1

Thinking about the Future Design of Preferential Trade Agreements

Kathleen Claussen, Manfred Elsig, and Rodrigo Polanco

1.1 MOTIVATION

How should future trade agreements address new and upcoming challenges to the international trading system? The inspiration to address this overarching question grew out of discussions with trade experts at the United Kingdom (UK) Embassy in Switzerland and the Swiss State Secretariat for Economic Affairs (SECO). The discussions showed a need from an academic but also trade diplomacy perspective to look beyond the current design features of preferential trade agreements (PTAs) and spearhead new innovative thinking about how future trade agreements could and should look.[1] Many scholarly contributions focus on explaining the current design and various effects of existing trade agreements. They usually take stock of such treaties and evaluate their impact. However, few projects elaborate future concepts that could be advanced through PTAs. This is what this book project aims to achieve.

The analogy of a car show comes to mind, where different leading car producers showcase their concept cars for the future. Many of these innovations will not be directly marketable and it will take time to achieve mass production for these initial concepts. In this same spirit, the contributors have been invited to develop future ideas, explore the known unknowns, and go beyond the status quo.

1.2 PTAS AS A FORUM FOR TALKING TRADE

Trade agreements have a long history. Often, countries secured and strengthened their trade through diverse arrangements ranging from colonial preferences to bilateral treaties or broader regional agreements. From the Romans to the

[1] We define PTAs as reciprocal trade agreements where a limited number of members grant each other preferences in terms of market access and work towards aligning trade-related regulations.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 04:49:08, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009484640.002

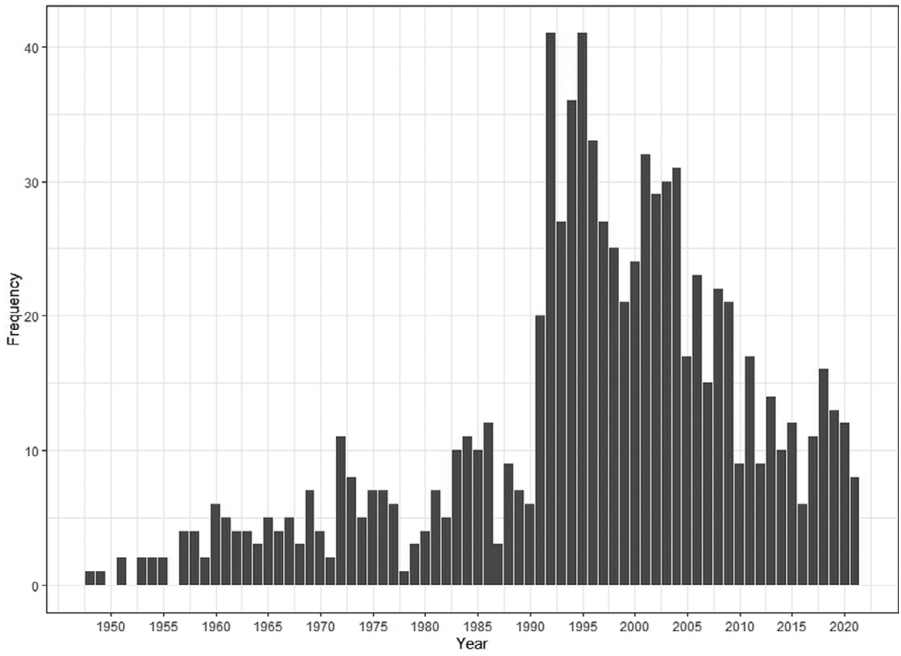


FIGURE 1.1 PTA signing over time.
Source: www.designoftradeagreements.org; Dür et al. (2014).

Ottomans, empires were among the earliest movers in securing trade interests, using their influence and force to give their traders and producers secure access to foreign markets, usually on an exclusive basis. Early trade agreements were concerned less with liberalising trade and opening up new markets than with ensuring that a country's traders and their property received protection from arbitrary measures in foreign countries (World Trade Organization 2011).

The now widespread idea that trade agreements could reciprocally secure trade interests is relatively modern, starting with the Cobden–Chevalier Treaty (1860) between Britain and France, which, for the first time, considered notable reciprocal tariff reductions and a most-favoured-nation (MFN) clause. States slowly rediscovered PTAs after World War II, partly inspired by a number of bilateral agreements the United States had negotiated in the interwar period under the Reciprocal Tariff Act of 1934. While we observe a limited number of initiatives to negotiate PTAs up to the mid-1980s, they have grown in popularity since the 1990s. The rise in the early 1990s was mainly a result of former Soviet satellite states negotiating such agreements, in particular with European states, some in view of a future association with the European Union (EU). In addition, crises in multilateral rulemaking since the end of the 1990s have also led to a sustained high level of trade diplomacy through PTAs (see Figure 1.1).

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 04:49:08, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009484640.002

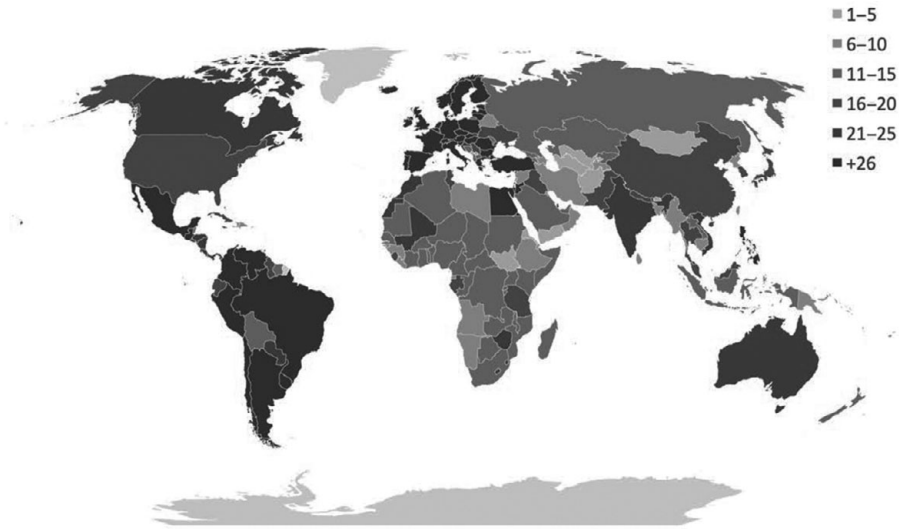


FIGURE 1.2 World map of PTA signing.
Source: www.designoftradeagreements.org

While the increase in the number of new PTAs signed each year demonstrates their continued popularity, there is considerable variation across states in the deployment and reliance on such agreements. Figure 1.2 shows how many PTAs countries have successfully negotiated since the 1950s. Numbers have generally been high in Europe and in Latin America. While many important PTAs have been concluded, it is striking that the United States and the EU do not share a PTA, nor do the EU and China or the United States and China.[2] This is particularly surprising, given the extent of trade and investment flows among these economies, although tariffs are already at generally low levels between the United States and the EU, and trade barriers are rather modest.

In the United States, the Trump Administration withdrew from a concluded but not yet ratified PTA (the Trans-Pacific Partnership, TPP) and has not embarked on any new major preferential engagement except for a reform of the North American Free Trade Agreement (NAFTA), which was replaced by the United States–Mexico–Canada Agreement (USMCA).[3] The Biden Administration has indicated

[2] We do not consider the Trump Administration trade deal with China as a PTA based on reciprocity with a view of extending trade.

[3] The USMCA was negotiated under strong pressure by the Trump Administration. Both Canada and Mexico were reluctant to engage in the negotiations (Bahri and Lugo 2020). This agreement included a number of novel provisions, some of which will be addressed in the different chapters of this book. The USMCA, however, has also a mercantilist undertone that led to provisions that read as quite protectionist.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 04:49:08, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009484640.002

that it does not favour negotiating new PTAs, at least not in their usual form (Claussen 2022b).[4]

The EU has also struggled with negotiating ambitious treaties and with long-lasting domestic debates to ratify them. For example, the signature of the 2016 Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada was blocked by the Belgian region of Wallonia, forcing the inclusion of a legal interpretative instrument to clarify obligations stated in the investment chapter of the agreement (Paquin 2022). More recently, the Irish Supreme Court precluded the ratification of the CETA absent changes to the Irish domestic legislation governing arbitration (Baker 2022). Likewise, earlier versions of the EU's PTAs with Singapore (2018) and Viet Nam (2019) included an investment chapter. As a consequence of the Court of Justice of the European Union (CJEU) Opinion 2/15 of 16 May 2017, such provisions were segregated into separate investment protection agreements (IPAs). According to the CJEU, all subject matters of those PTAs fall within the scope of the EU's common commercial policy, with the exceptions of non-direct forms of investments and investor–state dispute settlement (ISDS). The segregation of investment issues from the PTAs was aimed at improving the chances of their ratification, but it also negatively affected the EU's ability to use its political weight to shape the standardisation of rules (Hainbach 2018).

Politicisation of PTAs varies by region. We witness continued interest in this form of institutionalised trade liberalisation and cooperation in Latin America, Asia, and Africa. On a regional basis, the 2020 Regional Comprehensive Economic Partnership (RCEP) stands out in Asia; and in Africa, the 2018 African Continental Free Trade Area (AfCFTA) is hailed as a landmark agreement as well. In Latin America, the 2014 Pacific Alliance Additional Protocol between Chile, Colombia, Mexico, and Peru stands out (Sauvé et al. 2018).

In addition, a number of trans-regional agreements have come to the fore, such as the 2018 Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) – a slightly modified version of the TPP after the US withdrawal, as well as CETA. Most recently, in 2022, the Pacific Alliance concluded a free trade agreement with Singapore (the Pacific Alliance–Singapore Free Trade Agreement, PASFTA), the first negotiated by that trade bloc. Some of these agreements have also developed novel provisions in various trade and trade-related areas, such as regulatory coherence/cooperation/good regulatory practices, electronic

[4] See, for example, the Indo-Pacific Economic Framework for Prosperity (IPEF), which is designed to be different from a traditional PTA. It includes a trade pillar and three additional pillars on supply chains; clean energy, decarbonisation, and infrastructure; and tax and anti-corruption. The trade pillar seeks to build 'high-standard, inclusive, free, and fair-trade commitments and to develop new and creative approaches to trade and technology cooperation that will support enduring prosperity in the Indo-Pacific region'. Participant countries include Australia, Brunei Darussalam, Fiji, Japan, Indonesia, Republic of Korea, Malaysia, New Zealand, Philippines, Singapore, Thailand, Viet Nam, and the United States (United States Trade Representative (USTR) 2022).

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 04:49:08, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009484640.002

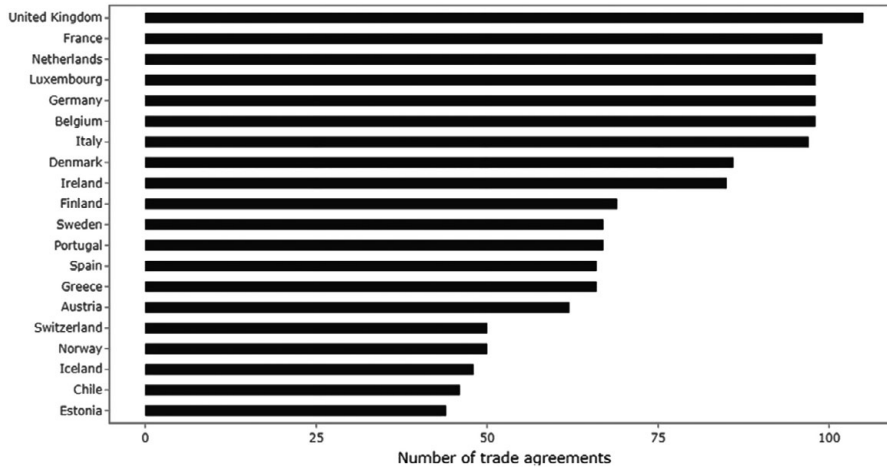


FIGURE 1.3 Countries with the most PTAs.
Note: Older members of the EU have historically signed more agreements, some of which are no longer in force.
Source: www.designoftradeagreements.org

commerce/digital trade, labour, environment and development, transparency and corruption, as well as trade and gender.

One country stands out in its negotiation and conclusion of PTAs in the past few years. Due to Brexit, since 2019, the UK has concluded thirty PTAs starting with agreements that largely allow the UK to keep the same deals that it had when it was an EU Member (e.g. PTAs with Chile, Israel, and Lebanon). Consecutive UK governments have actively sought to replicate existing EU agreements. The UK built up its trade diplomatic machinery to conclude new treaties that included novel chapters on topics not included in EU agreements, like animal welfare, digital trade, and gender, as can be seen in the PTAs with Australia (2021) and New Zealand (2022). Figure 1.3 shows the top twenty countries in terms of overall numbers of PTAs, with the UK leading a group of nearly exclusively European states.

Trade agreements have become substantially deeper over time (see Figure 1.4). In addition to developing more ambitious market access commitments, countries have also extended the scope of PTAs. While PTAs in the 1990s began to focus on behind-the-border issues and regulatory issues (intellectual property rights (IPR), public procurement, services), since the turn of the century, we have seen increasing attention to new issues (e.g. digital trade, global value chains – GVCs) but also to topics formerly called 'non-trade concerns', which have slowly extended the PTA agenda, including labour rights, environmental protection, gender, mobility, and good governance (Claussen 2022a).

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 04:49:08, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009484640.002

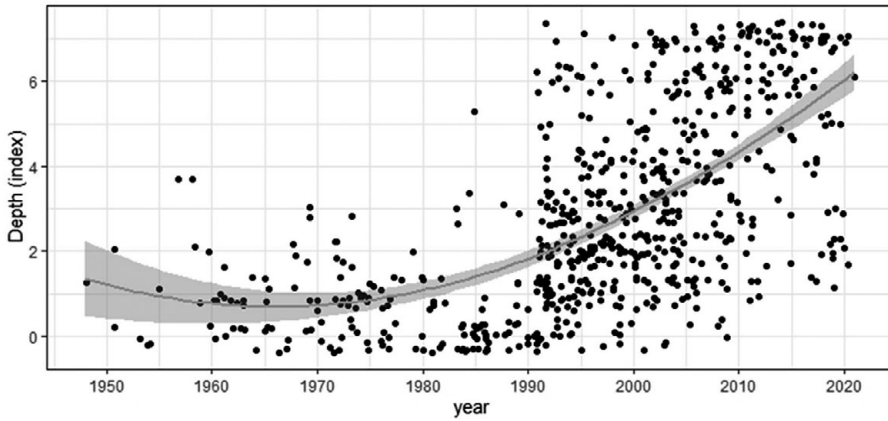


FIGURE 1.4 Deepening of trade agreements over time.
Source: www.designoftradeagreements.org

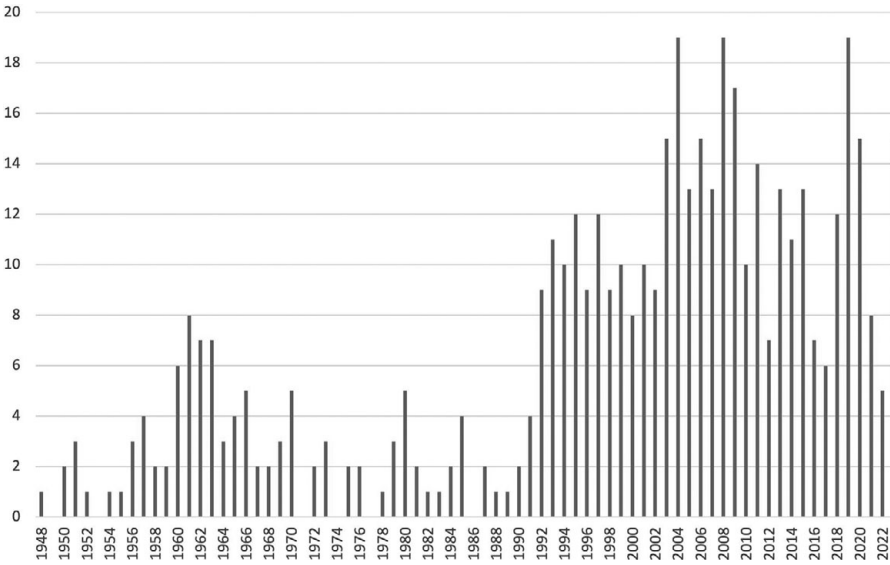


FIGURE 1.5 PTAs with investment provisions over time.
Source: EDIT, https://edit.wti.org/; Alschner et al. (2021)

Most recently, we also observe that investment regulation has entered the universe of PTAs through dedicated chapters. Figure 1.5 shows the number of PTAs per year that include investment provisions.

Preferential trade agreements often replicate provisions from other PTAs. The phenomenon of boilerplating has been well documented (Claussen 2018; Allee and Elsig 2019). Some treaties have more influence over future treaty-making than

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 04:49:08, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009484640.002

others. Treaty models and templates travel through the PTA network, and this diffusion also creates unintended effects. Ideas developed in one PTA can inspire future negotiations beyond geographic boundaries. Scholars have also noted the dialectical relationship between the World Trade Organization (WTO) and PTAs (Allee et al. 2017; Elsig and Klotz 2021). In other words, some innovations developed in the context of PTA negotiations can also spill into multilateral negotiations, as the example of the WTO's Joint Statement Initiative on electronic commerce negotiations shows (World Trade Organization 2021).

1.3 DESIGN SCENARIOS FOR THE FUTURE

As outlined above, PTAs have become more prominent over time, but have also led to increased politicisation. Notwithstanding both enthusiasm for and opposition to PTAs, several assumptions have guided the work presented in the following chapters.

First, we generally assume that a country wants to pursue a PTA; in other words, countries are not coerced into treaty-making. A realist approach would certainly lead to a different set of future design features than the ones developed in this edited volume. We see the negotiation of PTAs as a predominantly voluntary exercise with the aim of gradually liberalising markets and aligning regulatory philosophies. We also acknowledge increasing geopolitical tensions but do not develop ideas following a zero-sum game logic or a world of blocs.

Second, and related, while we acknowledge that the issue of national security has come to dominate discourses across the globe, we share the conviction that such clauses should not be used as disguised protection and that states' reliance on them should only be temporary.

Third, while market access is still a primary driving factor in PTA negotiations, there is an increasing need to address concerns or regulatory cooperation, to meet related sustainability goals, and to allow for smart flexibility mechanisms to address societal concerns.

Fourth, while we are aware of political economy forces at home that often tend to limit innovations and ground negotiators' expectations of what is feasible, we aim to look beyond what is possible in the near future and develop ideas that could inspire ambitious future treaty-making initiatives.

1.4 OVERVIEW OF THE BOOK

The project brings together experts on a rich range of topics covered in PTAs. The authors represent different disciplines and research traditions. Some chapters have been developed by academic partners working together with leading practitioners. All chapters start by taking stock of the current advances in PTA design. They then outline forward-looking design ideas. All authors have been asked to discuss novel

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 04:49:08, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009484640.002

developments across PTA models as well as the relationship between PTAs and multilateral agreements where applicable. Each group of authors has selected a limited number of issues within its selected topic area to reflect how these issues could be taken up by PTAs in the future. While cognisant of the political challenges of implementing their ideas, the authors have tried to overcome this status quo bias and consider the conditions under which new design features could work.

The book is divided into four parts. After this Introduction, a set of chapters focus on traditional *core trade issues*. Chapter 2 ('Preferential Frontiers in Services Trade Governance') by Martin Roy and Pierre Sauvé reviews the main innovations brought about by preferential agreements in the global governance of services trade and highlights some limits. The contribution of services PTAs is analysed along three key angles: 1) rulemaking, 2) market access commitments, and 3) architecture and liberalisation modalities. The chapter shows how innovations in PTAs have mostly taken place in the context of the last two angles, and highlights some possible avenues in the design of future services PTAs. Building on recent trends, the design of future PTAs should move beyond the traditional dichotomy between positive and negative listing modalities; taking account of particular parties involved, elements of the two approaches can be used and combined so as to provide for maximum transparency of existing market access conditions. These innovations might also provide inspiration for revisiting and reviving certain positive-list PTAs that were concluded one or two decades ago. Noting the relatively limited participation of least developed countries (LDCs) in services PTAs despite the service sector growing importance in the global economy and increasing relevance for development strategies, the chapter also underscores the need for relevant future PTAs to incorporate development assistance components focusing on services trade. These can provide support for implementation, but also assist in taking advantage of opportunities afforded by services provisions by aiding to facilitate exports, as well as by helping to improve the performance of the domestic service sectors and the use of services inputs by different sectors of the economy.

Chapter 3 focuses on technical barriers to trade (TBT) and sanitary and phytosanitary (SPS) measures ('TBT and SPS Measures in PTAs: The Recent Past and the Near Future'). In their contribution Sebastian Klotz and Arthur Appleton discuss the design and evolution of TBT and SPS measures present in four mega-regional PTAs: the EU–Canada CETA, the CPTPP, the USMCA, and the RCEP. Their analysis shows that negotiators rely more heavily on previous PTAs when designing TBT chapters than SPS chapters. Compared to SPS chapters, not only do negotiators incorporate text from a larger number of previous PTAs, they also duplicate a larger share of previous PTAs' TBT chapters. Building on this, they then consider the future design of TBT and SPS chapters with a view towards eventual multilateralisation. From the SPS perspective, they note promising developments in compartmentalisation and zoning. From the TBT perspective, they focus on the

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 04:49:08, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009484640.002

growing use of protocols and annexes as a means to further mutual recognition and harmonisation.

Chapter 4, by Nora Neufeld, examines trade facilitation. In her chapter, titled 'Trade Facilitation in Preferential Trade Agreements: The Edge of a New Frontier?', Neufeld looks at how a new generation of PTAs addresses the need to facilitate trade, analysing common approaches, shared characteristics, and recent developments. The chapter compares the envisaged measures with the reforms mandated by the Trade Facilitation (TF) Agreement and discusses novel trends, such as an emphasis on deeper, behind-the-border obstacles, the increased focus on electronic means, and an overall move towards greater regulatory depth. The argument is made that while a renewed regional focus on trade facilitation rulemaking makes sense – especially against the current global backdrop of supply shortages, value-chain disruptions, and illicit trade – much unfinished business remains. The final segment of the chapter discusses TF reforms with particular potential for delivering positive impacts and suggests specific areas where PTAs might focus in the future to take trade facilitation to a new level.

Chapter 5, co-authored by María Vásquez Callo-Müller, Kholofelo Kugler, Marine Roux, Yinuo Liu, and Thomas Cottier, elaborates concepts that could see more prominence in future PTAs in the domain of IPR ('The Future Design of Intellectual Property Provisions in Preferential Trade Agreements: Three Propositions'). The authors introduce the current international IPR framework and trace the main trade-offs for policymaking in this area. They develop specific ideas on how to use PTAs to address, first, the role of trade secrets in the context of the digital economy; second, technology transfer in the context of climate change; and, last, the role of private–public partnerships in providing equitable access to medicines.

Finally, Chapter 6, co-authored by Anirudh Shingal and Maria Anna Corvaglia, focuses on 'Government Procurement in Twenty-First Century PTAs'. The contribution aims at deepening the understanding of the evolution of the design of deep government procurement provisions in PTAs, adopting an interdisciplinary approach, combining economic and legal insights. The following aspects are discussed: the relationship with the WTO Government Procurement Agreement, potential gaps in the public procurement coverage, dispute settlement mechanisms, and new regulatory areas likely to gain prominence as preferential procurement provisions in the near future, such as e-procurement, sustainable procurement, fight against corruption, and the participation of small and medium-sized enterprises (SMEs). Building on the patterns identified, the chapter zooms in on the specific design of procurement clauses in selected PTAs (CETA, CPTPP, and RCEP among others) and it questions the transferability of a model of preferential deep procurement regulation to lower-middle-income countries.

The second group of chapters tackles more recent *regulatory trade issues*. The contribution by Mira Burri (Chapter 7: 'Digital Trade: New Design Elements in

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 04:49:08, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009484640.002

Preferential Trade Agreements') discusses the dynamics of digital trade regulation in the past decade in a complex geopolitical setting. She looks at broad trends, as well as distinct regulatory models (exemplified by the CPTPP, the USMCA, the EU–UK Trade and Cooperation Agreement (TCA), and the RCEP) and the templates of new digital economy agreements (DEAs) that also signal room for regulatory innovation in trade law. The chapter recognises new design elements found in PTAs, traces how these have diffused over time, and identifies their implications for domestic regulatory space. Finally, in view of multilateral discussions on electronic commerce, the chapter tests to what extent PTAs have worked as regulatory laboratories and whether some of the newly emerged digital trade rules can be multilateralised.

Chapter 8 by Federico Ortino ('Recent Trends and Future Developments with regard to Foreign Investment in PTAs') maps the evolution of the last thirty years of PTAs addressing foreign investment. It explains the interactions between PTAs and bilateral investment treaties (BITs), as well as between PTAs and the WTO on the topic of investment. The chapter focuses on key provisions related to investment protection, investment liberalisation, and ISDS, highlighting novel approaches. In addition, the chapter identifies and discusses provisions that go beyond traditional aspects of investment and trade, such as investment facilitation, corporate social responsibility, and regulatory coherence. The chapter concludes by offering suggestions for future design.

Chapter 9, titled 'Subsidies and Future PTAs: From Market Distortions to Legitimate Policy Goals?', explores the potential for innovation on subsidies. Leopoldo Biffi, Yuliia Kucheriava, and Shailja Singh argue that the WTO's Agreement on Subsidies and Countervailing Measures fails to adequately address the role that subsidies can play in addressing twenty-first century challenges. These include policies aimed at delivering public goods, including the green transition, economic-recovery or research and development (R&D) aid, and emerging forms of distortive industrial subsidies. It proposes an approach that balances regulation of the 'good' and 'bad' subsidies, placing emphasis on the former. This chapter concludes that PTAs' built-in flexibilities make them best-suited for future-proof subsidy regulation and have the potential to further international trade cooperation by informing a new WTO agenda on subsidies.

In Chapter 10, titled 'The Concept Design of International Rules on State Intervention in the Economy', Luca Rubini also engages with subsidy rules with a special view on regulating state enterprises. After assessing the multilateral regulatory standards, represented by WTO rules, the chapter takes stock of the chapters on subsidies and state enterprises in the PTAs currently in force. Using the notions of principles, standards, and rules, the author applies these conceptual 'bricks' to subsidies and state enterprises, respectively, to map out future avenues for new rules. The chapter ends with reflections on some necessary conditions for steering the future design process.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 04:49:08, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009484640.002

Chapter 11 focuses on the recent transformation of the trading system towards increasing reliance on production networks across borders and regions ('Global Value Chains: The Road to Resilience'). Selina Hauser, Israel Gutiérrez, and Christian Winkler emphasise how recent events, such as the financial crisis, the COVID-19 pandemic, and the Russian invasion of Ukraine, have exposed the fragility of GVCs. This chapter discusses the role of PTAs in fostering GVC resilience. Building on a novel data set that covers nearly 700 PTAs and their GVC-related provisions, the authors first discuss the major trends of GVC-related provisions in PTAs and their impact on the development of value-chain complexity. Second, they describe a set of possible instruments that, if included in future PTAs, could make GVCs more resilient and reduce the impact of shocks on trade flows.

In the third group of chapters we focus on what used to be called *trade-related issues*, which have moved to centre stage in the PTA universe, and on newer themes. In their contribution Mode 4 'On the Move' Towards a Migrantification of the Temporary Movement of Persons in Preferential Trade Agreements, Marion Panizzon and Amanda Bisong address the issue of cross-border movement of natural persons for the supply of services. In this chapter, they explore the prevalence of mode 4 in PTAs and uncover why in certain geopolitical contexts, some mega-regionals have been more forthcoming in adding mode 4 General Agreement on Trade in Services (GATS)-plus or GATS-extra advances than in others. In a selective mapping of several key PTAs, including AfCFTA, RCEP, CPTPP and UK accession, EU Deep and Comprehensive Free Trade Areas (DCFTAs), Japan/European Free Trade Association (EFTA)/EU Economic Partnership Agreements (EPAs), and EU-Mercosur Association Agreement, they highlight which annexes and protocols on the movement of natural persons feature GATS-extra/ GATS-plus commitments. These include national treatment limitations to motivate the transfers of skills; unilateral or reciprocal obligation to fast-track visa delivery, extension, and renewal; skill testing alternatives where mutual recognition of credentials is not possible; and measures preventing irregular migration. Finally, they look beyond mode 4 to broader forms of labour migration and suggest ways to systemically link legal pathways in the Global Compacts for Migration and Refugees with PTA obligations and GATS mode 4.

In Chapter 13, an interdisciplinary team consisting of Gregory Felder, Kirthana Ganeson, Martin Jehli, and Patrick Wagner addresses the theme of trade and labour. In their contribution titled 'The Trade and Labour Nexus: Envisioning the Design and Implementation of Future Labour Chapters in PTAs' they first examine trends as to the extent to which PTAs cover labour provisions as well as the levels of success in the implementation of these provisions on the domestic level. Upon evaluating past practices, this chapter recommends a higher level of ambition in labour chapters of trade agreements of the future. By relying on case studies, they prescribe that future labour chapters should i) expand the scope of labour rights, ii) emphasise the involvement of local stakeholders for implementation and enforcement, and iii) reinvent the approach in which labour violations in trade are examined.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 04:49:08, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009484640.002

The chapter concludes by exploring ways in which PTAs can act as a safeguard for labour rights amid future developments, such as automation and migration.

In Chapter 14, 'Taking Climate Change Seriously in the Design of Trade Agreements', another interdisciplinary group of scholars observes that while environmental provisions are well represented in modern PTAs, specific climate-related ones are still rare. In their contribution, Clara Brandi, Kateryna Holzer, Jean-Frédéric Morin, and Harro van Asselt first introduce a 2x2 typology of environmental provisions that are the most relevant for climate governance. This typology distinguishes positive and negative commitments as well as direct and diffused commitments. The second part builds on a data set of environmental provisions in 774 trade agreements to map the existing distribution of these four types of climate-relevant provisions. The third part zooms in on one important provision per type: restriction on fossil fuel subsidies, liberalisation of environmental goods and services, climate exceptions related to investment protection, and exceptions allowing for carbon border adjustments. The fourth part makes specific suggestions to increase the degree of precision, obligation, and delegation for these four types of provisions. The chapter concludes with a discussion of the legal and political context necessary to have PTAs that take climate change more seriously.

Chapter 15 tackles 'Gender Equality in Trade Agreements: The Old, the New, and the Future' and is co-authored by Anoush der Boghossian, Amrita Bahri, and Lolita Laperle-Forget. The purpose of this chapter is threefold: providing an overview and analysis of gender provisions in PTAs, assessing what gender issues are not covered and why, and showing how PTAs can be used as a policymaking tool to address specific needs and obstacles women face. More specifically, the chapter provides an overview of the inclusion of gender provisions in PTAs and, more precisely, looks at how PTAs can support women's economic empowerment and tackle gender inequalities, mapping out and analysing the gender provisions included in PTAs, in substance (what gender issues they cover and why) and in type (legally binding or best endeavours language, etc.). It explores how they are tied to PTA dispute settlement mechanisms or monitoring and enforcement processes. It also provides an assessment of what gender issues are not covered and addressed in PTAs and links these to women's needs, adding a practical perspective to the analysis. Lastly, the chapter shows how policymakers can use PTAs as a toolbox to identify the adequate approach, methods, and matters when they develop their trade policies pertaining to gender equality in trade.

The last group of chapters focuses on the implementation of trade agreements. Over time, trade commentators have turned increasingly to how to support the implementation process and how to bring about compliance with the commitments. The chapters round up our volume. Kathleen Claussen's contribution, titled 'The Future of Trade Agreement Dispute Settlement Provisions', shows how, in recent years, the role and design of dispute settlement mechanisms have begun to evolve. Chapter 16 begins by reviewing recent innovations and the disputes that have

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 04:49:08, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009484640.002

arisen under those mechanisms. Next, it studies how these trends have highlighted additional areas for study in the areas of procedures and institutions. Finally, the chapter turns to the purpose of dispute settlement mechanisms in trade agreements and argues that the future of dispute settlement is multipurpose and multi-optional.

Chapter 17 by Rodrigo Polanco discusses the increasing attention to regulatory convergence as a means to increase the benefits of PTAs. In 'Regulatory Convergence in Preferential Trade Agreements: What Does the Future Hold?', he traces how recent PTAs include chapters dealing with the process of procedural or substantive regulatory convergence under different denominations such as 'regulatory cooperation', 'good regulatory practices', 'regulatory improvement', and 'regulatory coherence', among others. After mapping this discipline, he disaggregates its development into three different categories of approach: substantive regulatory harmonisation (or 'substantive coherence' – the same rule), procedural coherence (the same process), and regulatory cooperation (or 'regulatory compatibility' – equivalent rule/equivalent process). The chapter concludes by presenting possible ways forward for regulatory convergence, considering the use of dispute settlement, regional and sectoral harmonisation, and an increased role for private and mixed actors.

REFERENCES

Allee, T. and M. Elsig 2019. 'Are the Contents of International Treaties Copy-Pasted? Evidence from Preferential Trade Agreements', *International Studies Quarterly* 63(3): 603–613.

Allee, T., M. Elsig and A. Lugg 2017. 'The Ties between the World Trade Organization and Preferential Trade Agreements: A Textual Analysis', *Journal of International Economic Law* 20(2): 333–363.

Alschner, W., M. Elsig and R. Polanco 2021. 'Introducing the Electronic Database of Investment Treaties (EDIT): The Genesis of a New Database and its Use', *World Trade Review* 20(1): 73–94.

Bahri, A. and M. Lugo 2020. 'Trumping Capacity Gap with Negotiation Strategies: The Mexican USMCA Negotiation Experience', *Journal of International Economic Law* 23 (1): 1–23.

Baker, J. 2022. 'Costello v The Government of Ireland, Ireland and the Attorney General (Supreme Court of Ireland 11 November 2022)'. Retrieved from www.courts.ie/view/judgments/d9589327-898e-4d2d-a2f3-1cc17f7105a6/bc918f1c-9730-4c69-acde-a76d256e37b5/2022_IESC_44_(Baker%20J).pdf/pdf.

Claussen, K. 2018. 'Separation of Trade Law Powers', *Yale Journal of International Law* 43(3): 15–54.

2022a. 'Next Generation Agreements and the WTO', *World Trade Review* 21(3): 380–388.

2022b. 'Trade's Mini-Deals', *Virginia Journal of International Law* 62(3): 315–382.

Dür, A., L. Baccini and M. Elsig 2014. 'The Design of International Trade Agreements: Introducing a New Dataset', *The Review of International Organizations* 9(3): 353–375.

Elsig, M. and S. Klotz 2021. 'Digital Trade Rules in Preferential Trade Agreements: Is There a WTO Impact?' *Global Policy* 12: 25–36.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 04:49:08, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009484640.002

Hainbach, P. 2018. 'The CJEU's Opinion 2/15 and the Future of EU Investment Policy and Law-Making', *Legal Issues of Economic Integration* 45(2): 199–209.

Paquin, S. 2022. 'Trade Paradiplomacy and the Politics of International Economic Law: The Inclusion of Quebec and the Exclusion of Wallonia in the CETA Negotiations', *New Political Economy* 27(4): 597–609.

Sauvé, P., R. Polanco Lazo and J.M. Álvarez Zárate (eds.) 2018. *The Pacific Alliance in a World of Preferential Trade Agreements: Lessons in Comparative Regionalism*. New York: Springer.

United States Trade Representative (USTR) 2022. 'The Indo-Pacific Economic Framework for Prosperity: Biden-Harris Administration's Negotiating Goals for the Connected Economy (Trade) Pillar'. Retrieved 21 November 2022, from http://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/september/indo-pacific-economic-framework-prosperity-biden-harris-administrations-negotiating-goals-connected.

World Trade Organization 2011. *The WTO and Preferential Trade Agreements: From Co-Existence to Coherence*. Geneva: WTO.

2021. 'WTO Electronic Commerce Negotiations. Updated Consolidated Negotiating Text – September 2021'. Revision. INF/ECOM/62/Rev.2. Retrieved 22 November 2022, from www.bilaterals.org/IMG/pdf/wto_plurilateral_ecommerce_draft_consolidated_text_september_2021.pdf.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 04:49:08, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009484640.002