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Introduction

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1.1 MOTIVATION

Important developments are currently affecting the global trading system. We witness increasing calls for protectionism and a surge in populism in some major economies, while other trading nations continue to liberalise trade, driven by the dynamics of global value chains (GVCs). Even committed trading nations have shown an increased willingness to use industrial policies and have elevated the pursuit of geopolitical concerns through trade. On top of this, calls have increased to tackle the climate crisis through trade policy instruments. In short, important shifts induced by politics and economics shape today's trade policies.

At the same time, we have also witnessed a shift away from multilateral trade negotiations through the World Trade Organization (WTO) in favour of regional and bilateral trade agreements, which often reflect the competing interests of major trading countries such as the United States (US), China and the European Union (EU). Preferential trade agreements (PTAs) have proliferated widely in recent years, attracting the attention of scholars and policymakers. Beginning in the 1990s, a new wave of 'regionalism' (Mansfield and Milner 1999) led to an expansion of increasingly ambitious PTAs around the globe and, more recently, the negotiation of so-called mega-regionals (e.g., CPTPP, CETA, RCEP) has expanded.[1] These new PTAs are deeper and broader in scope than any prior agreements, covering areas that go well beyond tariffs to include provisions on everything from labour, environment investment, technical barriers, intellectual property rights, services and digital commerce (Dür et al. 2014). Understanding variation in the design of trade agreements, as well as the impact of these design choices, has become a central task of research across multiple disciplines. Importantly, many newer agreements are no longer simply

[1] The Comprehensive and Progressive Transpacific Partnership (CPTPP), the Comprehensive Economic and Trade Agreement (CETA) and the Regional Comprehensive Economic Partnership (RCEP).

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copy-pasted as important new models are being created (and contested) through treaty-making practice.

These developments in global economic rulemaking are accompanied by an increasing backlash against globalisation in the public sphere (Mansfield et al. 2021; Walter 2021). While a rising number of developing countries have embraced ideas of market integration and foreign investment protection in recent years, we have also been witnessing street protests and opposition to trade and investment agreements in many parts of the world. Moreover, successive US administrations have shifted to addressing trade imbalances, particularly trade deficits, and have targeted China, as well as other important trading partners, including Mexico, Canada, South Korea and the European Union. Economic nationalism is again on the rise (Arp and Polanco 2022).

What has received less attention in the literature is how the above-described shifts, ranging from geopolitics and protectionism to climate risks and increasing market integration through GVCs, are shaping the trade architecture in regions such as Latin America. Mapping these challenges and, in particular, understanding how they affect Latin America is the primary rationale behind this book. We were particularly interested in working on the research frontier that addresses variation in trade agreement design, the impact of trade agreements on economic, political and legal institutions, as well as how citizens are affected by and react to trade agreements. This is particularly important in times when economic globalisation is undergoing tremendous changes.

The project received initial funding from a 2019 Swiss National Science Association Seed Money Grant, which the State Secretariat for Education, Research and Innovation (SERI) commissioned to the University of St. Gallen through its Centro Latinoamericano-Suizo. It helped bring together four university institutions: the University of Bern; the Institute of International Studies of the Universidad de Chile in Santiago, Chile; the Facultad Latinoamericana de Ciencias Sociales (FLACSO), Argentina; and the Pontificia Universidad Católica del Perú (PUCP). The funding allowed us to first meet virtually during the COVID-19 pandemic, coordinate research activities across institutions and support the organisation of in-person events in the fall of 2022. The project then became an integral part of the World Trade Forum, an annual meeting organised by the World Trade Institute and the European University Institute. It brought together experts working on the political economy and law of trade relations, many of which are based in Latin American research institutions. It involves political scientists, legal scholars and economists working at universities and various international organisations passionate about understanding the rich and varying experiences of Latin American countries negotiating trade deals since the democratisation processes in the second half of the twentieth century. This book, then, represents a collective endeavour to better understand the political, economic and legal sources (and

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consequences) of trade agreements in Latin America as we move further into the twenty-first century.

1.2 OBJECTIVES AND LEADING QUESTIONS

Against the above-described backdrop of the increasing politicisation of trade agreements, one important objective was to address the different challenges and opportunities for trade policy in Latin America. Acknowledging a rich and fascinating history in trade policy and the existence of substantial variation in trade policy approaches (see Elsig, Ganeson, Lugg and Roux, Chapter 2), the objective of the book has been to advance our understanding of the different design choices witnessed in PTAs, as well as evaluate their evolution and impact. In addition, building on the microfoundations of trade policy, the book also focuses on citizens' perceptions and support for policies that liberalise or oppose trade. At the same time, we hope to further unpack differences across Latin America and provide glimpses here and there of the main political-economy forces in place. We started the project knowing we could not do justice to the full range of variation across all countries, time and context in the region. Still, we hoped to bring different scholars and perspectives together to build an interdisciplinary community focusing on the state-of-the-art in studying PTAs.

The contributions aim to tackle some of the key research questions in the political economy of PTAs. We see important questions centred around three major themes: (1) understanding PTA design choices, including both which topics are more or less likely to be included as well as with whom; (2) examining the economic, political and social effects of PTAs in the region; and (3) addressing the sources and consequences of increasing politicisation of trade within societies.

As to the design of PTAs, a set of chapters provides insights into the question of whether PTA templates exist in Latin America. On an aggregate level focusing on diffusion in treaty design, we find that there does not appear to be a dominant template or templates used exclusively by countries in the region, but that there is some substantial US imprint in some agreements (Elsig, Ganeson, Lugg and Roux, Chapter 2). We do, however, see that there is diffusion with respect to specific design provisions. For example, there is evidence that the inclusion of some provisions is driven by countries' interactions within PTAs, as well as through Committee work in international organisations (e.g., Saco, Chapter 10, on food labelling).

Also, with respect to design, a number of chapters focus on the inclusion of new topics that have become more salient in the LA trade community and, which have in some cases led to innovation in PTA design in the region. Contributions in the book pay particular attention to gender provisions (Bahri, Chapter 4), digital trade and environmental provisions (Klotz and Ugarte, Chapter 6) and flexibilities in the form of special and differential treatment (S&DT) provisions (Zelicovich, Peixoto,

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Daibert and Delich, Chapter 5). Design also means redesign, and one of the chapters takes a closer look at how PTA's investment chapters are reformed as a result of the backlash against the existing investment regime (Calvert, Chapter 11).

When designing PTAs, it is also important to take into account public opinion. Three contributions deal with these important microfoundations. One contribution examines public and elite opinions towards different PTA partners across several countries in the region (Dür and Huber, Chapter 3), whereas other chapters analyse public opinion in Chile (López and Bórquez, Chapter 8) and Brazil (Campello and Urdínez, Chapter 13), providing important country-specific context. A common thread in these contributions is the critical role that ideology and politics play in trade policy choices. This helps explain why trade remains a highly salient topic in the region and often features more prominently in national election cycles relative to other parts of the world.

With respect to the effects of PTAs, the book covers a variety of areas. One chapter finds that digital trade provisions have had a small positive impact on exports, whereas environmental provisions seem to have a small negative impact (Klotz and Ugarte, Chapter 6). Another contribution demonstrates that services sector liberalisation has had a positive impact on female labour force participation in Chile (Muñoz and Cáceres, Chapter 9). A third chapter shows that even though states in the region have legal obligations through their WTO and PTA obligations, they still retain significant policy space, which in the case of Colombia has allowed them to implement ambitious domestic politics related to food security in the aftermath of the 2016 Peace Agreement with the main rebel group (Revolutionary Armed Forces of Colombia - FARC) (see Álvarez Zárate, Camargo Moncayo, Urrea Zuluaga and Beltrán Vargas, Chapter 7).

Finally, some evidence is also presented that PTAs in the region might lead to unintended or even contradictory consequences. One chapter shows that 'murky protectionism' has increased among the signatories of North American Free Trade Agreement (NAFTA) and Southern Cone Common Market (MERCOSUR) (Albertoni and Wise, Chapter 12).

In the next section, we summarise the chapters and the main takeaways.

1.3 BOOK OVERVIEW

The book consists of thirteen chapters. The first two chapters set the stage. After this introduction, the second chapter by Manfred Elsig, Kirthana Ganeson, Andrew Lugg and Marine Roux analyses the overall landscape of PTAs in the region, with a specific focus on understanding differences (and commonalities) in design. The authors address the varied motivations of Latin American countries to sign PTAs and then use the design of trade agreements (DESTA) database to empirically map patterns in the region (Dür et al. 2014). The chapter shows considerable variation in terms of PTA design both within the region and when Latin America is compared to other regions. Finally, the chapter uses quantitative text analysis to address whether common models

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or templates are observed in the region. The chapter presents some evidence that agreements involving the US have diffused within the region, yet it finds little evidence of a single template or templates that Latin American countries routinely adopt. In sum, the chapter shows that there is rich variation in the PTA landscape across Latin America.

Chapters 2 to 6 focus on current challenges and new agendas. They address four important challenges of today's trade policy landscape. First, do citizens and elites care about the question 'with whom do we trade?'. For many years, the trade policy literature was focused on the distributional consequences of trade and incorporated both pocketbook and sociotropic motivations for understanding support for trade agreements. More recent research suggests that trading partners matter as well. Citizens care about where trade and services originate and are exported. Chapter 3 by Andreas Dür and Robert Huber provides a comparative analysis that explains the support for different trading partners across several countries in Latin America, focusing on both voters and elites. They test whether economic interests, geopolitical concerns or political ideology drive support for different PTA partners. Using both elite and individual survey data, they find that political ideology is an important predictor of preferences for trading partners for both political elites and citizens. By contrast, economic considerations only matter for legislators' preferences and geopolitical considerations only for citizens' preferences.

A second contribution pays attention to the way trade affects women. In Chapter 4, Amrita Bahri focuses on gender provisions in Latin American trade agreements. The chapter emphasises that there is important variation across regions with respect to the inclusion of gender provisions and illustrates important examples of difference and overlap. The second part of this chapter shows that Latin America has emerged as a frontrunner in drafting trade agreements with gender commitments. This part examines the ways in which countries have drafted gender provisions, the roles of women these provisions have focused on and the strategies of mainstreaming which are unique to this region (such as the inclusion of standalone chapters and the creation of dedicated implementation mechanisms).

Third, Latin America has been a region at the forefront of advocating for S&DT in the international trade regime, and many countries have experimented with various forms of differentiated integration, protection of infant industries and other S&DT policies based on countries' level of development. Chapter 5 – by Julieta Zelicovich, Juliana Peixoto, Leticia Daibert and Valentina Delich – examines S&DT through the lens of PTAs. They discuss the current literature on S&DT in trade agreements and present a novel conceptualisation. This allows them to map differences in the way Latin American countries have opted for such provisions over time. With a novel conceptualisation at hand, they find that S&DT provisions are rarely located in dedicated chapters but are more frequently found scattered across various parts of the agreements; these may include a patchwork of exclusions, including exemptions, transition periods and safeguards.

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Fourth, a variety of Latin American countries have also spearheaded how trade diplomacy can address new trade issues, such as the greening of the economy and digitalisation. Chapter 6, by Sebastian Klotz and Cristian Ugarte, takes a critical look at these two themes. The chapter examines the design and the effects of digital and environmental provisions of Latin American PTAs. The chapter compares domestic policies and then maps the design of these topics in treaty-making. The second part focuses on a preliminary empirical test of whether these provisions have an impact on trade flows. Interestingly, the results suggest that the presence of digital and environmental provisions in Latin American PTAs has no statistically significant impact on the volume and composition of imports. For exports, however, the analysis indicates that digital provisions in PTAs tend to increase flows, while the opposite is true for environmental provisions. Neither the inclusion of digital nor environmental provisions in PTAs are found to result in a statistically significant change in the composition, that is a 'greening' or 'digitalising', of exports.

Chapters 7 to 10 of the volume examine the effect of PTAs on countries in the region (single country focus), to better understand how these agreements affect important political and economic developments. These concern the impact on food security in Colombia, the effects of service liberalisation on the female workforce in Chile and how a set of countries pursue health-related societal goals in line with technical barriers to trade commitments in the Pacific Alliance. This part also takes a closer look at how in Chile, the perceptions of elites and citizens have evolved over time when it comes to signing trade agreements.

Chapter 7 – by José Manuel Álvarez Zárate, María Camila Camargo Moncayo, Sofía Urrea Zuluaga and Diana Beltrán Vargas – focuses on how the Peace Deal that ended years of civil war in Colombia has incorporated a set of trade-related measures to increase food security. The chapter assesses how existing trade obligations emanating from the WTO and the US-Colombian PTA have influenced the different programmes and highlights areas where clashes of commitments could arise now and in the future development of the implementation of the peace treaty. This chapter contributes, in particular, to the debate on how trade obligations can be designed to allow sufficient policy space for countries to pursue important societal goals.

This is followed by a closer look at the changing perspectives in Chile on the role of trade agreements. Chapter 8, by Dorotea López and Andrés Bórquez, uses a mixed-methods approach, relying on a survey, elite interviews and a media analysis to trace important changes and expectations about the role of trade policy in recent years. Whereas trade policy openness and active use of trade agreements were seen in a positive light and were strongly linked to democratisation policies in the past, recent developments provide evidence for a growing backlash to openness. This chapter discusses this increasing scepticism and provides a nuanced picture of the degree of politicisation discussing elite views, survey data and media coverage. The authors show that support for PTAs remains generally high but that there is more demand to address questions of inequality, environment and gender in these agreements.

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The next chapter in this section by Javiera Cáceres and Felipe Muñoz carries out an impact assessment of services commitments in trade agreements on female workforce participation. Using the case of Chile, Chapter 9 assesses the impact of the inclusion of trade in service provisions on the participation of women in the labour force, particularly within the services sector. They argue that the inclusion of service provisions within PTAs can enhance the development of that sector, which should positively impact women's employment. For this reason, a more substantial impact of PTA on women's employment rather than on that of men should be encountered, which should help reduce the gender gaps in this sector. To test these hypotheses, the authors use a panel composed of data from Latin American economies from 1990 to 2021. A series of econometric specifications suggest that the inclusion of service provisions in Chilean PTAs positively impacted women's employment, particularly in the services sector. For men, the results showed a negative or non-significant effect. Finally, the chapter shows that these agreements can contribute to reducing the gender gap in the workforce.

The final contribution in this group by Víctor Saco takes a closer look at how food labelling regulations to pursue health objectives have diffused across Latin America and, in particular, across members of the Pacific Alliance. Saco shows in Chapter 10 how a specific label system developed in Chile was then adopted by other countries in the region (Peru and Mexico). The case nicely illustrates how the Pacific Alliance served as a platform for diffusion. It also shows that concerns about consistency with international trade law and criticism by some trading partners and businesses led to only minor adjustments but did not stop the diffusion of health policy labels in the region.

Chapters 11 to 13 focus on systemic challenges facing Latin America (other than trade-related issues and future challenges). It starts with a deep dive into the highly politicised field of investment arbitration and how trade agreements have started to incorporate investment regulation. Julia Calvert analyses the changing nature of investment provisions in PTAs. In Chapter 11, she finds that PTA investment chapters demonstrate an increasing variety of reforms over time. This variation is driven in part by the legitimacy crisis in international investment law. Arguably, this crisis has created more political space for South American preferences in investment treaty law-making. However, who dominates reform debates matters just as much to countries' reform preferences as their experience in investor–state arbitration. Regardless of reform preferences, the main outcome of PTA investment chapters has been further fragmentation in an already complex and incomplete area of international economic law. This fragmentation, if continued, may exacerbate the very challenges governments are seeking to address in promoting sustainable and inclusive development through their reform efforts.

Chapter 12, by Nicolás Albertoni and Carol Wise, addresses the rise of protectionism in the region through an examination of two of the largest economic powers in Latin America. They provide an insightful overview of both Mexico's and

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Brazil's trade relationship with their neighbours through the NAFTA and MERCOSUR agreements, respectively. Looking at two reluctant globalisers, they particularly focus on how trade policy has evolved since the Global Financial Crisis of 2008. Their chapter shows that PTAs, long considered as key trade and investment-creating conduits, are also emerging as venues within which non-tariff measures (NTMs), a hidden form of protectionism, are simultaneously increasing. The good news is that membership in these PTAs has mitigated some intra-bloc protectionism, albeit against a backdrop of rising NTMs within these PTAs. The picture on protectionism would not be complete without accounting for the increasing influence of China in the region, which has strongly influenced the choices of domestic trade policies in Brazil and Mexico as well.

Chapter 13 nicely links to the preceding chapter and the role of China by focusing on how Brazilian citizens view China as a trading partner. China has become the most important trade partner for a number of Latin American countries, in particular Brazil. Daniela Campello and Francisco Urdínez address an interesting puzzle related to 'China-bashing'. They show through survey data that an import shock translates into negative perceptions in regions where Chinese imports have surged over the years. By contrast, they show that in regions that benefit from a boom in exports of agricultural products to China, no positive attitudes towards China are found. They argue that the negative effects on the import side are more visible relative to the positive effects of exports. However, overall attitudes may have been affected by the Bolsonaro government's vocal criticism of China during the Covid pandemic.

The above chapters provide in-depth analyses of various topics for different countries across different time dimensions. They show how salient trade policy and, in particular, PTA are and remain in Latin America. We hope that the collected work can act as a building ground for many more empirical investigations into the design and effects of the growing network of PTAs and their substantive obligations.

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