public-private partnerships.

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[1] Dr. Carolyn Deere Birkbeck is a Senior Researcher at the University of Oxford's Global Economic Governance Programme (GEG), jointly hosted by the Blavatnik School of Government (BSG) and University College. Kimberley Botwright is the Managing Editor of Bridges Trade BioRes at ICTSD. The authors thank Emily Jones, Alexandra Zeitz, Manzoor Ahmad, Jean-Louis Arcand, Debapriya Bhattacharya, Amar Breckenridge, Christophe Bellmann and Sophia Murphy, Thomas Brewer, Antoni Estevadeordal, Bernard Hoekman, Patrick Low, Joshua Meltzer, Carin Smaller, Jonathan Fried, Karen Tan, Joakim Reiter, Thomas Cottier, Christian Rodriguez, Rick Samans, and Ricardo Meléndez-Ortiz, as well as numerous colleagues at ICTSD. For a wider exploration of the issues in this paper, see Deere Birkbeck and Botwright (2015).

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Introduction

The global trade and investment architecture (GTIA) plays a critical role in shaping the organisation and structure of international commerce – from production and distribution to consumption. In so doing, the architecture impacts trade and investment outcomes, with a range of economic, social, and environmental implications. Yet, tensions and questions abound – some longstanding, some new – about whose interests it best advances, its distributional impacts, and its responsiveness to changing market forces and political demands.

Although governments, stakeholders, and experts offer a regular supply of policy proposals to shape rules on global trade and investment, critical thinking on their implications for the trade and investment architecture is less prevalent. Stepping back from the multitude of policy issues and proposals under discussion, this paper focuses on the global *architecture* for trade and investment. Numerous questions are at hand: Is the contemporary GTIA adequately equipped to respond to changing trade and investment dynamics and the gamut of public policy challenges it faces? Where does the GTIA perform well and where are there gaps, systemic problems, or structural weaknesses? Looking ahead, what changes or improvements to the architecture are needed urgently, and over the medium term?

Responses to each of these questions demand careful consideration and debate among scholars and policymakers alike. In this paper, we seek to offer some analytical foundations to aid this effort. First, we review the changing landscape for trade and investment, the key policy debates, and the myriad pressures on trade and investment policymakers – arguing that these have implications for what is needed in terms of a global architecture. We argue that alongside a number of enduring challenges, there have been important shifts and game changers in trade flows and how trade happens, which spur new policy challenges and implications for the trade architecture. Public concerns about rising inequality, vulnerability in the global economy, and demands for greater inclusiveness, for instance, set the political context in which policy debates on trade and investment occur. Multiple, intersecting crises – in food, migration, finance, pandemics, climate change, and security – similarly generate political pressures on the GTIA to respond.

Second, we present a systematic mapping of what the contemporary GTIA looks like, and how it is evolving. In so doing, this paper underscores that the trade and investment architecture is broader in scope and more complex, with a wider array of actors and functions than commonly recognised or discussed in scholarly work. Whereas analysts of the global trade architecture focus predominantly on the WTO and on the growing suite of bilateral, regional and preferential trade agreements (Stern and Brown 2011; Heydon 2014; Hoekman 2009), we argue that a wider web of laws, norms, institutions, processes and practices underpin global trade and constitute its architecture. We also argue for analysing the trade *and* investment architecture in a unified fashion. In so doing, we do not make a particular case for or against a more unified set of international trade and investment rules – multilateral or other – but rather underscore the need to consider the architecture for the two areas together. Although there was considerable scholarly interest in the launch and demise of the propose Multilateral Agreement on Investment in the 1990s, and there is now a growing literature on bilateral investment treaties, the global investment regime receives relatively little attention from trade scholars. Aside from recent studies on investment rules in recent trade agreements, and on investment arbitration, surprisingly few scholars examine the trade and investment architecture in tandem (Johnston and Trebilcock 2013): they are more commonly analysed as separate legal regimes, with distinct foundations. Here, we argue that in addition to traditional separate analyses, a clear case can be made for a supplementary examination of a combined trade and investment architecture is justified and important on several counts: the empirical evidence of growing intersections of trade and investment flows; the growing number of agreements that already link trade and investment; and the fact that responses to many social and environmental challenges call for coherent approaches to the international regulation of both trade and investment, as has been made abundantly clear in the UN's new Sustainable Development Goals (SDGs). In both the trade and investment policy arenas, similar questions arise in regard to where international cooperation is most needed, how it can be best advanced through and beyond international legal agreements, and how greater coherence can between trade and investment in the pursuit of broader economic and sustainable development goals can be forged.

Further, this paper highlights the changing ways in which governments and stakeholders are advancing international cooperation. The proliferation of private standards and the emphasis of contemporary trade and investment diplomacy on "behind the border" regulatory matters are just two examples of how the contours of and approach to cooperation are evolving and the array of actors expanding. They also illustrate the rising interest in moving beyond treaty negotiations to new modalities for cooperation, from soft law approaches and technical cooperation to public-private partnerships.

In sum, the paper aims to firm the foundation for debates on the future of the global trade and investment architecture. Although important and relevant tasks, this paper does not propose either to review the various rationales and assumptions that inform how governments and stakeholders seek cooperation on trade and investment or to assess systematically the performance and shortcomings of the current architecture.

This paper proceeds in three parts. Part A begins with key current and emerging trends in global trade and investment, and the growing intersections among them. It shows that on-going changes in the trade and investment landscape – in what is traded and among whom, as well as in the types of negotiations and cooperation that governments pursue – give rise to new opportunities and challenges, spurring numerous questions about how the GTIA can respond and should evolve. We highlight questions about the political and practical significance of mega-regional and plurilateral approaches, as well as their implications for faltering multilateral trade negotiations and the role of the World Trade Organization (WTO). In addition, the rise of trade in services, developing countries' boosted share of world trade and investment, the growth of South-South trade, the upsurge of the digital economy, and increasing intersections between trade and investment flows, all present a changing scene for the GTIA. In addition, the rise of GVCs and international production networks – combining goods, services, investment, intellectual property (IP), and know how – alters the mechanics of international commerce and complicates the traditional boundaries of trade and investment disciplines. Part A then briefly introduces how a set of wider economic and geopolitical shifts as well as social and environmental challenges have implications for how we think about priorities for cooperation in the area of trade and investment, as well as the demands and pressures on the GTIA. It notes for instance, how the new inter-governmental commitments in the United Nations' (UN) 2030 Sustainable Development Agenda and Global Goals raise questions about where and how the GTIA needs updating to facilitate more

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sustainable development and better support the needs of developing countries, particularly the poorest among them.

Part B introduces a conceptual framework for understanding the many components of the GTIA, and the numerous practical functions it serves – from the provision of platforms for negotiation and dispute settlement to the provision of Aid for Trade. Although we adopt the familiar term “architecture,” we use it as short hand for an evolving ecosystem that establishes the global playing field for trade and investment, as well as the formal and “default” rules of the game.

Based on that analytical framework, Part C reviews the key inter-governmental rules, agreements, and institutions that form part of the architecture, and also political processes, cooperative arrangements, voluntary standards, third-party certification schemes, and private sector partnerships and practices that can set default rules of the game and shape trade and investments flows. In so doing, the paper emphasises an “inner core” of trade and investment-related actors, and also a wider constellation of global governance frameworks, laws, institutions, commitments, and processes – on economic, social and environmental issues – that intersect directly or indirectly with the core trade and investment architecture. The components of this “outer ring” – that focus on issues ranging from finance and security to development assistance and the environment – can impact or provide services to the inner ring, making them worthy of consideration as part of the architecture.

Part A

1. Changing Trends, Challenges and Priorities in Trade and Investment

A consideration of changing trends and challenges in trade and investment is a vital foundation for understanding the types of international cooperation governments, businesses and stakeholders seek and the priorities they pursue. This section reviews key trends in trade and investment flows and dynamics as well as policy challenges – both emerging and longstanding – focusing on those with greatest implications for the GTIA's future. It then turns to the growing intersections between trade and investment flows and their regimes, which underpin our argument for supplementing separate analyses of their respective architectures with a consideration of them together as a broader "trade and investment" architecture.

1.1. Shifting Trade Trends and Policy Challenges

1.1.1. Trade flows and dynamics

Global trade and investment flows and dynamics are constantly evolving: understanding current trends and future scenarios is vital to a coherent reflection on the challenges facing the GTIA and its future.[2] Since 1980, the global economy roughly tripled in size but trade has grown by a factor of six over the same period (IISD and UNEP 2014). In 2013, total merchandise exports weighed in at US$18.3 trillion, while total exports of commercial services reached US$4.6 trillion. In the same year, growth in world merchandise trade dropped to 2.2 per cent, well below the 5.3 per cent average growth rate for the two decades preceding the 2008–2009 financial crisis. Services trade, meanwhile, hit an average annual growth of 5 per cent over 2012 (WTO 2014). Recent estimates suggest that 2015 is unlikely to see a significant rebound in global trade figures, particularly in the face of a slowing Chinese economy (Donnan 2015).

Statistics on the slowing growth of merchandise value and volumes should not, however, lead us to conclude that international trade is of declining importance; indeed for many countries trade remains responsible for a major proportion of their GDP. In addition, some argue that such statistics do not yet properly capture rises in trade for products such as software and digital goods where the geographic location of transactions is not always clear.[3] Further, in an increasingly interconnected global economy, international trade – particularly trade in services – has a tremendous impact on domestic production and output trends (Hoekman 2015a). Although the significance of trade and investment agreements commonly continues to be assessed in terms of their impact on flows of international goods, services, and finance, their effect can also increasingly be found in how they shape domestic

[2] Key sources for forward-looking scenarios on the future of world trade and driving forces include Fontagne et al. (2014), UK (2009), UN (2014, 2015d) and WTO (2013b).
[3] See for instance comments by James Manyika of the McKinsey Global Institute in http://www.economist.com/news/finance-and-economics/21636089-fears-are-growing-trades-share-worlds-gdp-has-peaked-far.

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regulatory environments, with deep implications behind the border on how production and consumption are organised.

Key changes over the past two decades have been the rise of developing countries in terms of both exports and imports, the increasingly dominant role played by China, and the growth of South-South trade. Developing economies accounted for around 43 per cent of world merchandise trade in 2013, up from 28 per cent two decades ago, although the world's poorest countries account for just 1.1 per cent of world merchandise exports, amounting to US$215 billion (UNCTAD 2014b). China moved from the world's 30th largest merchandise exporter to the leading position in 2011, dethroning the US, if the 28 members of the EU are not counted as a single unit (UNCTAD 2014b).

The content of what is traded is also changing. Trade in services and commodities have been among the fastest growing components of world trade, far outpacing trade in manufactured goods. Nonetheless, the agriculture sector remains of vital economic importance to many developing countries in terms of employment, and to powerful constituencies in many developed nations (WTO 2014h). Between 1990 and 2011, the share of agricultural products in world merchandise exports dropped from 12 to 9 per cent, while fuels and mining products increased from 14 to 23 per cent (WTO 2013b). Extractive industries are particularly important for South-South trade, and mineral fuels have dominated South-South exports over the last decade (UNCTAD 2013a: 30). Ores, metals, precious stones, and non-monetary gold come in second place for the largest rise in South-South exports between 2005 and 2012. South-South agricultural exports registered the second slowest increase in the same period, with labour-intensive and resource-intensive manufactures coming in last (UNCTAD 2013a).

New trade opportunities have opened up as both technology and societies evolve. The rise and spread of the Internet and electronic data flows have launched a digital economy and spurred the uptake of e-commerce (Kuner 2013; Meltzer 2015). In 2013, the value of global B2B e-commerce was estimated at more than US$15 trillion while global business-to-consumer (B2C) e-commerce accounted for an estimated US$1.2 trillion in the same year (UNCTAD 2015b). Numerous services are now tradable online or through digitally connected services from banking and travel, to buying and selling goods, renting music and films, and downloading applications or "apps" directly to mobile phones and portable devices.

Further, the digital economy and the internet provide the technological infrastructure that underpins many international trade and investment patterns, creating new international markets, such as for trans-border data flows, which governments now struggle to regulate (Kuner 2013). In the area of the knowledge economy, creative industries and the Internet, international rules and national policies on knowledge, technology, and ideas, and data, and rights to control and profit from them, matter more than ever before. Trade and investment rules, however, appear to fall woefully behind the realities of a digital economy, spurring numerous debates on how trade governance should respond to the digital age (Cottier and Burri 2012). Similarly, rapid advances in science such as in the areas of biotechnology and nanotechnology are changing not only the research and development (R&D) landscape but also adding to the range of products and production methods available in the global economy, while generating debates about IP laws, fears around environmental, health, and social risks, and ethical concerns that regularly play out in the trade and investment arena (WEF 2015).

Meanwhile, in a world of fast-paced virtual trading, a number of other new international markets are emerging as tools to tackle environmental problems such as in carbon emissions and water permit trading. Like data flows, these may require attention from the GTIA, but also involve new set of actors not traditionally involved in the trade policymaking arena. In the case of data flows, for instance, the ITU and national regulatory agencies concerned with data protection, data privacy laws, and national security are engaged when these complex and tense issues touch on trade (Kuner 2013; European Commission 2015b; ITU 2015). In the case of carbon, trade in emissions permits across different national schemes is under consideration by some countries, with some experts looking at the scope for a club of carbon markets (Mizrach 2012).

Alongside the questions that new markets raise, international trade governance faces perennial challenges linked to black markets. Although coordinated efforts to address many forms of illegal trade have been stepped up over the years, burgeoning and vicious trade nevertheless continues in a diversity of illegal, illicit, and harmful goods and services, including people, human body parts, narcotics and arms, illegal timber and fish products, hazardous wastes, wildlife and exotic species, and highly-processed, low-nutrition food (Efrat 2010; Nellemann et al. 2014; Naim 2006; Stuckler et al. 2012). As global consumption grows and consumption patterns change, so to do problems of how and where to dispose of waste around the globe – from the growth of wasted food across the world[4] to the cross-border challenges and economic costs of disposing of growing volumes of solid garbage and waste – from e-waste to plastic, chemical and nuclear wastes (Hoornweg and Bhada-Tata 2012; Rucevska et al. 2015). Recent studies estimate that between 60-90 per cent of the world's electronic waste, worth nearly US$19 billion, is illegally traded or dumped annually (Rucevska et al. 2015).

The much vaunted rise of global value and supply chains (GVCs) and international production networks (IPNs) – combining goods, services, investment, IP, and know-how – has complicated how we think about how trade happens and traditional trade disciplines.[5] The global integration of production and supply chains is underscored by the increase in trade flows in intermediate inputs, which represent more than half of OECD imports and nearly three-fourths of imports of large developing economies such as Brazil and China, and also by the growing importance of the logistics and shipping industries and associated services (Coe 2014). New statistical efforts to measure trade in value-added (TiVA) from the OECD and the WTO, meanwhile, signal that services – such as transportation, communications, and business services – represent nearly half the value of world trade and play a central role in GVCs and IPNs (Stephenson 2013). Further, while it is commonplace to analyse trade flow between countries, recent analysis emphasises the importance of understanding MNEs in GVCs. According to some estimates, MNEs may be linked to as much as 80 per cent of gross global trade in one way or another, while intra-company trade accounts for around one-third of world trade. Similarly, MNEs are estimated to control around a two-thirds of the world's FDI stock, thus placing them at the heart of the further entwining of trade and investment (Sauvant 2015; Lanz and Miroudot 2011).

[4] Roughly one third of the food produced for human consumption globally is wasted, approximately 1.3 billion tonnes with a value of US$1 trillion (Rucevska et al. 2015).
[5] See for instance, Aldonas (2014), Draper and Freytag (2014), Elms (2013), Stephenson (2013), Baldwin (2014b), and Hoekman (2015b).

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For the GTIA, the rise of GVCs prompts questions about the ways in which governments negotiate trade and investment rules, and how to address cross-cutting rules and policies such as on competition, which impact how trade occurs in practice (Aldonas 2014). In GVCs, an array of rules negotiated in silos may affect single decisions by companies. Further, the ways in which international rules and negotiations have been structured for historical and institutional reasons no longer reflect the horizontal and vertical ways in which the world now does business. GVCs also present challenges for traditional approaches to classifying, measuring, and monitoring trade flows, which may require new systems such as the TiVA. For example, closer examination of China's iPhone exports, frequently valued as worth several billion US dollars per year, reveals that the total value-added of China's iPhone exports was far less, with imported parts and components from Germany, Japan and the Republic of Korea and the US collectively accounting for the bulk of the value added (Xing 2012).

In sum, the shifting landscape of trade flows places fresh demands on trade governance frameworks, alongside longstanding tensions (Bieron and Ahmed 2015; Rentzhog and Anér 2014). The growth of trade in services and in the digital economy has, for instance, reignited debates on the traditionally thorny questions around trade rules on the movement of labour (Brau and Pinna 2013) and over variations in national regulatory preferences. The rise of GVCs poses numerous challenges to traditional ways in which trade statistics are gathered, trade flows monitored, and the rules of the game made and administered. Nonetheless, the significance of GVCs and their implications, particularly for developing countries, is debated (Ferrantino 2010, 2012; Cattaneo et al. 2010; Gereffi 2014; Kowalski et al. 2015; Neilson et al. 2014; OECD et al. 2013). Where and how much do they call for changes to the policy and institutional priorities on trade and investment within countries, such as on industrial policy (Low and Tiajaja 2013; Estevadeordal et al 2014)? The engagement of developing countries, particularly the poorest, in GVCs is uneven and development analysts highlight the constraints on their participation and the challenges GVCs can present for agri-food systems and smallholder farmers (McCullough et al. 2008).

1.1.2. Trade policy debates

On trade policy, although the WTO's membership continues to rise through successive accessions, the push for new negotiating approaches has intensified as the global trade body's Doha Round and the focus on the development aspects of the negotiations have withered. Even though the 2013 Bali WTO ministerial conference produced a "package" of decisions for LDCs and a new Trade Facilitation Agreement (TFA), both geopolitical and commercial interests have led governments and industry stakeholders to advance trade talks outside the multilateral system, spurred on by demands for disciplines that go far beyond those considered at the WTO.

Over the past several decades, the GTIA has become populated by an escalating number of plurilateral, regional, and bilateral trade agreements, and a proliferation of accompanying dispute settlement arrangements. Numerous negotiations are currently underway (Box 1) and their implications for GTIA are hotly debated. Among these, the two so-called mega-regional negotiations on the TPP and the TTIP cover the largest proportion of global trade – 25 and 40 per cent respectively – and are expected to most fundamentally change the global trade landscape (Lim et al. 2012; Morin et al. 2015). Nonetheless, upon the recent conclusion of the TPP deal, a number of analysts emphasised that significance of the agreement remains to be seen – such as the effectiveness of its efforts to bind “behind the border reforms” (Evenett 2015) – and will not remove the need for multilateral approaches, particularly on regulatory matters. Other prominent examples are the pursuit by some

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Box 1: Examples of Variations in Trade Negotiations Under Way or Planned Outside the WTO

Name	Participants	Global coverage	Scope	Timeline
Mega-regional RTAs				
Trans-Pacific Partnership (TPP)	Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam, US	36.3 per cent of world GDP, 25.5 per cent of world trade (2014)	Comprehensive market access; other goods trade issues including trade remedies, RoO, SPS, TBTs; services; investment; intellectual property; government procurement; SOEs; environment; labour; capacity building; horizontal issues, including regulatory coherence, regional integration, transparency, and development.	Builds on the 2005 Trans-Pacific Strategic Economic Partnership. US joins in 2008. First round of TPP negotiations held in 2010. Participants concluded negotiations in early October 2015, and will now need to secure ratification of the pact's terms in their respective domestic legislatures before entry into force.
Transatlantic Trade and Investment Partnership (TTIP)	EU, US	30 per cent global merchandise trade, 40 per cent world trade in services, nearly half of global GDP (2013).	Market access; services; public procurement; RoO; regulatory coherence, standards, mutual recognition, TBTs; sustainable development; energy; IP and GIs; competition; investment.	Negotiations launched in July 2013. Initially aimed for completion by end 2014.
Regional Comprehensive Economic Partnership (RCEP)	10 ASEAN member states and those countries with existing FTAs with ASEAN – Australia, China, India, Japan, Republic of Korea, and New Zealand.	Almost half the world population, 30 per cent of global GDP, over 25 per cent world exports.	Goods, trade in services, investment, economic and technical cooperation, intellectual property, competition, and dispute settlement.	Launched in November 2012. Negotiations on-going.
Consolidation RTAs				
Continental Free Trade Area (CFTA)	54 African countries	Combined population of more than one billion and GDP of more than US$1.2 trillion.	Single continental market for goods and services; free movement business persons and investments; trade facilitation; expedite regional integration processes; path towards a	December 2010. Agreed roadmap for establishing CFTA in January 2012 with indicative date of 2017. Negotiations due to commence in 2015. Build on existing Tripartite FTA

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			Continental Customs Union by 2019, set up African Economic Community (AEC).	negotiations; Eastern African Community (EAC), the Common Market for Eastern and Southern Africa (COMESA), and the Southern African Development Community (SADC).
Plurilateral agreements				
Trade in Services Agreement (TiSA)	24 WTO members: Australia, Canada, Chile, Chinese Taipei, Colombia, Costa Rica, the EU, Hong Kong China, Iceland, Israel, Japan, Korea, Liechtenstein, Mexico, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Switzerland, Turkey, the US, and Uruguay. Of these, the EU has no free trade agreements on services with Chinese Taipei, Israel, Pakistan, and Turkey.	70 per cent of world trade in services.	Based on the WTO's General Agreement on Trade in Services (GATS). Open markets and improve rules in areas such as licensing; financial services; telecoms; e-commerce; maritime transport; and free movement.	Talks formally started in March 2013. Basic text agreed in September 2013. No set deadline for agreement.

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countries of TiSA; expansion of the ITA; bids to secure an EGA; efforts to forge "consolidation" RTAs; and dozens of on-going bilateral negotiations on trade and investment.

On the regional front, efforts at stronger political and economic integration abound, but face numerous challenges. The African Union, for instance, is keen to boost intra-African trade and establish a Continental Free Trade Area (CFTA) that knits together existing sub-regional agreements by 2017 (African Union 2012). Whereas the TPP represents the US's effort to shift its priorities eastwards and respond to the growing role in the region of China which is not a part of the pact (Chiffelle 2015), the Asian giant answered with a push in 2014 for a "roadmap" to eventually realise an FTAAP under the umbrella of the APEC (APEC 2014). Negotiations launched in 2012 by ASEAN members and their FTA partners on a RCEP have since moved relatively slowly, although they would cover areas such as investment, IP, rules of origin, e-commerce, and goods and services trade. Notably, a number of countries have simultaneously been negotiating partners in ASEAN, RCEP and TPP negotiations, each of which have different processes, concepts and goals for integration (Dupont 2014). In Latin America, the Pacific Alliance established in 2011 between Colombia, Chile, Mexico, and Peru is geared towards further liberalising goods, services, people, and capital in the region and strengthening relations with Asia-Pacific countries. In contrast to traditional approaches that bundle a multitude of trade and investment issues into a broader package of negotiations, the Pacific Alliance is approaching negotiations on issues sequentially, completing and implementing new agreements before moving onto subsequent topics. Meanwhile, Bolivia's recent accession to the Mercosur customs bloc – which also includes Argentina, Brazil, Paraguay, Uruguay, and Venezuela – has served to fuel concerns among some critics around trade tensions and politics among members of the South American common market. Meanwhile, the EU continues to expand its membership, and therefore single market, albeit with reluctance from some member states. The challenges posed by a potential "Grexit" or "Brexit," and popular and legislative backlash against the Brussels bureaucracy in some countries have raised questions about the long-term prospects of the European integration effort (Young and Peterson 2014).

Although the WTO's negotiation function has slowed, a growing range of governments is making use of its dispute settlement function, resulting in a regular flow of WTO trade disputes and decisions (WTO 2014e). Across the trade arena, the relevance of non-tariff, behind-the-border barriers to trade is growing, alongside restrictive import and export trade measures (WTO 2015c). For example, a July 2015 meeting of the WTO Committee on SPS Measures saw a record number of specific trade concerns raised, many covering questions around import approval of biotech products and food bans (WTO News 2015). Since the 2008 financial crisis spurred a collapse of global trade, efforts to dissuade governments from taking measures that would constrain flows (Baldwin 2009). A regular joint trade monitoring exercise by the WTO and the OECD, meanwhile, reveals that since the 2008 financial crisis, G20 countries put in place 1,360 trade restrictive measures, of which only 329 have been removed (WTO 2015b). The wider WTO membership put in place 2,416 measures, excluding trade remedies, in the same period and less than 25 per cent of these have been removed. At the same time, however, WTO members adopted more trade-liberalising measures in the last year than during previous reporting periods (WTO 2014i). Nonetheless, critical analysts highlight the rise of "murky protectionism," which do not directly violate WTO obligations and are often more difficult to detect and monitor than those which do; they can include a range of measures such as the use of health and safety regulations to restrict imports, anti-

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dumping measures, clauses in stimulus and bailout packages that discriminate in favour of domestic producers (Baldwin and Evenett, 2009; Evenett 2014).

The key debates that animate trade diplomacy increasingly focus on regulatory matters, both at the border (such as customs and other trade facilitation matters) and "behind" the border, as trade and investment officials work to help businesses in their country attract investment, participate in GVCs, move into more value-added production modes, and secure access to markets. Keen to reduce the excess costs that regulatory differences can impose on the speed and ease of business transactions, business groups are spurring a growing focus among governments on different types of "regulatory cooperation," from commitments to greater transparency and information exchange to mutual recognition and harmonisation, and on how to incorporate these into trade agreements (Cottier 2006; Hoekman and Mavroidis 2015). A number of regulatory cooperation efforts are taking place at the bilateral, plurilateral or regional level, such as through the OECD and APEC. Moreover, last year's Comprehensive Economic and Trade Agreement (CETA) between Canada and the EU had an entire chapter dedicated to regulatory cooperation, and included a number of substantive chapters on non-tariff and regulatory measures, ranging from TBT and SPS to mutual recognition, and relevant domestic regulation, among others (Sinclair et al. 2014). However, amidst recurring concerns about global economic prospects, many governments also want to preserve national regulatory autonomy, prompting calls for international frameworks that focus on better responding to and managing the realities of heterogeneous regulatory systems and priorities over a quest for uniformity.

Intensified debates on the use of exchange rates by some governments to boost competitive advantage in trade underscores the blurring lines between trade policy and wider international economic policies. Fears that countries will pursue loose monetary policies in the face of slow economic growth despite potential impact on their trading partners have grown in recent years, as central banks in the US, the EU, and Japan have undertaken several rounds of quantitative easing. While the G20 and the G7 have both issued statements pledging to refrain from competitive devaluation, a recent move by China to allow the market to play a greater role in setting the value of its currency, consequently lowering the value of the renminbi by the second-largest amount in two decades (Donnan 2015), serves to demonstrate the likely persistence of concerns about "currency wars."

The role of global shipping networks in the global economy is a nascent, but important, area of trade policy discussion, with a recent joint study by ESCAP and the World Bank arguing that container shipping connectivity is a "more significant determinant of trade costs than the indicators for logistics performance, air connectivity, costs of starting a business, and lower tariffs combined" (Arvois et al. 2013). Although more ships are becoming larger over time, the global shipping industry is increasingly dominated by fewer companies and the structure of global networks of shipping services favours those countries at its centre, where countries such as China, Germany, the Republic of Korea, the United Kingdom and the US have best connections globally as well as with each other (UN 2014: 36).

Further, there are a multitude of debates on which social and environmental issues and challenges should be addressed through trade and investment rules, and how. Pressures on developed country governments, and also a growing number of developing country governments, to protect the environment and labour standards in the face of expanding trade relations has spurred a growing number of provisions and chapters on these matters in trade

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and investment agreements (UNEP 2011a; UNCTAD 2010). They have also prompted calls to use trade measures to help phase out environmentally harmful, trade-distorting subsidies that drive overcapacity in fishing fleets, spurring negotiations on this topic at the WTO, as well as fossil fuel use.[6] Meanwhile, the clean energy industry is already subject to an escalating number of retaliatory trade remedies, and scrutiny of clean energy trade could increase in the future. Over the last five years, countries have imposed nine anti-dumping (AD) and seven countervailing duties (CVDs) on products associated with solar photovoltaic (PV) cells or wind energy, and launched more than two dozen WTO AD and CVD investigations on these (Ang and Steenblik 2015).

Finally, there is growing attention in trade policy debates to the rise of non-state initiatives, led by NGOs, individual companies, industry associations or both, to establish private voluntary standards and third-party certification schemes for goods and services, as discussed earlier. The proliferation of such initiatives raises questions about the appropriate role of the private sector in the push for private standards, their credibility as assessors of matters such as sustainability, the implications for trade and investment rules and flows, the risks and opportunities that arise for developing country exporters and the interaction between private standards and government responsibilities in relation to trade law, as illustrated by the long-running "Tuna" dispute in the WTO (Aerni 2013; Blanford 2015; Thorstensen et al. 2015).

1.1.3. Cross-cutting trade policy debates on inequality, inclusiveness and development

A crosscutting set of trade policy debates relates to the position and interests of developing countries in the GTIA. With higher growth rates in emerging economies than developed countries, the former have become increasingly powerful in the international economy, and in international trade and investment relations, altering traditional negotiation dynamics in the GTIA. Although the intensity of concerns and the focus of objections have fluctuated and evolved over time, there are enduring calls for greater responsiveness to the interests of developing countries and their various stakeholders (Ismail 2008, 2009; Stiglitz and Charlton 2005). Developing countries express consistent procedural concerns about how decision-making processes are structured and substantive concerns that their development priorities are inadequately addressed.

Although their individual circumstances and constraints vary widely, many developing countries lack both the investment and supply-side capacity to take advantage of new trade opportunities, as well as the resources and institutional frameworks needed to implement trade-related adjustment, compensate losers, and comply with the many new standards and behind-the-border regulatory changes that trade agreements demand. Developing country governments increasingly acknowledge the importance of GVCs but face numerous challenges in securing participation and potential benefits from them. Across sectors, countries continue to face a complex set of market access barriers, including enduring tariff escalation and subsidies in foreign markets; difficulties keeping up with constantly evolving

[6] Although renewables represented approximately 59 percent of net additions to global power capacity last year and the annual growth in renewables investment continues at a healthy rate (REN21 2015), fossil fuel subsidies continue to distort markets and send wrong signals to investors (Coady, Parry, Sears and Shang 2015).

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regulations and private standards in export countries; preference erosion;[7] and problems with the numerous rules of origin (RoO) requirements that accompany preferential arrangements (Uganda on Behalf of the LDCs Group 2014).

There has been some good news over the years. A majority of the WTO's developed country members now provide full or significant market access to products from LDCs and five developing country members – Chile, China, India, Korea, and Chinese Taipei – and have notified DFQF schemes of some description (WTO 2014c). Further, the rise of the multi-stakeholder Aid for Trade Initiative reflects a broad acknowledgement of the many challenges facing developing countries, and channels significant resources to help, which reached US$55.4 billion in 2013 (WTO and OECD 2015).[8] But debates continue about the overall size, allocation, and accessibility of resources (Lammersen, 2015; te Weld and Razzaque 2013; UNCTAD 2012). Further, for many of the poorest countries, the eventual entry into force of the TFA could help to alleviate the high costs of engaging in international trade. The TFA is particularly notable, therefore, for creating a facility to help ensure members receive the necessary external support and capacity building to take advantage of the deal (Mwape 2012).

While the rise of China, India, and Brazil in global trade illustrates the possibilities for countries to significantly shift their position in world trade, it has complicated the dynamics of trade negotiations. It has also prompted debate on the idea of "developing country concerns" as well as traditional approaches to principles such as S&DT. In the WTO context, for instance, there have been calls for some emerging economies to "graduate" from developing country status, which is self-designated at the WTO, and new approaches to S&DT. Facing competitive threats, developed countries, and also some developing countries, facing competitive threats increasingly call for more issue-specific and differential approaches to special treatment in trade and investment, and suggest that China, India, and other emerging economies should also take on further responsibilities in global governance, including in the area of development assistance. Nonetheless, there are strong proponents of a continuing political need for solidarity among developing countries as a group, and for the enduring relevance of some collective concerns and action.

Even for poorer countries, pressures are mounting to update earlier approaches to special treatment. The EU's intention, as expressed in the Cotonou Agreement (the latest agreement in the history of ACP-EU Development Cooperation), is that its negotiations with ACP countries for EPAs should pave the way towards reciprocal trade relations by phasing out all trade preferences (to address the WTO incompatibility of previous arrangements) and a progressive removal of trade barriers, resulting in a fundamental overhaul of decades of non-reciprocity (Jones 2014). The CARICOM has completed and is implementing a "full EPA," covering a broad range of trade issues, including IP. But the path is proving more contentious in many African countries, where most of the agreements that have been initialled are "goods only" agreements, and even here governments have subsequently called for new negotiations or are moving very slowly towards ratification. That many African members of regional economic communities include both developing countries and LDCs

[7] See for instance, Elliot (2014) and Blanchard and Hakobyan (2015).
[8] Since the Aid for Trade initiative was launched in 2006, US$246.5 billion has been disbursed for trade financing programmes and projects and US$190.4 billion in trade-related other official flows (OOFs). Economic infrastructure has attracted the largest share of disbursements, 52.4 percent between 2006 and 2013, followed by building productive capacity at 44.5 percent, and trade policy and regulations at 3.1 percent.

complicates EPA negotiations. In the East African Community, for instance, Tanzania is eligible for special treatment under the EU's Everything but Arms (EBA) initiative, but Kenya is not and must instead pursue a reciprocal approach.

Two further policy challenges of particular importance to developing countries, and many developed countries, relate to trade finance and can boost trade opportunities for small and medium-sized enterprises (SMEs). Up to 80 per cent of global trade is supported by some form of financing or credit insurance but many poor countries continue to lack critical access to the international financial system, putting a brake on their trade potential and development prospects. While the availability of trade finance has improved after a dramatic drop during the 2008 financial crisis, it still falls well short of estimated needs, particularly for developing countries, as the continuing effects of the crisis have lowered risk appetite.[9] The value of unmet demand for trade finance in Africa, for instance, is estimated at between US$110 and US$120 billion and represents one-third of the existing market (Azevêdo 2015). Meanwhile, although SMEs represent a sizeable and rising share of economic and employment growth, accounting for about 95 per cent of global enterprises and 70 per cent of private sector jobs worldwide, a disproportionate burden of trade-related fixed costs falls on them, and many continue to face particular trade finance, market, or credit access challenges (Jansen, Roberts Taal and Virdee 2014).

Over the past decade governments of both developing and developed countries have expressed growing interest in a trade and investment architecture that secures regulatory autonomy and policy space. There is, for instance, renewed interest in harnessing industrial policy to help countries insert themselves in such production and distribution networks, including to advance environmental agendas (Curiak and Singh 2015; Low and Tijaja 2015). The belated acknowledgement – as now expressed in the context of the Aid for Trade Initiative – of the need for a careful sequencing of trade reforms and for trade obligations commensurate with capacities underpinned by fulfilled commitments for external support, repeatedly proves difficult to realise in the throes of the mercantilist bargaining that typifies international trade negotiations.

1.2. Shifting Investment Flows, Dynamics, and Regimes

1.2.1. Investment flows

Across countries of all levels of economic development, governments are keen to attract foreign investors. To this end, governments create investment incentives, establish investment promotion authorities to facilitate foreign investment, actively brand their country as an attractive investment site, and forge international investment agreements that address the admission, treatment and protection of foreign investments within their territory (Ecorys 2013). Although the financial crisis prompted some G20 members to relax some conditions for international investment to spur new FDI, there is also longstanding and growing interest among governments in more proactive investment policy regimes that promote greater sharing of benefits between investors and host countries, help foster local capacities and linkages to local industries, protect environmental and social standards, and channel

[9] See recent reports of the WTO's Working Group on Trade, Debt, and Finance, as well as the expert group of high-level trade finance practitioners.

investment toward sustainable industries (OECD and UNCTAD 2014). The concomitant policy expertise in facilitating sustainable investment is, however, as yet nascent (Sauvant and Hamdani 2015).

In the last 30 years, FDI inflows and outflows have broadly increased, albeit more erratically than world exports, which have risen steadily over time (WTO 2013b: 141). By the end of 2014, the total world FDI stock was US$27 trillion,[10] with developing countries emerging as the majority host group of inflows. The OECD also reports growth in South-South FDI over a 10-year period from 1999, both in terms of value, and as a percentage of world FDI (OECD 2014: 14).

While ODA continues to be a major source of revenue for LDCs, countries further up the development ladder are increasingly relying on FDI and remittances from citizens working abroad, with the latter totalling an estimated US$404 billion compared with OECD country ODA flows of US$134.8 billion in 2013 (Ratha et al. 2014). Although structurally weak economies witnessed divergent trends in FDI in 2014, foreign investment in LDCs as a group increased to US$23 billion in 2014, while developing countries received their highest level of inward FDI flows in 2014 at US$681 billion (UNCTAD 2015c).

1.2.2. Investment policy debates

The complex and fragmented international investment regime is currently characterised by a growing number of IIAs, often with growing scope and depth of regulatory implications, as well as customary international law, the decisions of tribunals, various voluntary governmental, inter-governmental, and non-governmental standards, and a collection of other voluntary and mandatory instruments, and add-ons from other various international deals (Pauwelyn 2014). The rise of IIAs has been accompanied by a growing scrutiny of the transparency of negotiations, non-discrimination, development provisions, and their arbitration arrangements (Moran 2002; Schill 2015). Since the NAFTA, some governments have also had a growing interest in deals that extend the scope of trade agreements to include more substantive rules on investment, as reflected now in the TTIP negotiations, which aim to cover both trade and investment more comprehensively than prior agreements.

Overall 356 ISDS cases have been brought to tribunals under investment treaty provisions dating back to the 1980s.[11] According to an UNCTAD database on ISDS rulings, thirty-seven per cent of these were found in favour of the state, 28 per cent were settled, and investors won 25 per cent.[12] However, a more critical review of the methodology and evidence has concluded that investors have in fact won 72 per cent of decisions on jurisdiction and 60 per cent of decisions on the merits of the case (Mann 2015).[13] On the one hand, the deployment of ISDS provisions to settle cases can be seen as a positive use of formal legal mechanisms to enhance the rule of law and depoliticise disputes. On the other hand, beyond arguments

[10] In 2014, global FDI inflows declined by 16 percent from the previous year to an estimated US$1.23 trillion, out of step with moderate growth in global GDP and trade flows. Recent trends vary, however, at the sector level. Future FDI scenarios remain uncertain, partly due to volatile commodity markets, regional conflicts, and slow growth prospects in emerging economies, although some models suggest FDI flows could increase over the next few years (UNCTAD 2015c).
[11] See “Database of Investor-State Dispute Settlement” at http://unctad.org/en/Pages/DIAE/ISDS.aspx.
[12] Ibid.
[13] In this work, Mann observers that “states never win; they only do not lose. Only investors win awards of damages, states may at best, receive an award of costs” (2015:1).

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over scorecards of who “wins or loses” disputes in the ISDS system, concerns that the boom of investment arbitration and ISDS rulings negatively impacts public interest regulations – and about the potential for “regulatory chill” that dissuades states from adopting new measures – have spurred vocal opposition to new international investment negotiations among an array of civil society groups. Proposals abound for new approaches to ISDS that better balance investor protections with rights of state and obligations of investors, and for more transparent and balance dispute settlement procedures with appropriate appeals mechanisms (Gereffi & St. John 2015; Bernasconi-Osterwalder and Rosert 2014; Johnson et al. 2015).

There are nevertheless growing calls for wider reforms of international regimes, not only to more clearly safeguard public policy priorities and protect the sovereign rights of governments to regulate for environmental or social ends, but also to promote stronger policy coherence and incentives designed not only attract to business but also to harness investment for sustainable development goals (Lin 2015; Johnson et al. 2015; Pauwelyn 2014). UNCTAD estimates that US$2–3 trillion a year worth of additional investments will be required to implement the SDGs in developing countries and underscores that boosted private sector investment in key areas will be important (UNCTAD 2014c, 2015c). To help make investment work for sustainable development and inclusive growth, UNCTAD has presented a suite of options for national investment policies and provisions for the design and use of IIA, and some of the most recent agreements already signal a move toward this more expansive “positive” investment agenda (UNCTAD 2015e). There is growing interest in how agreements can help boost green finance and address barriers to investment in areas such as clean energy (OECD 2015b) and in incorporation of provisions for corporate social responsibility into IIAS as well as measures that would preserve the scope for developing countries to negotiate and manage the terms of public-private partnerships to secure deals that best respond to local needs (Jones, E. 2015; UNCTAD 2015e).

A related set of policy debates concern attempts to establish a multilateral institutional framework for investment, although unsuccessfully mooted in the past (with an Organisation for Economic Co-operation and Development [OECD]-framed Multilateral Agreement on Investment [MAI] in the 1990s and through efforts to insert the so-called “Singapore Issues” in the Doha Round), are being now revived in a revised form, with proposals for new multilateral investment negotiations at the WTO, a non-binding investment facilitation framework, a World Investment Court, a global investment appeals mechanism, and for the G20 to take leadership by agreeing on a working framework for moving the investment agenda forward (Blanchard 2014; Lin 2015).

1.3. Intersections between Trade and Investment

1.3.1. Intersecting trade and investment flows

The intersections between investment flows and trade have significantly increased over the last few decades. With the rise of an integrated international production system, firms locate production across the globe according to the most suitable conditions, and increased FDI and trade now often go hand in hand. Between 1970 and 2013 the ratio of goods and services exports to global GDP rose from 14 to 29 per cent, for instance, while in the same period the ratio of FDI stocks to global GDP rose from 6 to 34 per cent. The composition of

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FDI stock has shifted in recent years from natural resources to manufacturing, and now to services, corresponding to the shifting needs of GVCs and technological advances (Hufbauer and Moran 2015). MNEs, in particular, have built value chains in a global workshop, boosting firm-level outward FDI, often in knowledge-intensive areas. Recent studies of the US economy highlight further links between trade and investment, showing that FDI can generate an increase in two-way merchandise trade due to factors such as increased firm competitiveness, technological capacities, and market power (Hufbauer et al. 2013). Even in the world's poorest nations, there is evidence that countries with the highest FDI are those most engaged in international trade, as FDI can stimulate positive spillovers to trade-related infrastructure and export-oriented industries (Makki 2004; UNCTAD 2013a,b).

1.3.2. Complex, fragmented investment regimes and intersections with trade

Although trade and investment are increasingly linked, international regulatory regimes in each area have distinct origins and have largely remained distinct over the last 50 years. In taking the decision to move forward with the GATT in 1948, governments abandoned a more comprehensive architecture that would also have encompassed investment (Miles 2015). As such, trade laws and investment laws are widely analysed as two separate legal regimes, with distinct historical foundations, as noted in Part A. The WTO, for instance, is not centrally concerned with cross-border investment, just as IIAs are not concerned with trade in goods per se. However, there are some commonalities and overlapping aspects among the regimes.

Moreover, a number of regional trade agreements, such as the NAFTA, deal with investment, as do a growing number of FTAs and potential mega-regional trade negotiations. At the multilateral level, the WTO also addresses investment, but in a more discrete manner. Further, the evidence of the intermingling of trade and investment flows now prompts growing reflection on what some characterise as an artificial separation between the trade and investment regimes (Hufbauer 2014). Proponents of this view argue that the incorporation of investment into trade agreements is not only justified but vital given the changing realities of economic activity (Hufbauer and Moran 2015; Quick 2015). Meanwhile, efforts to formulate investment provisions in new mega-regional trade deals provoke alarm among many public interest advocates, particularly in light of the lack of transparency of negotiations and draft texts. What is clear is that the way in which investment is treated in mega-regional trade agreements is likely to generate new approaches to international investment rules, with the potential to shape the contours of the ISDS system and national investment policymaking for decades to come.

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2. External Pressures on Trade and Investment Flows and Policymaking – and the GTIA

International trade and investment decision-making occurs in the context of divergent visions of the goals of the GTIA and an array of political, economic, social and environmental trends and challenges. This wider context generates expectations on governments in their pursuit of international trade and investment cooperation, and thus pressures on the GTIA (Deere Birkbeck and Botwright 2015). In this section, we offer a flavour of the multiple visions of what the GTIA is for and should look like, and highlights some of the key trends that impact what both governments and stakeholders need from the GTIA and call for. In so doing, we note both longstanding and widely-acknowledged challenges, such as enduring developing country calls for greater action to address their needs, as well as others – such as public health and climate change – that are high on the agendas of politically significant policymakers and stakeholders at the national level, even if they are not always central preoccupations of insiders within the trade and investment communities. Through their influence on the domestic politics of trade and investment diplomacy, and also the priorities that international cooperation on trade and investment is called upon to serve, such challenges can nonetheless influence the expectations of the GTIA, and shape the demands upon it.

2.1. Divergent Visions

The trade and investment arena has long been notable for multiple, and sometimes clashing, views across and among governments and stakeholders on what they are trying to achieve through the GTIA. Different perspectives on what the goals and outcomes of cooperation ought to be give rise, in turn, to a diversity of visions on what the global architecture for trade and investment should look like.

For some the vision is of an architecture that promotes and expands open markets for trade and investment across borders. Here, the architecture is seen as a tool for supporting robust, well-functioning markets, and addressing the practical constraints that firms can face when conducting business internationally. In that view, the vision is of an architecture that facilitates and harnesses trade and investment in ways that foster sustainable development while preserving national political autonomy. For others, the vision is of an architecture that serves as a vehicle for tackling the asymmetries between countries in their trade and investment relations, advancing development goals, and boosting inclusiveness (Deere Birkbeck 2009; Ismail 2014; Wilkinson 2014). More broadly the architecture is viewed as a vehicle for promoting predictability and stability in an integrated global economy and international production system. Others envision an architecture that serves the wider effort to forge a global economy that helps the international community achieve public policy goals, such as sustainable development, and that facilitates efforts to respond to key global challenges and imperatives in this area (Allen et al. 2014; Deere Birkbeck and Meléndez-Ortiz 2009; Lamy 2013; Meléndez-Ortiz et al. 2012). The international community's

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commitment to a new UN 2030 Agenda for Sustainable Development[14] as the centrepiece of the most comprehensive efforts of governments and stakeholders to forge common global public policy goals has renewed interest where the GTIA might need to respond and evolve in response.[15] Calls for action in the area of trade and investment are scattered across the Agenda's SDGs (see Annex 1), which in turn have implications for the wider governance architecture and functions.

Although a number of analysts argue that some of the apparent divergences in these visions are really a matter of emphasis and priority – and could be reconciled as complementary – others underscore fundamental differences between them. Modern trade and investment politics underscore that across the different levels of the architecture – multilateral, plurilateral, regional, and bilateral – governments and stakeholders have different perspectives on what they are trying to achieve through cooperative efforts.

2.2. Myriad External Pressures – Social, Environmental, Geopolitical

In national parliaments, recurring disputes between legislators confident in open markets and those who disdain them arise around proposals to integrate provisions on labour, the environment, human rights, and development considerations into new trade and investment deals. The financial crises of recent years have rightly revived debate about the suite of flanking policies and appropriate national institutions vital for closer international integration to serve national sustainable development priorities. The ensuing domestic politics of trade and investment drive expectations of the international architecture and pressures on it. In this section, we briefly touch on some of the key external pressures that impact the context for trade and investment decision-making and the pressures on the GTIA, including geopolitical considerations.

Since the 2008 financial crisis, interest in the intersections between trade and investment policies and rules, on the one hand, and broader economic policies such as finance and monetary policy, on the other, have deepened. In particular, recognition of the dangers for

[14] The "2030 Agenda for Sustainable Development" replaced the Millennium Development Goals (MDGS), which expire at the end of 2015, and commit governments to achieving sustainable development in its three dimensions – economic, social, and environmental – in a balanced and integrated manner (UN 2015c). The 29-page-long text, adopted by UN members at a high-level summit held in New York at the end of September, consists of five sections, including a preamble; a declaration with shared principles and commitments, and a call for action to change the world; a list of SDGs and targets; the means of implementation (MoI) and a revitalised global partnership for development; and details on following up and reviewing efforts to put the agenda into action. The 2030 Agenda also recognises that the full implementation of the outcome of the UN Financing for Development Process, the Addis Ababa Action Agenda (AAAA) adopted by the UN General Assembly at the end of July 2015, will be critical for the realisation of the SDGs and targets. See, for instance, UN (2013).

[15] At the 2012 UN Conference on Sustainable Development (Rio+20), a follow up to the 1992 UN Conference on Environment and Development (UNCED), governments launched a process for devising a set of global SDGs and created a dedicated working group to hammer out a proposal. In the Rio+20 process, governments unpacked sustainable development as a model that fosters poverty eradication, sustained economic growth, enhanced social inclusion, improved human welfare, the healthy functioning of the planet's ecosystems, and opportunities for employment and decent work for all. Following nearly 18 months of meetings, the Open Working Group (OWG) on the SDGs identified 17 goals and 169 targets, which largely represent those adopted in the 2030 Agenda with a few minor tweaks. The SDGs cover an expansive set of issues, including ending poverty in all its forms everywhere, tackling world hunger, achieving gender equality, ensuring access to modern energy, building resilient infrastructure, moving towards sustainable consumption and production patterns, conserving oceans, and taking urgent action to combat climate change.

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the global economy of the private financial sectors rising power vis-à-vis governments (Skidelsky 2010) has inspired a post-financial crisis renaissance of, and tolerance for, discussion of alternatives to neo-liberal economic policies that, even a decade ago, were deemed not politically viable or economically misguided. Poor economic outlooks in many countries have prompted popular backlash against "austerity" policies as vehicles for economic recovery (Ostry et al. 2015), which are fuelling a new round of public and parliamentary scrutiny of the accountability of global economic decision-making and the content of trade and investment deals).[16] Irrespective of how closely the social and economic challenges at hand can be linked to trade and investment, the political reality is that segments of the public are cautious about new global economic arrangements and in particular new trade and investment agreements, as evidenced by outpouring of public and scholarly concern about the TPP and TTIP (Khan et al. 2015).

A range of labour unions and civil society groups view contemporary trade and investment agreements as inextricably linked to a globalisation process associated with a range of ills – from unemployment to environmental degradation and migration pressures – as well as to the rising power of large MNEs that dominate production, income, trade and GVCs in the global economy and threats to national regulatory powers, among others. Policy debates on international trade and investment deals routinely highlight concerns about their impacts on labour markets – on job insecurity, real wages, and dwindling benefits packages (on matters such as health insurance) as well as renewed calls for the incorporation of labour rights protections in international economic deals and for a stronger focus on "decent work" (ILO 2012, 2015). Criticism of most recent regional mega-regional negotiations highlights public fears on issues as diverse as the implications of trade and investment deals on the food system (Patel 2012), diet, health outcomes[17] and public health services (Hawkes et al. 2009; Kapczynski 2015; Khan et al. 2015; Reynolds and McKee 2015; Weiss 2015), and human rights (OHCHR 2015; Grover 2014); they also suggest that governments have lost the trust of vocal segments of their public when it comes to trade and investment deals (Krugman 2015a, b).

Meanwhile, the social realities are indeed stark. The jaw-dropping and rising gap between the world's very richest and poorest people (UNDP 2014)[18] fuels public campaigns against social injustice and a scramble by governments for more inclusive growth (European Commission 2010; OECD 2011c). Technological changes are ushering in new business models, boosting labour productivity growth and increasing wages for some, but a broad decrease in real wages for many developed countries. Income disparities between developed and developing countries, and also within them (Birdsall et al. 2006; Stiglitz 2015) spur concerns about the globalization and worsening of inequality, and the fate of the world's very poorest – the "bottom billion" trapped in poor, economically stagnant, conflict-ridden, or

[16] There is for instance, a vibrant debate on how and where governments may be more proactively and effectively involved in facilitating economic opportunities for their citizens, and what this implies for global economic architectures (Lamy 2013; Lang 2011; Haussmann et al. 2013; Mazzacuto 2013; Rodrik 2008; Stiglitz et al. 2013). In the last few years, institutions such as the World Bank and the IMF have also produced research re-examining the use of industrial policy, particularly in the wake of the 2008-9 financial crisis (Aghion and Cagé. 2012; Lin, 2012; Stiglitz et al. 2013).

[17] The rise of cancer, diabetes, and obesity is putting the spotlight on how global producers can drive changes in changes in food, alcohol and tobacco consumption, putting trade rules relevant to global tobacco and trade in processed food in the spotlight (WHO 2015; Stuckler et al. 2012; Clark et al. 2015).

[18] The poorest two-thirds of the world's population are estimated to receive less than 13 percent of world income, while the richest 1 percent claim nearly 15 percent. The 85 richest people in the world, the elite of the so-called "super-rich," have the same wealth as the 3.5 billion poorest people. See UNDP (2014: 21).

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declining countries, particularly in sub-Saharan Africa (Collier 2008; Bourguignon 2015; Wilkinson and Pickett, 2009; Piketty 2014).[19] Here, developed countries are also impacted, with growing recognition of rising poverty in developed countries, the rise of economic insecurity alongside the erosion of social contracts, and high unemployment rates (Stiglitz 2012, 2015).

Migration is a further tension that puts pressure on trade and investment decision-makers. The world is already increasingly one of people on the move, with growing volumes of migration – legal and illegal, short and long term, professional and unskilled – alongside persistent numbers of refugees and internally displaced people due to civil wars and conflict.[20] In the GTIA context, migration pressures raise questions about the scope of the trade agenda on the movement of labour, and also about how best to stimulate dialogue and action among international agencies concerned with international flows that involve people, whether as refugees, workers, or economic migrants, including the WHO, the ILO, the United Nations High Commissioner for Refugees (UNHCR), the World Bank, and the WTO (Betts 2011).

On the environmental front, trade and investment issues abound. The latest evidence on the scale of climate change; unsustainable use of natural resources, both renewable and non-renewable; biodiversity loss; pollution of air, land, and oceans; and desertification underscore the breadth and intensity of environmental risks – not only to the environment in its own right, but also to economic opportunities, human health, livelihoods, and investors (CDB 2014a; Oxfam 2012; Pachauri 2014; WEF 2011).[21] Faced with environmental constraints and scarcity, there is a rising threat of international conflicts over natural resources, from water and fisheries to arable land (Lee 2012; WEF 2011). With more demand for both renewable and non-renewable resources amidst growing challenges of sustainability and scarcity, for instance, trade and investment policies are increasingly relevant as instruments that governments deploy to secure access to vital resources (Garcia 2013; Kugelman and Levenstein 2010) and as targets for the incorporation of stronger environmental considerations (Lee 2011; Cordonnier Segger et al. 2011). For some environmental challenges, international trade has long been recognised as a direct driver of degradation in the face of weak governance and lax penalties.[22]

More recently, the ascendance of climate change up the global policy agenda has prodded interest among many governments, international organisations, and stakeholder groups in "green growth" and the transition to a "green economy" (European Commission 2010; ILO 2012; OECD 2011b; UNEP 2011b; ILO 2012) Although both concepts inspire considerable critical debate on the extent to which they can indeed serve to foster environmental

[19] Household income inequality as measured by the Gini index has increased for both high- and low-income countries. According to the Gini index, household income inequality increased by 9 percent for high-income countries from the early 1990s to the late 2000s and by 11 percent for low- and middle-income countries (UNDP 2013).
[20] There were 232 million international migrants, equal to 3.2 percent of the global population in 2013, up from 175 million in 2000 and 154 million in 1990. Some two billion people, meanwhile, live in the context of some form of extreme violence, with so-called fragile states harbouring high poverty rates.
[21] A growing number of scientists now refer to the "Anthropocene" as a new era of the earth's geological evolution due to the intensity of human impacts on its surface, air, and oceans over the past two centuries (Steffen et al. 2011). According to some researchers exploring the earth's capacity to cope with man-made impacts, four of nine "planetary boundaries" have been crossed to date (Steffen et al. 2015).
[22] Key examples are illegal international trade in wildlife estimated to be worth between US$50 and US$150 billion annually, with illegal fisheries alone fetching between US$10 and US$23.5 billion per year, and illegal logging between US$30 and US$100 billion (UNEP 2014b).

sustainability and on their implications for how economic activity is organised (Barbier 2012; Bina 2012), they have certainly spurred considerable interest in "greener" trade and investment and how the GTIA could help advance progress (IISD and UNEP 2014; Meléndez-Ortiz 2011; UNEP 2011b). For example, the trade and investment system is increasingly called up on to assist in the transition to a low-carbon economy.

Finally, in overarching geopolitical dynamics, the re-emergence of China (Li 2013; Morrison 2015) and the growing economic and political weight of Brazil, Russia, and India (Spiegel 2012; Fels, Kremer and Kronenberg 2012; Maguire and Lewis 2013; Lo and Hiscock 2014), have been game changers for the GTIA and for global governance in general in the last decade or so. Both individually and collectively the BRICS countries are increasingly assertive in promoting their own approaches to international economic cooperation, including in the trade and investment arena and in calling for updated international governance structures (Efstathopoulous 2015).[23] Multipolarity has already, for instance, altered traditional configurations for WTO negotiations – as illustrated by the shift from the Quad (US, EU, Canada and Japan) as the agenda-setters and dealmakers to a G-5 (US, EU, Brazil, China and India) and now a G-7 in trade negotiations (the G-5 plus Japan and Canada), challenging the more straightforward but non-inclusive and Quad-dominated approach to agenda-setting and deal-making at the WTO (Baracuhy 2012; Deere Birkbeck 2011; Narlikar 2011, 2013, 2015). The numerous conflicts around the world around also contribute to the disintegration of markets in affected parts of the world and beyond, as well as threaten the security of key trade routes[24] and can disrupt gas and oil supply vital to economies dependent on energy imports. For governments drawn into regional conflicts or impacted by them, these demand significant high-level political energy and resources, at the risk of diverting attention away from international economic diplomacy. Further, concerns about political security – and vulnerability – shape strategic political alliances, as well as rifts and mistrust that influence trade and investment negotiations and the domestic politics that inform them (Dieter and Quack 2010; Fels et al. 2012).

2.3. The UN's 2030 Sustainable Development Agenda

The international community has spent the last five years stitching together various processes to craft a global sustainable development vision to take over from the Millennium Development Goals (MDGs), tackle persistent issues, and address new challenges. The resulting post- 2015 development agenda, or the "2030 Agenda for Sustainable Development" as it is now formally known, commits to achieving sustainable development in its three dimensions—economic, social, and environmental—in a balanced and integrated

[23] In the July 2014 Fortaleza Declaration, the BRICS nations committed to "raise our economic cooperation to a qualitatively new level. To achieve this, we emphasise the importance of establishing a road map for intra-BRICS economic cooperation." In addition, the Declaration makes a reference to the vision of an open world economy, continued efforts for a successful conclusion of the WTO Doha Round, and simultaneous recognition of the importance of regional trade agreements. Paragraph 22 reaffirms the role of the UNCTAD as the focal point in the UN system dedicated to consider the interrelated issues of trade, investment, finance, and technology from a development perspective (BRICS 2014a, 2014b).

[24] Regional insecurity can also increase the danger and cost of piracy on the high seas (insurance premiums for the Gulf of Aden have increased tenfold), which means that shipping could be forced to avoid the Gulf of Aden/Suez Canal and go around the Cape of Good Hope. This would add considerably to the costs of manufactured goods and oil from Asia and the Middle East (Middleton 2008).

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manner, and includes a list of Sustainable Development Goals (SDGs) (UN 2015c). Together, these landmark outcomes set a new global governance context, calling for reflection on where the GTIA might need to respond and evolve in response. Trade and investment tools and policies feature across the SDGs either as targets or as means to achieve a specific target (see Annex 1).

Several systemic trade-related targets are included, for instance, under SDG 17, focused on the 'means of implementation' for the goals as a whole. These targets are largely grounded in a multilateral vision of trade, referring to a universal, rules-based trading system and urging the conclusion of the Doha Round. Reference is also made to increasing the exports of developing countries, with a view to doubling those from LDCs, alongside implementing DFQF market access for their exports consistent with WTO decisions. The specific trade-related targets or targets integrated into other SDGs cover topics such as correcting distortions in agricultural markets with references to the Doha Round mandate; fisheries subsidies reform with a mention of WTO negotiations; developing sustainable regional and trans-border infrastructure; rationalising inefficient fossil fuel subsidies; and tackling illegal wildlife trade. Increasing aid for trade support for developing countries is included as a target to achieve SDG 8 on promoting sustained, inclusive, and sustainable economic growth. Within the systemic targets under SDG 17, UN members pledge to adopt and implement investment promotion regimes for LDCs. Investment is then singled out as a means to implement the poverty eradication goal, while FDI is positioned as a means to implement SDG 10 on reducing inequality within and among countries. SDG 7 calls for the promotion of investment in energy infrastructure and clean energy technology.

Beyond the push in the SDGs for updating a number of trade and investment policies and rules, progress may also require action at the architecture level, such as better cooperation among the relevant international agencies tackling challenges such as sustainable energy, or new rules that would spur more sustainable investment flows. Efforts across a range of inter-governmental agencies and non-state actors will also be needed to accurately review progress on the trade and investment targets of the SDGs, which raises questions about the global architecture needed for monitoring and assessment (Tipping and Wolfe 2015).

Part B.

3. The GTIA as an Evolving Ecosystem: An Analytical Framework

This section advances a framework for understanding the global trade and investment architecture. On this basis, it then presents a mapping the various components of the GTIA, exploring the actors, players and institutions involved in animating its various functions. As a preliminary landscaping exercise, it defers the task of analysing the relative influence and many intersections to future study.

The GTIA is an increasingly complex, multi-dimensional ecosystem with many components, and a web of intersections. Figure 1 offers a two-dimensional mapping of core elements of that ecosystem. Further, the mapping in Figure 1 and the accompanying discussion in Part C below are intended to provide a broad overview of the GTIA with illustrative examples of the diversity of actors, institutions, and processes involved, as well as the various levels of subsidiarity at which they operate – multilateral, regional, bilateral, plurilateral, and national. Although this snapshot cannot come close to capturing the history, trajectory, and power dynamics of a system that has evolved tremendously over the past 30 years, a mapping of what constitutes the GTIA is nonetheless a vital launching point for conversations on its future.

We propose that the GTIA should be understood as the constellation of inter-governmental, governmental and stakeholder instruments and undertakings that establish the playing field for global trade and investment; set the rules and "default rules" of the global market place; and/or animate one or more of the architecture's practical functions, ranging from the provision of platforms for negotiation and dispute settlement to the provision of Aid for Trade. These undertakings include formal international treaties, institutions, processes, declarations, and arrangements – multilateral, regional, plurilateral, or bilateral – that address trade and investment either as their core purpose or as part of wider public policy agendas. Beyond "codified" international rules, it also includes informal, "soft law" and unilateral measures and processes that can that impact how trade and investment occur and are disciplined (Shaffer et al. 2015) as well as private and public-private initiatives that aim to influence inter-governmental outcomes in the GTIA or to alter the dynamics of market forces to advance particular ends.

Figure 1 illustrates the "inner" core of the GTIA in a series of concentric circles moving from binding laws and associated institutions to international organisations and cooperative arrangements to international soft law, and then to public-private initiatives and private practices (such as voluntary standards and third-party certificate schemes) that are centrally concerned with trade and investment. To underscore the growing scope and complexity of the landscape, the outermost concentric circle of Figure 1 depicts an array of wider components of the GTIA – such as international environmental treaties with trade and investment provisions, as well as international and regional organisations that provide services on trade and investment, and political processes that produce declarations and commitments that intersect with and impact set the international agenda on trade and investment. We recognise, however, that there will be different perspectives on which

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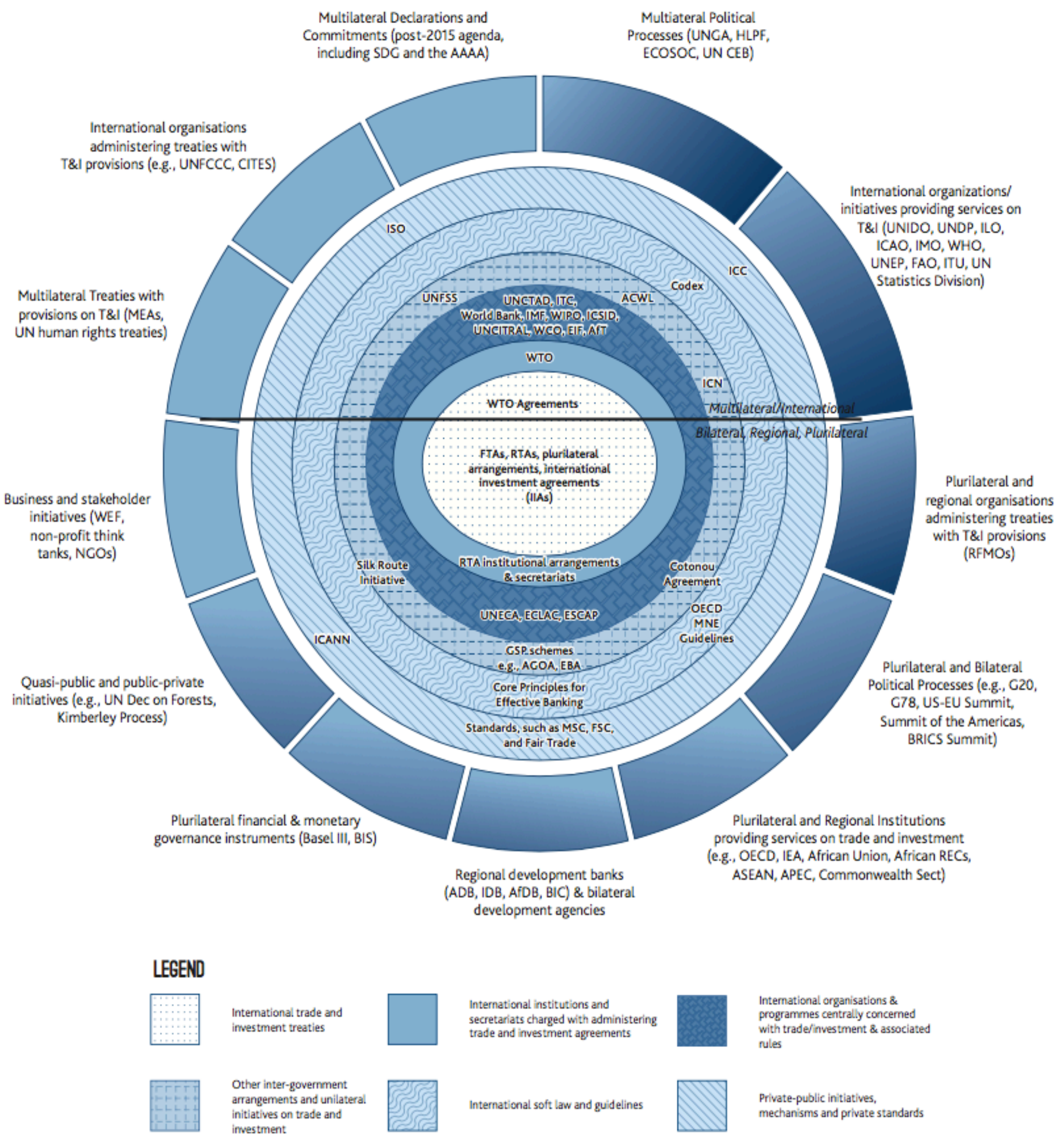
components belong in the "inner" or "outer circle." The key point is that the core trade and investment architecture – and the market and political forces that it reflects and shapes – is impacted by and has numerous intersections with wider global trends and governance, on finance and development assistance as well as the environment, food security, and health, among others. As such, we propose that where rules, policies and institutions touch on trade and investment, they should also be considered as part of the GTIA.

FIGURE 1:

The GTIA Ecosystem: An Illustrative Mapping of Treaties, Institutions, Processes, Partnerships, and other Instruments



Neither Figure 1 nor the following description proposes to assess the relative influence of different components of the architecture or the power of the various actors, nor do we seek to capture their many interactions. It is clear to all, however, that the GTIA reflects wider political and economic power dynamics – and asymmetries – and is also a framework through which such power relations are expressed. Across the ecosystem, a diversity of actors – governments, companies, international organisations, research institutions and civil society groups – have and exert different kinds of power across the ecosystem. Material resources and economic might are clearly at play, and power is also expressed through legal agreements, through ideas embedded in policy advice and capacity building, and through discourse. Some powerful states are dominant across the system and can have a decisive influence on the market place through unilateral trade measures; others are active only on discrete issues and parts of the architecture. While lobbying by large multinational enterprises (MNEs) and industry associations drive agendas for inter-governmental cooperation on many trade and investment issues, for instance, civil society groups play a leading role on the incorporation of many social and environmental considerations.

Although not the focus of this paper, our analysis recognises that the GTIA is underpinned by a collection of national trade and investment laws, regulations, institutions, courts, and parliamentary decision-making, and stakeholder consultation processes relevant to trade, all of which fundamentally influence negotiations of international trade and investment laws and their implementation.

This framework reflects the complexity of trade and investment architecture. Amidst a wider literature on regime "complexes" in a range of global policy areas, (Hale and Held 2011; Keohane and Victor 2011) and fragmentation of governance regimes (Young and Peterson 2006; Johnson and Trebilcock 2013, Van Asselt 2014), the framework draws on recent literature in both the trade and investment arenas where fragmentation is well documented (Blanchard 2014; Delimatsis, 2011; Johnston and Trebilcock 2013; Pauwelyn et al. 2014).

The framework also recognises the role and relevance of non-state actors in international trade and investment relations. The architecture for trade and investment also departs from state-centric approaches to analysing trade and investment cooperation, where the private sector is a powerful force in the governance system[25] and where the privatisation of key aspects of global regulation is clearly observed (Büthe and Mattli 2011; May 2015; Pauly and Coleman 2009; Schirm 2004; Van der Meulen 2011). Just as civil society, broadly understood, comprises a diverse range of different actors – from unions and social movements to NGOs, think tanks and private foundations[26] – with strategies that range from revolutionary to constructive engagement, the business sector also comprises a range of actors, from multinational enterprises (MNEs), to state-owned enterprises, medium-sized companies, small firms, and private consulting companies. There is a growing range of examples of how the actions and initiatives of non-state actors can complement, challenge and alter the evolution of formal inter-governmental arrangements (Weiss and Wilkinson

[25] For analysis of the role of transnational private sector power, see (Cutler 2003, Clapp and Fuchs 2009; Sell 2003; Hall and Biersteker 2002).
[26] On this note, there is growing interest in how private foundations and other philanthropic actors can stand alongside governments and inter-governmental organisations—and sometimes challenge them—as actors capable of setting global agendas and mobilising action and resources around them (Moran 2014). The most prominent example of this is the Gates Foundation in the global health arena.

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2014).[27] In the trade and investment arena, non-state actors are prominent players in efforts to forge more multi-stakeholder, less state-centric processes for dialogue and negotiation of international norms, as well as in an array of public-private partnerships (Scholte 2011). There is already growing action on private standard setting, guidelines, best practices, public-private partnerships, and corporate social responsibility (CSR), and self-regulation efforts (Mattli and Woods 2009; Koenig-Archibugi and Zürn 2006) alongside more traditional inter-governmental arrangements. The imperatives of sustainable consumption and production, for instance, spur both civil society and industry frustrated with inter-governmental efforts to seek market-based solutions such as through private standard setting.

3.1. Components of the GTIA: A Functional Approach

A useful way to understand the many components of the GTIA is to consider the practical functions that it serves and is called upon to serve. In Table 1, we delineate 12 functions that are provided by the architecture, albeit with varying degrees of success: strategic oversight and policy dialogue; negotiation and rule making; dispute settlement; treaty administration, monitoring and compliance; assessment and evaluation; statistics; regulatory cooperation, dialogue, and standard-setting; research; interface with the broader system of global economic governance; and outreach and stakeholder engagement. Table 1 illustrates the diversity of actors, state and non-state, institutions, and processes involved in animating each function, as well as the various levels of subsidiarity at which they operate – multilateral, regional, bilateral, plurilateral, and national. It is intended as a broad overview, and does not represent various actors' relative weight or influence within the GTIA nor is it prescriptive or exhaustive. We also acknowledge that some actors are very prominent for some functions, but less so in others. Further, these functions are severed to varying degrees, and with varying degrees of success. Some of the functions that are less well served at present may be increasingly important in the future.

[27] Although the extent of civil society influence over inter-governmental negotiations and outcomes varies widely, there is growing recognition of the contribution non-governmental organisations (NGOs) can make to them by sharing on-the-ground experience (Koppell 2010).

Table 1. Examples of the Diversity of Actors Engaged in GTIA Functions

Functions	Multilateral	Regional, Bilateral, Plurilateral	National	Non-state actors
Strategic direction, agenda-setting, policy dialogue	UNGA, ECOSOC, HLPF, WTO, UNCTAD	G20/G7, OECD, APEC, ASEAN, African Union, EU Council, OAS etc.	Executive, trade/economic ministries, legislative bodies	NGOs, think tanks, academia, private sector and industry associations, multi-stakeholder initiatives.
Negotiation and rule-making	WTO, WIPO	Regional, plurilateral, and bilateral trade and investment processes, regional economic organisations, BIS	Parliaments, legislative trade committees, civil service, GSP schemes	Lobbying by industry associations, civil society, academia
Dispute settlement	WTO (DSU), UNCITRAL, ICSID	BITs with ISDS arrangements, Energy Charter Treaty	National courts, Hong Kong International Arbitration Centre, LCIA	ICC, ACWL, private sector and pro bono lawyers, academia.
Treaty administration, including of transparency and notification provisions	WTO Secretariat and various WTO Committees, UNCITRAL, UNCTAD, WIPO, MEAs of various international treaties with trade provisions	Regional economic communities and unions, plurilateral committees, including, GPA and ITA Committees	Trade/economic ministries responsible for notifications	
Monitoring of implementation, compliance and trends	WTO TPRM, UNCTAD, World Bank, Secretariats of MEAs, UNEP, IUCN, FAO, etc.	OECD, G20/G7, RECs, EU institutions, Kimberley Process, NAFTA, Pharma Review etc.	Trade/economic ministries, government agencies, and legislative bodies	Civil society, private companies and industry associations, as well as initiatives undertaken by independent research centres and universities.
Assessment and evaluation	World Bank, ECOSOC, UNEP, UNOHCHR, UNCTAD	OECD, ADB, EU etc.	Legislative bodies and inter-ministerial bodies in some countries that conduct impact assessments	Diversity of think tanks, NGOs, academic centres, business groups including ICC, and unions.
Statistics	UN Statistics Committee (UN Comtrade), WTO, UNCTAD, World Bank, IMF, FAO, WIPO	OECD, IEA, ADB, EU etc.	National statistical offices	Initiatives such as Global Trade Alert, NGOs, and industry associations
Regulatory cooperation, regulation dialogue, and standard-setting	WTO SPS, TBT Committees, WCO, Codex Alimentarius, ITC, UNFSS, ITU, ICN, UNCTAD, etc.	UNECE and other UN regional economic commissions, OECD, APEC, EU, regional or bilateral cooperation initiatives among regulatory authorities	Diversity of national regulatory authorities	ISO, private standards such as ICANN, IETF; non-profit initiatives such as MSC; individual national standard-setting institutions such as the American Standards Institute

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Research	WTO, UNCTAD, ITC, World Bank, IMF, UNDESA, WIPO etc.	OECD, APEC, ADB, IADB, EU, Commonwealth Secretariat, etc.	Trade ministries, national development agencies, national research facilities such as the Congressional Research Service	NGOs, think tanks, academia, and industry associations.
Capacity-building and Aid for Trade	WTO, UNCTAD, ITC, UNIDO, WCO, World Bank, IFC, MIGA, EIF, UNEP, UNDP etc.	UN regional economic commissions, regional development banks (ADB, AfDB, IADB, EBRD, AIIB) and regional cooperation initiatives (ASEAN, APEC), and others, such as the Commonwealth Secretariat	Trade ministries, national development banks, export promotion agencies	NGOs, academics, investors and multinational enterprises, development consulting companies, philanthropic foundations, private sector partnerships, including through WBCSD, among others
Cooperation and interface with wider international rules, institutions, processes	WTO, FAO, UNIDO, UNEP, UNDP, ITU, UNCLOS, UNCTAD, ILO, WHO, OHCHR, UNFCCC, other MEAs, including Stockholm, Rotterdam, Basel Conventions, Montreal Protocol, ICAO, IMO, World Bank etc.	ADB, AfDB, IADB, EBRD, ASEAN, APEC, other EU institutions such as ETS etc. BIS, Basel Committee on Banking Supervision, FSB on financial architecture.	Other government ministries, business promotion agencies, consumer protection agencies, food and drug regulatory agencies, other specific regulatory bodies	WEF, academia, civil society, ICC, WBCSD
Outreach and engagement with stakeholders	UNDESA, WTO, UNCTAD, World Bank, etc.	OECD, EU Commission, African Union, IADB, etc.	National business associations, trade unions, NGOs, Inter-Parliamentary Union (IPU)	WEF, ICC, WBCSD, ITU, diversity of NGOs and trade unions

Source: Authors own. The table neither represents various actors' relative weight or the influence of their activities, nor is it prescriptive or exhaustive. For ease of representation, organisations are referred to in the short hand. For more details, see Section 4 of this paper.

Part C

4. A Descriptive Mapping of the GTIA

4.1. GTIA Core

4.1.1. Trade and investment rules, agreements, and dispute settlement arrangements

The legal framework that forms the foundation of the GTIA comprises multilateral, regional, plurilateral, and bilateral treaties and agreements. At the legal centre of the GTIA are the comprehensive multilateral trade rules established by the WTO, as well as its trade policy review mechanism (TPRM) and binding dispute settlement regime.

The GTIA is also comprised of several thousand bilateral, regional, and plurilateral trade and investment treaties, some with accompanying dispute settlement arrangements. As of April 2015, 449 regional trade agreements (RTAs) had been notified to the WTO, of which 262 were in force, while 67 new free trade agreement (FTA) negotiations were launched last year alone.[28] Notably, the use of the term preferential trade agreement (PTA) has grown in recent years, but it is sometimes used in different ways by scholars and by officials in the trade arena. According to the WTO, the term RTA covers the realm of all reciprocal trade deals between two or more partners – including bilateral deals, customs unions, and mega-regional agreements – while the term preferential trade arrangements – note, not agreements – refers to unilateral trade preferences, including non-reciprocal deals, discussed further below. However, some analysts use the terms FTAs and PTAs interchangeably, while those doubtful of the “free trade” nature of FTAs increasingly characterise them as preferential in light of the special arrangements granted to participants (Dür and Elsig 2014).

While some older FTAs focused primarily on tariff-cutting measures, a number of longstanding and new RTAs establish customs unions and free-trade areas such as the European Union Customs Union, the Eurasian Economic Union, the Common Market for Eastern and Southern Africa (COMESA), the Southern African Development Community (SADC), the Caribbean Community (CARICOM), the Asian Free Trade Area (AFTA), and South America’s Mercosur. Nonetheless, the degree of ambition around future integration and implementation varies widely, as does the design and content of agreements, the number of members, the geopolitics, the portion of global trade concerned, and their institutional arrangements (Dür and Elsig 2014; Dupont 2014; Haftel 2013). Some RTAs are one element of a wider economic or political integration effort – such as the European Union (EU) – while others are less so (WTO 2011). Some trade deals are furnished with relatively light infrastructure to oversee implementation – the North American Free Trade Agreement (NAFTA) springs to mind – and others, such as Mercosur, have more extensive institutional arrangements but its effectiveness in rule implementation is weaker. The Pacific Alliance, a regional integration initiative involving Chile, Colombia, Mexico and Peru, comprises not only an expanding set of agreements and negotiations on a range of trade matters, but also includes projects such as an integrated stock market and joint embassies in several countries.

[28] See Regional Trade Agreements Information System (RTA-IS) at http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx. In comparison, in 1995, 22 FTAs were signed and in effect, and no new negotiations were launched. See http://aric.adb.org/fta.

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Over time, however, RTAs and PTAs that are now often not strictly regional appear to be moving from shallow to deeper visions of integration covering a range of issues beyond tariffs – including services, IP, technical barriers to trade, and competition policy (WTO 2011). For example, one-third of the PTAs in force in 2011 contained services commitments, compared to less than a tenth in 1990 (WTO 2011). The scope of a number of bilateral and regional trade agreements has also expanded in the last two decades to include a growing number of investment chapters and to address some social and environmental concerns. Examples include the NAFTA's investment chapter, which signalled a new era where investment issues were addressed in a significant trade deal (Hufbauer and Moran 2015), as well as its parallel accords on environment and labour cooperation, and chapters on each topic in the US-Dominican Republic-Central America Free Trade Agreement (DR-CAFTA) and the US-Peru Free Trade Agreement (PTPA).

There are also a growing number of trade agreements among developing countries – such as the longstanding Asia-Pacific Trade Agreement (APTA), the Global System of Trade Preferences Among Developing Countries (GSTP), and the recently launched Tripartite Free Trade Agreement (TFTA) in Africa. In addition to bilateral agreements between developed and developing countries, such as the US's bilateral FTAs with Chile, Peru, Panama, and Colombia, a number of regional efforts are under discussion by a range of developed and developing countries, such as the Regional Comprehensive Economic Partnership (RCEP) negotiations, or a possible Free Trade Area of the Asia-Pacific (FTAAP) between the 21-nation Asia-Pacific Economic Cooperation (APEC) alliance (APEC 2014). Further, although only one has now been completed, the on-going negotiations for the Transatlantic Trade and Investment Partnership (TTIP) and the now-sealed Trans-Pacific Partnership (TPP) propose two mega-regional agreements with broad scope and membership, which together would cover well more than half of world trade and gross domestic product (GDP) implying a potentially significant impact on the rules of the game for trade and investment.

PTAs such as the US African Growth and Opportunity Act (AGOA) with certain eligible sub-Saharan African (SSA) countries, and the EU's Economic Partnerships Agreements (EPAs) with Africa, Caribbean, and Pacific (ACP) countries extend trade preferences on a unilateral basis, but with possible plans to move these to a reciprocal basis in a 20 or 30-year time frame. Thirteen countries have also currently notified Generalised System of Preferences (GSP) schemes to the United Nations Conference on Trade and Development (UNCTAD) secretariat that provide generalised, non-reciprocal, and non-discriminatory trade preferences to developing and least developing countries, granting reduced or zero tariff rates over the most-favoured nation (MFN) rate for select products. For example, the EU's "Everything but Arms" grants duty-free, quota-free (DFQF) access to all products originating from LDCs, except for arms and ammunitions.

A range of plurilateral agreements has been pursued over the years. Some agreements have been brought into the WTO on an MFN basis and included the participating members' schedules of concessions such as the Information Technology Agreement (ITA); other plurilaterals have been concluded under Annex 4 of the Marrakesh Agreement establishing the WTO, including the Agreement on Trade in Civil Aircraft (TCA) and the Government Procurement Agreement (GPA), among others. They are intermingled in the traditional part of WTO members' schedules but are not multilateralised. New plurilateral efforts are, moreover, under way in various areas where progress has slowed in the WTO's Doha Round trade talks. These include, for example, a planned tariff-cutting Environmental Goods

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Agreement (EGA) currently under discussion between 17 WTO members, and the negotiations on a Trade in Services Agreement (TiSA) between 23 WTO members, with the EU's 28 members counted as one country in both instances. The precise individual relationship between these plurilateral efforts and the WTO is yet to be defined, although EGA participants have signalled that it will be an "open" plurilateral, meaning that it is both open to all WTO members and concessions will be applied on an MFN basis to the entire membership. Further, the Basel III Accord, a plurilateral financial agreement, negotiated through the Basel Committee on Banking Standards, hosted by the Bank for International Settlements, has several dimensions that impact trade in financial services (Singh 2012).

On the investment side, the ancient Friendship, Commerce and Navigation treaties that first introduced foreign investment rules have evolved to more than 3,000 international investment agreements (IIAs), starting in the 1960s (UNCTAD 2015a; Miles 2015; Pauwelyn 2014). Today international investment rules are found in bilateral investment treaties (BITs), the investment chapters of regional and bilateral FTAs, and in investment contracts, domestic laws, and general customary international law. Other relevant international treaties with investment provisions include WTO-related agreements such as the General Agreement on Trade in Services (GATS), which addresses foreign investment as one mode of supply of services (foreign commercial presence), the Agreement on Trade-Related Investment Measures (TRIMs), which deals with investment measures undertaken by members in relation to trade of goods, and the Energy Charter Treaty (ECT), which has energy-specific investment and dispute settlement provisions for recourse by both states and investors (Hobér 2010).

The scope of IIAs varies, but many include provisions for state-state and investor-state dispute settlement (ISDS), as well as provisions requiring states to liberalise rules on foreign investment – known as pre-establishment rights – in either the services or non-services sectors. IIAs generally also include limitations on economic requirements placed on foreign investors (performance requirements), national treatment, and MFN obligations. They also provide for minimum standards of treatment, including fair and equitable treatment in accordance with customary international law, and prohibitions against expropriation without adequate compensation (Mann 2008). Most IIAs refer to the International Centre for Settlement of Investment Disputes (ICSID) Convention, under the World Bank Group, for the settlement of investment disputes by conciliation, arbitration, or fact-finding (Kalicki and Joubin-Bret 2015).

In addition, the UN Commission on International Trade Law (UNCITRAL) Arbitration Rules are broadly used to help settle disputes, as are private mechanisms such as the London Court of International Arbitration (LCIA), the International Chamber of Commerce (ICC), and the Hong Kong International Arbitration Centre (HKIAC) rules, which also offer an arbitration venue. The UNCITRAL is also home to the Convention on Contracts for the International Sale of Goods (CISG) and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards. UNCTAD's work in this field is also relevant in providing policy analysis and recommendations, including through its flagship annual "World Investment Report" and its Investment Policy Framework for Sustainable Development, as well as serving as a venue for discussions on the future of the investment regime.

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4.1.2. Growing number of bodies active on trade and investment

At the multilateral level, soon boasting 162 members, the WTO is the core trade institution, with a broad range of functions from norm setting to dispute settlement, as well as an on-going accession processes.

Alongside the WTO in Geneva, is UNCTAD, which maintains a range of responsibilities, including for notifications related to the GSP and statistics, research, and policy advice on trade and investment. Although the UNCTAD has also administered various international commodities agreements aimed at stabilising the prices of export products crucial for development, attention to these has waned (Toye and Toye 2004). Nonetheless, the UNCTAD's Common Fund for Commodities, which is focused on financing development projects to enhance social and economic development in commodity-dependent countries, remains in place as part of the associated trade architecture

Also in Geneva, the International Trade Centre (ITC), a joint agency of the UN and the WTO, works to strengthen the export success of small businesses in developing countries. Both the UNCTAD and the ITC are also players in the WTO's Aid for Trade Initiative, and the multi-donor programme known as the Enhanced Integrated Framework (EIF) designed to support the integration of LDCs into the global trading system, each of which involve many other multilateral and regional partners such as the African and Asian Development Banks, the European Bank for Reconstruction and Development (EBRD), the UN Development Programme (UNDP), and bilateral development agencies.

In addition, the World Intellectual Property Organization (WIPO) as a specialised UN agency has a formal relationship with the WTO regarding the provision of technical assistance, and many of its multilateral IP agreements serve as the basis in the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) or are cross-referenced in it. The inter-governmental World Customs Organization (WCO), which maintains the "Harmonised System" (HS) of international product nomenclatures for the trade system, is also increasingly engaged on issues such as trade facilitation and Aid for Trade (WCO 2015). The independent Advisory Centre on WTO Law, supported by government endowments, seeks to provide developing countries and LDCs with the legal capacity required to take advantage of the opportunities offered by WTO arrangements.

The World Bank and the IMF host a range of activities on trade. Both agencies have mandates to build greater coherence in global economic policymaking, particularly given the growing intersection of finance, monetary development, and debt policies with rules for trade and investment. The World Bank is among the largest historical multilateral providers to the Aid for Trade Initiative (WTO and OECD 2015) and is broadly involved in a plethora of other similar trade-related activities, ranging from other trade finance, trade research, trade and competition policymaking support, and training to grants and loans for trade-related infrastructure and export promotion, mostly targeting the world's poorest economies, including through involvement in the EIF (Hoekman 2013a).

On the investment side, the World Bank also serves as the host of ICSID, and the International Finance Corporation (IFC), which provides investment, advice, and asset management services for the private sector in developing countries, and helps to steer the trade and competitiveness global practice (World Bank 2015a). The World Bank Group runs the Multilateral Investment Guarantee Agency (MIGA) to help promote investment in developing countries by providing political risk insurance. As part of the World Bank's

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diagnostic work on trade and competitiveness, its experts also provide advice on investment policy, in so far as this is linked to trade performance.

The IMF is increasingly relevant to international decision-making on trade and investment rules. WTO agreements require regular consultations with the IMF secretariat on monetary, reserves, balance of payments, and foreign exchange arrangements.[29] In addition, the IMF is a partner in trade development initiatives such as Aid for Trade and the EIF, and offers technical advice to countries that has implications for trade policy (Cottier et al. 2014).

A number of regional initiatives, ranging from the Association of Southeast Asian Nations (ASEAN) to Africa's eight RECs and the UN's five regional economic commissions, including the Economic Commission for Europe (UNECE) and the Economic Commission for Latin America and the Caribbean (ECLAC), as well as regional development banks such as the Inter-American Development Bank (IADB) and the Asian Development Bank (ADB) – provide policy advice, host capacity-building efforts, and conduct research on trade and investment. In some instances, they also steward practical initiatives, such as efforts to boost investment in infrastructure, which can impact trade opportunities and flows as significantly as new rules. New players like the Asian Infrastructure Investment Bank (AIIB) are also expected to engage on trade-related matters (Wolff and Rogowsky 2015). Meanwhile, through its "Bogor Goals," the APEC has targeted free and open trade within the region by the end of the decade, which, in turn, has stimulated a number of trade and investment activities within its secretariat and various inter-governmental committees.

At the plurilateral level, the inter-governmental OECD is regularly active in advising states, investors, and other stakeholders on a range of issues associated with foreign trade and investment. It is also home to the Development Assistance Committee (DAC) that monitors and shares statistics on official development assistance (ODA) critical for helping to track Aid for Trade flows.

4.1.3. Soft law plays a central role

A variety of soft law instruments play a role in the GTIA (Footer 2010; Low 2015). "Soft law" generally refers to arrangements that are non-justiciable and non-binding; whereas some are widely ignored, others are widely respected and implemented (Shaffer and Pollack 2010; Abbott and Snidal 2000). In the trade and investment arena, examples of soft law range from normative best-endeavour provisions in WTO agreements; best practices, guidelines and voluntary standards; transparency and review mechanisms, as well as arrangements for the exchange of information and consultation (Low 2015). Soft laws may arise from formal consultations and negotiations among States, and also from initiatives undertaken by non-state actors.

International standard-setting bodies such as the Codex Alimentarius, run by the World Health Organization (WHO) and the UN Food and Agriculture Organization (FAO), establishes international food standards, guidelines, and codes of practice contributing to the safety, quality, and fairness of international food trade. The Codex is widely referred to as

[29] For example, countries may apply trade restrictions in the event of a difficulty with balance of payments, but WTO members through the organisation's Balance of Payments Committee will assess the compatibility of these restrictions based on the IMF's determination of a particular country's situation (IMF 2014).

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soft law; it is referenced in the WTO Agreement on the Application of SPS Measures and serves as a touchstone for dispute settlement (WTO 2007c).

Plurilaterally defined soft law standards relevant to the GTIA have also been deployed in recent years, for example, the Basel Committee's Core Principles for Effective Banking Supervision (BCBS 2012) and the OECD Guidelines for Multinational Enterprises (OECD 2011a) designed to encourage responsible business conduct, among others.[30] Such standards can diffuse widely through technical cooperation and policy dialogue among relevant government agencies.

In other instance, standards are agreed through non-state processes. Although scholars debate their status as soft law, such standards are nonetheless sometimes referred or deferred to in international trade law. The International Standards Organisation (ISO), for instance, has a non-governmental membership largely comprising national standards associations composed of private industry groups and businesses, which together work to establish standards on a multitude of issues (such as the ISO 14001 environmental standards). Although ISO standards are not legally binding *per se*, they have been interpreted as "relevant international standards" as alluded to in the WTO's TBT Agreement and can also become a de facto condition of the market place (Krut and Gleckman 2013). The ISO also works closely with other international standards development organisations, namely the non-governmental International Electrotechnical Commission on standards for electric and electronic products and the UN's International Telecommunication Union (ITU). The private sector-based ICC, meanwhile, maintains its "Incoterms," or international commercial terms rules providing a set of international rules for the interpretation of the most commonly used trade terms in international commerce, and are considered by some legal scholars as having the status of soft law (Ramberg 2011). The proliferation of private standards is treated separately below.

4.1.4. Diverse cooperative arrangements and unilateral efforts

Cooperative arrangements among international or regional organisations – and among national government authorities – also count as important components of the GTIA.

The UN Forum on Sustainability Standards (UNFSS) offers a multilateral example of a new collaborative effort among international organisations relevant to the GTIA (Sumaila, Bellman and Tipping 2014), facilitating research and dialogue around voluntary or private sustainability standards, and identifying the sustainable development value of these.

The APEC region has long illustrated the potential for extensive economic cooperation efforts to occur outside the context of negotiations for formal rules. APEC's effort to liberalise tariffs on a list of 54 environmental goods to 5 per cent or less by the end of 2015, for instance, targets applied and not bound tariffs. The APEC-54 initiative also illustrates how regional efforts can have wider implications, as the Environmental Goods Agreement (EGA) talks subsequently launched at the WTO built on the APEC list (Sugathan 2014). Similarly, the APEC's on-going push towards a Services Cooperation Framework (ASCF) is designed to

[30] Given their plurilateral nature, such efforts to generate regulatory benchmarks do not formally fall within the strict interpretation of "international standards" as defined in WTO law such as the General Agreement on Services (GATS), at least not so much as those established by "relevant organisations," defined as "bodies whose membership is open to the relevant bodies" of all WTO members (Gari 2015).

provide a common strategic direction and coherence to the region's approach to services competitiveness (Stephenson 2015). In addition, the OECD is home to a number of cooperative efforts to establish guidelines and best practices that touch trade and investment, and which generally rely on transparency and peer pressure for implementation. These include its Arrangement on Officially Supported Export Credits and MNE Guidelines,[31] its MNE Guidelines (noted above), its Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD 2013), and its work with the G20 to modernise international tax rules, culminating in the conclusion in 2015 of a set of consensus-based international standards and measures to tackle tax avoidance, tax base erosion and profit shifting (BEPS) (OECD 2015a), to name a few.

Newer inter-governmental efforts include the Chinese-led re-establishment of the historic Silk Road, with both an economic and maritime component, to link more than 60 countries representing 4.4 billion people and 29 per cent of world GDP.[32] Although questions abound on how countries will address tensions and conflicts that may arise along the Road, the initiative highlights that cooperative efforts dramatically change the trade landscape and opportunities without any formal negotiation of treaties (Cheng 2015).

The International Competition Network (ICN) provides an example of cooperative initiatives among national regulatory agencies, in this instance, national competition authorities. In a global economy where mergers and cartels can transcend jurisdictions, the ICN operates as an informal network that aims to address practical anti-trust enforcement and policy issues by promoting procedural and substantive benchmarks for competition authorities, as well as pro-competitive, efficiency-seeking conduct by companies (Mariniello et al. 2015).

In addition, unilateral initiatives by powerful governments can shape the international economic opportunities, landscape, and domestic regulations for some exporters more significantly than international laws due to their market power. A prominent example of a unilateral initiative is the US Trade Representative's (USTR) Special 301 Report. Conducted annually since 1989, it presents a review of IP protection and enforcement in US trade partners under the auspices of encouraging effective protection and enforcement (Froman 2015). The report defines a so-called "Special 301 Watch List" that can lead to trade sanctions such as through withdrawal of trade benefits. A further example is the array of unilateral trade measures deployed by states or trading blocs that are large markets for fish to combat illegal, unreported, and unregulated fishing (IUU) (Haughton 2015). Since 2010, for instance, the EU has pursued a unilateral system designed to identify trade partners engaged in IUU fishing, putting in place trade bans if countries fail to pursue recommended regulatory reforms (Young 2015). A further example is the EU's Emissions Trading System (ETS), which is being watched closely by trade partners for its potential trade and investment impacts on third parties, including through the de facto imposition of requirements to undertake specific climate measures (Bartels 2012).[33]

[31] See the Export Credits Arrangement text at
http://www.oecd.org/trade/xcred/theexportcreditsarrangementtext.htm.
[32] Some experts have described the Silk Route as a response to the US's "pivot to Asia strategy" framed as a political rebalancing of influence in the region.
[33] A prominent example has been the EU's attempt to expand the scope of the ETS to cover the entire duration of flights taking off and landing in the bloc, which has sparked significant competitiveness concerns among its trade partners

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4.1.5. Public-private cooperation and private initiatives

Beyond the “formal” arena of inter-governmental agreements, negotiation, and processes, there are numerous private initiatives, partnerships, and cooperative efforts among stakeholders – some of which also involve governments – to address specific social or environmental challenges by using tools that aim to influence international demand, trade, and global supply chains. In particular, a diversity of private and voluntary standard-setting initiatives is increasingly important components of the GTIA (Liu 2009; Marx et al. 2012; Reed et al. 2013; van der Meulen 2011).

Non-governmental initiatives to set private voluntary standards and establish third-party certification schemes for goods abound and are expanding. Key among these are product labelling initiatives that aim to command price premiums from consumers for sustainable production methods, carbon and water footprints, respect for labour rights, geographical source, and “bio” or organic content. Private eco-labelling efforts are particularly prominent in the environmental field. The Marine Stewardship Council (MSC), born out of a partnership between the WWF and Unilever, has created a world recognised eco-labelling programme for sustainable seafood, although like most labelling initiatives, its sustainability criteria and certification processes have faced some criticism, particularly in terms of the challenges they can present for developing country producers and exporters. Other examples include the multi-stakeholder, non-profit Roundtable on Sustainable Palm Oil that has developed a set of environmental and social criteria, which companies must comply with to produce Certified Sustainable Palm Oil (CSPO). Fair trade certification schemes have also taken hold for a variety of commodities and food products, seeking to mitigate the adverse impacts of world market prices and industry concentration vis-à-vis more vulnerable producers, although several have faced criticism for not delivering adequately on stated development aims (Cramer et al. 2014). In the food sector particularly, industry initiatives ranging from private standards, audits and certification schemes to contract provisions and self-regulation efforts shape global production and distribution chains (van der Meulen 2011; Swinnen and Vandermoortele 2011).

At the multilateral level, the Kimberley Process offers an example of a partnership between governments, civil society, and industry to establish an international regulatory certification scheme. Born out of a UN process in 2003, the scheme aims to prevent “conflict diamonds” from entering the mainstream rough diamond market – by limiting trade across international borders to other participants in the scheme, and provided they comply with certain procedures – and was granted the legitimacy of multi-year WTO waivers (Grant 2014). Less formally, multi-stakeholder initiatives such as the New York Declaration on Forests issued in September 2014 by a coalition of governments, NGOs, and industry pledge to include a range of commitments relevant to trade and investment, such as certification schemes and green public procurement, to address deforestation along the supply chain (Gulbrandsen 2015). The World Business Council for Sustainable Development’s (WBCSD) efforts to establish public-private partnerships on a range of low-carbon technologies such as renewables and biofuels as well as in the chemicals sector, among others, reflect the growing interest in practical, cooperative approaches as a complement to more inter-governmental arrangements that spur the changes in international markets needed to contribute to the United Nations Framework Convention on Climate Change (UNFCCC) Conference of the Parties effort and delivery on the SDGs.

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In the context of firms' needs to cooperate across global value chains, business-to-business standards (B2B) and the importance of corporate quality management system have grown. There is also an expanding array of standards in the context of services and the digital economy, including, for example, the Internet Corporation for Assigned Names and Numbers (ICANN). In digital trade, industry associations increasingly take action by themselves to regulate in areas that move too fast for governments to regulate. This includes, for example, the Internet Engineering Task Force (IETF), tasked with making the internet architecture work better, including through its Internet Standards Process; the World Wide Web Consortium (W3C) working on developing web standards;[34] and proposed dynamic performance standards to help regulations respond to rapid technological change (Bieron and Ahmed 2015).

International companies can also set "default standards" for trade and investment by setting the terms for private contractual arrangements that shape interactions, opportunities, and outcomes for domestic firms and national governments in their interactions with international investors and companies in global supply chains. This may include contractual clauses on issues as diverse as licensing of IP rights and access and benefit sharing in relation to bio-prospecting activities or research and development on genetic resources. With the rise of corporate social responsibility (CSR) initiatives across industries in the global market place, many companies now also include provisions on compliance with health and safety standards and labour practices in contractual arrangements (UNEP 2011a). Further, in the digital economy, private business practices include the use of particular technologies to control cross-border use of goods – such as technological protection measures by the entertainment and software industries that prevent copying and control where CDs and DVDs are used – and the need for online traders to use software programs to protect the security of online transactions to attract customers.

Non-state actors also fulfil various functions in the GTIA, such as serving as hosts of high-level political dialogue, for instance, the World Economic Forum (WEF) and the International Centre for Trade and Sustainable Development (ICTSD); as alternative monitoring mechanisms, such as Global Trade Alert; as sources of capacity building and technical assistance from development consulting firms and NGOs; and as lawyers hired by governments to lead WTO litigation.

4.2. Links to Wider Governance Arrangements

As suggested above, the GTIA is located within and connected to wider global governance frameworks, albeit in a complex and messy fashion. The following discussion identifies political declarations, commitments, and processes that can be seen as part of the GTIA to the extent that they set and shape priorities for action, as well as international treaties and organisations not already mentioned, which although not centrally concerned with trade and investment, do contribute services.

[34] See "About W3C" at http://www.w3.org/Consortium/.

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4.2.1. Political declarations, commitments, and processes

Through the UN General Assembly (UNGA), governments have forged numerous UN declarations and commitments on global challenges that are relevant to trade and investment governance, most recently the new 2030 Development Agenda with its SDGs. The agenda establishes priorities and targets for international cooperation across a range of policy areas for an inclusive, sustainable future, and is to be tracked at the global level by the UN Economic and Social Council (ECOSOC) and its High Level Political Forum (HLPF), as well as through disaggregated voluntary monitoring at the regional and national levels. The SDGs include both direct and indirect targets for trade and investment as elaborated in Part B of this paper. Preceding the 2030 Development Agenda, and now largely integrated in it, are a range of other UN declarations, such as the Istanbul Declaration and Programme of Action for LDCs for the Decade 2011–2020, the Small Island Developing States Accelerated Modalities of Action (SAMOA) Pathway, the Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014–2024, and regional efforts such as the African Union's Agenda 2063, which each include commitments on trade and investment in the development context. In addition, the freshly agreed Addis Ababa Action Agenda (AAAA) on financing for development looks to deploy a range of trade and investment tools. Other UN processes, such as the UN Chief Executives Board for Coordination (CEB), which gathers heads of various UN agencies, as well as the WTO's Director General – review priorities and internal coordination on a biannual basis, and also take up trade and investment matters from time to time though the UN has no formal overarching strategy on trade and investment. On some trade matters, the UN Security Council has also weighed in, adopting two resolutions in 2014 on wildlife poaching in the Central African regions, for instance. In addition, evidence that poaching and illicit international trafficking of natural resources and wildlife are increasingly conducted by transnational organized criminal groups, sometimes in cooperation with armed extremist groups has spurred action on the part of the UN Office on Drugs and Crime, the UN Crime Commission and INTERPOL.[35]

A number of non-UN governance processes also set political, economic, and normative priorities that shape agendas for trade and investment. The Group of Twenty (G20) process, for example, has gained an increasingly prominent position in global economic governance since the 2008 global financial crisis. While governments continue to debate exactly what its role on trade could and should be, its high-level declarations routinely incorporate statements on international trade and investment, spurring new initiatives, such as post-crisis monitoring of trade measures. The G20 meetings hosted by Turkey in November and China in 2016 will include formal trade ministers' meetings as in previous years. In addition, the leaders' declaration from the most recent Group of Seven (G7) meeting under the Germany presidency resulted in commitments to monitor implementation of environmental and labour standards in supply chains, and extensive language on tackling climate change, among many other topics (G7 Leaders 2015). Similarly, the African Union convenes regional meetings of trade ministers, as do Brazil, Russia, India, China, and South Africa as part of their annual BRICS Summit. Informal exchanges of views and "mini-ministerials" of varying kinds among senior trade and investment officials are frequently held alongside formal inter-governmental processes. These include bilateral processes, such as the US-EU Summit, the US-China Strategic and Economic Dialogue, regional processes such as the Organization of

[35] See http://www.un.org/press/en/2014/dsgsm811.doc.htm, and http://www.traffic.org/home/2014/1/30/un-security-council-targets-poaching-and-wildlife-trade-with.html.

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American States (OAS) and its Summits of the Americas, plurilateral processes such as the OECD ministerial, multilateral ones such as the annual meetings of the World Bank and the IMF, and high-profile multi-stakeholder meetings such as the annual WEF Davos meetings.

Finally, an array of other global political endeavours and governance frameworks efforts can have implications for trade and investment, including, to give a couple of examples, the global financial architecture, the UN climate talks, and the deliberations of the Committee on World Food Security, and many other processes may also intersect with the GTIA on an ad hoc basis. The global financial architecture, for instance, has numerous implications for trade and investment, particularly in a world where capital is ever mobile and linked to exchange rates, access to credit, and other key commercial services (Baldwin 2009). While a mapping of the important intersections between the GTIA and international financial system is beyond the scope of this paper, a nod to some of the key institutions informing the global economic landscape within which trade and investment takes place is important. This includes institutions responsible for global economic stability and informing financial and monetary regulation, such as the IMF, the Bank for International Settlements (BIS) with 60 central banks as members, which is home to the Basel Committee on Banking Supervision Secretariat and the Basel III Accord. The BIS is also home to the Financial Stability Board (FSB), which acts as a coordinating body for the development of regulatory, supervisory, and other financial sector policies by bringing together relevant senior officials from G20 countries, alongside Hong Kong, Singapore, Spain, and Switzerland as key financial centres, and international regulators such as the European Central Bank and European Commission. FSB members have committed themselves to implementing international financial standards that will also have an impact on trade in financial services (Griffith-Jones et al. 2010).

4.2.2. Wider international treaties with trade and investment provisions

International economic law is increasingly interwoven with other global governance cooperative arrangements such as international environmental and human rights law (Herdegen 2013). Alongside trade and investment rules, a number of other international treaties and processes incorporate provisions on trade and investment. Prominent multilateral agreements with provisions that touch directly or indirectly on trade and investment include the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR), each of which, for instance, includes provisions relevant to the interpretation of IP provisions in trade agreements (Chapman 1998).

Similarly numerous multilateral environmental treaties include provisions on trade, for example, the Montreal Protocol on Substances that Deplete the Ozone Layer, the UNFCCC, the trade-dedicated Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and the Convention on Biological Diversity (CBD), as well as the Basel, Rotterdam, and Stockholm Conventions on hazardous waste, hazardous chemicals, and persistent organic pollutants respectively. Numerous sectoral agreements in the fisheries sector also have trade-relevant provisions, including the UN Convention on the Law of the Sea (UNCLOS), the UN Fish Stocks Agreement, and the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (FAO Compliance Agreement). These, in turn, are supplemented by the work of a number of regional fisheries management organisations. In the health arena too,

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the WHO Framework Convention on Tobacco Control includes provisions on trade and trade-related issues such as IP.

4.2.3. The wider constellation of international organisations active on some aspects of trade and investment

In addition to the core international organisations active on trade and investment outlined above, a wider constellation of international organisations provide services on trade and investment – hosting dialogue, implementing projects, providing technical assistance, or conducting research on particular trade and investment topics. These include the UN Statistics Division, which maintains commodity statistics (UN Comtrade), the UN Environment Programme (UNEP), the UN Industrial Development Organization (UNIDO), the UN Development Programme (UNDP), the International Labour Organization (ILO) on trade and employment, the Office of the High Commissioner for Human Rights (OHCHR) on the impact of trade and investment on the fulfilment of human rights obligations, and the UN FAO on trade and food security. The work of the International Maritime Organization (IMO) and the International Civil Aviation Organization (ICAO) are both trade relevant. In particular, the IMO has been granted a governance mandate to address marine pollution and greenhouse gas emissions (under the Kyoto Protocol) resulting from international shipping, thereby linking it to a nexus of trade, environment, and climate change issues. The International Energy Agency (IEA), providing policy advice for its 29 member countries and data on global energy markets, is important given the rising interest in shifting energy markets, clean energy trade and energy security. At the regional and plurilateral level too, a number of institutions for political cooperation, such as the Commonwealth Secretariat supports their members on the trade front, particularly LDCs and small island developing states (SIDS), through technical assistance, policy advice and research activities.

4.3. Back to the national level: intersections with the GTIA

What happens at the national level in terms of trade and investment-related decision-making is critical to the GTIA. National government agencies play a role in animating most of the GTIA's functions. Decisions at the national level on consultation processes for trade policymaking and on the composition of delegations for international negotiations impact the perceived legitimacy of the GTIA's negotiation function. Similarly, national decisions on the resources for development assistance can influence the orientation and impact of GTIA's capacity-building function. Further, actions by national governments and rulings by national courts can have a range of extra-territorial impacts.[36]

Furthermore, as noted above, the GTIA is underpinned by a collection of national trade and investment laws, regulations, institutions, courts, and parliamentary decision-making, and stakeholder consultation processes relevant to trade, all of which fundamentally influence negotiations of international trade and investment laws and their implementation. Other relevant policies include those related to special economic zones and exclusive economic

[36] This paper has already highlighted examples of how national monitoring efforts, such as US Special 301 reviews of intellectual property protection in foreign markets, can shape the international trade and investment policy environment within which countries and companies operate (Deere 2008), as can national decisions regarding eligibility for unilateral preferences, such as through GSP schemes (Blanchard and Shushanik 2015).

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zones, as well as processes related to tariff levels, anti-dumping duties, countervailing, and safeguard duties.

The GTIA increasingly interfaces with decisions taken “behind the border” by both national legislators and national regulatory authorities on matters as diverse as the environment, health, taxation, competition policy, anti-trust, intellectual property, customs rules and procedures, and other regulatory activities. Beyond ministries of trade or commerce, the array of domestic actors that have an impact on trade and investment opportunities beyond home turf include national standard-setting bodies such as the American Standards Institute (ANSI), national trade facilitation bodies, trade promotion agencies, consumer protection bodies, and food and drug regulatory agencies, as well as sector-specific regulatory authorities, such as the National Pharmaceutical Pricing Authority in India, the European Medicines Agency in the EU, and the Coffee and Cocoa Regulatory Authority in Cote d’Ivoire. The ICN, noted above, is one example of efforts to build stronger cooperation among such national competition and consumer protection authorities.

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5. Conclusion: Cross-cutting Trends in the Evolving Architecture and Future Directions

The paper has documented the GTIA's growing complexity and expanding scope. It has reviewed the changing nature of trade and investment, and their growing intersections, as well as the many social and environmental challenges where trade and investment are relevant, and the political pressures these intersections generate for the GTIA. The GTIA's evolution over several decades illustrates that governments and stakeholders have multiple and sometimes competing goals for international cooperation on trade and investment.

By mapping out what the evolving GTIA system looks like now, this paper has underscored that the GTIA is not static; it is an open architecture that has evolved considerably over the past 60 years and is still evolving. Responding to the varied demands of stakeholders and governments for international cooperation across a wide range of topics, several new elements are under development or in play, such as the UNFSSS initiative on standards, the formation of the Silk Route initiative, and the mega-regional negotiations.

Our mapping has also revealed a number of crosscutting trends in how the architecture is evolving. First, there is rising interest in new modalities for cooperation. One manifestation of this is the growing attention to plurilateral, and other "club" modalities for forging international agreements, which harness the political will of countries keen to forge ahead on particular issues. The mapping also reveals growing interest in soft law modalities for cooperation and new arrangements (such as on services through the APEC), and the increasing number of private standards as complements to or substitutes for government regulations. Amidst debates on the fragmentation of international law and the future of international economic law as a tool for advancing social agendas (Trachtman 2013; Petersmann 2012; Alam et al. 2010), there is growing interest in regulatory cooperation and dialogue as vehicles for international problem solving.

Second, the GTIA is increasingly complex, with an expanding number of issues and growing intersections between trade, investment, global economic governance, and other areas of international decision-making, alongside the rise of non-multilateral approaches (Molle 2013; Siebert 2003). The GTIA is populated by a multitude of legal regimes and international organisations performing a variety of practical functions that reflect different rationales and purposes of cooperation. The WTO's status as the political centre of the regime is in question, although it remains the legal heart and a significant actor. The growing pluralism of the system underscores the importance of questions about legal relationships between trade, investment, and non-trade regimes, as well as their dispute settlement systems, and about the coordination and division of labour among the growing array of relevant international and regional institutions, forums, and processes.

Third, the mapping highlights the rise of a diversity of non-state actors in the architecture. Private companies and industry groups are, for instance, not just addressed as drivers of market forces by the architecture, but key players animating GTIA functions – hosting and participating in policy dialogue, providing resources Aid for Trade; driving agendas for regulatory cooperation – and creating "default standards" through their private contractual and business practices. Further, think tanks, NGOs, private law firms, and research centres

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act not only as advocates for particular laws, policies, institutional reforms, or outcomes, but also as providers of services that help fulfil various functions of the GTIA.

Fourth, the mapping reveals the growing role of South-South cooperation and of the BRICS nations in advancing specific initiatives, agreements, and institutions for international trade and investment cooperation and in the GTIA.

Looking ahead, as the dynamics of trade and investment change, and also diverse ways in which governments, companies of varying size, and non-profit actors are working to shape trade outcomes – from rules to cooperative arrangements and voluntary standards – it follows that the functions required of the GTIA may need to be adjusted and complemented. Further, the evolving ecosystem raises numerous questions about different modalities for cooperation. Where are international laws still vital for advancing environmental and social agendas, and for trade and investment cooperation (Shawkat et al. 2010)? Where might new and "informal" modes of law making and global governance produce stronger, swifter or more concrete outcomes, and what are their constraints (Pauwleyn et al. 2012; Shaffer et al. 2015)? How could international organisations better help orchestrate the growing network of such efforts as a complement to 'older' models of governance that focus on treaties to achieve international regulatory goals (Abbott et al. 2015; Abbott and Snidal 2009, 2010; Ruggie 2014)?

With all these new trade and investment dynamics and challenges, the paper has underscored the need to take a step back and consider how the GTIA can better address the realities of today's global economy and serve the international community's overarching public policy goals – such as those set out in the UN's 2030 Sustainable Development Agenda. This calls for going beyond consideration of the ways in which specific trade and investment policies or rules can help or may need to be adjusted to enable progress, but also where improvements in the trade and investment architecture are needed. Analysis of where to next will demand critical examination of assumptions on the visions and principles as well as the purposes and rationales – economic, strategic, political, social and environmental – that shape international cooperation on trade and investment and associated governance arrangements. It also calls for careful analysis of the relative influence of the GTIA's various components on trade and investment outcomes – and on advancing sustainable development objectives – as well as the intersections among them.

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Annex 1: Direct Trade and Investment Language and Targets in the UN SDGs

Sustainable Development Goal	Targets with trade or investment language
Goal 1. End poverty in all its forms everywhere	1.b. Create sound policy frameworks at the national, regional and international levels, based on pro-poor and gender-sensitive development strategies, to support accelerated investment in poverty eradication actions.
Goal 2. End hunger, achieve food security and improved nutrition, and promote sustainable agriculture	2.a. Increase investment, including through enhanced international cooperation in rural infrastructure, agricultural, research and extension services, technology development and plant and livestock gene banks in order enhance agricultural productive capacity in developing countries, in particular least developed countries.
	2.b. Correct and prevent trade restrictions and distortions in world agricultural markets including by the parallel elimination of all forms of agricultural export subsidies and all export measures with equivalent effect, in accordance with the mandate of the Doha Development Round
	2.c. Adopt measures to ensure the proper functioning of food commodity markets and their derivatives, and facilitate timely access to market information, including on food reserves, in order to help limit extreme food price volatility
Goal 3. Ensure healthy lives and promote well-being for all at all ages	3.b. Support research and development of vaccines and medicines for the communicable and non-communicable diseases that primarily affect developing countries, provide access to affordable essential medicines and vaccines, in accordance with the Doha Declaration which affirms the right of developing countries to use to the full the provisions in the TRIPS agreement regarding flexibilities to protect public health and, in particular, provide access to medicines for all
Goal 7. Ensure access to affordable, reliable, sustainable, and modern energy for all	7.a. By 2030 enhance international cooperation to facilitate access to clean energy research and technologies, including renewable energy, energy efficiency, and advanced and cleaner fossil fuel technologies, and promote investment in energy infrastructure and clean energy technologies
Goal 8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all	8.a. Increase Aid for Trade support for developing countries, particularly LDCs, including through the Enhanced Integrated Framework for LDCs
Goal 9. Build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation	9.1. Develop quality, reliable, sustainable and resilient infrastructure, including regional and trans-border infrastructure, to support economic development and human well-being, with a focus on affordable and equitable access for all
	9.3. Increase the access of small-scale industrial and other enterprises, particularly in developing countries, to financial services, including affordable credit and their integration into value chains and markets
Goal 10. Reduce inequality within and among countries	10.a. Implement the principle of special and differential treatment for developing countries, in particular least developed countries, in accordance with WTO agreements
	10.b. Encourage ODA and financial flows, including foreign direct investment, to states where the need is greatest, in particular LDCs, African countries, SIDS, and LLDCs, in accordance with their national plans and programmes
Goal 12. Ensure sustainable consumption and production patterns	12.3. By 2030 halve per capita global food waste at the retail and consumer level, and reduce food losses along production and supply chains, including post-harvest losses
	12.4. By 2020 achieve environmentally sound management of chemicals and all wastes throughout their life cycle in accordance with agreed international frameworks and significantly reduce their release to air, water and soil to minimise their adverse impacts on human

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	health and the environment
	12.7. Promote public procurement practices that are sustainable in accordance with national policies and priorities
	12.c. Rationalise inefficient fossil fuel subsidies that encourage wasteful consumption by removing market distortions, in accordance with national circumstances, including by restructuring taxation and phasing out those harmful subsidies, where they exist, to reflect their environmental impacts, taking fully into account the specific needs and conditions of developing countries and minimising the possible adverse impacts on their development in a manner that protects the poor and the affected communities
Goal 14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development	14.4. By 2020, effectively regulate harvesting, and end overfishing, illegal, unreported and unregulated (IUU) fishing and destructive fishing practices and implement science-based management plans, to restore fish stocks in the shortest time feasible at least to levels that can produce maximum sustainable yield as determined by their biological characteristics
	14.6. By 2020, prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, and eliminate subsidies that contribute to IUU fishing, and refrain from introducing new such subsidies, recognising that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the WTO fisheries subsidies negotiation* * Taking into account on-going WTO negotiations, the Doha Development Agenda, and the Hong Kong Ministerial Mandate
	14.b. Provide access of small-scale artisanal fishers to marine resources and markets
Goal 15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss	15.6. Ensure fair and equitable sharing of the benefits arising from the utilisation of genetic resources, and promote appropriate access to genetic resources
	15.7. Take Urgent action to end poaching and trafficking of protected species of flora and fauna, and address both demand and supply of illegal wildlife products
	15.8. By 2020 introduce measures to prevent the introduction and significantly reduce the impact of invasive alien species on land and water ecosystems, and control or eradicate the priority species
	15.a. Mobilise and significantly increase from all sources financial resources to conserve and sustainably use biodiversity and ecosystems
	15.c. Enhance global support to efforts to combat poaching and trafficking of protected species, including by increasing the capacity of local communities to pursue sustainable livelihood opportunities
Goal 17. Strengthen the means of implementation and revitalises the global partnership for sustainable development	17.5. Adopt and implement investment promotion regimes for least developed countries
	17.7. Promote development, transfer, dissemination, and diffusion of environmentally sound technologies to developing countries on favourable terms, including on concessional and preferential terms, as mutually agreed
	17.10. Promote a universal, rules-based, open, non-discriminatory and equitable multilateral trading system under the WTO including through the conclusion of negotiations within its Doha Development Agenda
	17.11. Increase significantly the exports of developing countries, in particular with a view to doubling the LDC share of global exports by 2020
	17.12. Realise timely implementation of duty-free, quota-free market access on a lasting basis for all least developed countries consistent with WTO decisions, including through ensuring that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access

N.B.: It should be noted that the above list represents targets where explicit trade and investment-related language is used in the proposed SDGs. It is arguable, however, that, in the context of a new sustainable economic growth architecture, it will be important to ensure trade policy coherence across the broad spectrum of the framework's aims and targets, most of which have an indirect bearing or link with trade and investment.

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