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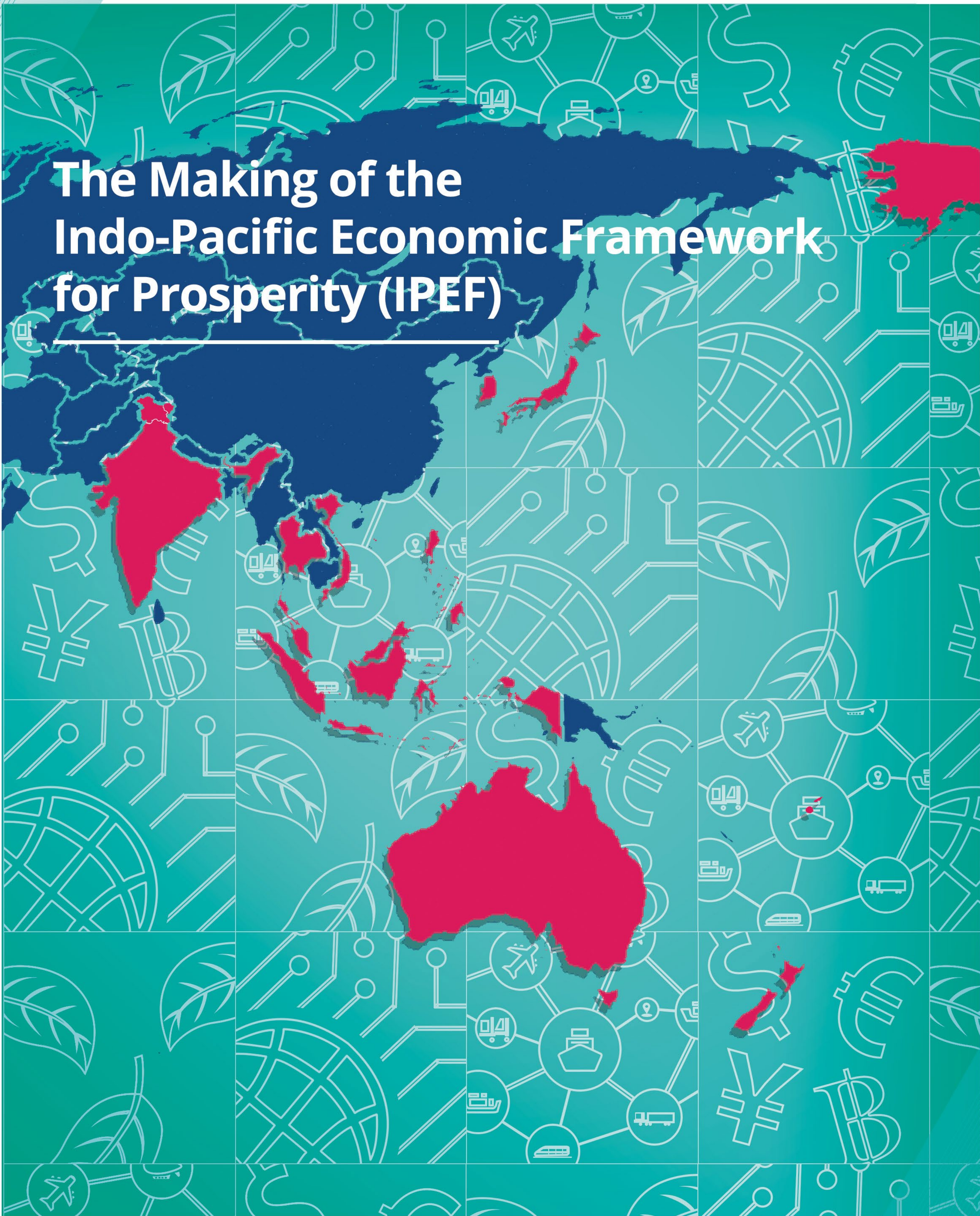
KONRAD ADENAUER STIFTUNG

The Making of the Indo-Pacific Economic Framework for Prosperity (IPEF)



The Making of the Indo-Pacific Economic Framework for Prosperity (IPEF)

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The Indo-Pacific Economic Framework for Prosperity (IPEF): Approach, Challenges and Prospects

Amitendu PALIT and Ramita IYER

List of Abbreviations

ASEAN+	Association of Southeast Asian Nations Plus
CPTPP	Comprehensive and Progressive Trans-Pacific Partnership
DEPA	Digital Economic Partnership Agreement
DOC	Department of Commerce
FTAs	Free Trade Agreements
G20	Group of Twenty
G7	Group of Seven
GDP	Gross Domestic Product
IPEF	Indo-Pacific Economic Framework
OECD	Organisation for Economic Co-operation and Development
QUAD	Quadrilateral Security Dialogue
RCEP	Regional Comprehensive Economic Partnership
ROOs	Rules of Origin
TPP	Trans-Pacific Partnership
US	United States
USMCA	United States-Mexico-Canada Agreement
USTR	United States Trade Representative
WTO	World Trade Organization

Introduction

The Indo-Pacific Economic Framework for Prosperity (IPEF) was launched by United States (US) President Joe Biden on 23 May 2022.[1] Announced on the sidelines of the Summit meeting between the Heads of States of Australia, India, Japan, and the US, as part of the Quadrilateral Security Dialogue (Quad), the IPEF is the first formal articulation of a rules-based trade and economic framework for the Indo-Pacific region. The initial members of the Framework included Australia, Brunei, India, Indonesia, Japan, South Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, the US, and Vietnam. Fiji joined the group after its launch. The IPEF aims to set regional rules for effectively addressing a variety of contemporary and new-generation trade and economic issues.

The IPEF is a formidable bloc in both economic and strategic heft. It includes three of the world's largest economies as measured by market size (Gross Domestic Product [GDP]) – the US, Japan, and India – along with some of the world's wealthiest economies, as measured by national per capita incomes – Singapore, the US and Australia. India, the US, and Indonesia – three of the world's most populous countries - are part of the IPEF. The group comprises advanced Organisation for Economic Co-operation and Development (OECD) economies (Australia, Japan, South Korea, New Zealand, and the US), large developing economies (India, Malaysia, Indonesia, Philippines, Thailand) and relatively small economies from the Indo-Pacific region, each with distinct characteristics (Brunei, Fiji, Vietnam). The presence of diverse economies with varying degrees of economic, social and institutional features makes the IPEF noteworthy for its heterogeneity.

Accounting for around two-fifth of the world economic output, the IPEF is the world's largest economic bloc. It exceeds two other prominent blocs in the region – the Regional Comprehensive Economic Partnership (RCEP) and the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) – in economic size. This, by itself, makes it a group with substantial clout in the global and regional economic spaces.

The economic clout of the IPEF is compounded by its strategic clout. It comprises several members from two of the world's most influential groupings, the Group of Twenty (G20) and the Group of Seven (G7), respectively. The G20 members of the IPEF include Australia, India, Indonesia, Japan, South Korea, and the US. Japan and the US are members of the G7 as well. From a wider regional perspective, Australia, India, Japan and the US, all members of the IPEF, are also bonded through the Quad, which has a comprehensive agenda spanning across traditional and non-traditional security and strategic issues.[2] The IPEF is also distinct in being a bloc comprising US defence partners and its key strategic allies drawn from the Indo-Pacific region.

There are obvious ramifications of the evolution of a regional rulemaking framework with as distinct economic and strategic characteristics as the IPEF. These ramifications are far-reaching for the global economic and political orders. While the full extent of the upshots will be comprehended over time, more so after the IPEF negotiations conclude and its outcomes are announced, there is

1 "Fact Sheet: In Asia, President Biden and a Dozen Indo-Pacific Partners Launch the Indo-Pacific Economic Framework for Prosperity (IPEF)", The White House, May 23 2022, https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/23/fact-sheet-in-asia-president-biden-and-a-dozen-indo-pacific-partners-launch-the-indo-pacific-economic-framework-for-prosperity/#:~:text=Today%20in%20Tokyo%2C%20Japan%2C%20President,represent%2040%25%20of%20world%20GDP

2 Sheila A. Smith, "The Quad in the Indo-Pacific: What to Know", *Council on Foreign Relations*, 27 May 2021, https://www.cfr.org/in-brief/quad-indo-pacific-what-know

considerable curiosity over its long-term impact. The curiosity is enhanced by the novel approach of the IPEF to rulemaking, which is experimental in its adoption of a flexible attitude, and a conscious shift from the more familiar structure of conventional Free Trade Agreements (FTAs).

Issues and approach

The IPEF is discussing four core sets of issues organised across four verticals, or Pillars. These overarching Pillars encompass a large variety of issues in Trade, Supply Chains, Clean Economy, and Fair Economy, respectively. The negotiating agenda for each Pillar was set out through Ministerial Statements delivered at the in-person meeting of the IPEF member economy Ministers in Los Angeles, US in September 2022.[3] The first round of negotiations commenced in Brisbane, Australia, in December 2022, following which further negotiating rounds comprising senior officials from all members were held in New Delhi, India (February 2023, special round); Bali, Indonesia (March 2023, second round); Singapore (May 2023, third round) and Busan, South Korea (July 2023, fourth round). The second in-person meeting of Ministers at Detroit, US, held during 26-27 May 2023, announced a substantial conclusion of negotiations on Pillar 2 (Supply Chains).[4]

The quick conclusion of negotiations on supply chains has surprised many. This is where the IPEF's distinct difference from traditional FTAs assumes significance. One of the reasons for the negotiations having concluded fast is the absence of discussions on market access.

Dumping market access

Market access issues, typically, are among the most contentious ones in FTA negotiations. The latter usually commence after exchange of offers among partners indicating sectors where members are willing to offer tariff cuts and concessions. Negotiations prolong when offers often do not match expectations, leading to protracted deliberations. Several FTAs have 'negative lists' comprising items where market access is denied to other partners. Negotiations also prolong and get complicated in discussions over criteria for determining the Rules of Origin (ROOs) that estimate the amount(s) of value added within a particular member country (or among FTA partners) in the making of a product, for deciding its eligibility for preferential rates of tariffs or tariff-free entry in other partner markets. Currently active FTAs in the Indo-Pacific region, such as the RCEP, CPTPP and other Association of Southeast Asian Nations Plus (ASEAN+) FTAs,[5] along with numerous bilateral FTAs, have devoted significant attention to eliminating tariffs and fixing appropriate ROOs for fostering greater access to members in each other's markets. However, the IPEF has conspicuously avoided this agenda.

The IPEF's conscious avoidance of tariffs and ROOs in its Trade and Supply Chain Pillars underscores its assumption of not considering these issues critical in achieving its objectives. In Supply Chains, for example, instead of deliberating value addition, the focus has been on enhancing the resilience

3 "United States and Indo-Pacific Economic Framework Partners Announce Negotiation Objectives", Office of the United States Trade Representative, 9 September 2022, https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/september/united-states-and-indo-pacific-economic-framework-partners-announce-negotiation-objectives

4 "Substantial Conclusion of Negotiations on Landmark IPEF Supply Chain Agreement", US Department of Commerce, 27 May 2023, https://www.commerce.gov/news/press-releases/2023/05/substantial-conclusion-negotiations-landmark-ipef-supply-chain

5 These include ASEAN's existing FTAs implemented bilaterally between ASEAN and non-ASEAN regional economies (Australia & New Zealand; China, India, Korea and Japan).

of supply chains, with specific emphasis on improving logistics and expanding information-sharing among various actors of supply chains. The focus has clearly been influenced by the disruptions experienced during the COVID-19 pandemic, which highlighted the importance of safeguarding supply chains, particularly critical ones, such as semiconductors, food, energy, and pharmaceuticals. There is, therefore, no surprise in the IPEF discussing the identification of critical sectors and ways for making them shock-proof through better trade facilitation, logistics and information exchange. These are priorities that appeal to all members and are considerably easy to agree and advance on, unlike tariff-focused market access issues, which, in many cases, entail inviting adverse reactions from domestic constituencies that would be affected by imports.

Not the typical FTA

Dropping market access, though, has sent confusing signals about the IPEF. There are hardly any FTAs that do not discuss market access. Is the IPEF not an FTA then? Ostensibly no, since until now, there are no allusions in the negotiations to market access. For many traditional trade watchers, the IPEF's efforts to make rules on trade and cross-border business without deliberating on market access, and not calling itself an FTA, has been baffling.

The fact that the IPEF has not been visualised as a traditional FTA was made amply clear at the outset by the Biden Administration.[6] Notwithstanding the clarification, for most other members of the IPEF, who are used to negotiating trade issues through the structured framework of FTAs, comprehending the IPEF has not been easy. The US articulation of the IPEF as 'a 21st century economic arrangement designed to tackle 21st century economic challenges' – comprising chiefly digital economy, resilient supply chains, clean energy infrastructure and energy transition, and transparency and anti-corruption – marks a specific delineation of '21st century economic challenges', along with an understanding of an effective approach for addressing them. It is not yet sure whether the larger IPEF community, in spite of several months of negotiations in a different framework, have been able to fully subscribe to the IPEF template.

The IPEF, though, is not exactly the first of its kind. A new-generation trade agreement like the Digital Economic Partnership Agreement (DEPA) signed by Singapore, Chile and New Zealand on 28 December 2020[7] excludes market access, in the way it arises in traditional FTAs, through tariff cuts for goods. However, the scope of market access in a non-traditional sense is possible to locate within a digital economy rules-based framework like the DEPA that enables service providers to extend cross-border services digitally in partner country markets. In this respect, the IPEF's approach to 21st century economic challenges, while refraining from direct engagement with traditional market access issues of tariffs, can well extend to other market access, such as digital economy. Rulemaking efforts in digital economy, and even in supply chains and clean economy, will have significant bearing on market access in these areas. In this respect, while not being a typical FTA, IPEF could well be one of the first ones to flag off a new-generation of trade agreements.

6 "On-the-Record Press Call on the Launch of the Indo-Pacific Economic Framework", The White House, 23 May 2022, https://www.whitehouse.gov/briefing-room/press-briefings/2022/05/23/on-the-record-press-call-on-the-launch-of-the-indo-pacific-economic-framework/

7 "Digital Economy Partnership Agreement (DEPA)", Ministry of Trade and Industry Singapore, https://www.mti.gov.sg/Trade/Digital-Economy-Agreements/The-Digital-Economy-Partnership-Agreement

US leadership

The announcement of the IPEF received a mixed response. The Biden Administration celebrated its launch by declaring it an economic framework addressed for tackling '21st century challenges' and advancing 'fair and resilient' trade. However, the euphoria of the US Administration was not accompanied by similar exultation from all other members. This was presumably due to the disappointment in the region over the US withdrawal from the Trans-Pacific Partnership (TPP) in January 2017.

The withdrawal from a comprehensive new-generation trade framework like the TPP, which had been proactively led by the US under President Obama, went down as a signal of US disengagement from Southeast Asia and the Asia-Pacific region. Subsequent articulation of the US' Indo-Pacific strategy by President Trump,[8] and the emphasis on Southeast Asia's centrality in the strategy, could not obliterate the disappointment over the US exit from the TPP. The disappointment persisted as throughout the Trump Presidency, the US made little effort to compensate for its exit from the TPP through other meaningful initiatives for advancing regional rulemaking on trade issues. Neither did it – under President Trump, or later under President Biden – display the intention of returning to the TPP, which was persevered with by its other members, and became functional as the CPTPP from 30 December 2018,[9] without the US.

Moving on from the TPP

The IPEF was greeted with cautious optimism by Southeast Asia. There were, however, other voices that were more enthusiastic about the initiative. These included the Indian Prime Minister Narendra Modi, who was present during the launch of the initiative and commended it for its intention to make the Indo-Pacific 'an engine of global economic growth'.[10] Modi also indicated India's intentions of working with all IPEF members for ensuring its flexibility and inclusivity.

Japanese Prime Minister Fumio Kishida described the IPEF as confirmation of 'the economic engagement of the US with the Indo-Pacific region even after its withdrawal from the Trans-Pacific Partnership (TPP)',[11] thereby seeking to dispel doubts of several other members on the durability of the US commitment to regional rulemaking. Indeed, the enthusiasm for the IPEF during its launch was much more visible among its Quad members, who, in their joint statement issued a couple of days before the announcement of the IPEF, alluded to it through their shared commitment for acting on climate and clean energy transition.[12]

8 Sebastian Strangio, "What does the US Indo-Pacific Framework Say About Southeast Asia?", *The Diplomat*, 13 January 2021, https://thediplomat.com/2021/01/what-does-the-us-indo-pacific-framework-say-about-southeast-asia/

9 "The Comprehensive and Progressive Agreement for Trans-Pacific Partnership", Ministry of Trade and Industry Singapore, https://www.mti.gov.sg/Trade/Free-Trade-Agreements/CPTPP

10 "PM Modi underlines 3Ts for resilient supply chains at Indo Pacific Economic Framework Meet in Tokyo", *The Times of India*, 23 May 2022, https://timesofindia.indiatimes.com/india/pm-modi-underlines-3ts-for-resilient-supply-chains-at-indo-pacific-economic-framework-meet-in-tokyo/articleshow/91740814.cms

11 "PM Kishida's Vision for Building a New International Order from Asia", Kizuna – The Government of Japan, 26 May 2022, https://www.japan.go.jp/kizuna/2022/06/new_international_order_from_asia.html

12 "Joint Statement by President Biden, Prime Minister Anthony Albanese of Australia, Prime Minister Narendra Modi of India, and Prime Minister Fumio Kishida of Japan on the Quadrilateral Security Dialogue Leaders Summit in Hiroshima, Japan", 20 May 2023, *The American Presidency Project – UC Santa Barbara*, https://www.presidency.ucsb.edu/documents/joint-statement-president-biden-prime-minister-anthony-albanese-australia-prime-minister-0

The US proactivity in leading the IPEF negotiations might have been motivated by the desire to win back the 'good faith' it lost after exiting the TPP. A return to the CPTPP will, perhaps, be the best way to recover the lost faith. This is evident from Kishida's iteration – on the same occasion where he affirmed the US commitment to the Indo-Pacific through the IPEF notwithstanding the American exit from the TPP – to continue 'to persistently push for the return of the US to the TPP'.[13] For the US, though, returning to the TPP framework, appears to be a remote possibility. This is primarily on account of the domestic politics in the US that is unsupportive of an economic policy agenda advancing American engagement in FTAs.

The lack of domestic enthusiasm for the US engagement in FTAs is as bipartisan and broad-based as the scepticism over China. The appeal of a framework like the IPEF – not billed as a traditional FTA – for counterbalancing the economic influence of China in the Indo-Pacific has a strong buy-in among domestic constituencies. Setting and driving the rules agenda in the IPEF provides substantial ground for justifying the US engagement in the Framework, ostensibly for balancing the Chinese role in regional rulemaking, an argument advanced forcefully by President Obama in his bid to push the TPP through the US Congress in 2016.[14] Counterbalancing China, though, is a distinctly awkward prospect for several IPEF members, who, despite being US defence allies and strategic partners, prefer staying out of the US-China great power competition in their larger national interests.

Specific sensitivities

The IPEF negotiations are being driven by the Office of the United States Trade Representative (USTR) and the US Department of Commerce (DOC). The USTR is leading negotiations for Pillar 1, while the Department of Commerce is doing the same for Pillars 2,3 and 4. The IPEF's character of not being a traditional FTA is further reinforced from the simultaneous engagement of the USTR and the DOC in the same framework, in contrast to the usual custom of the USTR overseeing US FTA negotiations.

With the IPEF being substantively driven by the USTR and the DOC, it is only natural that core American interests will feature prominently in the IPEF.[15] Central to these interests is the welfare of American workers, a priority resonating strongly in the US Trade Policy Agenda.[16] The IPEF is negotiating labour standards with the objective of institutionalising standards across the Indo-Pacific. Similarly, other US core interests, such as standards for environmental sustainability and decarbonisation, and rules for digital economy, competition policy, and tax practices, are also prominently featured in the IPEF consultations.

13 *op. cit.*

14 Barack Obama, "The TPP would let America, not China, lead the way on global trade", *The Washington Post*, 2 May 2016, https://www.washingtonpost.com/opinions/president-obama-the-tpp-would-let-america-not-china-lead-the-way-on-global-trade/2016/05/02/680540e4-0fd0-11e6-93ae-50921721165d_story.html

15 Amitendu Palit, "IPEF's early fanfare masks risks in the US approach", *Hinrich Foundation*, 26 October 2022, https://www.hinrichfoundation.com/research/article/ftas/ipef-s-early-fanfare-masks-risks-in-the-us-approach/

16 "Fact Sheet: USTR Releases 2022 President's Trade Policy Agenda and 2021 Annual Report", https://ustr.gov/sites/default/files/USTR%20Trade%20Policy%20Agenda-Annual%20Report%20Fact%20Sheet.pdf

Standard-setter vs standard-taker

Several IPEF members will hesitate in accepting US-led standards in politically sensitive issues such as labour, environment, and digital economy. India, which has till now, stayed disengaged from Pillar 1, while engaging with the remaining Pillars, is an example. India's decision might well have been motivated by its hesitation to negotiate new-generation complex trade issues like labour standards and cross-border data flows, since its own domestic regulations are yet to be institutionalised in these areas.[17] The obvious outcome of engaging on these subjects in the absence of adequate domestic regulations would be to accept US proposed standards as given. The default choice of being a 'standard taker' is not an appealing proposition and is worrying for several other IPEF members too.

New-generation trade issues, such as labour and environment, have encountered major negotiating roadblocks in structured FTAs. The US-led TPP negotiations are an example. The problem in dealing with such issues arises from the economic heterogeneity and variation in regulatory systems among members, particularly in large blocs such as the IPEF and the TPP. Several members have comparative advantages in production that are derived from their abilities to use domestic labour more efficiently than others. Agreeing on certain labour standards, particularly those that might entail pegging the cost of domestic labour on par with US labour, can imply these countries losing out on productivity and efficiency. Similarly, standards proposed for environmental sustainability might be costly and inefficient for many developing country members of the IPEF to adopt.

The IPEF is expected to offer sufficient flexibilities to its members for 'leaving' or 'taking' standards. The emphasis on flexibility and a non-binding approach contrasts with the binding character of several major FTAs, such as the CPTPP and the United States-Mexico-Canada Agreement (USMCA). While flexibility is a happy prospect for many members, it might refrain the IPEF from achieving a comprehensive region-wide set of rules, with members picking rules in bits and pieces. Time will reveal whether the IPEF's commitment to flexibility dilutes its achievements elsewhere.

From the members' eyes

The IPEF focuses on issues that are among the most preoccupying for global trade and business policy and regulations. Whether it be labour, environment, trade facilitation and competition policy in the Trade Pillar, or resilient supply chains, energy security and sustainable solutions, anti-corruption and taxation practices in the other Pillars, the issues are high priorities for multilateral and global bodies (for example, at the G20, G7 and the World Trade Organization [WTO]). The Framework's dedicated focus on these subjects, and the speed at which it has proceeded since its inception, demonstrates its intentions of staying ahead of the multilateral rulemaking processes and creating rules for the Indo-Pacific that become templates for wider adoption. It clearly aspires to be a trend-setter in global rulemaking.

The IPEF's efforts will produce a new generation of economic and business rules for the Indo-Pacific region. Rules implemented across the Indo-Pacific – the most economically vibrant region of the world – can, over time, become global rules in their respective spheres. As some of the world's largest and major economies – both developed and developing – start engaging economically on a common set of rules, the latter can evolve into benchmarks for upcoming as well as existing economic frameworks.

17 Amitendu Palit, "The IPEF Advances – Is India ready?", *ISAS Brief*, 4 August 2022, https://www.isas.nus.edu.sg/papers/the-ipef-advances-is-india-ready/

While its objectives are laudable, the IPEF's goals are challenging. Pronounced economic heterogeneities among members make its negotiating objectives daunting. In digital economy, for example, the IPEF members have major differences in domestic capacities and high variations in domestic regulations. It is the same with respect to national standards for tackling carbon emissions, green technologies and labour management practices. The differences in national capacities and the state of evolution of domestic standards will generate significant challenges in reaching common regional standards.

The challenges for IPEF negotiations are enhanced by the complexities of regional and national political economies. As developing standards imply engaging on 'behind the border' issues and delving into domestic regulations, the national political economies can pose hurdles for implementing new standards. These can be particularly visualised for labour, environment and data standards. Furthermore, legal procedures for implementing the IPEF outcomes will vary among its members and can pose specific challenges.

A proactive US leadership of the IPEF project also has far-reaching implications. The geopolitical and strategic implications of the leadership will remain with the IPEF as it evolves into a mature Framework. These implications will shape the regional political and security dynamics in the Indo-Pacific region, impacting various strategic choices of its members.

Understanding the IPEF closely is essential for obtaining clearer insights on its implications. This understanding requires specific perspectives on the IPEF reflected from the vantage points of its individual members. The discussion papers in this series aim to provide these perspectives. They look closely at negotiating challenges and anticipated outcomes for the IPEF in the areas of digital economy, resilient supply chains, clean energy and decarbonisation, and financial practice; implementation challenges for the IPEF arising from domestic regulatory complexities and political economies of members; the IPEF's compatibility with existing regional frameworks and prospects of the IPEF's engagement with extra-regional actors like Europe in the foreseeable future. Between them, these papers comprise a remarkable set of informed perspectives that are instrumental for understanding the IPEF.

Thinking aloud

The conclusion of negotiations in Pillar 2 has been a rather remarkable achievement, given the delays that normal trade negotiations experience. The conclusion has brightened the prospects of similar declaration of outcomes for other Pillars too. Pillars 3 and 4 are likely to be ahead of Pillar 1 in this regard. The Trade Pillar might experience more delays as achieving meaningful outcomes in complex issues like digital economy and labour standards will not be easy. Indeed, in this regard, the US Administration might also prefer a somewhat cautious approach, given the impending domestic elections in the US, and the possibility of certain issues, such as technology, labour and climate rules, having some impact on electoral prospects.

There is also speculation over whether the US would stay committed to the IPEF in the event of the Biden Administration being voted out of office. The spectre of a TPP-like scenario unfolding for the IPEF continues to be a worry. Notwithstanding such fears, there is no doubt that the IPEF process will survive. The stakes – both commercial and political – in a rules-based economic framework for the Indo-Pacific are too substantial, making it a process that is unlikely to get crippled. Future US Administrations will be aware of the strategic compulsions that justify the IPEF. So will be its other members. It will, therefore, be a process that will continue to evolve and keep posing questions.

Getting to learn the IPEF is a strategic necessity, not just for the Indo-Pacific region, but also for all other extra-regional global actors. As a new-generation experimental rulemaking process, the IPEF's successes and failures will be precious knowledge for all future efforts aiming to address 21st century economic challenges.

About the authors

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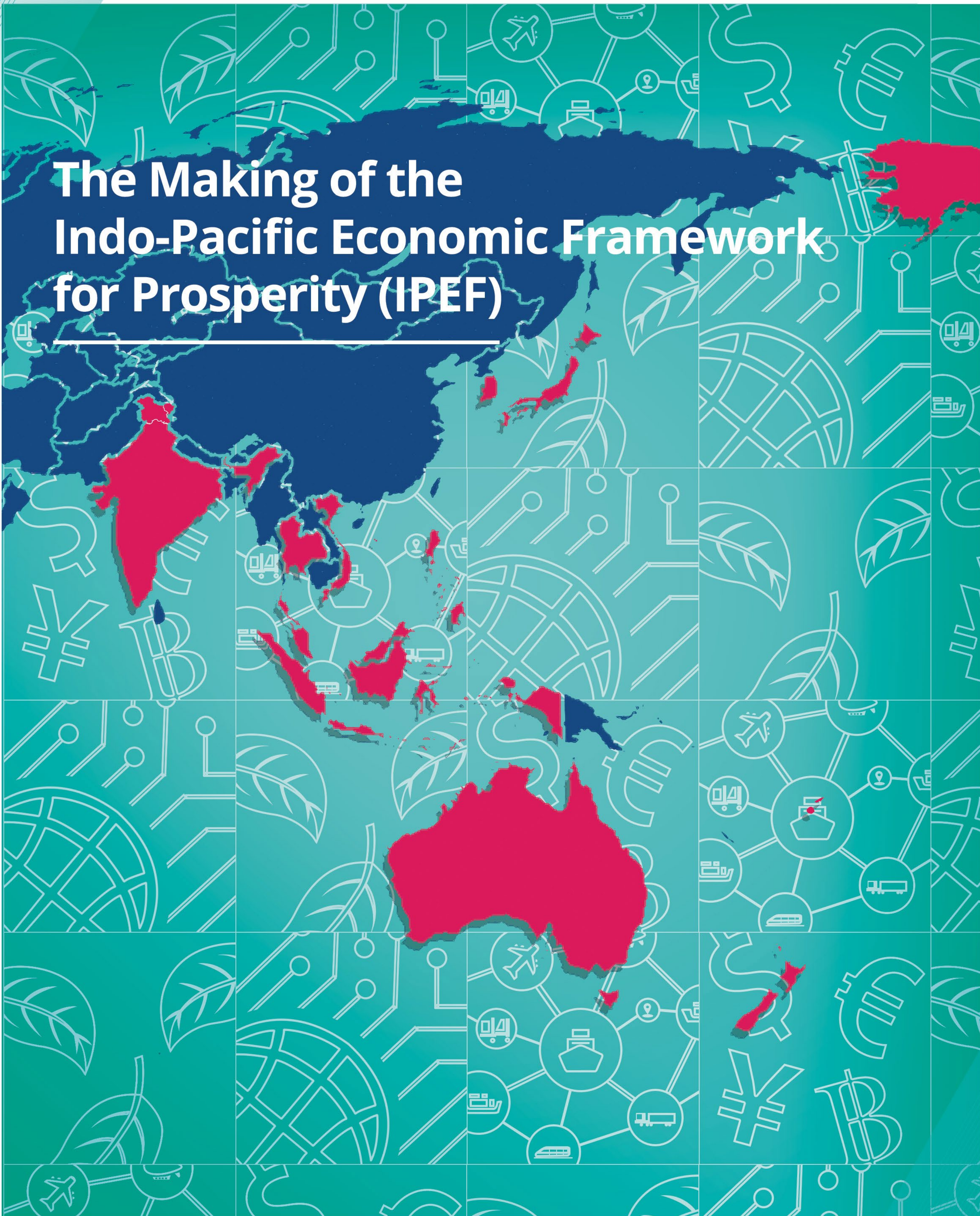

The Making of the Indo-Pacific Economic Framework for Prosperity (IPEF)

2

Much Ado about Something? Australia’s Views on IPEF’s Prospects

Peter DRAPER

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The Indo-Pacific Economic Framework for Prosperity (IPEF) negotiations represent an opportunity for Australian stakeholders, albeit one relatively less tantalising – or costly – than traditional free trade agreements. The IPEF's market access content is limited to digital trade, and less ambitious than the current United States (US) benchmark in the United States-Mexico-Canada Agreement (USMCA). Moreover, the IPEF's regulatory initiatives are largely cooperative, rather than binding. While the US may intend to use the IPEF to spread its preferred standards agenda, unless the adoption of those standards is firmly linked to both finance and investment flows from advanced IPEF members, developing country counterparts may remain aloof. Consequently, Australian business stakeholders seem to have downgraded their expectations of the outcomes, whereas civil society stakeholders remain wary of the IPEF's potential regulatory content. Nonetheless, Australian stakeholder groups are largely united around using the IPEF to anchor the US in regional economic arrangements. Therefore, eventual ratification will not present insurmountable obstacles.

List of Abbreviations

ACTU	Australian Council of Trade Unions
AFTINET	Australian Fair Trade & Investment Network
ALP	Australian Labor Party
APEC	Asia-Pacific Economic Cooperation
BCAs	Border Carbon Adjustment Measures
BEPS	Base-Erosion and Profit-Shifting
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
DFAT	Department of Foreign Affairs and Trade
ESG	Environmental, Social and Governance
FTA	Free-Trade Agreement
G7	Group of Seven
GEA	Green Economy Agreement
GHG	Greenhouse Gas
IPEF	Indo-Pacific Economic Framework
IRA	Inflation Reduction Act
OECD	Organisation for Economic Co-operation and Development
US	United States
USMCA	United States-Mexico-Canada Agreement
WTO	World Trade Organization

Introduction

The Indo-Pacific Economic Framework for Prosperity (IPEF) represents an eclectic combination of old and new in the world of trade agreements. While clearly not constituting a traditional market access-oriented free trade agreement (FTA) of the kind the region is familiar with, it does contain a partial market access agenda in Pillar 1's digital focus. The other three Pillars traverse regulatory terrain and emphasise the construction of cooperative frameworks based on adopting common standards: an agenda familiar to non-trade officials working in multilateral settings such as the Organisation for Economic Co-operation and Development's (OECD) Base-Erosion and Profit-Shifting initiatives (BEPS)[1] *vis-à-vis* the IPEF Pillar 4's focus on tax and anti-corruption.

Therefore, while there are good reasons to be sceptical about the IPEF's utility, its substance is not unfamiliar to Australian negotiators. Moreover, in recent years, Australia has been at the forefront of negotiating sectoral regulatory pacts containing combinations of market access and regulatory frameworks, albeit on a bilateral basis and with the like-minded Singapore.[2]

A core difference between the IPEF and multilateral negotiation settings, however, is that the United States (US) is driving it, in contrast to its relative neglect of the World Trade Organization (WTO), in particular. From a negotiating perspective, a multilateral setting offers greater balancing potential or coalitional settings and the opportunity to arbitrage amongst large trading powers whose economic sizes roughly offset each other, particularly for middle powers such as Australia. While the IPEF does contain significant economic powers, in Japan and India particularly, the US remains dominant. Hence, to the extent that the US sees the IPEF as an opportunity to entrench its standards in the region, channelling that agenda in ways that are productive for the Australian economy would be more difficult where US standards diverge from Australian norms. Moreover, Australian negotiators are very interested in further embedding the US into regional economic frameworks, not least to counter China's growing regional influence. Therefore, they need to balance their own economic objectives, which are often aligned with those of the US, with the need to occasionally blunt US demands that might alienate IPEF partners. This has been a longstanding issue on the WTO, notably concerning US Democratic Administrations' pursuing of stronger environment and labour rights in trade agreements – a core factor in the collapse of the WTO's 1999 Seattle Ministerial conference. This makes for a complex negotiation dance, particularly in relation to the more sensitive issues on the table.

This paper discusses Australian perspectives on the IPEF's anticipated outcomes, negotiation challenges and implementation issues. Given that these negotiations are still underway and at an early stage, the material is sourced primarily from internet sources and confidential background interviews with Australian stakeholders. Thereafter, Australia's participation in the IPEF negotiations is assessed, including a limited case-study on the Pillar 3 – Clean Economy – negotiations. The final section concludes.

1 "Inclusive Framework on Base Erosion and Profit Shifting", Organisation for Economic Co-operation and Development, https://www.oecd.org/tax/beps/. The BEPS concerns corporate tax planning strategies to shift profits from higher tax jurisdictions to lower tax jurisdictions in order to maximise group profits, thereby eroding higher tax jurisdictions' revenue bases.

2 "Australia-Singapore Digital Economy Agreement", Australian Government – Department of Foreign Affairs and Trade, 8 December 2020, https://www.dfat.gov.au/trade/services-and-digital-trade/australia-and-singapore-digital-economy-agreement;

"Singapore-Australia Green Economy Agreement", Australian Government – Department of Foreign Affairs and Trade, 18 October 2022, https://www.dfat.gov.au/geo/singapore/singapore-australia-green-economy-agreement

Anticipated Outcomes

At the broadest level, the IPEF is a cooperative framework (Pillars 2 to 4) with market access features (Pillar 1). As such, the anticipated outcome is the establishment of a matrix of cooperation agreements, and limited market access. The high-level anticipated outcomes per Pillar are represented in Figure 1.

Figure 1: Summary of IPEF's Negotiation Foci

PILLAR 1	PILLAR 2	PILLAR 3	PILLAR 4
Trade	**Supply chains**	**Clean energy**	**Tax & anti-corruption**
High-standard	Transparency	Technology deployment	Fair competition
Free	Diversity	Decarbonisation	Enforcement
Fair	Security	Resilience	Sharing expertise
Sustainable	Sustainability	Finance	Capacity building
Workers	Resilience emphasis	Infrastructure	
Digital emphasis		Technical assistance	

Source: IPEF Ministerial Statements

Clearly, the Pillar 1 market access agenda has limited scope and applicability, with the emphasis on workers' interests, as well as fairness, representing a particular framing that circumscribes stakeholder interest and engagement. Still, the anticipated outcome is binding market access, particularly for digital services, and associated rules to govern cross-border data flows and storage.

Pillars 2 and 3, on the other hand, respond to current concerns being expressed by many countries over economic resilience and decarbonisation, and as such enjoy much wider buy-in. In both cases, anticipated outcomes are anchored on the establishment of cooperative frameworks, for example, consultation mechanisms and information sharing, and elaboration of common standards — particularly concerning decarbonisation technologies — over time.

Pillar 4's emphasis on fair competition resonates with the BEPS conventions and derivative global minimum tax[3] in relation to tax, and OECD as well as other multilateral codes covering corruption. As such, the overall objective is the focused implementation of existing arrangements and the provision of assistance to the IPEF's developing country members for this purpose. This is in keeping with western economies' generalised shift to more values-based approaches to the governance of their large firms supply chains.

Negotiation Challenges

At least four negotiation challenges are clearly discernible.

3 "International community strikes a ground-breaking tax deal for the digital age", OECD Tax, 8 October 2021, https://www.oecd.org/tax/international-community-strikes-a-ground-breaking-tax-deal-for-the-digital-age.htm

No market access agenda (except Pillar 1)

This is a well-known IPEF limitation. In a traditional FTA negotiation, there is generally abundant market access on the table covering both goods and services. This creates scope for the trade-offs to ensure there is enough for everyone to sign the deal.

The IPEF does have a very limited market access agenda in Pillar 1, but it concerns an issue — digital trade governance — that is highly sensitive for some members. For example, India and Indonesia advocate for stronger domestic data storage provisions and the right to impose taxes on digital trade flows, and / or e-commerce. By contrast, the US has historically pursued free data flows and prevention of data storage provisions in its trade agreements. Furthermore, the other Pillars contain distinct regulatory domains with the emphasis being on establishing cooperative frameworks rather than market access per se. This means there is little scope for reciprocity within each pillar, never mind across the Pillars. That said, since each Pillar effectively stands alone in principle there is nothing to prevent concluding them distinctly, and out of sequence. Notably, this has already occurred for Pillar 2.

Is the US pursuing a 'Brussels effect' outcome?

In its public statements on the IPEF, US representatives consistently emphasise their expectation that the IPEF signatories will adopt high standards across the four pillars, anchored in US preferences for a 'worker-centric' trade policy, in what could be construed as a 'Washington effect' to mirror the well-known 'Brussels effect'[4]. Is this realistic? And what could it mean in practice?

The answers to these questions depend on how the other participants respond, especially developing country members such as India and Indonesia. Obviously, that is also contingent on the Pillar in focus, with some (market access for digital trade) being particularly difficult, and others (Pillar 2's supply chain resilience) less so. This arguably also explains why Pillar 2 was substantively concluded first, and quickly. Each country will have to make its own judgments concerning the implementation requirements and adjustment costs, in relation to the potential benefits on offer through locking into higher standards, on an issue-by-issue basis.

Many countries, and diverse economies and needs

The regulatory agenda is complex. It encompasses largely private (voluntary) standards as well as mandatory standards, across a wide domain. Countries are positioned very differently within this rapidly evolving complexity, and given their diverse economic structures and needs, they will be looking for different things from the negotiations. By contrast, notwithstanding this heterogeneity, it is likely that there will be common interests in adopting common standards approaches in certain areas, for example, in relation to the uptake of green hydrogen as an energy source. The IPEF can provide a focus for such identified common interests, and by establishing cooperative frameworks, the details can be worked out in subsequent detailed working groups.

Would standards alignment deliver the anticipated investment outcomes?

The 'standards uptake for investment' principle is a core bargain at the heart of IPEF's standards agenda. In essence, this means that by adopting cutting-edge standards, developing countries

4 Anu Bradford, The Brussels Effect: *How the European Union Rules the World* (Oxford University Press, 2020)

expect investment from private sector firms to flow to their economies. They also expect that developed countries will facilitate the uptake of those standards through implementation support packages. Against this, developing countries have budget constraints and opportunity costs for scarce funds. It raises the question on whether capacity building, technical and financial assistance promise sufficient incentives to promote uptake of higher standards, given the institutional resourcing requirements to implement such packages, versus, for example, deploying scarce funds to build more schools. These trade-offs are present in all four Pillars although their manifestations will vary from developing country to developing country, depending on each country's domestic institutional and political economy constraints.

Implementation Issues

These really depend on the outcomes, specifically, who stays the course and on what issues, and the content of agreed outcomes. Put another way, this will be a function of levels of ambition and associated implementation appetite. Considering the anticipated outcomes, we can speculate about the resultant mix of outcomes.

First, developed countries and US security allies, including Australia, Japan, New Zealand, Singapore, South Korea, and the Philippines, are likely to stay the course and commit to a package of outcomes. In the US case, this would be primarily to satisfy geopolitical imperatives, namely remaining economically engaged in the region. US security allies share this motivation and hope for meaningful economic concessions. The Australian case is discussed in the next section.

Second, and for a variety of reasons already canvassed above, the remaining developing countries are more likely to go for an *à la carte* approach. The three prominent reasons are:

1. They may struggle to reach the regulatory 'bar'.
2. While financial and technical assistance will help, design and implementation capacities are important and sometimes lacking.
3. In this light, would recipients prioritise this agenda over other, potentially more pressing, governance matters and resourcing trade-offs?

Given that the IPEF is designed to be amenable to opt-in and opt-out approaches, this means that there is no longer the need for an overarching IPEF Agreement per se, but rather a collection of full and partial scope architectures with developing countries occupying different points of the implementation spectrum.

Australian Perspectives

General observations

According to one stakeholder consulted for this research, Australia's embrace of the IPEF cements the evolution of Australian trade policy away from a singular focus on achieving commercial outcomes, towards privileging security considerations.[5] Australia's top trade priority is US engagement in the Indo-Pacific region to buttress the US-anchored rules-based order and resist

5 Robert Glasser, Cathy Johnstone and Anastasia Kapetas (eds), Australian Strategic Policy Institute, *The geopolitics of climate and security in the Indo-Pacific*, (Canberra: Australian Strategic Policy Institute), 24 February 2022, https://www.aspi.org.au/report/geopolitics-climate-and-security-indo-pacific

Chinese dominance. First prize is for the US to return to the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) Agreement, but that is not going to happen. The IPEF, notwithstanding the negotiation challenges, is the only game in town. These dynamics are reflected in the evolving Pillar 1 digital trade negotiations, with Australian business groups consulted for this research preferring to prioritise existing regulatory frameworks, notably the CPTPP, rather than the likely 'worker-centric' provisions to be established under the IPEF. One business stakeholder noted that the IPEF is relatively marginal in terms of Australian trade policy priorities and the country's extensive domestic regulatory agenda. That said, Australian businesses will participate, but in support of the security alliance, not because they expect meaningful commercial outcomes.

The Australian Labour Party (ALP) government, by contrast, is comfortable with a 'worker-centric' trade project as espoused by the Biden Administration. One stakeholder interviewed for this research observed that the US' trade policy approach is evolving towards the European model, with similarities across approaches to labour and human rights, as well as digital trade, becoming apparent. Moreover, Australian civil society groups and trade unions — the core of the ALP's voting base — are in favour of embedding labour, environmental, and inclusivity provisions into trade agreements and in this regard, they see the IPEF as an opportunity. The Australian Council of Trade Unions (ACTU)[6] is enthusiastic, and advocates for embedding strong, enforceable, labour rights across all four Pillars. Moreover, they see an opportunity to develop a robust labour rights framework for future trade agreements, building on the IPEF platform. In this light, the IPEF could be made to work to the current Australian government's advantage.

Nonetheless, civil society, while broadly supportive of the IPEF's goals, has expressed some scepticism. On top of the list is the legal non-enforceability of the final set of IPEF agreements, with the probable exception of Pillar 1, meaning that the agreed texts will be aspirational.[7] Similarly, with the IPEF's core value proposition consisting of a 'reforms for investment' bargain, civil society has expressed concerns that implementation of IPEF's values content (labour rights for example) will exclude them.[8] Similarly, there are concerns over the negotiations process and associated decision-making, specifically the secrecy provisions that will govern access to negotiations texts that are seen as more stringent than those governing CPTPP negotiations.[9]

There are broader concerns in the Australian trade policy community. One centres on whether the IPEF will compete with existing initiatives, notably the Asia-Pacific Economic Cooperation (APEC) process. In this view, the IPEF may contribute to regional fragmentation by promoting standards that diverge from evolving regional norms. Moreover, while the US remains strongly supportive of the APEC, it may no longer be driving the organisation in the ways it used to, since its energies have diverted to driving the IPEF.

Nonetheless, the lead government agency, the Department of Foreign Affairs and Trade (DFAT) is supportive of the IPEF, which is seen as a new kind of trade agreement that responds to the post-COVID-19 era by addressing contemporary concerns over supply chain resilience, green economy, and digital trade. Moreover, together with Japan and Singapore, DFAT negotiators are focused

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6 "Indo-Pacific Economic Framework", Australian Council of Trade Unions (ACTU), 12 January 2023, https://www.dfat.gov.au/sites/default/files/ipef-submission-actu.pdf

7 "AFTINET Submission to the Department of Foreign Affairs and Trade on the Indo-Pacific Economic Framework", Australian Fair Trade and Investment Network, 2 November 2022, http://aftinet.org.au/cms/sites/default/files/221024%20%20AFTINET%20IPEF%20submisssion%20to%20DFAT%20fiinal.pdf

8 *Ibid.*

9 *Ibid.*

on assisting the US to find landing zones for the various pillars that would work in the regional context.

Pillars 1, 2 and 4

Regarding Pillar 1, several positives have been identified by various Australian stakeholders. First, unlike the other Pillars, a single undertaking approach will be applied, meaning that nothing is agreed until everything is agreed. In principle, this widens the scope for trade-offs within the Pillar, although not across Pillars, and ensures commitment to the whole package. As a result, some Australian stakeholders advocating for strong outcomes on digital trade issues express optimism that the Pillar 1 Agreement may end up buttressing Australia's Digital Trade Strategy,[10] thereby bolstering Australian competitiveness.[11] In this regard, it could conceivably be a useful supplement to existing bilateral arrangements such as the digital trade provisions in the CPTPP. Furthermore, it could conceivably leverage Australian strengths in cyber-security capacity-building (*inter alia*) to assist the IPEF's developing country participants with bolstering their cyber-security defences.[12]

However, at the time of writing, Australian business stakeholders were sceptical that an ambitious outcome could be achieved, with US official negotiation positions apparently being 'United States-Mexico-Canada Agreement (USMCA) minus', and noted that their US counterparts were considering exiting the negotiations. According to several stakeholders consulted during the course of conducting research for this paper, the issue has become highly politicised in the US Congress and is anchored on a tacit alliance between liberal Democrats led by Senator Warren, and the extreme right, led by Senator J. D. Vance.

These US politics are reflected in some Australian stakeholder criticisms. Civil society worries that the emphasis on food security will be used to bolster investments into the IPEF's developing country participants from countries that heavily subsidise their agriculture, thus potentially undermining their production capabilities.[13] Similarly, civil society and labour groups expressed concerns regarding the potential digital trade provisions of Pillar 1, notably that these might mirror those in the USMCA, where the provisions strongly favour free data flow and minimal restrictions on the US technology giants. These groups worry that it would represent a substantial step back for Australian regulation of those companies, given that prior Australian trends were towards regulating for more accountability, gig-economy workers' rights, higher privacy standards, more stringent cyber-security obligations, and greater market contestability.[14] Moreover, the civil society submission expressed concern that Pillar 1 might be used to negotiate access to public services, thereby restricting governments' rights to regulate,[15] and that market access negotiations might extend to restrictions on government procurement programmes acting as industry development programmes.[16] Given the US's own 'Buy America' procurement provisions, such concerns seem misplaced.

10 "Digital Trade Strategy", Australian Government – Department of Foreign Affairs and Trade, 1 April 2022, https://www.dfat.gov.au/trade/services-and-digital-trade/e-commerce-and-digital-trade/digital-trade-strategy#executive-summary.

11 Huon Curtis, Samantha Hoffman, and Gatra Priyandita "Australian views on the Indo-Pacific Economic Framework", *ASPI Strategic Insights*, 171, July 2022, https://ad-aspi.s3.ap-southeast-2.amazonaws.com/2022-07/Australian%20views%20on%20the%20IPEF_0.pdf?VersionId=i5uDFFh3AJOPG8a5rphC0rkXakarNeQs

12 *Ibid.*

13 *op. cit.*

14 *op. cit.*

15 *op. cit.*

16 *Ibid*.

There is broader support for Pillar 2's objectives. In the wake of the COVID-19 pandemic and China's economic coercion of Australia, the opportunity to address Australian supply chain vulnerabilities is embraced.[17] Moreover, the ALP government's election platform included rebuilding the domestic manufacturing base, towards which end, several subsidies have already been developed. And as other nations look to reduce their own supply chain vulnerabilities, substantial opportunities are emerging for Australia to play a key role, notably in the mining and production of critical minerals. Therefore, Pillar 2 builds on existing momentum and will complement other initiatives such as the India-Japan-Australia Supply Chain Resilience Initiative.[18]

However, in its submission to DFAT's stakeholder consultations, the Australian Fair Trade & Investment Network (AFTINET) expressed concerns that the US goal of 'decoupling' from China will be expressed through the IPEF in ways that could negatively affect partner countries, including Australia. Moreover, the ACTU recommends that companies in IPEF countries be obliged to undertake human rights due diligence investigations to access any Pillar 2 benefits. In this light, the Pillar 2 deal struck at Detroit[19] was positively received in Australia and seemed to push the right political buttons in terms of keeping all stakeholders on board. The establishment of three structures to oversee implementation[20] will bring focus and engagement, if implemented in good faith by all parties. Moreover, the Australia-Republic of Korea joint initiative to boost IPEF partners' capacities for identifying, monitoring, and managing critical supply chain vulnerabilities, gives practical expression to Pillar 2's objectives.[21]

Finally, Pillar 4 is not controversial in Australia, since the country has long advocated for a good governance agenda and has implemented various development assistance projects towards this end. Corruption can not only undermine Australian business participation in the region, but also democratic norms, institutions, and the rule of law. Given this, Australian stakeholders are aligned with the IPEF's objective of promoting shared norms, based on common definitions and practices, for dealing with these issues.[22]

Some reflections on ratification issues and processes

Regarding concerns over the US political system and whether it might arbitrarily overturn the IPEF, Australian negotiators note that the IPEF generally does not touch on 'hot button' US domestic political issues and as such, it is not likely to be controversial. That said, the digital trade-competition interface is well-known to be sensitive in the US, and this may affect the construction of Pillar 1 as

17 "Vulnerable Supply Chains", Study Report, Productivity Commission – Australian Government, 22 July 2021, https://www.pc.gov.au/inquiries/completed/supply-chains/report

18 "Joint statement on the Supply Chain Resilience Initiative by Australian, Indian and Japanese trade ministers", Australian Government – Department of Foreign Affairs and Trade, 27 April 2021, https://www.dfat.gov.au/news/media-release/joint-statement-supply-chain-resilience-initiative-australian-indian-and-japanese-trade-ministers

19 "Substantial Conclusion of Negotiations on Landmark IPEF Supply Chain Agreement", US Department of Commerce, May 27 2023, https://www.commerce.gov/news/press-releases/2023/05/substantial-conclusion-negotiations-landmark-ipef-supply-chain

20 An IPEF Supply Chain Council to oversee development of sector-specific action plans; an IPEF Supply Chain Crisis Response Network to act as an emergency communications channel; and a "tripartite" IPEF Labor Rights Advisory Board to address labour rights concerns.

21 "IPEF Supply Chains Agreement – more resilient supply chains for uncertain times", Senator the Hon Don Farrell, Minister for Trade and Tourism, Special Minister of State, 28 May 2023, https://www.trademinister.gov.au/minister/don-farrell/media-release/ipef-supply-chains-agreement-more-resilient-supply-chains-uncertain-times

22 *op. cit.*

well as its reception in Congress. Similarly, if an attempt is made to use Pillar 3 to grant access to the US' green subsidies via the Inflation Reduction Act (IRA), that could invite some Congressional scrutiny.

In Australia, given the bipartisan consensus on the centrality of the Australia-US military alliance, eventual ratification and implementation is not likely to be controversial, possibly excepting Pillar 1 – depending on what is eventually agreed. Since the Pillars are likely to be separated out and ratified, potentially four ratification procedures could be required. This would be cumbersome, but will not likely result in substantial controversy, potentially barring Pillar 1.

Case Study: Pillar 3 — Clean Economy

Australian Approaches

Recent extreme weather events, combined with the election of an ALP government facing pressure from an independent climate activist political movement (the 'Teals')[23] delivered a government favourably inclined to take substantial action on decarbonisation and addressing climate change more generally. This builds on several prior policy and regulatory pillars established by previous governments, most significantly the Safeguard Mechanism,[24] as recently reformed.

On the foreign policy front, the new government is keen to push back on Chinese diplomatic incursions into Southeast Asia and the South Pacific. Climate change is the South Pacific Islands' single most important foreign policy priority, and thus, being seen to take visible action to address the issues is consequential not only for the planet but also for Australia's regional positioning. Fiji's participation in the IPEF is notable in this regard. These imperatives are captured in the Australian government's Climate Change Action Strategy,[25] which gives priority to mainstreaming climate change mitigation into Australia's development assistance. Other trade-related initiatives are important. Australia and Singapore recently concluded their 'Green Economy' Agreement (GEA)[26]. In broad outline, this has a similar foundation to IPEF's Pillar 3, being constructed along practical

23 Sam Hawley and Stephen Smiley, "Who are the 'teal independents'? Your questions answered about the candidates fighting for some of Australia's wealthiest electorates", ABC News, 20 April 2022, https://www.abc.net.au/news/2022-04-20/teal-independents-who-are-candidates-what-electorates/101000412. Funded by billionaire climate activist Simon Holmes à Court, these Members of Parliament prioritise ambitious action on climate issues.

24 The Safeguard Mechanism covers the 215 largest heavy industry carbon emitters, for whom an annually declining carbon budget is set.

"Safeguard Mechanism", Australian Government – Department of Climate Change, Energy, the Environment and Water, https://www.dcceew.gov.au/climate-change/emissions-reporting/national-greenhouse-energy-reporting-scheme/safeguard-mechanism#:~:text=The%20Safeguard%20Mechanism%20is%20the,gas%20emissions%20of%20these%20facilities

25 "Climate Change Action Strategy", Department of Foreign Affairs and Trade – Australian Government, November 2019, https://www.dfat.gov.au/about-us/publications/climate-change-action-strategy

26 "Australia Singapore Green Economy Agreement", Australian Government – Department of Foreign Affairs and Trade, 18 October 2022, https://www.dfat.gov.au/sites/default/files/singapore-australia-gea-official-text-signed.pdf

and implementation-oriented lines.[27]

A review of select stakeholder Parliamentary testimony on the GEA reveals broad support for it. The bilateral institutional arrangements are seen to bring focus and certainty to private sector exchanges in relation to the rapidly evolving regional decarbonisation landscape and the regulatory, as well as business uncertainties this gives rise to.[28] Moreover, Australia can learn from Singapore in some areas, notably the adoption of international reporting standards and frameworks in relation to financial disclosure, potentially unlocking environmental, social and governance (ESG) funds Australian companies do not currently have access to.[29] Similarly, the two parties – both IPEF members – could use the Agreement to develop linked carbon offset markets, in close collaboration with regulators and stakeholders, to pioneer Article 6 of the Paris Agreement[30] carbon trading mechanisms.[31] Similarly, the Hydrogen Council sees the GEA as an opportunity to internationalise the emerging Australian hydrogen certification scheme, or Guarantee of Origin, thereby facilitating export of green hydrogen produced in Australia.[32]

Still, the GEA is not without its critics, with one stakeholder observing that it runs the risk of adding to the 'noodle bowl' of trade agreements already in place whilst not adding additional value given that other forums are pioneering most of the issues covered by the GEA.[33] In this regard, one stakeholder argued that other forums such as the Group of Seven (G7) and the OECD are likely to result in more consequential outcomes than what the IPEF is likely to produce *vis-a-vis* Pillar 3.

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27 The overarching purpose is to promote cooperation in seven targeted areas of common interest to advance economic growth whilst transitioning to net zero emissions. These are:

1. Trade and investment
2. Standards and conformance
3. Green and transition finance
4. Carbon markets
5. Clean energy decarbonisation and technology
6. Skills and capabilities for green growth
7. Engagements and partnerships, especially with the private sector.

Annex A of the Australia Singapore Green Economy Agreement contains a list of joint initiatives meant to give practical expression to these cooperation objectives, with the implementation status of each initiative also provided.

28 "Singapore-Australia Green Economy Agreement Submission", Business Council of Australia, 27 January 2022, https://www.dfat.gov.au/sites/default/files/singapore-gea-submission-business-council-australia.pdf;

"Singapore-Australia Green Economy Agreement: Export Council of Australia Submission", Export Council of Australia, 31 January 2022, https://www.dfat.gov.au/sites/default/files/singapore-gea-submission-export-council-australia.pdf

29 "Singapore-Australia Green Economy Agreement Submission", Carbon Disclosure Project, n.d, https://www.dfat.gov.au/sites/default/files/singapore-gea-submission-carbon-disclosure-project.pdf

30 "Article 6 acknowledges that countries can pursue voluntary cooperation in the implementation of their Nationally Determined Contributions to allow for higher mitigation ambition and to promote sustainable development." See Alexandra Soezer, "What is Article 6 of the Paris Agreement, and why is it important?", *United Nations Development Programme*, 9 November 2022, https://www.undp.org/energy/blog/what-article-6-paris-agreement-and-why-it-important#:~:text=Article%206%20acknowledges%20that%20countries,and%20to%20promote%20sustainable%20development

31 *op. cit.*

32 Australian Hydrogen Council, Letter to Kathryn Campbell AO CSC, Secretary Department of Foreign Affairs and Trade, 20 December 2021.

33 "Singapore Green Economy Agreement: Submission to the Department of Foreign Affairs and Trade", Australian Chamber of Commerce and Industry, January 2022, https://www.dfat.gov.au/sites/default/files/singapore-gea-submission-acci.pdf

Nonetheless, the Australian government's ambition is for the GEA to serve as the template for the IPEF's Clean Energy Pillar. In this regard, Australian negotiators see Pillar 3's outcome as being establishment of cooperative frameworks, using standards development to give content. Subsequent work programmes would lead to concrete activities including the development of specific standards, with countries' participation motivated by the desire to attract investments into decarbonisation initiatives. There will be substantial crossover with Pillar 2, for example that Pillar's hydrogen initiative. An example of concrete activities might be a clean economy investment conference, designed to lead to investment pledges. Similarly, Australia is pioneering standards development in key low-carbon technologies. It is far down the track in designing a hydrogen guarantee of origin and moving towards standardisation of carbon emission accounting frameworks.

If the IPEF members were to adopt Australian designs, then Australia would have a first-mover advantage: a potential 'Canberra effect'.

Issues

For trade and investment to flow smoothly in relation to clean energy products, common carbon emissions accounting approaches are required. As per the Paris Agreement, developed countries are required to abate their greenhouse gas emissions at a faster pace than developing countries, with the latter being accorded 'Common but Differentiated Responsibilities'.[34] This builds on and replaces the 1997 Kyoto Protocol,[35] which exempted developing countries from implementing greenhouse gas (GHG) emissions abatement.[36] Therefore, it is generally true that developed countries, such as Australia, are substantially ahead of developing countries in measuring GHG emissions, including through the operation of value chains. Moreover, to the extent that developed countries have national approaches to the measurement of GHG emissions along value chains, or embedded emissions accounting –Australia does not have one – each has its own design and measurement problems. By contrast, developing countries are further behind in measuring carbon emissions, never mind accounting for them through value chains. This raises the premium on developing common approaches, although it does not make it easier. In addition, it is not clear what role the IPEF might play in this relative to multilateral forums, particularly the OECD, which is already quite far down the track with developing its Inclusive Forum on Carbon Mitigation Approaches,[37] for which the agenda seems to be similarly framed to the IPEF's Pillar 3.

As the OECD's Inclusive Forum reiterates, countries are pursuing both priced and non-priced approaches to carbon mitigation, a broad divergence that is consistent with the Paris Agreement. However, as developed countries start to develop and implement Border Carbon Adjustment Measures (BCAs) to minimise potential carbon leakage, with these schemes based on carbon price differentials, developing country movements towards adopting carbon mitigation policies becomes more complicated. In fact, to the extent that they rely on exports from carbon-intensive industries

34 "The Explainer: The Paris Agreement", *United Nations Framework Convention on Climate Change*, 26 February 2021, https://unfccc.int/blog/the-explainer-the-paris-agreement

35 "KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE", *United Nations Framework Convention on Climate Change*, 1998, https://unfccc.int/resource/docs/convkp/kpeng.pdf

36 "Marking the Kyoto Protocol's 25th anniversary", United Nations, https://www.un.org/en/climatechange/marking-kyoto-protocol%E2%80%99s-25th-anniversary

37 "Inclusive Forum on Carbon Mitigation Approaches", *Organisation for Economic Co-operation and Development*, https://www.oecd.org/climate-change/inclusive-forum-on-carbon-mitigation-approaches/

to developed countries implementing BCAs, developing countries are in effect being pushed to adopt domestic carbon pricing and at levels like their developed country trading partners. This raises the tricky question: Given the core 'common but differentiated responsibilities' principle embedded in the Paris Agreement process, should this be a priority for developing countries? It will be interesting to see if, and if so how, these dynamics might play out in the IPEF.

Overall, these dynamics raise the premium on adopting regulatory best practice, forcing the issue up developing countries' domestic policy agendas. That raises the bar on their expectations, particularly for the "policy reforms for investment nexus" at the heart of the IPEF's construction.

Conclusion

Clearly, the IPEF is not like the FTAs traditionally negotiated by IPEF partners, whether developed or developing, although it does contain elements of old and new. This gives rise to a complex negotiation dynamic, but one not likely to seriously threaten ultimate success, given the emphasis on establishing cooperative frameworks rather than binding market access arrangements subject to dispute settlement. For Australia, it offers the additional benefit of keeping the US engaged in the region via negotiation of economic arrangements, and as such is welcomed. That said, certain issues under negotiation will be closely scrutinised by civil society groups as well as business organisations, albeit their motivations and concerns differ substantially. However, the level of business interest in the IPEF appears to be lower than for the traditional deep FTAs pursued by Australia in the past. Overall, given the relative lack of controversy, the likely piecemeal adoption of Pillars as they are concluded, and cross-party support for keeping the US engaged in regional processes, ratification procedures are unlikely to be controversial. It only remains to be seen what the content of the outcomes will be.

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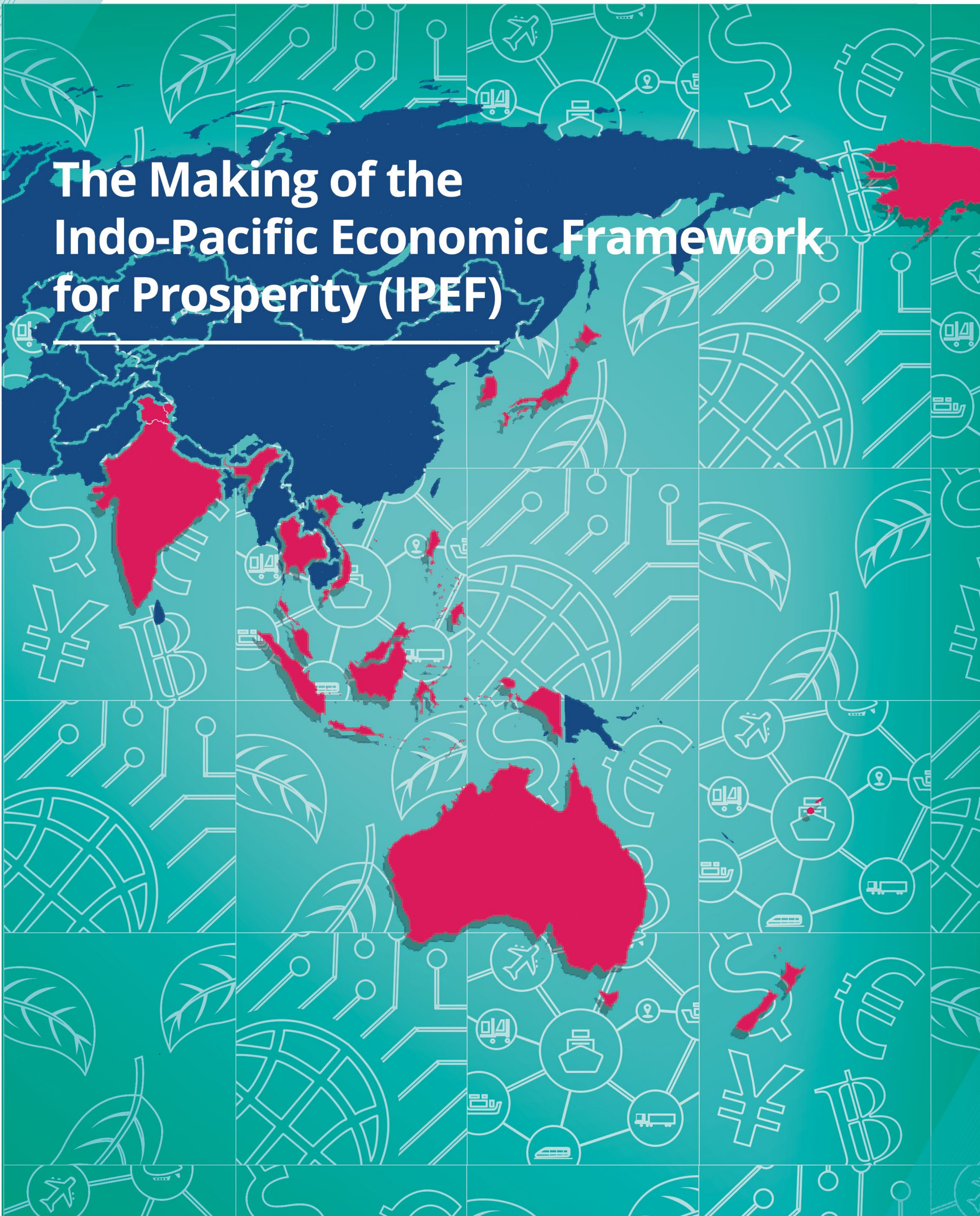
The Making of the Indo-Pacific Economic Framework for Prosperity (IPEF)



The Making of the Indo-Pacific Economic Framework for Prosperity (IPEF)

3

Perspectives on IPEF from *Aotearoa* New Zealand

Mia MIKIC

Perspectives on IPEF from *Aotearoa* New Zealand

Mia MIKIC

This paper articulates the rationale behind New Zealand's decision to join the Indo-Pacific Economic Framework for Prosperity (IPEF) based on a study of official documents, publicly available submissions and other printed materials, as well as conversations with a number of experts. It discusses the challenges that might be faced in the negotiation process and later in the implementation of the negotiated agreements. The paper argues that the rationale is not to be found in the conventional market opportunity (or trade creation) arguments. Instead, it is linked to opportunities to pursue non-trade and non-economic objectives incorporated in the strategies put in place by New Zealand in recent years. These include, inter alia, the Industry Transformation Plans, Trade for All, and Trade Recovery Strategy 2.0. The fact that the IPEF was introduced as an unconventional trade agreement while still incorporating trade-related instruments has opened an avenue for New Zealand to find support in international agreements for its package of developmental objectives. Among several negotiation and implementation issues, the paper examines the obligations to Māori under *Te Tirity o Waitangi*/Treaty of Waitangi on the negotiation side, and the potential difficulty to bring it into implementation due to its 'non-trade agreement' status.

List of Abbreviations

AANZFTA	ASEAN-Australia-New Zealand Free Trade Area
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
AVE	Ad-Valorem tariff Equivalents
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
ESCAP	Economic and Social Commission for Asia and the Pacific
ETC	Economic and Technical Cooperation
EU	European Union
FADTC	Foreign Affairs Defence and Trade Committee
FTA	Free-Trade Agreement
FTE	Full-Time Equivalent
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GVC	Gross Value Chain
IAP2	International Association for Public Participation
IPEF	Indo-Pacific Economic Framework
ITPs	Industry Transformation Plans
MFAT	Ministry of Foreign Affairs and Trade
MFN	Most Favoured Nation
NIA	National Interest Analysis
NTMs	Non-Tariff Measures
NZ	New Zealand
PACER	Pacific Agreement on Closer Economic Relations
RCEP	Regional Comprehensive Economic Partnership
ROW	Rest of the World
RTAs	Regional Trade Agreements
TPP	Trans-Pacific Partnership
US	United States
USTR	United States Trade Representative
WTO	World Trade Organization

Introduction

For the last four decades, *Aotearoa*[1] New Zealand has been a poster child for an open and fair-playing economy in the world.[2] One of the fastest trade policy reformers in the late 1980s, the country became a zealous pursuer of bilateral and plurilateral trade agreements in the period of 'the golden weather for New Zealand trade'.[3] With the trade skies turning grey even before the COVID-19 pandemic, New Zealand, cognisant of the critical importance of trade for long-term prosperity, intensified its engagements with various economies around the region and the world to ease its navigation through an increasingly uncertain global trade and investment environment.

While a staunch advocate of the multilateral approach to trade governance, New Zealand embraced the so-called 'concerted open plurilateralism'.[4] This approach enabled New Zealand to seek and leverage market opportunities through bilateral and plurilateral trade agreements. It also allowed for promoting the multilateral system by building the World Trade Organization (WTO) rules into these trade agreements as well as working with partners on modernisation of some outdated rules and building forward-looking rules. Trade has been helpful as an engine of growth, and economic and social scarring from the COVID-19 pandemic certainly requires trade to heal and move on. For New Zealand, this means engaging in trade that is based on principles of inclusivity, including the interests of women and Māori, and the principles of sustainability. New Zealand utilised its hosting role of the Asia Pacific Economic Cooperation (APEC) in 2021 to, whenever possible, insert these principles into the region's initiatives and escalate them to the global level.[5]

In the context of deepening policy uncertainty and worsening of global geoeconomic tensions, the proposal for the Indo-Pacific Economic Framework for Prosperity (IPEF) initiated by the United States (US) in October 2021 was welcomed by New Zealand and others interested in safeguarding economic relations with the US and with each other, for the purpose of boosting the post-COVID-19 recovery. Most of these economies were also not averse to placing resilience, inclusivity and sustainability squarely onto the trade agenda of the region. Moreover, the IPEF proposal was interpreted as a chance for the US' pivot to Asia for the second time, after several years of the 'region's neglect'.[6]

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1 *Aotearoa* is one of the names that the indigenous Māori use to refer to New Zealand. See "Trade Policy Review – Report by Country New Zealand," WT/TPR/G/426, World Trade Organization, 6 April 2022, https://www.wto.org/english/tratop_e/tpr_e/g426_e.pdf

2 "Trade Policy Review Report by the Secretariat - New Zealand," WT/TPR/S/426, World Trade Organization, 6 April 2022, https://www.wto.org/english/tratop_e/dispu_e/find_dispu_cases_e.htm. This document refers to New Zealand as "one of the most open economies in the world" (p.11). As of 1 June 2023, there is no record of New Zealand being an object of a complaint in the WTO Dispute Settlement process.

3 This period refers to 1994-2018. See "A key-note address at the opening of the seventh session of the Committee on Trade and Investment United Nations ESCAP" speech by Vangelis Vitalis, Deputy Secretary, Trade and Economic Group, Ministry of Foreign Affairs and Trade, New Zealand, 27 January 2021, https://www.unescap.org/sites/default/d8files/event-documents/V%20Vitalis%20opening%20transcript_clean.pdf

4 Jonathan de Leyser, "The case for Concerted Open Plurilateralism", *Institute for Free Trade*, https://ifreetrade.org/article/the_case_for_concerted_open_plurilateralism1

5 See more details on these initiatives (sections 3, 5 and 7) in the "Trade Policy Review – Report by Country New Zealand," WT/TPR/G/426, World Trade Organization, 6 April 2022, *(op. cit)*.

6 The US' economic relations with the Asia-Pacific was heavily interrupted by its withdrawal from the Trans-Pacific Partnership (TPP) agreement in January 2017. Some commentators suggest the US failed to counterbalance China's increasing presence in the region from much earlier. See Mohammadbagher Forough, "America's Pivot to Asia 2.0: The Indo-Pacific Economic Framework," *The Diplomat*, 26 May 2022, https://thediplomat.com/2022/05/americas-pivot-to-asia-2-0-the-indo-pacific-economic-framework/

New Zealand's trade patterns and the use of trade instruments relevant to the IPEF

As a small economy, New Zealand is expected to be dependent on global trade. However, its distance to markets and the small size of its manufacturing sector have prevented it from growing into a key actor in regional and Global Value Chains (GVC). Nevertheless, prior to the COVID-19 pandemic, in 2019, the share of external trade in its Gross Domestic Product (GDP) was 55 per cent. By 2021, this fell to 44.5 per cent, with four-fifths of it contributed by merchandise trade, signalling a much slower recovery of commercial services trade after the COVID-19 pandemic.[7]

In 2021, almost 60 per cent of the merchandise exports went to four destinations: China (31.7 per cent), Australia (12.4 per cent), the US (10.6 per cent), and the European Union (EU) (5.1 per cent). This reflects a continued geographical concentration of the country's exports as, in 2015, these four markets absorbed only 53 per cent of exports. From 2015 - 21, China's share increased by 14 percentage points at the cost of a reduced share of all other traditional export markets of New Zealand.[8] It is important to note that this growing reliance on China happened while the country's total exports expanded by US$10 billion. At present, China is New Zealand's largest trading partner on both the export and import side.[9]

Services trade has still not recovered after the serious contraction caused by disruptions during the COVID-19 pandemic, especially in international travel and education sectors. The figures for 2020 show somewhat smaller geographical concentration, with 50 per cent of exports of commercial services destined to Australia, the US, United Kingdom (UK), India and Singapore. The largest trading partner in services trade is Australia, followed by the US.[10]

Despite strongly supporting the multilateral trade governance under the WTO, New Zealand has used bilateral and plurilateral trade negotiations for enlarging market access opportunities for its exports. Out of its 15 signed or enforced trade agreements,[11] only the agreement with Australia predates the establishment of the WTO. Nine agreements are bilateral (all but the one with the UK are with Asian economies) and six are plurilateral (including the one with the EU).

Figure 1 shows that about 72 per cent of total merchandise exports goes to economies with whom there are major bilateral and plurilateral trade agreements in force or signed. Signing bilateral trade agreements with the US and India would increase that coverage by about 12 percentage

7 "Trade Profiles 2022", World Trade Organization, 2022, 262-263, https://www.wto.org/english/res_e/statis_e/daily_update_e/trade_profiles/NZ_e.pdf;

"Asia-Pacific trade and investment trends brief 2022/2023 : New Zealand", 9 January 2023, United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), https://www.unescap.org/kp/2023/asia-pacific-trade-and-investment-trends-brief-20222023-new-zealand

8 *op. cit.*

9 China is the largest goods trading partner of most IPEF members (excluding Brunei Darussalam, Fiji, India and the US). See Han-Koo Yeo and Wendy Cutler, "Strengthening Regional Supply Chain Resiliency Through the Indo-Pacific Economic Framework (IPEF)", Asia Society Policy Institute, Issue Paper, May 2023.

10 *Ibid.*

11 As of June 2023, 13 out of these 15 agreements have been notified to the WTO. Agreements with the EU and UK are yet to be ratified.

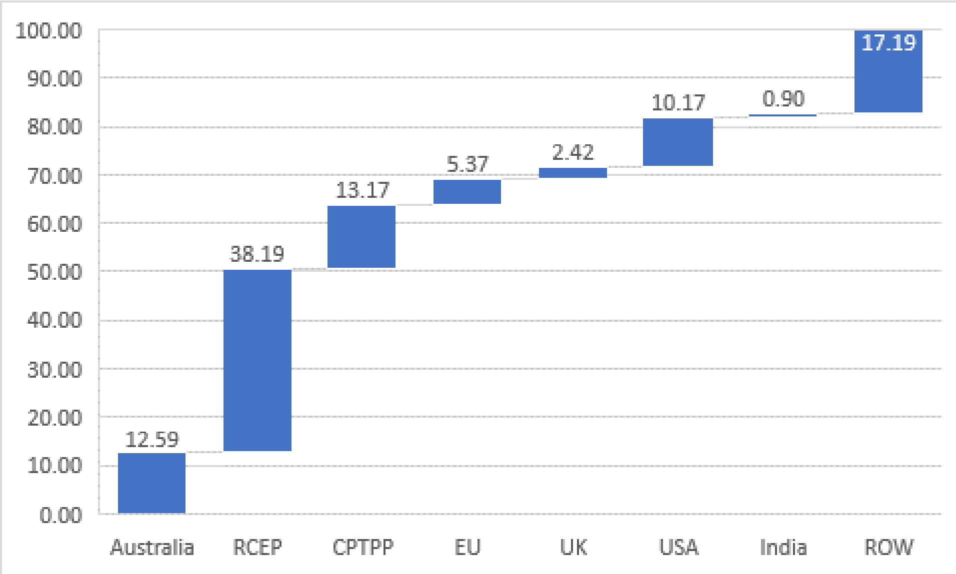
points.[12] India and the US are members of the IPEF and if the IPEF were a conventional trade agreement, negotiating trade under it would have allowed access to both markets. However, the IPEF is conceptualised as a non-traditional agreement which does not seek to create market access through tariff reductions among members. From the beginning, this feature of the IPEF did not sit well with most of its developing country members.[13] Increasingly – and most likely as the response to not only the Asian developing country members, but also some of the US' businesses – it has been pointed out that market access could (and should) be leveraged through instruments other than tariff concessions.[14]

12 As observed with the expansion of trade with China after the signing of the China-New Zealand Free Trade Agreement (FTA) in 2008 (upgraded in 2022), the share of bilateral trade with China in New Zealand's total trade has doubled since 2015. While it is highly unlikely that bilateral trade with India and the US would follow the same trajectory, they can rise faster with, than without, agreement-based preferences.

13 Gary Clyde Hufbauer and Megan Hogan, "Security not economics is likely to drive US trade engagement in Asia," *East Asia Forum*, 9 Jan 2022, https://www.eastasiaforum.org/2022/01/09/security-not-economics-is-likely-to-drive-us-trade-engagement-in-asia/

14 In the press conference announcing the completion of the IPEF Supply Chains Agreement, US Commerce Secretary Gina Raimondo and the USTR Katherine Tai argued that the absence of focus on tariff elimination is not a weakness of the IPEF. Instead, the USTR argued that "from the very beginning, [the IPEF] is not a traditional trade deal. We're not just trying to maximi[s]e efficiencies and liberali[s]ation. We're trying to promote sustainability, resilience and inclusiveness." See "Indo-Pacific nations vow to fortify supply chains for critical items", *The Japan Times*, 28 May 2023, https://www.japantimes.co.jp/news/2023/05/28/business/us-indo-pacific-deal/

Figure 1: Contribution of Regional Trade Agreements (RTAs) to total exports (% averages for 2019-2021, merchandise exports)[15]



Source: Calculated by author using UNCOMTRADE data downloaded from World Integrated Trade Solution, June 2023

An evidence-based view on the value of a trade deal can be obtained from the openness of one's own and potential partners' markets. Traditionally, tariffs were the main trade policy instrument. At present, various forms of non-tariff measures (NTMs) claim attention of both trade negotiators and businesses.[16]

Table 1 shows that New Zealand's Most Favoured Nation (MFN) applied tariff rate averages 1.9 per cent across all tariff lines. The country does not impose any tariffs on about 66 per cent of its tariff lines, leaving less than 35 per cent of tariff lines as the potential object of negotiations for tariff elimination or reduction.[17] These lines contain commercial value for trading partners to negotiate with New Zealand. The average applied rate for these tariff lines is 5.7 per cent (2021) with relatively small number of domestic peaks (5.6 per cent) and no international peaks. This does not give much negotiating power to the New Zealand trade negotiators as, in addition to the small domestic market, entry barriers in the form of tariffs are not high enough for partners to

15 To prevent double-counting, the RCEP excludes Australia and the CPTPP excludes Australia, Brunei Darussalam, Japan, Malaysia, Singapore, and Vietnam. Rest of the World (ROW) includes some economies with whom New Zealand has trade agreements (for example, Hong Kong, China, Chinese Taipei, and members of the Pacific Agreement on Closer Economic Relations [PACER plus])

16 This does not mean that tariffs are unimportant. Low level of bindings, tariff peaks, as well as nuisance tariffs and uncontrolled unilateral increase of tariffs can significantly increase trade costs and consumers' prices, as seen with the US tariffs under President Trump. See Inu Manak, et. al., "The Cost of Trump's Trade War with China Is Still Adding Up", *Council on Foreign Relations*, 18 April 2023, https://www.cfr.org/blog/cost-trumps-trade-war-china-still-adding

17 New Zealand's most protected industries are footwear, textiles, and textiles articles, with the highest simple average applied MFN rate for clothing at 9.6%. According to the WTO, New Zealand's tariffs show positive escalation, suggesting more processed goods enjoy higher protection than raw materials or semi processed goods. See "Trade Policy Review Report by the Secretariat - New Zealand", WT/TPR/S/426, World Trade Organization, 6 April 2022, https://www.wto.org/english/tratop_e/tpr_e/s426_e.pdf

offer much reciprocating access. Understandably, in the agreements already negotiated, almost all these tariff lines were made duty-free.[18]

The structure of tariff protection in other IPEF members varies (see Table 1). Simple average applied MFN ranges from 0 for Singapore to 18.3 per cent for India; the share of zero duties in all tariff lines ranges from 100 per cent for Singapore to 1.9 per cent for India; the share of tariff rates higher than 15 per cent ranges from 0 (Australia, Brunei, New Zealand and Singapore) to 37.7 per cent for India, and the maximum rates go from 45 per cent in New Zealand to over 1000 per cent in Fiji and Malaysia. This shows that despite relatively low applied tariffs, there is scope for commercial gains from negotiations on tariff reductions among countries that do not have free trade agreements with each other (mostly with respect to Fiji and the US). For example, New Zealand does not have a Regional Trade Agreement (RTA) with either India or the US; the Association of Southeast Asian Nations (ASEAN) members of the IPEF (except Singapore) and Korea do not have an RTA/FTA with Fiji and the US. Therefore, the benefits to be harvested from the elimination of tariffs, while not negligible, would vary among the IPEF members. Nonetheless, tariff elimination is not only about market access; it contributes to improving predictability and stability of the business environment, especially for GVC-linked producers operating with thin profit margins.

Table 1: Tariff structure of New Zealand and other IPEF members

Country	Simple average MFN applied (%)	Duty free (shares) MFN applied* (%)	Tariff rate applied >15$ (%)	Max. duty MFN applied (%)
Australia	2.4	52.0	0.0	22
Brunei Darussalam	0.3	95.8	0.0	135
Fiji	7.9	26.1	5.3	> 1000
India	18.3	1.9	37.7	328
Indonesia	8.1	13.1	9.8	150
Japan	4.2	53.1	3.6	628
Korea, Rep.	13.6	17.1	10.7	887
Malaysia	5.6	66.5	13.1	> 1000
New Zealand	1.9	66.1	0.0	45
Philippines	6.1	12.8	3.3	65
Singapore	0.0	100.0	0.0	91
Thailand	11.5	37.0	26.7	226
United States	3.4	47.3	2.7	350
Vietnam	9.6	35.3	24.4	135

Source: Prepared by author from data in WTO, World Tariff Profiles, Summary tariff tables, 2022

Notes:
* Share of HS 6-digit subheadings in per cent
$ Share of HS 6-digit subheadings in per cent

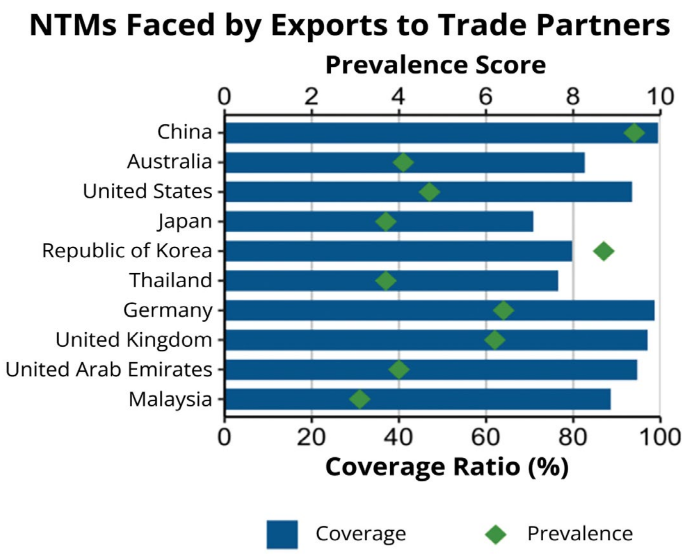
18 *Ibid.* (See Table 3.5 Summary analysis of New Zealand's preferential tariffs, 2021).

While tariffs still matter, NTMs matter much more. Often seen as being distortionary, they are associated with adverse impacts on trade costs/efficiency as well as transparency. However, they are also credited with achieving non-economic objectives that are part of public policies.[19]

NTMs encompass a range of different border and behind-the-border instruments. Ad-valorem tariff equivalents (AVE) are used for assessing the impact of NTMs on trade costs and various prevalence indicators to gauge potential distortionary impacts. According to data from the United Nations Conference on Trade and Development (UNCTAD) Trade Analysis and Information System (TRAINS) database, 95 per cent of New Zealand's exports to the US, and 82.6 per cent of its exports to Australia, faced at least one NTM. For all other trade partners, the average coverage ratio was around 78 per cent. Exports to the US and Australia faced 4.8 and 4.1 NTMs on average, respectively. The prevalence score for all other trade partners was 2.7 NTMs on average (Figure 2).

The cost impact of NTMs on exporters are only indicative[20] since compliance costs of NTMs vary widely between sectors and countries, and even between firms within countries. Nonetheless, higher NTM AVEs have the same impact as high tariffs in terms of conferring a competitive advantage on some exporters. Indeed, it is useful to note in the context of the IPEF: "Established traders from countries that have strong commercial, social and cultural connections (that is, better networks) may well be less affected by NTMs than those in less well-connected countries."[21] For New Zealand, exports with highest costs from NTMs are beverages, wool, and other animal products.

Figure 2: NTMs faced by New Zealand's exports to trade partners (Coverage ratio in % and prevalence scores)



Source: UN ESCAP, "New Zealand Trade Brief," Asia-Pacific Trade and Investment Trends 2022/202322

19 "Navigating non-tariff Measures towards Sustainable Development", United Nations, Asia-Pacific Trade and Investment Report 2019, 2019, https://www.unescap.org/publications/APTIR2019;

"Non-tariff measures - Impacts, trends and effects on exports from New Zealand", Sense Partners, January 2022, https://www.mfat.govt.nz/assets/Trade-General/Trade-stats-and-economic-research/Non-tariff-measures-Impacts-trends-and-effects-on-exports-from-New-Zealand-January-2022.pdf

20 *Ibid*.

21 *Ibid*., p. 21.

22 *op. cit.*

Subsidies, as NTMs, have caused deep concerns given the significant rise in their number, as they are often distortionary, trade-restrictive and difficult to be dialled down.[23] There is growing reliance on the use of distortive subsidies by some IPEF members (for example, the US) as a chosen instrument of new industrial policy for promoting strategic sectors in pursuit of greater resiliency. As argued elsewhere, this can bring into play even more subsidies if the IPEF members choose a competitive subsidisation path, and it is not clear how the IPEF would be able to deal with this potential problem.[24]

How does the IPEF fit into New Zealand's 'Trade for All' agenda?

When Minister Damien O'Connor announced the launch of IPEF negotiations on 10 September 2022, he emphasised "a strong overlap between the underlying objectives of IPEF and New Zealand's Trade for All Agenda as well as our Trade Recovery Strategy 2.0."[25] Earlier in May 2022, the then Prime Minister Jacinda Ardern had pointed to the importance of New Zealand contributing to the making of future rules for digital trade. She said that digitalisation offers opportunities for addressing challenges that New Zealand still has due to its distance from the major markets.[26] Indeed, the four pillars of the IPEF – Trade, Supply Chains, Clean Economy and Fair Economy (Figure 3) – present a cooperative forum with a potential of rulemaking and norm-setting in the future-shaping areas of digital trade, carbon pricing and border adjustment measures, and critical minerals governance. Furthermore, it can provide a new impetus for addressing old issues related to NTMs, including subsidies, and better link advances in trade facilitation to supply chain resilience. All these are significant for the three instruments of new approach to New Zealand's trade policy.

Trade for All Agenda

The Trade for All Agenda was launched in March 2018 in response to public concerns regarding the country's participation in trade agreements and ensuring that trade policy delivers for all New Zealanders. The initiative benefited from broad public consultations over several months in 2018, providing feedback from stakeholders on how to approach all phases of trade policy, from design to monitoring and evaluation to ensure fairer impacts. A Trade for All Advisory Board was established, which produced an independent report with recommendations to the government. The findings and recommendations of the report and the core principles approved by the Cabinet are the foundation of the Agenda, which, along with other policies, aims to support sustainable and inclusive economic development.

The core principles are:

1. Open conversation with the public and key stakeholders around the future direction of New Zealand's trade policy, including consultation with the Māori, consistent with their role as a Treaty partner

23 "Subsidies, Trade and International Cooperation", IMF, OECD, World Bank and WTO, 2022, https://www.wto.org/english/news_e/news22_e/igo_22apr22_e.pdf

24 More subsidies put smaller and financially weaker developing countries at a disadvantage, as they cannot afford to compete against industrialised countries with more resources.

25 "IPEF Negotiations Launched", Speech by Damien O'Connor, Minister for Trade and Export Growth of New Zealand, 10 September 2022, https://www.beehive.govt.nz/release/ipef-negotiations-launched

26 Sam Sachdeva, "NZ eyes on US-led trade initiative as ministers meet", *newsroom*, 9 September 2022, https://www.newsroom.co.nz/nz-eyes-on-us-led-trade-initiative-as-ministers-meet

2. Creating new and more sustainable economic opportunities for New Zealanders of all incomes and backgrounds
3. Supporting the international rules-based system and New Zealand's contribution to its modernisation
4. Supporting multilateral negotiations as a first-best option for New Zealand, followed by open plurilateral negotiations
5. Enhancing New Zealand's economic integration with the Asia-Pacific region, and economic connections to other regions, including through RTAs and FTAs
6. Supporting trade policy for maximising the opportunities and minimising risks associated with global issues[27]
7. Preserving the right of governments to regulate in the public interest, including for national land markets, taxation of multinational businesses and public services
8. Developing specific directives for future trade policies and negotiations to operationalise Trade for All.

Trade Recovery Strategy 2.0

The Trade Recovery Strategy was launched in response to the COVID-19 pandemic in 2020. It was enhanced into the Trade Recovery Strategy 2.0 in 2022. The Strategy encompasses four work areas under the organising framework STAR:[28]

1. *Sustainable and inclusive trade* aligned with the Trade for All agenda

2. *Trade and export lift* focused on assisting New Zealand exporters to compete in international markets by utilising economic diplomacy and trade mission

3. *Architecture* comprising all three levels of governance of trade (bilateral, plurilateral and multilateral) requiring continued and enhanced efforts in modernising the chapters on Economic and Technical Cooperation contained in trade agreements for use by New Zealand in working with others for promoting new priorities and principles[29]

4. *Resilience* addressing vulnerabilities exposed or exacerbated by the COVID-19 pandemic and strengthening New Zealand's trade against future shocks by promoting diversification of trade, mitigating supply chain pressures, and working with other cross-government economic strategies, particularly for emissions reduction.

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27 Global issues include: Environmental issues such as climate change, Protecting New Zealanders' health and wellbeing, Labour rights, Gender equity, The rights of indigenous peoples, SME participation in international markets, Inclusive regional economic growth, poverty reduction and sustainable job creation, Protecting traditional knowledge.

28 "Trade Recovery Strategy 2.0", Ministry for Foreign Affairs and Trade, 2022, https://www.mfat.govt.nz/en/trade/trade-recovery-strategy/trade-recovery-strategy-2-0/

29 See for example an updated version of AANZFTA or the new agreements with the United Kingdom and the European Union.

Industry Transformation Plans 8

The Government introduced the Industry Transformation Plans (ITPs) in 2019 to support its economic goal of building a productive, sustainable and inclusive economy.[30] The ITPs aim to transform key industries through partnerships between government, industry (businesses and workers) and the Māori. Eight ITPs are in progress: agri-tech, advanced manufacturing, construction, digital technologies, fisheries, food and beverage, forestry and wood processing, and tourism. ITPs have 20-30-year visions for lifting productivity by scaling up highly productive and internationally competitive clusters in areas where New Zealand has a comparative advantage, and to transform environmental and labour market outcomes.

By joining the IPEF, New Zealand is seeking opportunities and mechanisms for addressing several critical issues facing Indo-Pacific economies, including itself. While tariff cuts are not on the agenda, New Zealand anticipates meaningful commercial gains that could be obtained from addressing other obstacles and barriers to trade and cooperation. Most importantly, there is an overlap between the IPEF and New Zealand's objectives of expanding inclusive and sustainable trade, harnessing the benefits of the digital economy, strengthening resilience of regional supply chains, and boosting collective climate action.

Figure 3: **Synergies between New Zealand's trade objectives and IPEF**

Source: Compiled by author

New Zealand stakeholders are aware of possible adverse spillovers from the IPEF. This includes the possibility of the IPEF being an instrument of *friend-shoring*. The underlying motivation for the IPEF (or at least some of the pillars) can be seen as 'to collaborate to reduce dependencies on unreliable sources of strategic supply, promote reliable sources in our supply chain cooperation, and engage

30 According to the Ministry of Business, Innovation and Employment, the ITPs are a key mechanism for implementing the Government's industry policy adopted in 2019. They involve partnership of multi-stakeholders (business, workers, Māori, and Government). They are focused on long-term transformation and target industries with significant potential to contribute to high productivity, high wage, and lower emissions economy. See "Industry Transformation Plans", Ministry of Business, Innovation and Employment, 2022, https://www.mbie.govt.nz/business-and-employment/economic-development/industry-policy/industry-transformation-plans/

with trusted partners'.[31] If this is accompanied by putting in place IPEF-wide instruments for restricting trade with these 'unreliable' sources, then the IPEF could be perceived as adding to the fragmentation of the world economy and weakening, rather than strengthening regional stability. This would also adversely impact the health of the multilateral trading system and the WTO.

Another possible cost of the IPEF could be weakening of the APEC process. Given the diversity of members in their development and the associated negotiating ambition and capacity, it is unlikely that the agreed text under any of the four pillars of the IPEF contain binding language. If that is so, then the impact of the IPEF for New Zealand and other APEC members of the IPEF will be more similar to what was experienced from the membership in the APEC. New Zealand both benefited from the APEC process, and used its standing of an open and fair-playing economy to influence the evolution of the APEC. Given that after the Russian invasion of Ukraine the APEC could not operate smoothly due to difficulties in achieving consensus-based decisions, the IPEF members, which are also APEC members (except Fiji and India), could see this weakening of the APEC as additional motivation for speeding the work to fill in the space.

Potential negotiation and implementation issues

Based on the discussion above, several negotiation and implementation challenges could be identified for New Zealand. On negotiations, possible issues could be both procedural and substantive. With respect to procedural issues, the concerns might be raised about meeting some of the principles of the Trade for All agenda, such as:

a) Ensuring that consultation with stakeholders and the Māori meet the standards laid out by the Trade for All agenda[32]

b) Notwithstanding negotiating constraints, releasing draft negotiation texts and keeping the public engaged throughout the process

c) Allocating sufficient resources in the responsible government departments for supporting frequent and intensive negotiations

The Ministry of Foreign Affairs and Trade (MFAT) that negotiates trade agreements called upon New Zealand stakeholders, including businesses, the public, and civil society, to comment on New Zealand's membership and the upcoming negotiations guided by the following questions:

1. What issues would you want to see prioritised in negotiations on the scope of IPEF?

2. Are there specific issues you would want to see addressed through New Zealand's participation in IPEF?

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31 Halit Harput, "The hidden costs of friend-shoring", *Hinrich Foundation,* 15 Nov 2022, https://www.hinrichfoundation.com/research/article/trade-and-geopolitics/the-hidden-costs-of-friend-shoring/

32 "Report of the Trade for All Advisory Board", Trade for All Advisory Board, November 2019, 62-72, https://www.mfat.govt.nz/assets/Trade-General/Trade-policy/Trade-for-All-report.pdf

Recommendation 19 states: "Because New Zealand has a population that is increasingly diverse, culturally and linguistically, MFAT needs to develop and apply a superdiversity lens to all consultation and engagement processes. Engagement on trade must be consistent with guidance from the International Association for Public Participation (IAP2) and in line with the New Zealand Open Government Partnership commitments. This needs to be done with genuine openness to the diversity of ideas about trade policy and its implementation."

3. Are there any areas where New Zealand and IPEF members could cooperate more closely to enhance regional economic integration and / or climate action?

4. As a New Zealander, what outcomes would you like to see for New Zealand businesses, or for the general population, through the IPEF?

The call was open from 3 to 20 June 2022 and 13 submissions were received. Further opinions can be placed through the MFAT's *Have Your Say* website.[33]

Lack of adequate transparency is always an issue in negotiating trade agreements. While the negotiation process (driven still by mostly mercantilist interests) must allow for some of the content to be withheld from the public eye, New Zealand has committed, through a new approach to trade, to more transparency, especially to the Māori. In the communication between the US and New Zealand on the treatment of documents related to negotiations, New Zealand indicated its intention of sharing its own information related to negotiation prior to the expiry of the non-disclosure five-year period (with the condition of not revealing any information about the positions of other participants or the agreed text); and also indicated that negotiating participants will be able to "develop their positions and communicate internally with each other, and engage with their public, and in New Zealand's case, with Māori, as they consider appropriate in developing and communicating their own positions".[34]

The issue of allocation of appropriate resources has been discussed in the Parliament.[35] The MFAT has appointed a dedicated Senior Official/Chief negotiator and 3.0 full-time equivalent (FTE) of staff resource. It is also relying on expertise of other staff from within and outside the Ministry. More resources might be needed depending on the complexity of negotiations as they evolve.

Given that the texts under negotiations (included the closed text on Pillar 2) are not publicly available, it is difficult to comment on possible content-related negotiation issues. Review of the submissions received by the Government in June 2022 reflects that stakeholders share concerns about the absence of market access negotiation with the US. This is regarded as a lost opportunity not so much for the domestic exporters but for the US to unambiguously show its economic commitment to Asia and the Pacific. At the same time, the IPEF provides the opportunity to steer negotiation towards binding rules on at least some of the NTMs.[36]

Digital economy is part of the Trade pillar. This is the only pillar where negotiations are led by the Office of the United States Trade Representative (USTR) (as opposed to the Department of Commerce for the other three pillars). The Singapore Round of negotiations held in May 2023 was reportedly expected to discuss the text on the digital economy. However, there was no agreement among the countries on how to proceed after the developing countries refused to

33 "Indo-Pacific Economic Framework for Prosperity", Ministry of Foreign Affairs and Trade, https://www.haveyoursay.mfat.govt.nz/

34 "IPEF Treatment of Documents Related to Negotiations", United States Trade Representative, 13 April 2022, https://ustr.gov/sites/default/files/foia/US-New%20Zealand%20Signed%20IPEF%20Confidentiality%20Arrangement_04132022.pdf

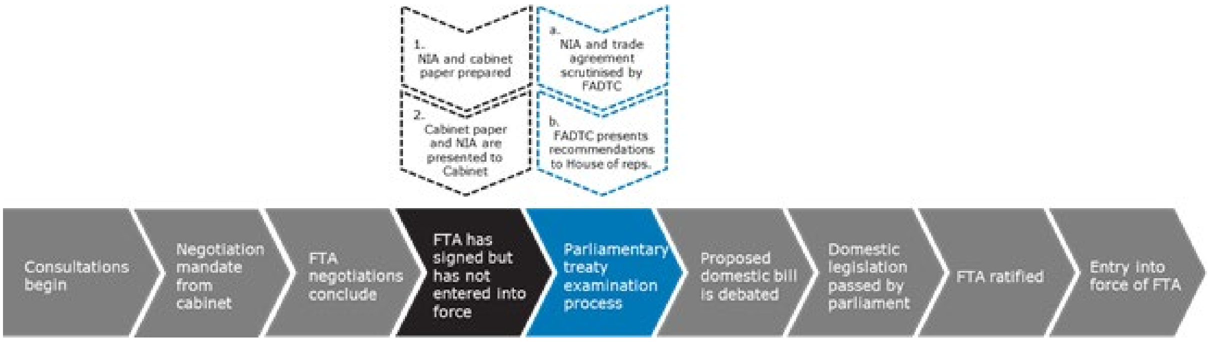
35 MFAT, Estimates 2022-23, Post-Hearing Questions (209-217), Vote Foreign Affairs

36 "IPEF Public Submissions Summary - June 2022", Ministry of Foreign Affairs and Trade, June 2022, https://www.mfat.govt.nz/assets/Trade-agreements/IPEF/IPEF-Summary-of-Written-Public-Submissions-June-2022.pdf

endorse the proposed text for further negotiations.[37] From the point of view of one stakeholder in New Zealand, if the proposed text would follow the CPTPP chapter on e-commerce, then it might be a potential problem for New Zealand as it would constitute a breach of state obligations to *Te Tiriti o Waitangi* / Treaty of Waitangi.[38] The impacts that are deduced on the CPTPP text, other US agreements[39] and further consultations would be in a form of a closure of policy space and options, implicit preference to big-tech companies, perpetuation of profiling and the biases through allowing secrecy of codes, and transparency rules that empower big tech and the lobbies, preventing change in laws.[40]

Among the implementation issues, most arise due to uncertain political circumstances in the US. However, even if the CPTPP history repeats itself and the US withdraws from the IPEF process after 2024, there are advantages to engaging in this process, including providing smaller countries with additional confidence for pushing their trade agenda forward. There also might be some lack of clarity on the ratification process of the completed agreements; at present, only Pillar 2 on the Supply Chains falls into this category. There is a set process in New Zealand before the trade agreement, after signing, is ratified and put into force (Figure 4). Concerns arise because this process is designed for trade agreements ("multilateral or major bilateral treaty of particular significance"[41]). However, since the IPEF is not being treated as a trade agreement, it is unclear if this process would apply. The Minister of Foreign Affairs has the discretion to decide which agreements need to go through this scrutiny.

Figure 4: **Scrutiny process before trade agreements is enforced**



Source: MFAT, Trade Engagement

Notes:
NIA – National Interest Analysis
FADTC – Foreign Affairs Defence and Trade Committee

37 Su-Lin Tan, "Disagreements between US, Asian nations complicate IPEF negotiations", *South China Morning Post*, 23 May 2023, https://www.scmp.com/week-asia/economics/article/3221547/disagreements-between-us-asian-nations-complicate-ipef-negotiations

38 "The Treaty in brief", New Zealand History – Ministry for Culture and Heritage, https://nzhistory.govt.nz/politics/treaty/the-treaty-in-brief; Ngā Toki Whakarururanga, "Briefing Paper on Digital Sovereignty and Governance," IPEF – Singapore Round, May 2023, https://static1.squarespace.com/static/62d0af606076367ebf83b878/t/6455ef867c527350f5c68e4e/1683353482072/NTW+IPEF+Digital+paper+3+May+2023.pdf

39 *Ibid*.

40 *Ibid*.

41 "International Treaty Making", ISBN: 978-0-477-10258-2, Ministry of Foreign Affairs and Trade, September 2021, p.5, https://www.mfat.govt.nz/assets/About-us-Corporate/Treaties-Model-instruments/International-Treaty-Making-Guide-2021.pdf

Concluding caveats

With the adoption of a new approach to trade based on Trade for All, Trade Recovery 2.0 and ITP8, New Zealand has begun transforming its economy from volume-based to value-based, that is, by creating more productive companies with higher value jobs and higher incomes, based on sustainability principles that can result in a better quality of life for New Zealanders.[42] Trade remains vital in this process as one in four New Zealanders' jobs (and one in three Māoris') depend on exports and trade is considered the critical enabler of post-COVID-19 recovery and decarbonisation.

Obstacles facing New Zealand exporters in the global market are more from NTMs than tariffs. These are being faced increasingly in the form of subsidies and export restrictions, labour and environmental regulations and other behind-the-border destination country regulations. It is just a matter of time before new instruments for addressing climate change, digital economy and labour markets come up. It is troubling to visualise that these instruments might be motivated more by a somewhat fuzzy concept of national security rather than economic factors.

As a small and trade-reliant economy, New Zealand rightly understands the importance of having a seat at the table where these new rules will be created. It remains a strong supporter of multilateral trading rules and contributes proactively to their modernisation. It also uses the architectures of its bilateral and plurilateral trade agreements and the new arrangements and initiatives (in areas of gender equality, fossil fuel subsidies, environmental services, and digital economy, to name some) for shared and sustainable prosperity.

The IPEF has the opportunity of working with a subset of WTO members, most of whom are interested in finding solutions to new problems in the post-COVID-19 world. As experienced in the APEC process, new policy options and rules take time to finetune and are thus adopted by countries on a voluntary basis, almost as a learning-by-doing. The IPEF has the potential to serve as a laboratory for yet untested approaches for building resilience while promoting diversification, inclusivity and sustainable growth. The key to its success will be in its willingness to allow positive spillover effects from its new regulatory solutions to reach the developing and developed countries outside the Framework. If successful in this, it just might be a new dynamo both regionally and globally.

42 Tim Green, "Moving from volume to value: how do we make it happen", *New Zealand Trade and Enterprise*, 16 August 2021, https://www.nzte.govt.nz/blog/moving-from-volume-to-value-how-do-we-make-it-happen

About the author

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Prior to her United Nations tenure, Dr Mikic was the Head of the Department of Economic Theory, Professor of International Economics and Director of Economic and Business International Program at the University of Zagreb, and Senior Lecturer at the University of Auckland. She is the author of a number of reports and papers and has edited or co-edited several volumes on international economics, regional integration and development. She also oversaw the preparation of the Asia-Pacific Trade and Investment Report (APTIR), a flagship publication in the area of trade and investment.

Dr Mikic's current research and advisory work focus on the impact of the COVID-19 pandemic on trade and global value chains, frontier technologies and inclusive future of work, advocating for women as influencers in policymaking, services trade, and promotion of evidence-based policymaking. She is collaborating with several universities on modernising trade curricula. She has a Doctorate in Economics from the University of Zagreb.