

# Trade and Development

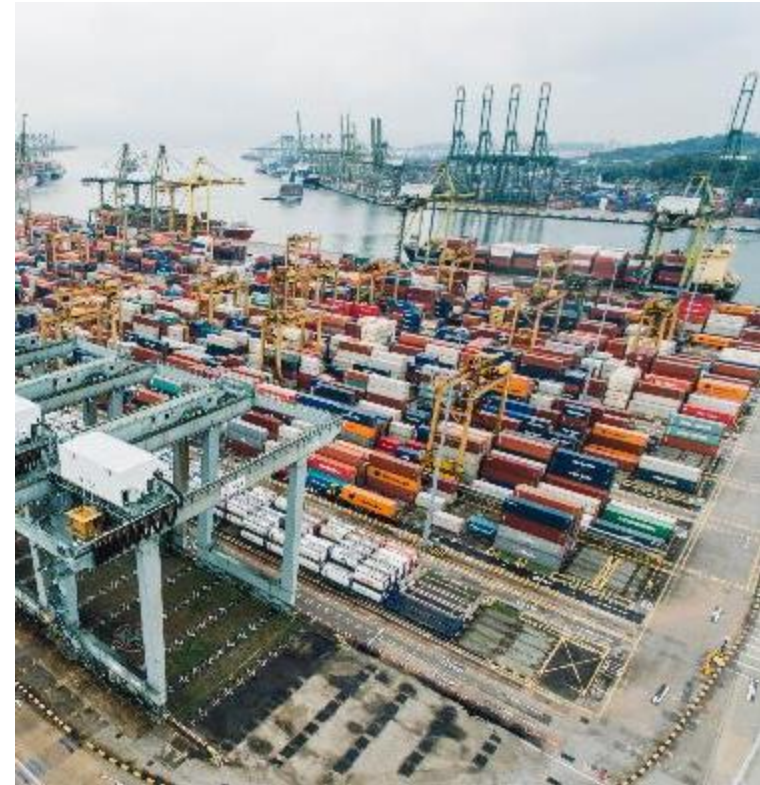
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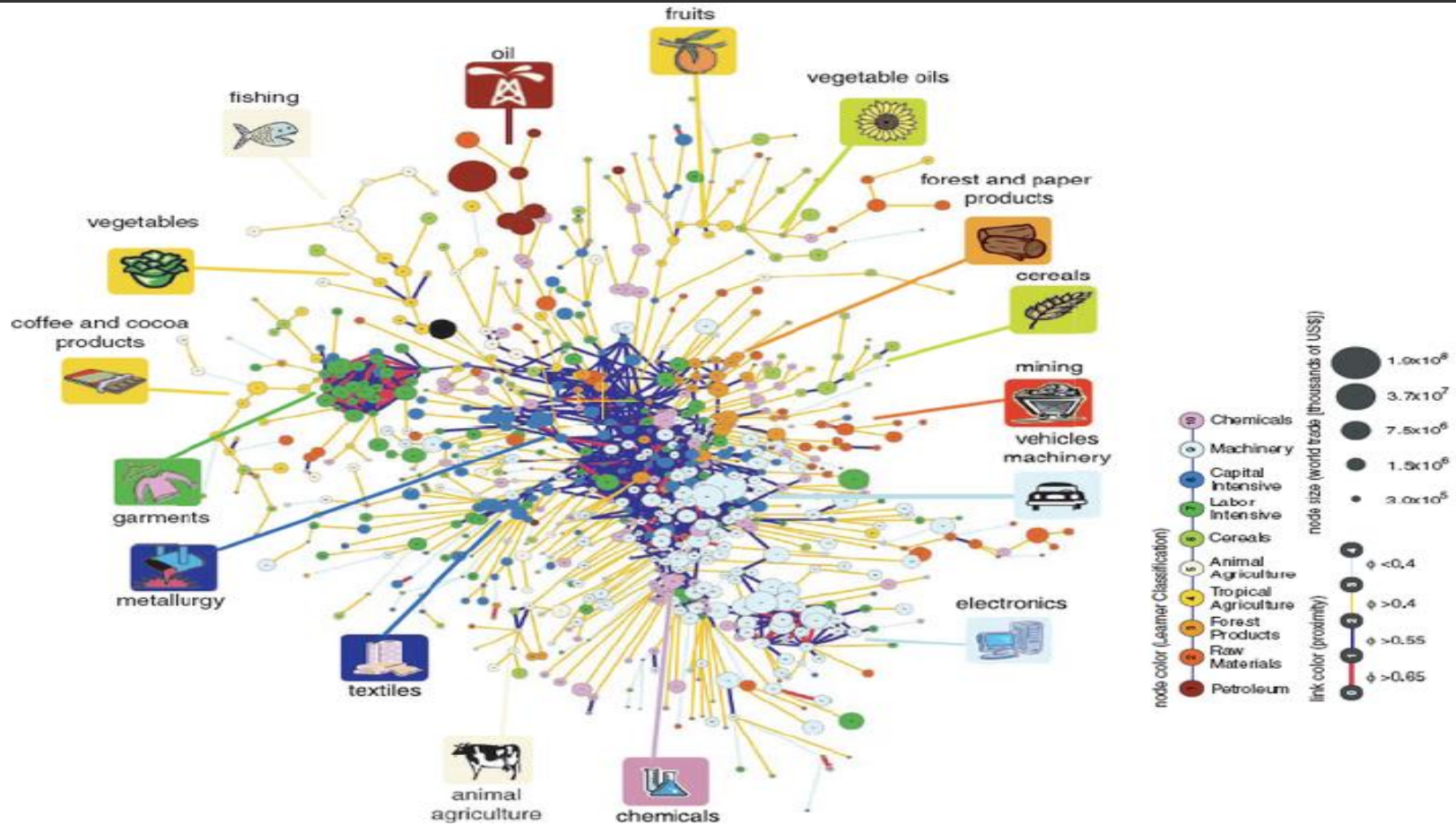
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# Trade and Development in Context

- Globalization changing the nature of markets and the laws that shape them; regional harmonization gaining momentum (AfCFTA); US-China & Brexit
- Markets increasingly span borders and legal systems, focus on traceability, sustainability, distributive effects of trade
- New market opportunities challenge traditional models for industrial growth (services, digital trade, high-value agriculture (Page/Brookings 2018))
- Differing development priorities and focus on “policy space”
- Significant potential for innovation & economic development but gaps remain:
  - Knowledge of Rules/Enabling Environment
  - Implementation Gaps & Market Failures
  - Comparative Advantage? New Approach?



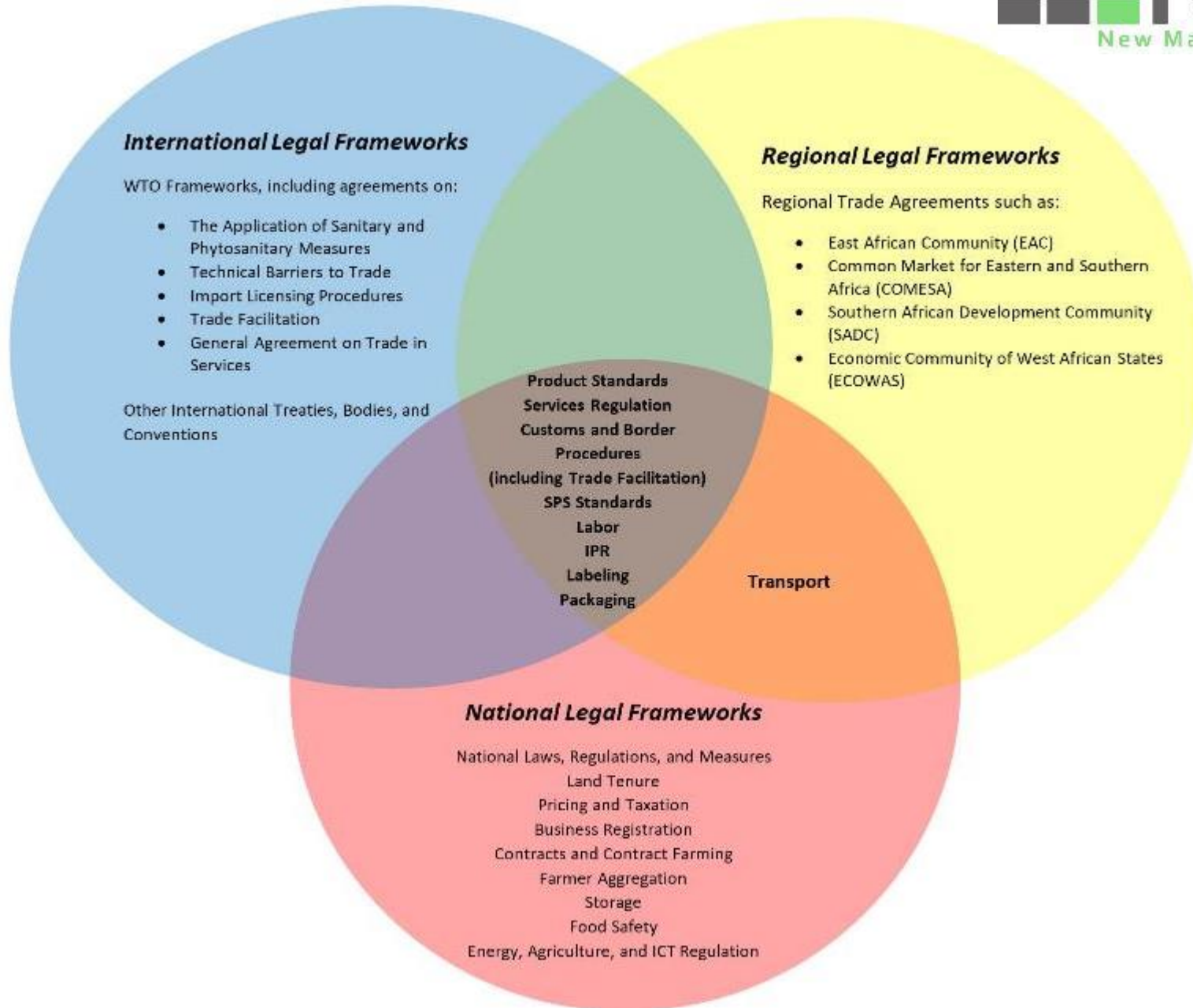
# The Product Space



Source: C.A. Hidalgo, B. Klinger, A.-L. Barabási, R. Hausmann, "The Product Space Conditions the Development of Nations," Science 317 (2007).

# Trade and Development Overview

- Trade & Development in the WTO
  - WTO Legal Provisions
  - Special and Differential Treatment
  - Doha Round
- Trade Agreements (RTAs/FTAs)
  - Market Access
  - Negotiating Issues/Rule of Law Aspects
- Trade Preference Programs (GSP, AGOA, etc.)
- Aid for Trade
- Domestic Market Regulation (Building Blocks)
  - Non-Tariff Issues (Sector-specific Regulation, Standards, SPS)
  - Services (Financial, ICT, Transport, Distribution)
  - Other Aspects Business Enabling Environment (IPR, Labor)
  - Related Issues (Land, Energy, Environment)







# SUSTAINABLE DEVELOPMENT GOALS

1 NO POVERTY



2 ZERO HUNGER



3 GOOD HEALTH AND WELL-BEING



4 QUALITY EDUCATION



5 GENDER EQUALITY



6 CLEAN WATER AND SANITATION



7 AFFORDABLE AND CLEAN ENERGY



8 DECENT WORK AND ECONOMIC GROWTH



9 INDUSTRY, INNOVATION AND INFRASTRUCTURE



10 REDUCED INEQUALITIES



11 SUSTAINABLE CITIES AND COMMUNITIES



12 RESPONSIBLE CONSUMPTION AND PRODUCTION



13 CLIMATE ACTION



14 LIFE BELOW WATER



15 LIFE ON LAND



16 PEACE, JUSTICE AND STRONG INSTITUTIONS



17 PARTNERSHIPS FOR THE GOALS



SUSTAINABLE DEVELOPMENT GOALS

# WTO Preamble

- *Recognizing that their relations in the field of trade and economic endeavour should be conducted **with a view to raising standards of living, ensuring full employment** and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the **objective of sustainable development**, seeking both to **protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development.***
- *Recognizing further that there is a **need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth of international trade commensurate with the needs of their economic development,***
- *Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the eliminations of discriminatory treatment in international trade relations,*
- *Resolved, therefore, to develop an integrated, more viable and durable multilateral trading system encompassing the General Agreement on Tariffs and Trade, the results of past liberalization efforts, and all of the results of the Uruguay Round of Multilateral Trade Negotiations,*
- *Determined to preserve the basic principles and to further the objectives underlying this multilateral trading system,*

# Evolution of Trade & Development

(Keck & Low, "Special and Differential Treatment in the WTO: Where?, When? and How?", 2003)

## ■ Phase I: Creation of GATT 1948-Tokyo Round 1973

- Characterized by focus on developing country access to developed country markets
- UNCTAD 1964
- Part IV GATT 1965 (best endeavor provisions without legal force; non-reciprocity introduced)

## ■ Phase II: Tokyo Round 1973-79

- Characterized by export orientation instead of import substitution
- Greater focus on developing country trade policies and market access for developing country imports
- Strong emphasis on non-tariff measures (NTMs), with developing countries seeking to limit degree to which new agreements would "impose policy limitations or undue administrative or financial burdens on developing countries" (policy space argument)
- TBT, customs valuation, import licensing, subsidies and CVD, anti-dumping, government procurement (code approach)
- 1979 Decision on Differential and More Favorable Treatment, Reciprocity, and Fuller Participation of Developing Countries (Enabling Clause)

## ■ Phase III: End of Tokyo Round 1979-Establishment of WTO 1995

- Greater focus on agriculture and new issues such as IP and services
- Increase in regionalism
- Higher level of commitments & Single Undertaking

## ■ Phase IV: Post-Uruguay Round

- Capacity Building/Implementation debate: Cost, human capital concerns
- Singapore Issues: investment, transparency in government procurement, competition, trade facilitation (Trade Facilitation Agreement went into effect in February 2017)



# What is a Developing Country?

- **WTO Developing Country Status:** No WTO definition of "developed" and "developing country"
  - "Developing Country" self-designation in WTO (LDCs follow the UN designation)
  - Approximately 75% of WTO's 164 members are developing countries
  - Self-designation recently challenged by the US
- **Least Developed Country:** UN designation based on income, human assets, and economic vulnerability. Currently, 47 countries qualify as LDCs.
- **World Bank:** 4 Categories (updated as of 2019 fiscal year; see <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups>)
  - **Low Income (Per Capita GNI of \$995 or less in 2017)**
  - **Lower Middle Income (GNI Per Capita of \$995-\$3,895)**
  - **Upper Middle Income (GNI Per Capita of \$3,896-\$12,055)**
  - **Higher Income (GNI Per Capita over \$12,056)**

# Trade & Development WTO: Legal Provisions

- **Part IV GATT 1965 Trade & Development:** Best endeavor language to increase market access for primary products, manufactured and processed products; developing countries should exercise restraint introducing duties or NTBs on products of export interest to developing countries; ***reciprocity not required***
- **Enabling Clause 1979 (Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation Developing Countries):** **Permanent legal authority** for GSP, S&D under GATT, south-south RTAs, special treatment LDCs, non-reciprocity
- **GATT Article XVIII** (balance of payments and infant industry)
- Other Provisions: **Article XI Agreement Establishing WTO** (LDCs commit if consistent with development, financial, trade needs or administrative and institutional capabilities); **Uruguay Round Decision on Measures in Favour LDCs** (focus on products of export interest to LDCs, apply rules and transitional provisions flexibly, increase technical assistance (strengthen export diversification; trade promotion); **LDC Services Waiver**
- **Trade Facilitation Agreement**

# Trade & Development WTO: Special and Differential Treatment

- 145 S&D provisions in WTO agreements
- Longer transitions & flexibility in commitments: GATS, TRIPS, Agreement on Agriculture (extensions for compliance for LDCs), subsidies (8 years); export subsidies (LDC exception); infant industry, BOP, safeguards
- Reciprocity not required (negotiations, trade preferences)
- Preferential market access to higher income markets under trade preference programs main trade and development approach since 1960s: Generalized (under Enabling Clause 1979) and specific (e.g. AGOA, require waiver)
- Capacity Building
  - Technical Assistance: helping countries negotiate, develop trade strategies, implement
  - Infrastructure: roads, ports, telecommunications
  - Productive capacity and trade development: help countries diversify exports, build on comparative advantages
  - Adjustment Assistance: costs tariff reductions, preference erosion, shifting terms trade

# Doha Development Round

- Agriculture
- Services
- Market Access for Non-Agricultural Products
- TRIPS
- Trade & Investment
- Trade & Competition
- Transparency in Government Procurement
- Trade Facilitation
- WTO Rules (Anti-Dumping, Subsidies, Regional Trading Blocs)
- Dispute Settlement
- Trade & Environment
- E-Commerce
- Trade, Debt, & Finance
- Technology Transfer
- Technical Cooperation & Capacity Building
- LDCs
- Special & Differential Treatment
- Duty-Free Quota-Free for LDCs

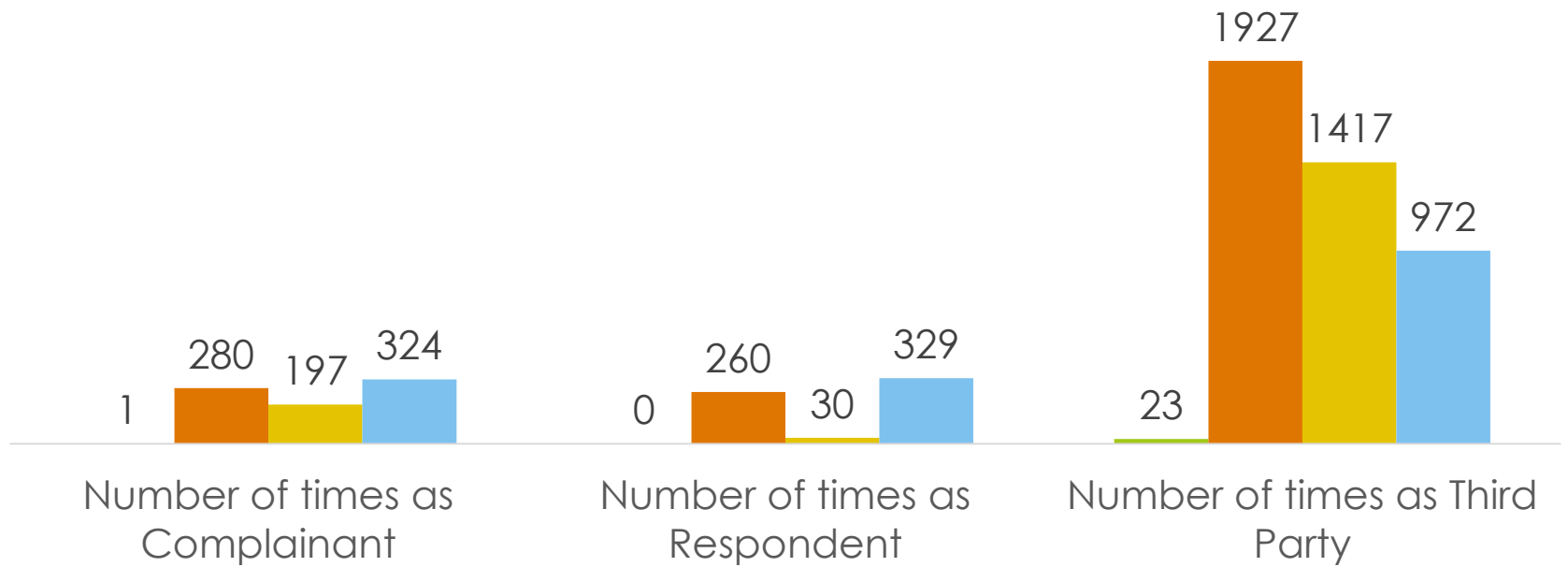
# Trade Facilitation Agreement

- **Framework:** WTO Trade Facilitation Agreement covers transparency and predictability in cross-border trade; availability and publication of information cross-border procedures and practices; addresses fees and customs formalities; clearance times and procedures (expedited release perishable goods); and appeal rights.
- 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. Central to food security, access to life-changing medicines, humanitarian relief, and energy development.
- Developing countries can implement based on their capacity (countries notify)
  - Category A: Immediate implementation
  - Category B: Implementation following transition period
  - Category C: Implementation following transition period which require capacity building support



## WTO Dispute Settlement Participation

■ LDC ■ Developing ■ Developing without BRIC ■ Developed



# Trade Preference Programs

- **Generalized System of Preferences (GSP):** 13 countries offer: Australia, Belarus, Canada, the European Union, Iceland, Japan, Kazakhstan, New Zealand, Norway, the Russian Federation, Switzerland, Turkey and the US (UNCTAD)
- **Benefits:** Unilateral, preferential market access (no reciprocity)
- **Challenges:** Benefits concentrated, temporary duration, product exclusions, income graduation/ineligibility competitive products (competitive need limit)
  - Conditions on Eligibility: US GSP mandatory and discretionary eligibility criteria
  - Rules of Origin: Can be difficult to meet or complex
- **US Programs:** GSP (Enabling Clause); Caribbean preferences under two programs **Caribbean Basin Economic Recovery Act (CBERA)** (1983; permanent, no CNL) and **Caribbean Basin Trade Partnership Act (CBTPA)** (2020); **African Growth and Opportunity Act (AGOA)** (2001, last renewal through 2025; third country fabric rule); **HOPE I and II** (most until 2020) (Article XXIV waivers required;  $\frac{3}{4}$  absolute majority)
- **European Programs: GSP and GSP Plus:** Special conditions on labor, environment, combating drugs (India dispute based on non-discrimination); European **Everything But Arms** (2000) permanent DFQF for LDCs; eliminated preferences to African, Caribbean, & Pacific countries under Lomé Convention (now **Economic Partnership Agreements**)

# Trade & Development in Regional Trade Agreements

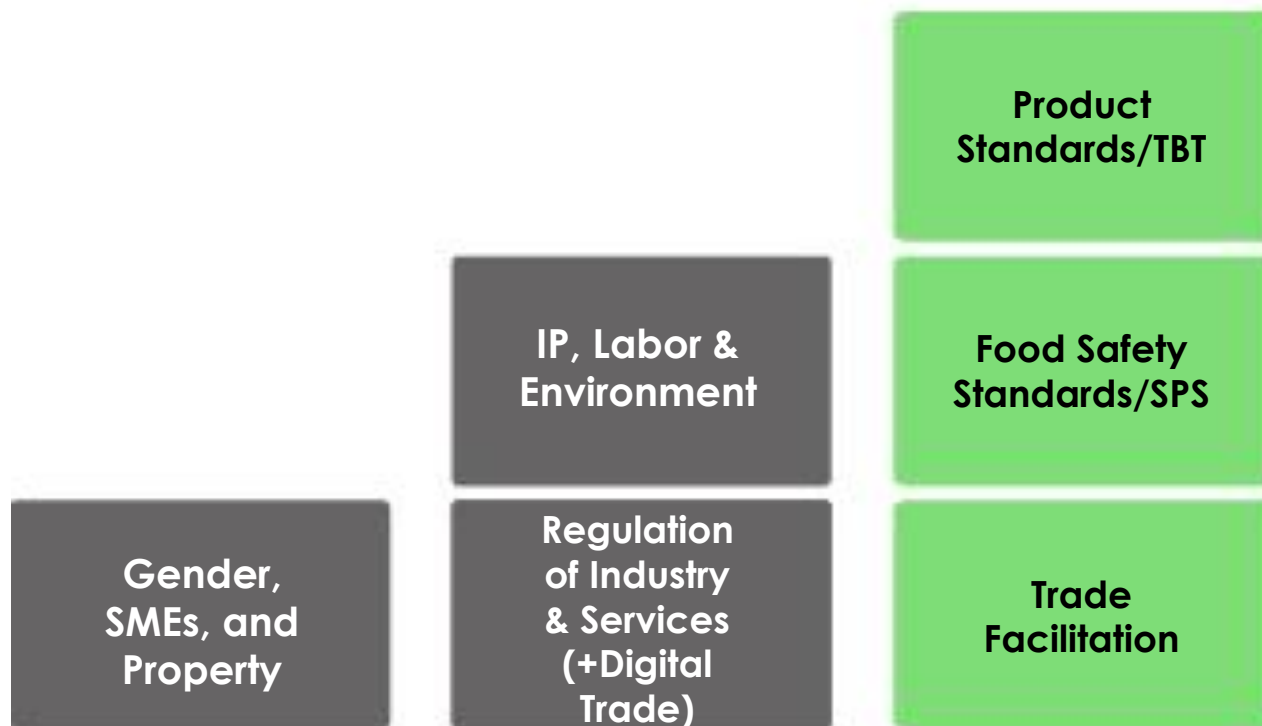
- Market Access for Goods & Services
- Negotiating Issues: Rule of Law/Building Block Issues
  - Rules of Origin
  - SPS
  - TBT
  - Trade Facilitation
  - Investment
  - IP
  - Labor & Environment
  - Regulatory Coherence
- Capacity Building (e.g.: CAFTA-DR)

# “Development Best Practices” in RTAs

(based on research by New Markets Lab/Harvard International Law and Development Society)

- **Building Block Approaches:** Cooperation Agreement Among the Partner States of the EAC and US on Trade Facilitation, Sanitary and Phytosanitary Measures and Technical Barriers to Trade and the U.S.-CAFTA-DR FTA (technical advice and assistance for improving risk assessment techniques, simplifying and expediting customs procedures, advancing technical skills, and enhancing the use of technologies that can lead to improved compliance with laws and regulations governing importation)
- **Staging Commitments:** Tailor to market development and changes in capacity, such as the WTO Trade Facilitation Agreement and agricultural chapter of the U.S.-Morocco FTA
- **Focus on Specific Economic Sectors:** Link to development significance; examples include European agreements with developing country trading partners that specifically target transportation, tourism, and energy
- **Provisions to Encourage Private Sector Engagement and Consultation:** Examples include environmental provisions in the U.S.-CAFTA-DR, U.S.-Panama, and U.S.-Peru FTAs
- **Additional Issues:** Provisions on SMEs and Women, tailor chapters to specific industries, anti-corruption, regulatory coherence, and global supply chains

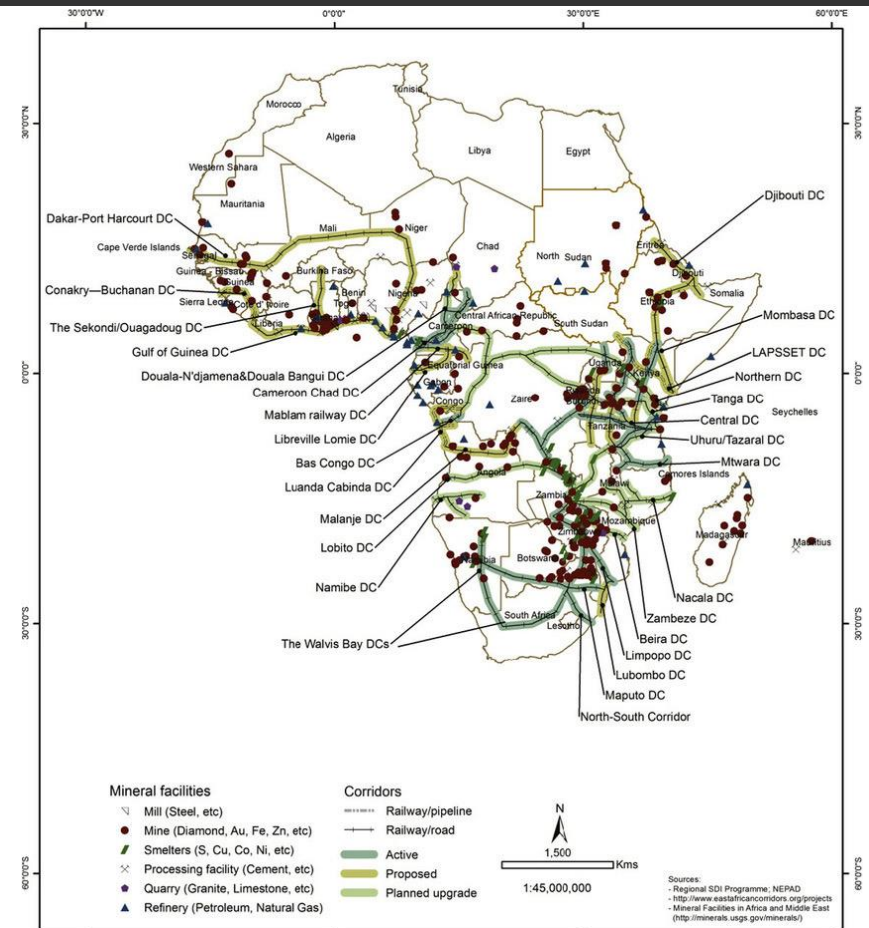
# Building Blocks of Trade and Development (New Markets Lab)





# Regional Integration and Development Corridors

- Address fragmentation in the market and strengthen logistics and trade routes
- Improve supply chains and increase economic diversification across sectors
- Address food security by connecting areas of deficit and surplus production across borders

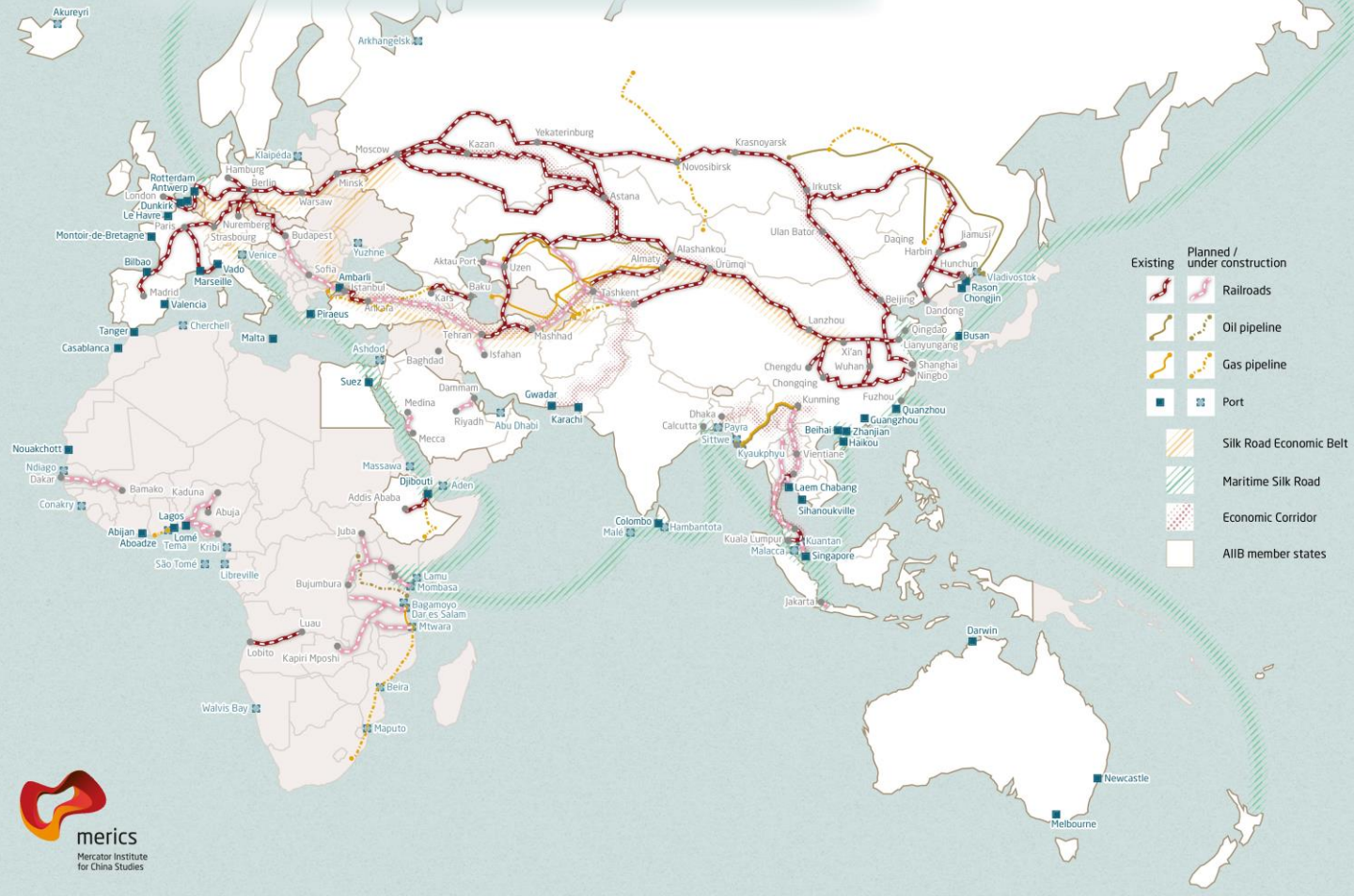


Source: Weng et al, Mineral Industries, Growth Corridors, and Agricultural Development in Africa, 2013.

# China Belt & Road Initiative

The Belt and Road Initiative creates a global infrastructure network

China uses, acquires and builds railroads, ports and pipelines



As of March 2019, 125 States & 29 Intl Orgs had signed official BRI cooperation documents with China.

Source:

[www.yidaiyilu.gov.cn](http://www.yidaiyilu.gov.cn)