



The **E15** Initiative

STRENGTHENING THE GLOBAL TRADE AND INVESTMENT SYSTEM  
FOR SUSTAINABLE DEVELOPMENT



**Reframing Trade and Development:  
Building Markets through Legal and Regulatory Reform**

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November 2015

E15 Expert Group on  
Trade, Finance and Development

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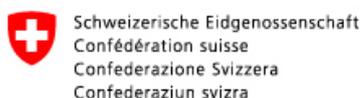
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# ABSTRACT

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As markets around the world become more integrated, trade policy is increasingly looked to as a path for building robust market systems, generating economic growth, and encouraging private entrepreneurship. Throughout the world, trade and development are closely intertwined, as evidenced by the recent launch of both the Tripartite Free Trade Agreement (TFTA) that will unite the East African Community (EAC), the Common Market for Eastern and Southern Africa (COMESA), and the Southern African Development Community (SADC), and the larger African Continental Free Trade Agreement (CFTA). These landmark trade initiatives are centred on how to use trade policy as a lever for regional integration and economic development, and they will require not only in-depth negotiations, but also ongoing legal and regulatory reform to align rules and strengthen institutions. As this paper will demonstrate, a stronger focus on development-led legal and regulatory reform will be needed to support negotiation and implementation of both trade agreements and World Trade Organization (WTO) disciplines and should be the lens through which trade and development is approached nationally, regionally, and multilaterally.

Within institutions like the WTO, current approaches to trade and development focus primarily on generating and expanding market access to developed country markets, mainly through trade preference programmes, and special and differential (S&D) treatment for developing countries. While these aspects are important, they are not sufficient to achieve long-term economic diversification, improvements in livelihoods, and poverty reduction. Throughout the market, aid for trade (AfT) plays a pivotal role in helping countries and their stakeholders take advantage of the benefits of trade. Yet, assistance provided through AfT initiatives alone cannot fully build national and regional legal systems and regulatory processes. What is needed is a way to effectively assess the development benefits of trade policy for the many stakeholders involved and more widespread, inclusive, and coordinated systems for implementing the legal and regulatory frameworks that form the backbone of trade policy.

Both literature and experience support that development-led legal and regulatory reform could present opportunities for broad-based economic opportunity. Trade policy establishes a sound framework for legal and regulatory change in a number of areas such as trade facilitation, sanitary and phytosanitary (SPS) measures, technical barriers to trade (TBT), and services. While these non-tariff measures have now become more important than tariffs in international markets, there is no clear path for implementing the frameworks to address them in practice, and the development implications of reform in these areas do not always receive sufficient focus. Overall, many countries face challenges as they seek to adopt and implement an expanding range of legal and regulatory disciplines. In many places, legal and regulatory processes themselves are weak, with a number of enterprises and individuals lacking knowledge of how the system works or a trusted channel for participation.

A stronger focus on development-led legal and regulatory reform, as presented in this think piece, could enhance regional and multilateral trade policies and build new pathways for using trade as a tool for both poverty reduction and entrepreneurship. At the market level, it could open up new economic opportunities for enterprises of all sizes across a wide range of sectors. At the institutional level, shifting the trade and development focus to development-led legal and regulatory reform would reinforce the efforts of many countries and regional blocks to negotiate and implement free-trade agreements and WTO commitments, generating new momentum in key areas of market regulation and strengthening the system to reflect the needs of all countries and stakeholders. Ultimately, this approach will rely on identifying development considerations and impact; connecting market opportunities in developing markets with legal and regulatory systems; more openly sharing information and best practices across geographies and sectors; sharpening the technical focus within relevant policy debates; and devising lasting mechanisms for connecting private stakeholders (who hold both the data and the drive to make trade work for development) with public sector legal and regulatory institutions (which have the mandate to make this happen), both in-country, regionally, and at the WTO. With the Tenth WTO Ministerial Conference around the corner in Nairobi, Kenya in December 2015, a development-led approach to trade is both timely and fitting.

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# INTRODUCTION

The intersection between trade and development is receiving increased focus, both within international institutions, like the WTO, and among entrepreneurs and policymakers in developing markets seeking to open up new economic opportunities. Trade law and regulation are structurally designed to develop markets, yet the path to unlocking their potential for development and poverty reduction is not always clear. Economists estimate that global free trade could lift as many as 500 million people out of poverty and inject US\$200 million annually into the economies of developing markets (Peterson Institute of International Economics, 2004). Studies have also shown that addressing challenges to trade in the market through regulatory reform could generate significant gains. The World Bank and the World Economic Forum estimate that reducing non-tariff supply chain barriers to trade, many of which can be traced to law and regulation, could increase world GDP six times more than the removal of all tariffs (World Economic Forum, 2012), which have been the predominant focus of international efforts and regional trade agreements (RTAs). Another World Bank study found that per capita real income grew nearly three times faster for developing countries that lowered trade barriers (5 percent a year) than other developing countries (1.4 percent a year) (Dollar and Kraay, 2001). Despite the notable benefits of well-designed trade policy and regulatory reform, implementing these changes is sometimes both politically and economically challenging, and policies in every country may sometimes be used to limit markets rather than foster their growth.

To date, efforts to help countries realise the benefits of trade and development have centred largely on market access, not regulatory reform. Within the multilateral trading system, trade and development have become institutionalised over the past 60 years, and this movement has largely focused on trade preference programmes that provide developing countries with different levels of duty-free quota-free (DFQF) access to developed country markets and S&D treatment in trade negotiations that allows trade disciplines to be applied without reciprocity. This current focus is centred on other countries' policies and the negotiating frameworks of the World Trade Organization (WTO) rather than the building blocks for effective economic development within countries. The Aid for Trade (Aft) Initiative is different in focus, as it seeks to mobilise resources to help developing countries overcome supply-side challenges. As such, it has been and remains a particularly important component of trade and development that complements the approach discussed in this think piece. Overall, what is missing is a stronger focus on a development-led legal and regulatory reform as a complement to current approaches. This shift in focus would enable all countries and stakeholders to benefit from trade—not just a select few.

The foundation for development-led legal and regulatory reform exists through regional and bilateral trade agreements and WTO mechanisms that could be better assessed, understood, and implemented. This body of law and regulation is becoming increasingly intricate and covers nearly all aspects of the regulated economy, including cross-border movement of all goods (from food to medicines to consumer goods), food safety standards, product specifications, services, and intellectual property. However, the systems needed to implement these frameworks are not yet in place. Trade policy often remains at a relatively high level, encapsulated in negotiated texts and agreements among countries with limited engagement or understanding by stakeholders who will be impacted. Adding to the challenge, this framework does not come with a roadmap for implementation or a process for building regulatory systems, and many countries continue to struggle with how to use trade to drive economic diversification and development.

In order to work in practice, trade frameworks need an implementation strategy, composed of deeper and more widely shared technical expertise, including best practices in regulation from around the world, and an ongoing process for engagement between the public and private sectors. Knowledge of economic laws and regulations and how they work in practice remains relatively weak, both among policymakers and enterprises and individuals. Despite the technical nature of this area of law and regulation, few lawyers receive the training needed to support the public and private sectors. Further, the needs of many stakeholders are often not fully taken into account as agreements are signed and new laws and regulations developed. Ultimately, using trade as a tool for development will require balancing the needs of individual market stakeholders with the public good and ensuring that the system is inclusive of smaller stakeholders and those who will drive innovation and future growth.

A new focus for trade and development within the WTO and other institutions centred on building effective economic legal and regulatory systems will be critical. Such a shift in focus could help better link market opportunities and business needs on the ground with practical improvements in law and regulation called for by trade disciplines. This would include improvements in logistics and port management, more open services markets, better processes for developing and applying sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBT) standards, and development-enhancing sectoral regulation and intellectual property rights. It would also help bring the benefits of trade more clearly to developing markets and enhance the ability of smaller producers to gain from trade. Ultimately, however, this shift will need to be informed and driven by better models for legal and regulatory reform at the grassroots level.

As this think piece will demonstrate, the time has come for an approach to trade and development designed around development-led legal and regulatory reform. This

approach does not necessitate abandoning trade preference programmes or S&D treatment, but it does require customising these approaches and presenting a more active approach to trade and development that will help both the public and private sectors propel forward. It will also require mechanisms for assessing the development benefits of regulatory reform, sharing technical expertise to ensure that gains from trade are widespread, collecting data, encouraging entrepreneurship and innovation from the market up, and linking the needs of enterprises and individuals into negotiating and policy frameworks, including at the WTO. This think piece is intended to begin a conversation about how to use trade law and regulation to enable governments and the private sector to build stronger legal and regulatory systems, develop nascent business potential, and address challenges that stand in the way of growth and economic diversification.

## TRADE AND DEVELOPMENT STATE OF PLAY

Over the past half a century, trade and development has solidly emerged as an area of focus within the multilateral trade system and many regional trade bodies.<sup>1</sup> In the mid-1950s, the link between trade and development was flagged as a priority as the global trading system was being built, although focus was placed on developed country trade barriers rather than those within developing country markets (Keck & Low, 2004).<sup>2</sup> To date, trade and development, particularly at the international level, has been focused on preferential market access for developing country goods entering developed country markets (trade preference programmes); AfT (capacity building); and different, non-reciprocal treatment for developing countries in trade negotiations and their implementation (S&D treatment).

While these disciplines address important aspects of trade and development, often overlooked are the tools for building legal and regulatory systems that will enable all countries and stakeholders to benefit from trade. Perhaps a large part of the disconnect is that trade and development policy are often made without a clear sense of market opportunity and the full range of private sector actors who are driving future potential. The global economy is also changing rapidly, with global supply chains extending across borders and regions. Trade impacts nearly every individual in every country, and many rely on critical inputs that are traded even if they themselves are only engaged in the domestic market.

The most prominent trade and development tool has historically been the trade preference programme, which

reduces or eliminates duties or quotas on developing country trade with developed country partners. Trade preference programmes arose from developing country requests for a trade and development focus under the General Agreement on Tariffs and Trade (GATT) and have been a mainstay of the international trading system for more than half a century (Neufeld, 2014; Gunewardene, 1991).<sup>3</sup> Yet, trade preference programmes address only one challenge in a development-led trade agenda.

The literature on trade preference programmes and their impact is quite extensive. While they have increased developing country access to developed country markets to an extent, they face other limitations. Most relevant to the focus of this think piece, many countries simply lack the ability to fully take advantage of the benefits of preference programmes. In both their design and use, preference programmes are generally not the right tools to address market barriers to trade, such as non-tariff issues, and the beneficiaries of preference programmes have often struggled to use the programmes effectively to promote sectors of economic development significance.

Most preferences are concentrated both in terms of sectors and countries, and many preference margins tend to be quite small and offer little incentive for economic diversification and development.<sup>4</sup> Many preference programmes also tend to largely exclude products of development interest to many countries, such as agricultural products, although there are notable exceptions, like the expansion of apparel

- 1 | Development gains from international trade are at the heart of the Marrakesh Agreement Establishing the World Trade Organization, signed on April 15, 1994. The Preamble states that, among other development goals, relations in trade should be conducted with a view to raising standards of living and that positive efforts are needed to ensure that developing countries secure a share in the growth in international trade
- 2 | As noted in Keck and Low (2004), the landmark 1958 Haberler Report did note that developing country trade barriers were an issue preventing countries from diversifying exports and achieving the development benefits of trade, although developed country trade barriers were the focus of the report and ensuing recommendations.
- 3 | Preference programmes range from generalised system of preferences (GSP) programmes that cover a broad range of countries but tend to exclude trade in more sensitive products to regional preference programs, such as those the United States (US) and Europe have maintained for Africa, the Caribbean, and Latin America. Institutionally, preferences arise under Part IV of the GATT, but separate legal authority had to be established to grant a waiver of the most-favoured nation (MFN) normal trade relations (NTR) obligation it contained. This was made permanent for generalized preferences in 1979 through the Enabling Clause, which gave legal authority for preference programmes that treat similarly situated countries alike, allowing trade preferences for developing countries to permanently co-exist alongside MFN/NTR treatment. Regional trade preference programmes are not covered by the Enabling Clause and require a waiver of Article XXIV with three-quarters absolute majority approval.
- 4 | For example, exports under trade preferences from most African countries, with the exception of larger economies like South Africa, have been relatively less diverse when compared with other developing regions (World Bank, World Trade Indicators 2008).

trade under a number of preference programmes and opportunities in sugar, fruits, and processed meat and fish under the European preference programmes. Even when trade preference programmes do cover sensitive sectors, other market challenges such as complicated SPS rules and standards can make access to developed country markets (and regional markets needed for economies of scale) difficult.

Overall, the share of trade covered by preference programmes remains relatively low compared with both MFN trade and trade covered under bilateral or regional trade agreements. Figure 1 shows the share of US trade covered by trade preference programmes in 2011, totalling 3.6 percent compared with total MFN trade of more than 80 percent. In Europe, the landscape of preferential trade agreements has shifted with the reciprocal Economic Partnership Agreements taking the place of preferences for many countries, but the trend has been similar. Preferential trade coverage was similarly low in 2002 before the European Cotonou Agreement was replaced with Economic Partnership Agreements and the more expansive European Union (EU) preferential trade programme Everything But Arms (EBA), which covers approximately the majority of potential trade with least-developed countries (LDCs) (Ahearn, 2011). Rules of origin and cumulation provisions that determine which products qualify under preference programmes can also impact the degree to which programmes are used and may impact smaller countries with fewer domestic inputs to a greater extent (Davenport et al, 1995).

Preference erosion, which occurs with greater trade liberalization through MFN market access or tariff reductions through free-trade agreements (FTAs) and regional trade agreements (RTAs), is another significant factor that contributes to the low share of trade covered by preferential trade agreements, and the greatest impact tends to fall on the sectors of interest to developing markets. The share of preferential trade is likely to be reduced even more in the absence of improvements in the ability to take advantage of

the market access that preferences afford. As more bilateral and regional trade agreements are concluded, it is likely that countries and regions will look to trade agreements even more to secure the benefits of trade in the face of preference erosion.

By all accounts, preferential access to other markets alone does not ensure trade-led development. As the next section will discuss, the structure (and degree of effective openness) of markets and strength of economic institutions, in both developed and developing markets, tend to have a far greater impact than marginal gains under preference programmes (Barro, 1996). For example, non-tariff issues, such as standards, SPS measures, and administrative requirements are cited as the most significant hurdles to taking advantage of trade preferences, including under more comprehensive programmes like the African Growth and Opportunity Act (AGOA) (Páez et al., 2010).

Special and differential treatment has also been a pillar of trade and development and has a number of applications, which are well documented and will not be fully discussed in this think piece (See Keck & Low, 2004 and Michalopoulos, 2000). S&D treatment impacts the pace and degree to which countries assume trade obligations, and this particular aspect of trade and development became more central as the Uruguay Round's single undertaking brought a host of new obligations to the international trading system. Central to S&D treatment is the notion of non-reciprocity, which allows for different treatment for developing countries and, in particular, LDCs and has become one of the most binding aspects of trade and development through GATT Article IV, the Enabling Clause of 1979, and 20 years of application through the Uruguay Round Agreements. While non-reciprocity has, among other things, given countries longer transition periods to adopt WTO principles, for example the recently extended timeline for implementation of the WTO Agreement on Trade-Related Intellectual Property Rights (TRIPS) by LDCs, building regulatory capacity remains a challenge and may not flow naturally from longer periods

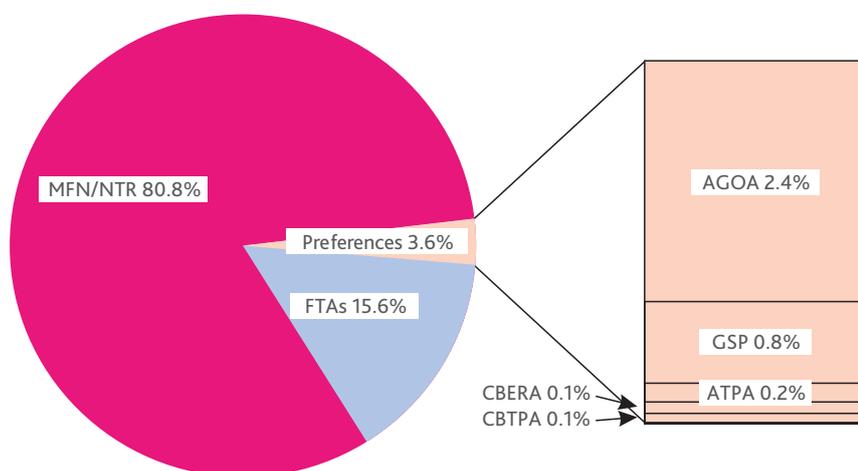


FIGURE 1:

Preference programmes as a percentage of all US imports, 2011

Source: United States International Trade Commission Trade Dataweb. <http://dataweb.usitc.gov>.

for implementation. Proposals have been made for more customized application of S&D treatment (See Keck & Low, 2004), which would have application for the development of legal and regulatory systems discussed in this think piece.

As part of S&D treatment, AfT has also become an increasing area of focus. While this paper will not discuss the structure, successes, and challenges of AfT in detail, it is important to note that AfT often covers many of the substantive issues presented in this think piece. Without AfT, many countries would struggle with the costs and technical capacities needed to build trade systems. However, AfT may not always be available, and legal and regulatory reform also requires significant in-country initiative to build effective local systems that can assess regulatory needs, identify the development implications of the substantive provisions of trade agreements, and design processes for local regulators to work with stakeholders to implement trade rules nationally and regionally. The strength of these systems will impact how countries view their role in RTAs and the WTO system. While AfT can be an important catalyst, it is a necessary but not sufficient condition for strengthening fully functioning legal and regulatory systems.

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## A PARALLEL APPROACH: TRADE AND DEVELOP- MENT THROUGH LEGAL AND REGULATORY REFORM

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Today in the global economy, non-tariff issues often present the most significant hurdles to market growth in developed and developing markets alike. A new approach to integrate legal and regulatory reform into the trade and development agenda could bridge the gap between the historical focus of trade and development and new market realities. Alongside current trade and development disciplines, both RTAs and the WTO have built an impressive framework for economic law and regulation that, if tailored to developing country needs and well implemented, could effectively address non-tariff issues and be a force multiplier for development. This includes rules for moving goods across borders (trade facilitation), standards for agricultural trade (SPS) and products across sectors (TBT), as well as disciplines on goods, services, and intellectual property. Regulations vary

across sectors can impact growth in critical areas of the economy, ranging from manufacturing and agriculture to energy, financial services, logistics, and information and communications technology (ICT).

Overcoming non-tariff challenges across the value chain through legal and regulatory reform will generate significant development benefits in terms of job creation, cost reduction, more efficient value chains, transparency, and ease of doing business for enterprises of all sizes, including small- and medium-sized enterprises (SMEs) and women traders. SMEs, which account for up to 60 percent of GDP creation, tend to be the largest employers in developing countries (International Trade Centre, 2013). These enterprises are perhaps impacted the most by non-tariff issues and often lack the resources to navigate complex regulatory environments. Women-run businesses make up a large percentage of these, and laws and regulations sometimes impact women differently, both in letter and in application. Regulatory constraints, such as lack of transparency in rulemaking and inconsistent application of rules around registration, licensing, and cross-border clearance can significantly restrict the ability of all enterprises to trade and may prevent a number of small businesses from formally engaging even in local markets. For women traders, laws specific to women's role in the economy add another significant challenge (World Bank Group, 2015).

The strength of legal institutions and complexity of regulatory processes varies by region (See Figure 2), with weaker systems carrying tangible costs. Overall, complex and inconsistently applied trade rules and procedures can cost as much as 2-15 percent of the value of goods (Ashton, 2009), potentially crowding many smaller producers out of the market.

Improvements in legal and regulatory systems also come with significant benefits. According to the Organisation for Economic Co-operation and Development (OECD), "for every one percent reduction in global trade costs, global incomes [will] go up by \$40 billion." Of these gains, 65 percent would accrue to developing markets (Engman, 2005). Measures, such as the World Bank's Doing Business benchmarking, recent Benchmarking the Business of Agriculture, and World Bank Women, Business, and the Law indicators assess where countries stand on important aspects of trade regulation and highlight the importance of legal and regulatory reform.

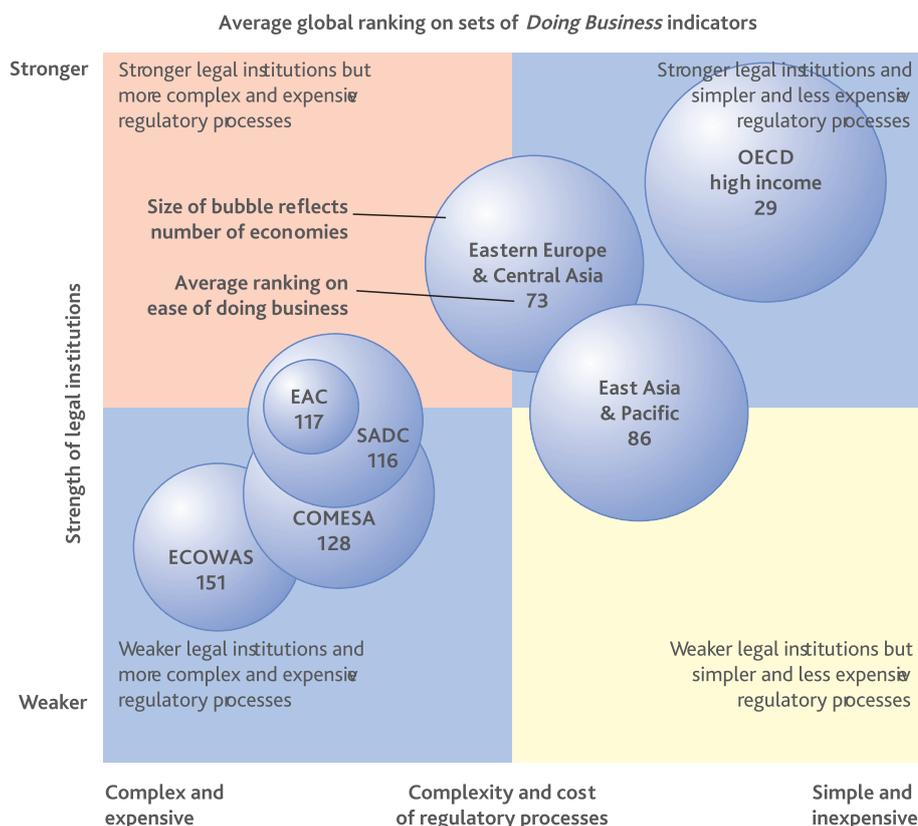
Disciplines on manufactured and agricultural goods contained in trade agreements address a number of these aspects and extend not only to trade between countries, but also to policies and institutions within countries. These can include specific measures to build systems for SPS measures and TBT as well as legal and regulatory areas that are not fully covered by trade disciplines, such as trade in seeds and other inputs. The recent WTO Trade Facilitation Agreement (TFA), which covers many issues related to cross-border movement of goods, such as customs administration and

transparency in rulemaking, also stands to deliver significant development benefits when it enters into force and is implemented. Notably, the TFA also presents a new model for agreements of its kind, as it allows countries to prioritise interventions and implement the agreement over time, often with the support of AfT. Services trade under RTAs and the WTO Agreement on Trade in Services has implications for regulation in areas as diverse as financial services, ICT, transport, distribution, and financial services. Intellectual property disciplines, contained in the TRIPs Agreement and other instruments, can be critical for encouraging innovation and research and development (R&D) and deserve further study from a trade and development perspective.

The 2015 G-7 Declaration also featured these issues, highlighting protection of intellectual property rights, improved access to markets, and implementation of environmental and labour standards as critical to promoting innovation, women's entrepreneurship, and growth among SMEs. Making the connection between trade and development, the G-7 Declaration called for "transparent, high-standard, comprehensive, and supportive" bilateral and regional FTAs, including the Trade in Services Agreement (TiSA), that are supportive of WTO frameworks (G-7 Leaders' Declaration, 2015).

In many parts of the world, including sub-Saharan Africa, Southeast Asia, Latin America, and Central Asia, better integrated regional markets will be essential to creating the economies of scale necessary to expand business opportunities, stimulate local supply chain development, foster competitiveness, and connect producers to international markets.<sup>5</sup> In addition to WTO agreements, the importance of non-tariff issues in trade and development can be seen in various FTAs and RTAs, including the African TFTA and CFTA, the Trans-Pacific Partnership (TPP) Agreement, and others, some of which contain specific development provisions. As RTAs become increasingly prevalent, these synergies and differences will need to be studied to a greater extent, and linking these regional efforts to WTO disciplines will become increasingly important.

5 In a research project commissioned by the German Marshall Fund in 2009-10 (in which the author participated), Dr. Cesar Hidalgo of the MIT Media Lab and Harvard Center for International Development applied the Product Space model central to the Atlas of Economic Complexity to regional possibilities among five East African countries (Hidalgo, 2011).



**FIGURE 2:**

The strength of legal institutions and ease of regulatory processes across regions

Note: *Strength of legal institutions* refers to the average ranking on getting credit, protecting investors, enforcing contracts and resolving insolvency. *Complexity and cost of regulatory processes* refers to the average ranking on starting a business, dealing with construction permits, getting electricity, registering property, paying taxes and trading across borders. COMESA = Common Market for Eastern and Southern Africa; ECOWAS = Economic Community of West African States; SADC = Southern African Development Community.

Source: Doing Business in the East African Community 2013

A more detailed discussion of the development implications of the framework for economic regulation contained in WTO agreements and RTAs is included in Annex I, with a particular focus on trade facilitation, SPS, TBT, and services. A few underlying observations connect each of these regulatory areas, all of which are essential to the recommendations outlined below. First, all are quite detailed in nature and require both a customized approach and a strong understanding of the technical aspects of legal and regulatory reform in order to be effectively applied and implemented. While such a discussion is beyond the scope of this paper, a number of aspects have been covered in other works by the author and others. Second, all rely on enterprise level (private sector) input to be effective. Ideally, this input would be gathered from a broad range of stakeholders across sectors and including SMEs, women-owned enterprises, and entrepreneurs opening new market channels. Governments will need to determine how best to balance the public good aspects of regulatory reform with enterprises that may be more invested in a certain outcome or perhaps maintaining the status quo. Third, all require strengthening legal and regulatory institutions at the national and regional levels to lower the incidence of trade challenges. Finally, all of these areas of market regulation could be addressed through a "development lens" to address inequality in the market and open the door for new enterprises of all sizes, which will also be a significant factor in unlocking trade's potential.

## RECOMMENDATIONS: INSTITUTIONALIZING DEVELOPMENT-LED LEGAL AND REGULATORY REFORM

The development benefits of creating an economic legal and regulatory environment that fosters trade and investment can be considerable. As discussed above, trade law and policy, including the agreements of the GATT/WTO and many regional trade agreements, have evolved to include a set of legal frameworks across nearly every area of economic regulation. Yet, these frameworks are open to interpretation and require the right technical expertise, strong institutions, and inclusive stakeholder engagement to be effectively implemented in a way that supports economic development and diversification. Further, there is no mechanism to aggregate trade and development challenges in order to press for system-wide change, and solving one set of issues for one enterprise is important but will not have the greatest possible impact unless successful approaches are better

shared and leveraged among donors, practitioners, research institutions, and business associations. New approaches, more systematic integration of a range of private sector priorities in trade policy and economic regulation, and better ways to scale innovative models and share best practices will all be needed.

The following are recommendations on how better to implement development-led legal and regulatory reform both within WTO frameworks and within country member and regional institutions, with specific references to different areas of market regulation whenever possible. The recommendations highlight existing models that could be studied, applied, and replicated.

### PUBLIC-PRIVATE COLLABORATION IN IMPLEMENTING DEVELOPMENT-LED LEGAL AND REGULATORY REFORM

While governments have a clear mandate to build legal and regulatory systems, other market stakeholders, including the private sector (meant throughout to include enterprises of all sizes), play a different but critical role. These stakeholders know best where the market can grow and which challenges stand in the way of new economic opportunity, and their needs can both inform law and policy and be balanced with public sector priorities, including ensuring that the benefits of development are broad-based. Although there is widespread interest in connecting public and private roles in the policymaking process, good models for doing so still need to be studied, shared, and replicated. Several of these models are noted below, and many address critical market failures and gaps in the legal and regulatory system. Across the board, information needs to be more openly shared and fed into broader regulatory and policy dialogues, both within countries, across regions, and internationally.

Platforms that can bridge the needs of the private and public sectors to bring about improvements in the enabling environment exist in different forms across geographies. These range from public-private platforms along trade corridors to mechanisms within business associations.

- One example of an effective platform is the Southern Agricultural Growth Corridor of Tanzania (SAGCOT) Centre, an agricultural partnership between the public and private sectors (including non-profit partners and donors) that connects over 40 enterprises along the SAGCOT corridor throughout Tanzania to address challenges in the physical market and enabling environment to increase private sector opportunity and productivity in the agricultural sector, enhance food security, and improve livelihoods in Tanzania. This model is unique in its development focus, strong buy-in from both the private and public sectors, and engagement on enabling environment issues with a specific connection

to businesses along the corridor. It has succeeded in promoting regulatory improvement in areas, including trade facilitation and agricultural regulation (including SPS) and provides great insight for local, regional, and even international trade. The SAGCOT model is now being replicated throughout other countries that are part of the Grow Africa initiative<sup>6</sup> and could be applied to other trade corridors and a diverse range of sectors.<sup>7</sup>

- Other public-private collaborations focus on specific products, such as trade in seeds, fertilizer, and other inputs. For example, the New Markets Lab is currently working with the SAGCOT Centre and the Alliance for a Green Revolution in Africa (AGRA), in partnership with the US Agency for International Development (USAID), to engage the public and private sectors in a detailed process related to seed and input law and regulation in Tanzania, which incorporates elements of the EAC and SADC RTAs as well as the WTO (specifically on SPS and TRIPs) and is designed to open markets for inputs in a development-focused and inclusive manner. In another seed-focused collaboration, the New Markets Lab is partnering with the Syngenta Foundation for Sustainable Agriculture (SFSA) to assess progress in harmonisation of seed regulations under a number of African RTAs (EAC, SADC, COMESA, and the Economic Community Of West African States (ECOWAS) and work with the private sector to both gauge awareness of these regional initiatives and understand challenges and opportunities on the ground. This work is part of a larger regional seed initiative linked with SFSA's Seeds2B programme that will help enterprises and farmers work with the public sector to increase access to new seed technology and increase the potential for agricultural development and food security.
- Other models for strengthening regulatory reform and implementing trade disciplines link private sector platforms to high-level trade policy dialogues. For example, in 2014, The Corporate Council on Africa, in partnership with the East African Business Council, launched a process to engage the US and African private sectors in issues related to trade facilitation. The recommendations produced through this partnership prioritised and highlighted activities on trade facilitation (both in the context of the WTO's TFA and more broadly), such as customs administration, transparency, and border cooperation and have been formally linked to the US-EAC Trade and Investment Partnership and Commercial Dialogue under the Trade Africa initiative.<sup>8</sup> This initiative is unique in its granular focus on how to implement trade facilitation priorities through concrete business action, and private sector focus through this platform has both increased commitment in the region and encouraged government counterparts to finalise an agreement on trade facilitation, SPS, and TBT.<sup>9</sup> This partnership between the public and private sectors has created a platform for ongoing progress in cold chain development, customs, transparency, port administration, cross-border cooperation, and training, most of which are designed

to implement trade facilitation disciplines and expand opportunity in the market.

- A number of other successful public-private platforms are regionally focused. In Asia, initiatives through the Asia-Pacific Economic Cooperation (APEC) forum have successfully bridged private and public priorities on trade disciplines. This includes an effective public-private partnership on food safety standards and practices, the APEC Food Safety Cooperation Forum (FSCF). The FSCF was established to bring together public and private sector partners to improve food safety regulatory systems within APEC consistent with their rights and obligations under the WTO SPS and TBT Agreements. To increase capacity and technical capability in food safety management, the Partnership Training Institute Network (PTIN) was launched. The FSCF and PTIN have delivered more than 30 programmes in areas, such as supply chain management, laboratory competence, food safety incident management, risk analysis, and food safety regulatory systems. In 2013, the "Building Convergence in Food Safety Standards and Regulatory Systems" project was launched to enhance regional regulatory cooperation. To further scale this approach, the World Bank launched the Global Food Safety Partnership, which will expand APEC's model to China, Vietnam, Malaysia, and Indonesia.<sup>10</sup>

6 | The Grow Africa Partnership currently encompasses twelve countries that include Benin, Burkina Faso, Cote d'Ivoire, Ethiopia, Ghana, Kenya, Nigeria, Malawi, Mozambique, Rwanda, Senegal, and Tanzania. In 2014, the World Economic Forum and Association of Southeast Asian Nations (ASEAN) launched the Grow Asia Partnership to improve food security and address agricultural challenges in Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

7 | Trade corridors are built along transport routes and have the potential to link investments of critical development potential and prioritize interventions in the enabling environment. In sub-Saharan Africa, corridors have historically linked areas of natural resource wealth with export markets but are now increasingly being looked to as mechanisms for unlocking growth and development potential in sectors like agriculture, connecting these value chains with larger trade systems. As corridors approaches become more widespread and inclusive, the enabling environment will be a particularly critical factor in corridor development. See Kuhlmann, et al., 2011.

8 | For more information regarding the Commercial Dialogue of the US-EAC Trade and Investment Partnership and Trade Africa, see <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2015/february/us-and-east-african-community-join>

9 | The Cooperation Agreement Among the Partner States of the East African Community and the United States of America on Trade Facilitation, Sanitary and Phytosanitary Measures, and Technical Barriers to Trade was signed on February 26, 2015, available at [https://ustr.gov/sites/default/files/EAC-US\\_Cooperation\\_Agreement\\_on\\_TF\\_SPS\\_TBT.pdf](https://ustr.gov/sites/default/files/EAC-US_Cooperation_Agreement_on_TF_SPS_TBT.pdf)  
See also the CCA-EABC Recommendations launched in August 2014, available at [http://www.africancncl.org/www/default/ckfinder/userfiles/1080/files/US-EAC%20Private%20Sector%20Trade%20Facilitaiton%20Priorities%208%204%2014\(1\).pdf](http://www.africancncl.org/www/default/ckfinder/userfiles/1080/files/US-EAC%20Private%20Sector%20Trade%20Facilitaiton%20Priorities%208%204%2014(1).pdf)

10 | See Asia-Pacific Economic Cooperation, "Improving Food Safety in the Asia-Pacific," September 18, 2014. See also, United States Trade Representative. *Report on Sanitary and Phytosanitary Measures*, 2014. Available at <https://ustr.gov/sites/default/files/FINAL-2014-SPS-Report-Compiled.pdf>

- Scope and scale are also important, as evidenced by the Inter-American Development Bank's Connect Americas platform that now links tens of thousands of small businesses in Latin America that are trading internationally, creating a powerful collective voice on the importance of well-functioning trade systems to development and highlighting the need for regulatory improvements in trade facilitation, SPS, TBT, and services.

## TOOLS FOR ASSESSING AND DEVELOPING UNTAPPED MARKET POTENTIAL

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Sometimes the most pressing question for development-led legal and regulatory reform is where to focus attention and how to prioritise interventions. As the examples above indicate, the private sector can help lead the way in identifying market opportunity and changes required in the enabling environment. Fully assessing where untapped market opportunity lies, however, is an ongoing challenge, and much data in this area is disaggregated and difficult to measure. Better data collection on trade and investment opportunities (and corresponding challenges in the enabling environment) will not only help regulators focus their efforts, but also highlight future opportunities for market growth and diversification across sectors.

- One innovative data tool developed by the Harvard Center for International Development (CID) and MIT Media Lab, the Atlas of Economic Complexity (<http://atlas.media.mit.edu>), assesses countries' institutional, technological, infrastructural, and knowledge capabilities and can be a powerful aide in highlighting which products countries are — and very importantly could be — producing. This tool has been used by governments and private sector stakeholders alike to assess market potential; highlight where new market opportunity could be encouraged (including through regulatory improvements); and indicate future market growth, and it has significant implications for trade policy development. The Atlas has been discussed in the context of helping countries strategically take advantage of trade preferences under programmes like the AGOA, for example, and the tool could have broader application in trade policy, including at the regional level.<sup>11</sup>
- The private sector can also be a significant source of data on untapped market opportunity. The possibility of pooling information on unexplored market potential, for example, in sectors, such as agriculture, or tools, or consortia for addressing enabling environment issues to the benefit of the market as a whole could be more fully examined. The WTO itself has collected a great deal of information, through both the Trade Policy Review Mechanism (TPRM) process and as a basis for assessment of case studies under AfT projects, which could be better leveraged. Likewise, AfT initiatives, such

as the work done with SMEs through the International Trade Centre in Geneva (and some of the public-private models described above), and within the World Bank and regional development banks could provide helpful insights on how supporting growing enterprises and addressing issues in the enabling environment could build trade and investment institutions and encourage market growth. In addition to the World Bank benchmarking initiatives referenced above, the USAID Enabling Agricultural Trade (EAT) programme assesses how legal and regulatory challenges to agricultural growth impact local agribusinesses in various countries and provides assistance for developing local businesses. (USAID, 2014), covering trade disciplines such as SPS, TRIPS, and services. These are several good examples among many, and a more in-depth assessment of existing resources would be warranted.

- Legal and regulatory issues can also be better understood in the context of market potential, and there is a much greater need for sharing information and tools. For example, efforts under the Legal Working Group of the Aspen Network of Development Entrepreneurs (ANDE), which targets the small and growing business sector, highlight the legal and regulatory challenges facing smaller enterprises and provide basic information on issues where counsel may be needed and available legal resources. Through a partnership between the New Markets Lab and the Legal Working Group of ANDE, several level guides (including an East Africa Legal Guide and Women's Legal Guide) were designed to introduce entrepreneurs, investors, and lawyers to particular issues in the legal environment for doing business in East Africa and highlight challenges facing women entrepreneurs in particular.<sup>12</sup> These initiatives could be linked with other efforts (and learning more openly shared) to help increase the development benefits of trade.

## REGULATORY BEST PRACTICES

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Ultimately, every regulatory system must be locally owned and built from the ground up. The private sector can play a direct role, sharing first-hand knowledge on how the market works as institutions are developed, and regulators

<sup>11</sup> In a research project commissioned by the German Marshall Fund in 2009-10 (in which the author participated), Dr. Cesar Hidalgo of the MIT Media Lab and Harvard Center for International Development applied the Product Space model central to the Atlas of Economic Complexity to regional possibilities among five East African countries. Regional possibilities emerged, particularly in agricultural trade that were not possible just through individual country efforts. More information can be found at [http://www.gmfus.org/events/virtual\\_forum\\_view?vf.id=692](http://www.gmfus.org/events/virtual_forum_view?vf.id=692).

<sup>12</sup> The East Africa Legal Guide developed by the New Markets Lab and other partner organisations (with significant input from local legal counsel) through the Legal Working Group of the Aspen Network for Development Entrepreneurs is available at <http://www.aspeninstitute.org/publications/ande-east-africa-working-group-toolkit>.

must actively design systems that work in practice. Some examples include development of robust financial services sectors in countries, such as Mauritius, Kenya, and South Africa<sup>13</sup> through effective market regulation and encouragement of agricultural growth along trade corridors as discussed above. Self-regulation by the private sector along value chains can also be a powerful incentive for encouraging development of a transparent enabling environment for business.

In general, legal and regulatory systems tend to be managed by governments, however, and most have a system for developing law and regulation that involves some degree of consultation and comment by other stakeholders. While certain countries, such as Uganda, have constitutional obligations to facilitate public participation,<sup>14</sup> others do not, and participation in regulation and rulemaking is sometimes very ad hoc and unpredictable. The EU Treaties also require public participation, and citizens interact with the EU Commission through the European Citizens Initiative (Oxford, 2011).

Both the public and private sectors stand to benefit through greater exchange of regulatory best practices, which are the focus of a number of AfT initiatives. Much greater potential exists to openly and simply share information on laws and regulations on the books (and under development) and as well as regulatory best practices, particularly in a neutral way that is appropriately tailored to local and regional market realities rather than being too heavily dependent on imported models. Information sharing and capacity building among regulators, legal practitioners, and technical experts will be critical to implementing development-focused legal and regulatory frameworks.

- In the agricultural sector, training among regulators is common, and good examples exist among both north-south and south-south exchanges. This includes regulatory training by the US Department of Agriculture, for example, and training among regional regulators, such as training initiated between the Kenyan Plant Health Inspectorate Service (KEPHIS) and the Tanzanian Official Seed Certification Institute (TOSCI).<sup>15</sup> Training on regulatory best practices is also done at the university level, although this work could be scaled up considerably. One example in Africa is the African Technology Policy Studies (ATPS) network, which spans universities, the private sector, and policymakers and focuses on the critical area of ICT services.<sup>16</sup> Also within Africa, the Eastern and Southern Africa Management Institute (ESAMI) and Lund University of Sweden established the Trade Policy Training Centre in Africa (TRAPCA) initiative based in Arusha, Tanzania, which provides academic training and networking opportunities to strengthen capacity for trade policy in sub-Saharan Africa. The Centre offers a range of trade-related courses, including training on food security and agricultural trade. Examples exist within international organisations as well, including training programmes through the World Intellectual

Property Organization (WIPO), WTO, and United Nations (UN).

- The new Trade Facilitation Agreement Facility (TFAF), designed to provide support to developing and lesser-developed WTO members with implementing the WTO TFA, also provides an opportunity for institutionalising development-led legal and regulatory reform. The WTO TFA is unique in its ability to allow countries to prioritise needs on trade facilitation, and the TFAF and other AfT efforts connected to trade facilitation could function as a platform for the collection and dissemination of information concerning regulatory best practices, common regulatory implementation challenges in developing economies, and innovative ways in which such challenges could be overcome.
- Training among lawyers in different geographies is also particularly important, as ultimately the application of law and regulation will make trade policy binding and enforceable. For example, TRAPCA provides courses in trade law targeted at policy influencers and regulators in sub-Saharan Africa. In addition to an increasing focus on providing pro bono legal support to provide critical assistance to enterprises and other stakeholders, which is an essential element of making trade work for development and an increasing focus of both law firms and public sector actors,<sup>17</sup> non-profit initiatives like the New Markets Lab are engaging international lawyers in addressing system-wide issues in the enabling environment and building regulatory institutions.<sup>18</sup> Again, these efforts could be linked and mutually leveraged to produce greater gains.

<sup>13</sup> See Brookings Financial and Digital Inclusion Report <http://www.brookings.edu/~media/Research/Files/Reports/2015/08/financial-digital-inclusion-2015-villasenor-west-lewis/fdip2015.pdf?la=en>

<sup>14</sup> Article 38 (2) of the Ugandan Constitution: Every Ugandan has a right to participate in peaceful activities to influence policies of government through civic organizations.

<sup>15</sup> See [http://www.syngentafoundation.org/\\_\\_temp/Seeds\\_program\\_status\\_December\\_2012.pdf](http://www.syngentafoundation.org/__temp/Seeds_program_status_December_2012.pdf)

<sup>16</sup> From 2002-2005, ATPS conducted a multidisciplinary programme, Strengthening National ICT Policy in Africa: Governance, Equity and Institutional Issues, which was intended to offer choices to policymakers on how to improve the regulatory environment and ensure consistency of policies with respect to improved ICT access. Participating countries in the ATPS programme included Ethiopia, Ghana, Kenya, Morocco, Mozambique, Nigeria, Rwanda, South Africa, Tanzania, Uganda, Zambia, and Zimbabwe.

<sup>17</sup> See, e.g., the International Senior Lawyers Project and Sidley Austin's Africa Asia Agricultural Enterprise Pro Bono Program.

<sup>18</sup> The New Markets Lab (NML) develops legal guides and case studies to share information on law and regulation at the country, regional, and international levels and track the experiences of entrepreneurs in navigating these aspects of trade and development. The NML acts as a legal best practices repository and, with its many partners around the world, applies legal and regulatory approaches to open new market possibility.

## LINKS BETWEEN MARKET STAKEHOLDERS AND TRADE INSTITUTIONS

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As models to link entrepreneurs, businesses, farmers, and their intermediaries with the regulatory reform process are expanded, complementary systems for connecting private sector priorities in trade and development with institutions like the WTO and regional trade bodies will also be needed. While governments will largely drive negotiating paradigms, a more development-led approach that incorporates the needs of enterprises of all sizes would bring new voices and dynamics into trade frameworks. Absent ways to effectively connect private sector priorities with trade disciplines, even when agreements are successfully concluded, implementation will lag. Platforms that link market realities with trade frameworks could help build incremental support for regulatory change, including for ratifying and implementing the TFA.

- Within the WTO, existing frameworks could perhaps be strengthened to better incorporate private sector priorities and needs. The challenge lies in bridging the information gap between the regulatory needs of enterprises on the ground and high-level WTO and international trade frameworks. While the WTO, through its various committees (e.g. the SPS Committee), does engage with stakeholders from all sectors, such efforts often do not bear sufficient fruit, because developing country private sector representatives do not have adequate access to WTO mechanisms or know how to translate their needs into high-level trade concepts. One possibility would be a two-pronged approach under which WTO committees encourage and facilitate more involvement by private sector representatives at the committee level itself, along with the requirement for more detailed feedback at the country level regarding regulatory obstacles to implementation of trade agreements during the TPRM process discussed below. By requiring greater private sector input, this would encourage deeper dialogue at a national level across sectors, which could, in turn, result in a more comprehensive understanding of the interaction between trade agreements and optimal regulation of the economy. Any of the regional models for linking market needs with specific legal and regulatory issues could be connected with WTO Committees and the trade policy review (TPR) process as a first step.
- Potential also exists for sharpening the current TPRM. Currently, less-developed WTO members are allowed less frequent periodic TPRs, a concession based on the notion that these reviews are a component of an enforcement mechanism. But, it is important to consider how reviews can be a powerful tool for supporting the domestic policymaking process, highlighting opportunities for regulatory improvement and private sector inclusion. The process of how TPRs are prepared, discussed, and

disseminated could be enhanced and made more transparent, with greater stakeholder participation (Zahrnt, 2009) and in-country coordination among the public and private sectors to encourage regulatory reform. Further, while TPRs provide an exceptionally thorough layout of a country's regulatory system, there is little connection with implementation. If the content of TPRs were to include some analysis regarding the implementation of laws and regulations, it would create an immediate link between higher-level trade policy and on-the-ground legal and regulatory reform. The team that is assembled to develop the TPR could either remain in place as policies are designed and implemented or consult as this process proceeds in order to establish coherence and knowledge transfer between the TPR process and the longer regulatory reform process that follows. Requiring analysis of legal and regulatory implementation in TPRs would also encourage much more involvement from the private sector throughout the TPR process and would facilitate deeper dialogue and understanding across sectors.

Similarly, institutional aspects of a number of regional trade bodies could be strengthened and, where effective, examined for lessons. As noted above, building legal and regulatory systems is a prerequisite for effective regional harmonisation, and streamlining and improving customs and trade facilitation, strengthening SPS and TBT capacity and compliance, and more effectively regulating different sectors and value chains, inter alia, will be building blocks for regional integration.<sup>19</sup> While much more work is needed to formally include involvement of the private sector in the creation and implementation of regional economic structures, some notable examples of integrating regulatory reform mechanisms in regional harmonisation structures are noted below.

- In East Africa, the EAC Common Market Scorecard has become an effective tool for highlighting non-conforming measures in trade in services and non-tariff issues affecting trade in goods,<sup>20</sup> highlighting challenges inherent in RTAs and the need for close monitoring of these issues even as markets grow. COMESA also tracks and reports progress in addressing non-tariff issues. It is notable that both the EAC and COMESA have active private sector councils, the East African Business Council (EABC) and the COMESA Business Council, respectively, that are very active in enabling environment reform.

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<sup>19</sup> See also Edward Balistreri's work on lowering trade costs within East Africa, which argues that expanding removal of non-tariff barriers and services liberalisation multilaterally would increase gains between two and seven times, depending on the country (Balistreri, 2014).

<sup>20</sup> A recent scorecard identifies at least 63 non-conforming measures in the trade of services and 51 non-tariff measures affecting trade in goods, see <https://www.wbginvestmentclimate.org/publications/upload/East-African-Common-Market-Scorecard-2014.pdf>

- Within MERCOSUR (the Southern Common Market), although no official private sector platform exists at the regional level, there is scope for private sector consultation within the different subgroups. A case study regarding the automotive industry in MERCOSUR suggests that private sector involvement in the integration process, through which domestic governments consulted their private sectors through trade associations, facilitated regulatory cooperation to a large degree. Since the private sector had cross-border representation and multi-faceted connections in the region, it was able to present harmonised positions to all domestic governments simultaneously, playing a critical role in the shaping of a regional framework to make it well suited to private sector needs.<sup>21</sup> This example could be examined across sectors (and tailored to meet the needs of SMEs) and regional bodies.
- In the governance structure of the Association of Southeast Asian Nations (ASEAN), there is similarly no official regional platform for private sector involvement, but in May 2015, the ASEAN Business Club Forum urged governments within ASEAN to provide well-structured regional channels for sectoral input to policymakers in order to avoid recommendations to leaders getting lost in the policymaking process. The Business Club Forum has been addressing sector-based issues at a set of "Lifting-the-Barriers" roundtables, where each sector is chaired by a regional industry representative or expert group and paired with a leading research partner. The roundtables have produced 13 reports covering 11 sectors, which identified gaps hindering ASEAN integration as well as recommendations to overcome them.<sup>22</sup> This highlights the private sector's ability to fulfil the critical role of providing regulatory feedback; it also shows clearly that vital information from the private sector often does not find its way to policymakers.
- The African Union's Draft Framework for Fast-tracking the Continental Free Trade Area<sup>23</sup> is another example of how the private sector could be involved in the policymaking process at a regional level, and it will be helpful to closely track the progress of this framework as it is rolled out. It proposes the establishment of both an African Business Council as well as an African Trade Forum which would form part of the governance structure of the CFTA. The Business Council would be composed of chairs of regional associations that represent the various private sector interests, including, among others, SMEs and women in trade, and would play an advisory role in the continental policy formulation process. The African Trade Forum would serve as a pan-African platform for discussion on progress and challenges and would include all stakeholders involved in the development of intra-African trade, such as member states, RECs, the private sector, civil society, research institutes, and development partners. The CFTA framework also specifically provides for private sector representatives to serve on the monitoring and evaluation committee.

## CONCLUSION

As this think piece has demonstrated, a reorientation of trade and development focused on legal and regulatory reform is needed to ensure that the development benefits of trade will be fully realised. This think piece merely scratches the surface of what can and should be done to advance this model, including innovative approaches for linking market needs with legal and regulatory reform and greater private sector involvement in trade and development policymaking to facilitate economic opportunity and enhance transparency and rule of law. Some promising models exist for bringing the voices of enterprises and other stakeholders into the global trading system, sharing legal and regulatory best practices, building stronger legal institutions, and linking on-ground market potential with higher-level policy reform. Yet, gaps in current approaches exist, and much room remains for greater coordination and collaboration. Further study and scaling up of efforts in this area will be needed to forge a new path and leverage trade frameworks to generate development, diversification, growth, and inclusive rule of law in markets around the world.

21 Bruszt, L and G.McDermott. *Leveling the Playing Field: Transnational Regulatory Integration and Development*, Oxford, 2014. [https://books.google.com/books?id=DgwbBAAQBAJ&pg=PA205&lpg=PA205&dq=mercosur+private+sector+involvement&source=bl&ots=zit8MxeSek&sig=AKMuil247RNaEKtlzelX19jRxt0&hl=en&sa=X&ei=BBiUVYKzKtX\\_yQSOkYywBw&ved=0CDgQ6AEwBA#v=onepage&q=mercosur%20private%20sector%20involvement&f=false](https://books.google.com/books?id=DgwbBAAQBAJ&pg=PA205&lpg=PA205&dq=mercosur+private+sector+involvement&source=bl&ots=zit8MxeSek&sig=AKMuil247RNaEKtlzelX19jRxt0&hl=en&sa=X&ei=BBiUVYKzKtX_yQSOkYywBw&ved=0CDgQ6AEwBA#v=onepage&q=mercosur%20private%20sector%20involvement&f=false)

22 CIMB ASEAN Research Institute: *Structured channels for private sector's industry based input and participation critically missing in ASEAN – Impeding real partnership for meaningful integration*, May 2015. <http://www.cariasean.org/event-2/abc-forum-2015/press-release-structured-channels-for-private-sectors-industry-based-input-and-participation-critically-missing-in-asean-impeding-real-partnership-for-meaningful-integration/>

23 African Union: *Draft Framework, Road Map and Architecture for Fast-Tracking the Continental Free Trade Area (CFTA)*, 2011.

TABLE 1:

Summary of development-driven regulatory reform recommendations

Type of Model	Factors
<p><b>1. Public-Private Collaboration in Development-Led Regulatory Reform</b> that connect public and private roles and hold the possibility of encouraging development-led legal and regulatory reform</p>	<ul style="list-style-type: none"> <li>• <i>Development focus, buy-in from both public and private sectors, and engagement on issues within specific market area</i> (could be corridor, value chain, or cluster). Examples: SAGCOT Centre that has facilitated improvement in the enabling environment for trade facilitation and agricultural development (including SPS); Collaboration focused on specific sector or input (for example, seeds)</li> <li>• <i>Technical focus on link between private sector interest in market and high-level policy platforms</i>. Example: Corporate Council on Africa Trade Working Group and partnership with the East African Business Council in collaboration with the Commercial Dialogue of the U.S.-EAC Trade and Investment Partnership and Trade Africa (focus on trade facilitation, SPS, and TBT)</li> <li>• <i>Regional focus</i> can also be a unifying force for improvements in the enabling environment. Example: APEC public-private partnership on food safety (focus trade facilitation and SPS)</li> <li>• <i>Scope and Scale</i>. Example: IDB's Connect Americas Platform that links tens of thousands of companies working through challenges in the enabling environment (focus on trade facilitation, SPS, TBT, and services)</li> </ul>
<p><b>2. Tools for Assessing and Developing Untapped Market Potential</b> that can reduce risk for innovation across sectors and improve opportunities for financing through better data collection on trade and investment opportunities</p>	<ul style="list-style-type: none"> <li>• <i>Market Potential</i> is a central threshold question, and tools that can help prioritize interventions are badly needed. Example: Atlas of Economic Complexity that assesses market potential and shows what countries are and could be trading</li> <li>• <i>Aggregation of Information</i> on legal and regulatory reform and unexplored market potential needed to unlock market potential. Examples: WTO, World Bank and Regional Development Banks, USAID EAT program, ANDE Legal Working Group</li> </ul>
<p><b>3. Regulatory Best Practices</b> should be collected and shared to increase information (within the public and private sectors) on legal and regulatory specifics and best practices that will help build capacity among regulators, practitioners, and technical experts. Collecting and openly sharing regulatory best practices across a range of geographies will be central to tailoring legal and regulatory reform to local and regional market realities.</p>	<ul style="list-style-type: none"> <li>• <i>Best practices shared among regulators</i>, including north-south and south-south exchanges. Examples: Training among agricultural and seed regulators, university-level training, trapca, ATPS, WIPO, WTO</li> <li>• <i>Enhanced Aid for Trade programs focused on regulatory reform</i> and regulatory best practice, common regulatory implementation challenges in developing economies, and innovative ways in which such challenges could be overcome. Example: Trade Facilitation Agreement Facility</li> <li>• <i>Capacity building for practitioners</i> Examples: Legal clinics and programs to assist enterprises, non-profit initiatives that address system-wide challenges faced by entrepreneurs. Examples: Clinical training, Law firm pro bono programs, New Markets Lab case studies and partner projects</li> </ul>
<p><b>4. Links Between Market Stakeholders and Trade Institutions</b> to link priorities in trade and development with bodies within the WTO and regional trade entities to facilitate implementation and bring new voices and dynamics into trade frameworks</p>	<ul style="list-style-type: none"> <li>• <i>Link to WTO</i> through two-pronged approach that encourages and facilitates involvement by private sector at WTO committee level and requires feedback at country level Example: Enhanced role within WTO Committees</li> <li>• <i>Strengthened Trade Policy Review Mechanism (TPRM)</i> that encourages greater private sector participation and sharpens the link (substantively and institutionally) between policy analysis and regulatory implementation</li> <li>• <i>Regional trade structures</i> that link business needs with the regional policymaking process to help foster regulatory reform (including trade facilitation, SPS, and TBT) Examples: EAC Common Market Scorecard; African CFTA African Business Council and African Trade Forum; Potential Models: MERCOSUR and ASEAN</li> </ul>

# ANNEX I: DEVELOPMENT BENEFITS OF REGULATORY REFORM BY TOPIC

## TRADE FACILITATION

- **Framework:** Trade facilitation extends to a range of activities that allow for the physical movement of goods from one place to another. It involves a number of practical considerations, like reducing the time and cost of moving a container through a port, decreasing the time needed to obtain licenses and documents, or eliminating roadblocks along trade corridors. It also includes electronic data interchange systems and risk-based inspection, which will help facilitate trade along supply chains.
- Trade facilitation impacts the speed for receiving inputs, processing goods, and moving things to market and is a critical factor in global supply chains. Reducing the number of steps and time needed to navigate markets is perhaps one of the most significant factors in reducing costs, improving the terms of trade, and increasing opportunity for enterprises of all sizes. Trade facilitation is also central to food security, access to life-changing medicines, humanitarian relief, and energy development. Improvements in trade facilitation, which are enumerated in the recent WTO TFA, can boost the competitiveness

of SMEs and make it easier for companies of all sizes to participate in import and export activities.

- **Benefits to Development:** The benefits of trade facilitation improvements are numerous (See Figure 3) and can directly generate opportunities and jobs in numerous sectors (transport services, customs brokerage, port administration).

Gains from trade facilitation would likely benefit SMEs significantly, as they make up the vast majority of the business sector in developing countries (International Chamber of Commerce, 2013). Improvements in trade facilitation could result in global job gains of 21 million, with developing countries gaining over 18 million jobs (ICC, 2013). The OECD estimates that harmonising and streamlining documents and procedures at the borders would reduce trade costs for low-income countries by 3 percent. Through reducing trade costs, trade facilitation could benefit both importers and exporters, allowing firms greater access to global value chains (OECD, 2013). The World Bank estimates that every dollar spent on trade facilitation in developing markets yields a return of US\$70 (WTO, 2015). For sub-Saharan Africa as a whole, improvements in trade facilitation could increase exports by as much as 63 percent (WEF, 2013). In particular, efforts to increase transparency and automation stand to produce notable gains.

- The revenue gains of addressing trade facilitation can also be significant. For example, halfway into its customs modernisation programme, Angola had increased revenue by 150 percent (OECD, 2005). The costs of customs improvements are also quickly recouped. For example, Chile's outlay of US\$5 million to improve customs automation was recovered within one and a half years (Ashton, 2009).

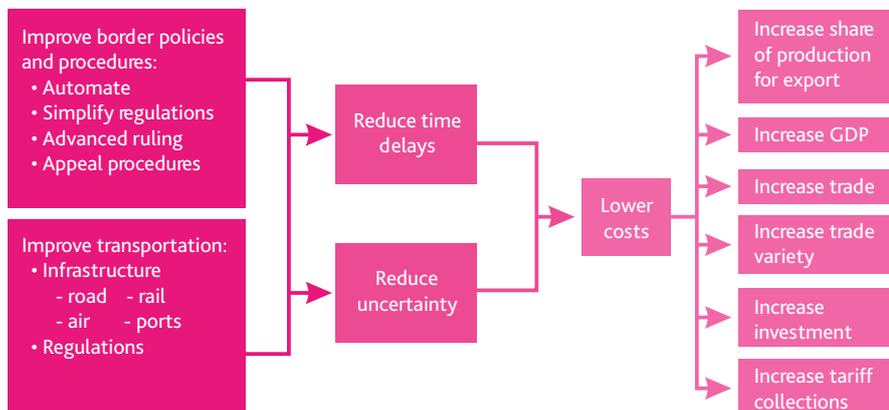


FIGURE 3:

Potential benefits of trade facilitation

Source: U.S. International Trade Commission, *Trade Facilitation in the East African Community: Recent Developments and Potential Benefits*. U.S. ITC, Investigation No. 332-530, Publication No. 4335, July 2012. URL: <http://www.usitc.gov/publications/332/pub4335.pdf>

## SANITARY AND PHYTOSANITARY MEASURES

- **Framework:** SPS measures cover aspects of public health, product standards, and food safety requirements. Internationally, SPS is governed by the Agreement on the Application of Sanitary and Phytosanitary Measures, which was designed to improve transparency, create clear guidelines for import inspection and quarantine, improve laboratory services, streamline the control of pests and diseases, and improve procedures for registering chemicals, fertilizers, pesticides, and agricultural products and seeds. Effective SPS systems are a prerequisite for regional harmonisation, which relies on cooperation among countries' regulatory systems. WTO members are afforded latitude in setting up SPS systems, provided measures have a scientific basis, minimum standards or safety requirements are established, and international standards and risk assessment are followed.
- **Benefits to Development:** SPS standards not only serve health and safety goals, but also offer significant benefits for economic development as well (See Table 2).
- Implementation of functioning SPS systems in developing countries represents a major opportunity for export growth, and the impact can be seen all the way down to the enterprise level. As one example, in Senegal, the voluntary adoption of strict SPS standards by a private company was a significant factor in increasing in tomato exports to the EU, which contributed to substantial improvements in employment, household income, and poverty rates in tomato-exporting areas (Maertens et al., 2011). While there are costs associated with compliance with stringent SPS standards, these costs are typically fixed and produce measurable returns (Ferro et al.,

2013). In Zimbabwe, every dollar spent bringing foot and mouth disease controls into conformity with international standards was estimated to yield a US\$1.50 return (Perry et al., 2003).

- As a country's average income rises, SPS standards tend to become more complex, and developing countries have a more difficult time complying with SPS standards than developed countries do as a result of different levels of regulatory experience. This indicates that agricultural trade will become easier as countries gain experience with SPS regulation; in fact, agricultural trade between high-income countries is significantly less expensive than trade between high-income countries and low-income countries (Ferro et al., 2013).

## TECHNICAL REGULATIONS AND STANDARDS

- **Framework:** TBT includes technical regulations and standards for the production of manufactured goods. Governed internationally by the Agreement on Technical Barriers to Trade, TBT disciplines are designed to address differences in technical regulations and standards, including size, function, and performance, which often vary by country. Standards can serve to protect human health and safety or the environment and can involve alignment of production facilities and conformity assessment procedures, which may impact smaller companies (Meyer et al., 2010). As with SPS, the use of international standards is encouraged in setting regulations, such as the International Organization for Standardization (ISO) standards to align domestic and international standards (Wilson and Otsuki, 2004). Mutual acceptance of technical requirements with established common conformity assessments can

TABLE 2:

Examples of recurring and nonrecurring tangible and intangible benefits of SPS compliance

Source: The World Bank. "Food Safety and Agricultural Health Standards: Challenges and Opportunities for Developing Country Exports." Report No. 31207. 10 January 2005.

	Tangible	Intangible
<b>Nonrecurring</b>	Crisis containment, as when the existence of a functioning traceability system prevents an 'alert' from becoming a crisis and cause for banning the country as a supplier	Opportunity to examine overall efficacy of controls
<b>Recurring</b>	Access to more remunerative markets and supply chains Reduction in costs due enhanced efficiency Reduced wastage in production processes Reduced level of product inspection and detention aboard	Enhancement of product quality Enhanced morale of inspection or production staff Improved reputation of firm and/or country

reduce the number of inspections to one single step. The TBT agreement also encourages equivalence, which involves accepting different regulatory approaches designed around a common policy objective, presenting a framework for facilitating cross-border trade.

- **Benefits to Development:** Achieving collaboration on technical standards and regulations, including equivalence and mutual recognition, holds significant potential benefits for improving the quality of goods, protecting the environment, and reducing the costs of trade. As technical regulations are harmonised, markets grow and producers are able to follow agreed-upon technical requirements and avoid unnecessary conformity costs. Increased implementation of harmonised technical regulations and standards both builds markets and lowers cost for consumers.

## SERVICES REGULATION

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- **Framework:** Services, which are governed by the GATS, cover a broad range of economic activities, including financial services, ICT, transportation, communications, and distribution. In some cases, more specific guidance exists by sector, such as the Reference Paper on Telecommunication Services. Countries' services schedules outline the degree of commitment under the GATS and related instruments as well as the composition of services markets. Most services sectors are regulated through diverse legal instruments (including banking laws, sector-specific regulations, and other mechanisms), and competition in services sectors can be a critical issue, both within countries and across borders. Supply chains incorporate a large share of services, often more than is conventionally calculated. In fact, no supply chain can be complete without a range of services. Services regulation has significant implications, and balancing the needs of higher-risk sectors (such as agriculture) and vulnerable populations (including women and those with very low income) can be particularly important for regulators.
- Some services sectors, such as transport services, involve a wide range of activities with differing levels of regulation, from highly capital-intensive industries (rail transport, pipelines) to those that are relatively less capital-intensive (taxis, trucks, even coaches). Regulation of distribution services can include a number of different aspects, including restrictions on large stores, opening hours, and zoning, which impact growth in the sector.
- Telecommunications services and networks, which serve as the medium for the growing global digital economy, are becoming increasingly central to development. Regulations around investment, cost structure, and partnership ability heavily influence telecommunications sector development, which can impact Internet access for large portions of populations, including SME owners

(A4AI, 2013). As companies across sectors, including "traditional" industries, depend more on data-driven innovation to do business, regulations for digital trade will play a critical role in economic development, financial inclusion, and growth. Rules related to cross-border data flows and foreign data processing impact the ability of companies to access, store, and analyse data to enhance operations (Castro et al., 2015).

- **Benefits to Development:** The services sector is a growing part of most economies and can be a force multiplier for development. The World Bank estimates that services constituted 70.1 percent of total world GDP in 2012 (World Bank, 2015). Modern services activities (e.g. transportation, distribution, and ICT services) and increased use of ICT by other sectors will remain a necessary condition for sustained economic growth (IMF, 2013).
- Transportation and Distribution Services, when fully developed, can provide effective "horizontal" services that benefit the economy as a whole. The efficiency of the distribution services sector, for example, is crucial to delivering a wide variety of goods at competitive prices, and regulation plays an important role in ensuring sufficient competition in the sector.<sup>24</sup>
- Notably, ICT regulation is an area that is not only constantly evolving, but also frequently interacting with more established regulatory areas, such as banking, which present opportunities and challenges for regulators and users of these systems. ICT services can also be used to address challenges in other areas of law. For example, women in Tanzania can now use mobile applications to leapfrog the difficult process of formalising and securing land rights. This innovation not only increases their access to land, but also importantly improves women's access to finance through the use of land as collateral, which in turn can enhance the participation of women in formal economic activities. This is an example of technological leapfrogging that can be well supported by an ICT regulatory system that is not only responsive to market demands, but also works alongside more established legal frameworks.
- Because both regulatory frameworks and infrastructure are constantly evolving, developing countries with emerging ICT sectors are well positioned to take advantage of innovations, such as mobile banking services (BCG, 2012). Mobile banking has become one of the greatest drivers of financial inclusion in developing countries (Brookings, 2015).

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24 | As of 31 January 2009, a relatively low number of WTO members had commitments in distribution services (57 schedules of commitments covering 69 members), which is interesting in the context of the employment potential and economic importance of the sector.

- Firm and industry-level evidence shows that ICT sectors have relatively high total factor productivity (TFP) levels, and ICT growth rates are an important element that drives productivity growth in other sectors (Collecia, 2002; Pilat et al., 2002). In the growing digital economy, communications services alone, including ICT, have a global market worth more than US\$1.5 trillion in revenue, with mobile services accounting for roughly 40 percent (WTO, 2015). According to a recent study, the Internet alone accounted for 3.4 percent of GDP in a sample set of countries, with 2.6 jobs created for every one lost owing to Internet-related efficiency gains (McKinsey Global Institute 2011). ICT in particular has had a significant impact on innovation in developing countries, notably including the spread of mobile devices that has boosted productivity, efficiency, and innovation.<sup>25</sup> ICT also has a direct impact on equity, delivering services to those who lack resources.

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25 | ICT was responsible for about 25 percent of Kenya's GDP growth during the 2000s (The World Bank, 2010).

# REFERENCES

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"2015 National Trade Estimate Report on Foreign Trade Barriers." United States Trade Representative. 2015.

Ahearn, Raymond J. "Europe's Preferential Trade Agreements: Status, Content, and Implications." Congressional Research Service. March 2011. Available at <http://fas.org/sgp/crs/row/R41143.pdf>

Asia Pacific Economic Community (APEC), "Improving Food Safety in the Asia-Pacific," September 18, 2014. Available at [http://www.apec.org/Press/Features/2014/0918\\_foodsafety.aspx](http://www.apec.org/Press/Features/2014/0918_foodsafety.aspx)

Aspen Network of Development Entrepreneurs Legal Working Group (Kuhlmann, Katrin, et al) "East Africa Legal Guide." Aspen Institute. 2014.

The Animal and Plant Health Inspection Service (APHIS). USDA. December 2014. Available at [http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/international/services/sa\\_program\\_overview/](http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/international/services/sa_program_overview/)

Ashton, Catherine. "Trade Facilitation and Africa- A European Perspective." Presented at the conference *The Role of Trade Facilitation: Promoting Market Integration with a Focus on Africa*. 22 April 2009. Available at [http://trade.ec.europa.eu/doclib/docs/2009/april/tradoc\\_142998.pdf](http://trade.ec.europa.eu/doclib/docs/2009/april/tradoc_142998.pdf).

Balistreri, Edward J. et al. *Reducing Trade Costs in East Africa: Deep Regional Integration and Multilateral Action*. Policy Research Working Paper no. WPS 7049. Washington, DC: World Bank Group. 2014. Available at <http://documents.worldbank.org/curated/en/2014/09/20250345/reducing-trade-costs-east-africa-deep-regional-integration-multi-lateral-action>.

Boston Consulting Group (BCG). "Wither the Internet in Africa?" 2012. Available at [https://www.bcgperspectives.com/content/articles/digital\\_economy\\_center\\_for\\_consumer\\_consumer\\_insight\\_whither\\_the\\_internet\\_in\\_africa/](https://www.bcgperspectives.com/content/articles/digital_economy_center_for_consumer_consumer_insight_whither_the_internet_in_africa/).

Brenton, Paul and Takako Ikezuki. "The Value of Trade Preferences for Africa." *Trade, Doha and Development: A Window Into the Issues*. The World Bank. 2006.

Brookings Institute. "The 2015 Brookings Financial and Digital Inclusion Project Report." 2015. Available at <http://www.brookings.edu/~media/Research/Files/Reports/2015/08/financial-digital-inclusion-2015-villasenor-west-lewis/fdip2015.pdf?la=en>.

Castro, Daniel and Alan McQuinn. "Cross-Border Data Flows Enable Growth in All Industries." Information Technology & Innovation Foundation. February 2015.

Collecia, Alessandra. "ICT Investment and Economic Growth in the 1990s: Is the United States a Unique Case? A Comparative Study of Nine OECD Countries." *Review of Economic Dynamics*. Vol. 5, 2002. pp. 408–42. The Constitution of the Republic of Uganda, 1995.

Dabla-Norris, Era et al. "Anchoring Growth: The Importance of Productivity-Enhancing Reforms in Emerging Market and Developing Economies." *IMF Staff Discussion Note*. December 2013. Available at <https://www.imf.org/external/pubs/ft/sdn/2013/sdn1308.pdf>

Davenport, Michael et al. "Europe's Preferred Partners? The Lomé Countries in World Trade." Overseas Development Institute, London. 1995.

*Doing Business in the East African Community 2013: Smarter Regulations for Small and Medium-Size Enterprises*. World Bank Group. 2013. Available at <http://www.doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Special-Reports/DB13-EAC.pdf>

Dollar, David and Aart Kraay. "Trade, Growth, and Poverty." Development Research Group, World Bank. June 2001.

Enabling Trade: Valuing Growth Opportunities. World Economic Forum 4, 2013. Available at [http://www3.weforum.org/docs/WEF\\_SCT\\_EnablingTrade\\_Report\\_2013.pdf](http://www3.weforum.org/docs/WEF_SCT_EnablingTrade_Report_2013.pdf).

Engman, Michael "The Economic Impact of Trade Facilitation." *OECD Trade Policy Papers*, No. 21, OECD Publishing, Paris. 2005.

Ferro, Esteban et al. "The Effect of Product Standards on Agricultural Exports from Developing Countries." Policy Research Working Paper 6518, World Bank. 2013.

The Global Impact Investing Network. "Improving Livelihoods, Removing Barriers: Investing for Impact in Mtanga Farms." *Case Study*. November 2011.

Gradeva, Katerina et al. "The Role of the Everything But Arms Trade Preferences Regime in the EU Development Strategy." Proceedings of the German Development Economics Conference, Hanover. No 42. 2010. [http://econstor.eu/bitstream/10419/39993/1/324\\_gradeva.pdf](http://econstor.eu/bitstream/10419/39993/1/324_gradeva.pdf)

Gunewardene, Roshani, M. "GATT and the Developing World: Is a New Principle of Trade Liberalization Needed?" *Maryland Journal of International Law* 15.1, 1991: 48.

Hidalgo, Cesar A. "Discovering Southern and East Africa's Industrial Opportunities." German Marshall Fund of the United States. 2011. Available at <http://www.gmfus.org/file/2323/download>.

Hoekman, Bernard et al. "Quantifying the Value of Preferences and Potential Erosion Losses." *Trade Preference Erosion: Measurement and Policy Response*. New York: Palgrave MacMillan, 2009.

International Chamber of Commerce. "ICC Business World Trade Agenda: Trade Facilitation Factsheet." 2013.

International Trade Centre. WTO Public Forum on *Consumers, SMEs Stand to Gain from Bali Deal on Trade Facilitation*. 3 October 2013. Available at <http://www.intracen.org/news/consumers-smes-stand-to-gain-from-bali-deal-on-trade-facilitation/>.

International Trade Centre. *Strategic Plan 2015-2017*. 2015. Available at [http://www.intracen.org/uploadedFiles/intracenorg/Content/About\\_ITC/Corporate\\_Documents/Strategic\\_Plan/Strategic%20planFINAL-web.pdf](http://www.intracen.org/uploadedFiles/intracenorg/Content/About_ITC/Corporate_Documents/Strategic_Plan/Strategic%20planFINAL-web.pdf)

Keck, Alexander, and Patrick Low. "Special and Differential Treatment in the WTO: Why, When, and How?" World Trade Organization, Staff Working Paper ERSD-2004-03, May 2004.

Kuhlmann, Katrin et al. "Africa's Development Corridors as Pathways to Agricultural Development, Regional Economic Integration and Food Security in Africa." Working Draft, Aspen Global Health and Development. June 2011.

Maertens, Miet et al. "Globalization and Poverty in Senegal: A Worst Case Scenario?" *Eur. Rev. Agric. Econ.* 38.1 at 31-54. 2011.

Marrakesh Agreement Establishing the World Trade Organization. 1994

Meyer, N. et al. "Bilateral and Regional Trade Agreements and Technical Barriers to Trade: An African Perspective." OECD Trade Policy Working Papers, No. 96, OECD Publishing, 2010.

Michalopoulos, Constantine. "The Role of Special and Differential Treatment for Developing Countries in GATT and the World Trade Organization," World Bank Policy Research Working Paper No. 2388, July 2000.

Microsoft 4Afrika. <https://www.biz4afrika.com/en/Pages/default.aspx> (Last visited 1 April 2015).

Neufeld, Nora. "The Long and Winding Road: How WTO Members Finally Reached a Trade Facilitation Agreement." Staff Working Paper, ERSD-2014-06. World Trade Organization, 2014.

The Organisation for Economic Co-operation and Development. "The Costs and Benefits of Trade Facilitation." *Policy Brief*. 5 October 2005.

The Organisation for Economic Co-operation and Development. "Trade Facilitation Agreement Would Add Billions to Global Economy." March 2013. Available at <http://>

[www.oecd.org/trade/trade-facilitation-agreement-would-add-billions-to-global-economy-says-oecd.htm](http://www.oecd.org/trade/trade-facilitation-agreement-would-add-billions-to-global-economy-says-oecd.htm)

Páez, Laura et al., "A Decade (2000-2010) of African-U.S. Trade Under the African Growth Opportunities Act (AGOA): Challenges, Opportunities and a Framework for Post AGOA Engagement." July 2010. Available at <https://www.whitehouse.gov/the-press-office/2015/06/08/g-7-leaders-declaration>

Pelissier du Rausas, Mattieu et al. « Internet matters : The Net's sweeping impact on growth, jobs, and prosperity. » McKinsey Global Institute. May 2011.

Perry, B.D. et al., "The Impact and Poverty Reduction Implications of Foot and Mouth Disease Control in Southern Africa, with Special Reference to Zimbabwe." UK DFID, 2003.

Peterson Institute of International Economics. "Global Free Trade Could Lift 500 Million People Out of Poverty." News Release. 17 June 2004.

Pilat, Dirk. *Regulation and Performance in the Distribution Sector*. Economics Department Working Papers, No. 180. OECD Paris. 1997. p. 4. Available at <http://www.oecd.org/regreform/reform/1864037.pdf>.

Pilat, Dirk et al., "Production and Use of ICT: A Sectoral Perspective on Productivity Growth in the OECD Area." OECD Economic Studies No. 25, Paris: Organisation for Economic Co-operation and Development. 2002.

Portugal-Perez, Alberto et al. "Beyond the Information Technology Agreement: Harmonisation of Standards and Trade in Economics." *World Economics* 33:12, 1870-1897. December 2010.

The United States Agency for International Development (USAID). "Creating an Enabling Environment for Agricultural Growth." Enabling Agricultural Trade. 2014. Available at <http://feedthefuture.gov/sites/default/files/resource/files/EnablingAgriculturalTradeFactSheet.pdf>

United States International Trade Commission, Harmonized Tariff Schedule. <http://hts.usitc.gov/> (Last visited 1 April 2015).

United States Trade Representative. *2014 Report on Technical Barriers to Trade*. April 2014. Available at <https://ustr.gov/sites/default/files/2014%20TBT%20Report.pdf>

University of Oxford. "A Comparative Survey of Procedures for Public Participation in the Lawmaking Process – Report for the National Campaign for People's Right to Information (NCPRI)". 2011. Available at [http://www.law.ox.ac.uk/denning-archive/news/events\\_files/A\\_Comparative\\_Survey\\_of\\_Public\\_Participation\\_in\\_the\\_Legislative\\_Process.pdf](http://www.law.ox.ac.uk/denning-archive/news/events_files/A_Comparative_Survey_of_Public_Participation_in_the_Legislative_Process.pdf)

Wainio, John, et al. "Future of Preference Programs." *Agricultural Trade Preferences and the Developing Countries*.

Economic Research Service and the U.S. Department of Agriculture. 37-40.

Wilson, John S. and Tsunehiro Otsuki. "Standards and Technical Regulations and Firms in Developing Countries: New Evidence from A World Bank Technical Barriers to Trade Survey." The World Bank, Washington, D.C., 2004.

World Bank Group. "Food Safety and Agricultural Health Standards: Challenges and Opportunities for Developing Country Exports." Report No. 31207. 10 January 2005.

World Bank Group. "Kenya at the Tipping Point?" *Kenya Economic Update*. Nairobi, Kenya: The World Bank, December 2010. Available at [http://siteresources.worldbank.org/KENYAEXTN/Resources/KEU-Dec\\_2010\\_with\\_cover\\_e-version.pdf](http://siteresources.worldbank.org/KENYAEXTN/Resources/KEU-Dec_2010_with_cover_e-version.pdf)

World Bank Group. *Women Business and the Law 2016: Getting to Equal*. World Bank, 2015. doi:10.1596/978-1-4648-0677-3. License: Creative Commons Attribution CC BY 3.0 IGO

World Bank Group. *World Development Indicators*. 2014. Available at <http://data.worldbank.org/sites/default/files/wdi-2014-book.pdf>

World Bank Group. *Services Data (% of GDP)*. 2015. Available at <http://data.worldbank.org/indicator/NV.SRV.TETC.ZS/countries?display=graph>

World Economic Forum. "The Shifting Geography of Value Chains: Implications for Developing Countries and Trade Policy" 2012.

World Trade Organization Statistics, Telecommunications Services. 2015. Available at [https://www.wto.org/english/tratop\\_e/serv\\_e/telecom\\_e/telecom\\_e.htm](https://www.wto.org/english/tratop_e/serv_e/telecom_e/telecom_e.htm).

World Trade Organization Statistics, Trade Facilitation. 2015. [http://www.wto.org/english/news\\_e/brief\\_tradefa\\_e.htm](http://www.wto.org/english/news_e/brief_tradefa_e.htm) (last visited 1 April 2015).

Zahrnt, Valentin. "The WTO's Trade Policy Review Mechanism: How to Create Political Will for Liberalization?" ECIPE Working Paper, No. 11. 2009. Available at <http://www.ecipe.org/app/uploads/2014/12/the-wto2019s-trade-policy-review-mechanism-how-to-create-political-will-for-liberalization-1.pdf>

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