

New Developments in International Trade and Finance



Presentation prepared for Pontificia Universidad Católica de Chile

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Main Themes



- ❧ Regionalism vs. Multilateralism
- ❧ Post- Brexit Exercises
- ❧ Sovereign Debt Restructuring

How is Trade Restricted?



- ❧ Government-induced restrictions on international trade
- ❧ Use of Trade Barriers
- ❧ **Main Categories:**
- ❧ Tariffs
- ❧ Non-tariff barriers to trade

Non-tariff barriers to trade



- ❧ **Import quota:** A limit on the quantity of a good that can be produced abroad and sold domestically.
- ❧ **Import licenses:** A document issued by a national government authorizing the importation of certain goods into its territory. Each license specifies the volume of imports allowed.
- ❧ **Subsidies:** form of financial aid or support extended to an economic sector
- ❧ **Local Content requirements**
- ❧ **Data Localization Requirements; Geo-blocking**

Trade Barriers



- ❧ Should a country be allowed to use trade barriers?
- ❧ If not, does this affect the sovereignty of the country?
- ❧ Do exceptional circumstances allow for exceptional measures?
- ❧ Can you give an example of an existing trade barrier?

Impacts of trade barriers



- ❧ Hamper free trade
- ❧ Restrict development
- ❧ Trade barriers lead to overproduction and dumping of goods
- ❧ Limit choice of goods and services
- ❧ Sometimes unfair prices per commodity

What is a Trade Agreement?



- ❧ A trade agreement is a **wide ranging tax, tariff and trade treaty that often includes investment guarantees**
- ❧ Most common trade agreements are of the **preferential and free trade** and are concluded in order to reduce tariffs, quotas and other trade restrictions

Classification of Trade Agreements



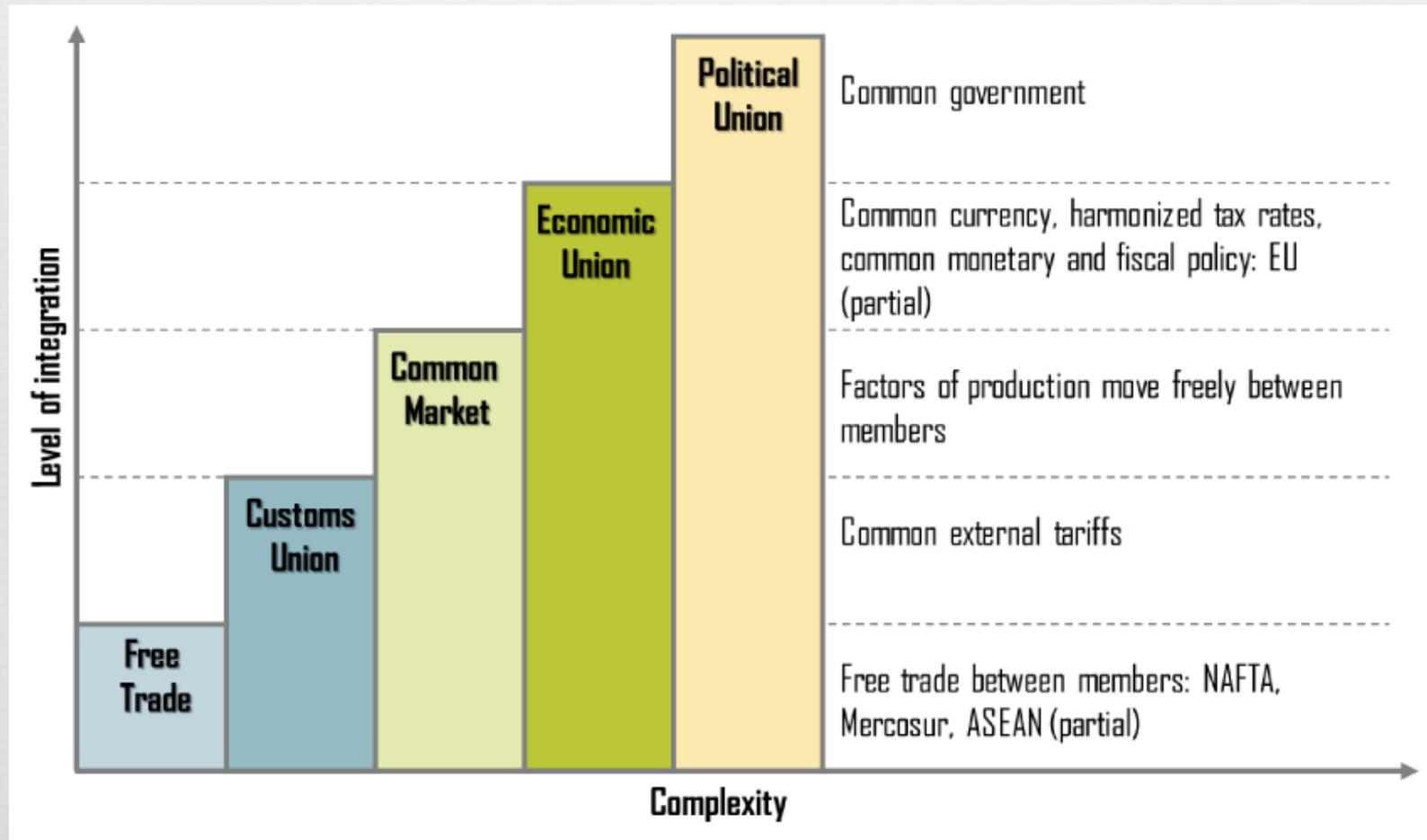
- ❧ **By number and type of signatories:**
- ❧ Bilateral (BTA): If signed between two sides
- ❧ Multilateral: If signed by more than two sides

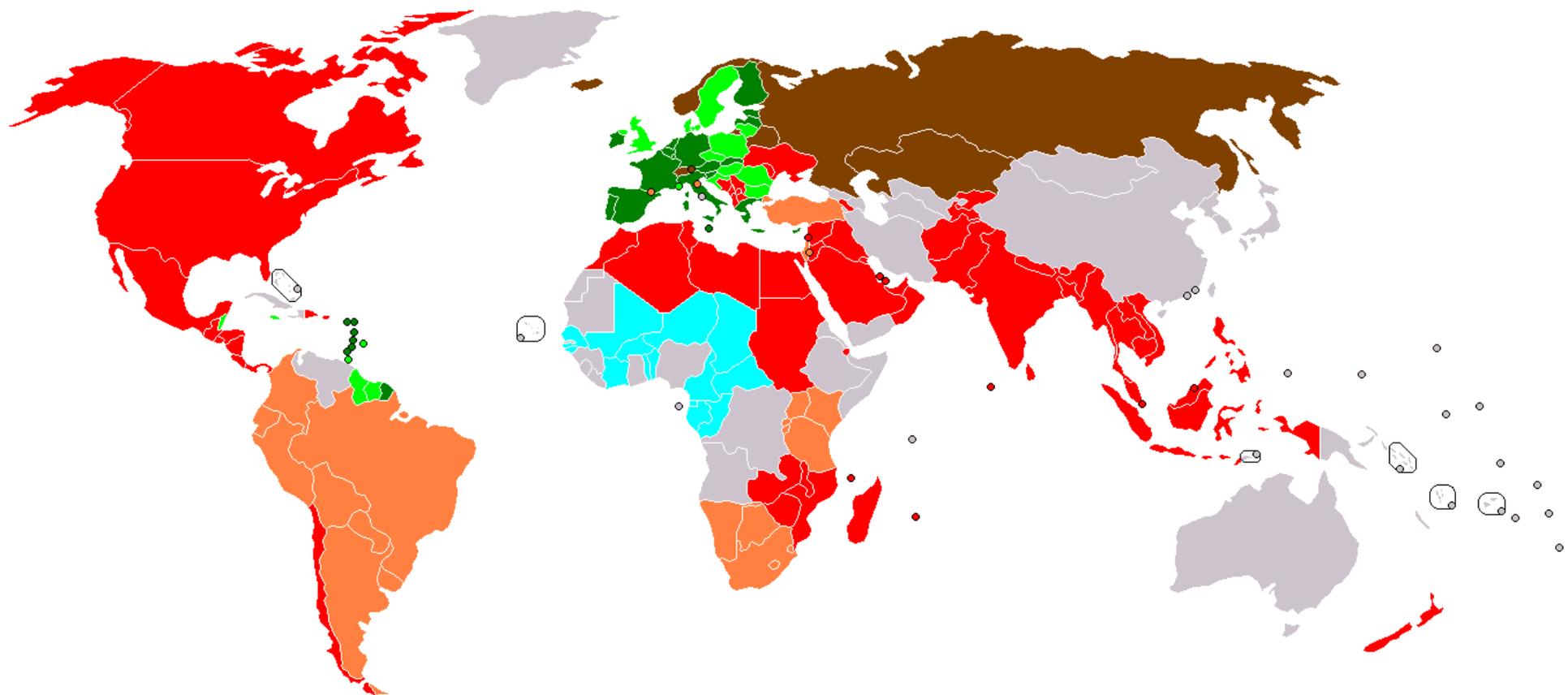
By level of integration (cont.)



- ❧ Free Trade (e.g. NAFTA)
- ❧ Customs Union (e.g. MERCOSUR)
- ❧ Common Market (e.g. EEA)
- ❧ Economic Union (e.g. Eurozone)
- ❧ Political Union (e.g. US)

By level of integration (cont.)





(dark green) Economic and Monetary Union; (light green) Economic Union; (light blue) Customs and Monetary Union; (brown) Common Market; (orange) Customs Union; (red) Multilateral Free Trade

World Trade Organization



- ∞ Intergovernmental Organization
- ∞ Regulates International Trade
- ∞ Commenced on 1 January 1995 (Marrakech Agreement)
- ∞ 123 signatory states in the beginning (15 April 1994), replacing the General Agreement on Tariffs and Trade (GATT) which commenced in 1948.



- ❧ Currently 164 members
- ❧ Official Languages: English, French, Spanish
- ❧ Headquarters: Geneva
- ❧ Currently ongoing round: Doha Development Round (2001-)

History of WTO



- ❧ The General Agreement on Tariffs and Goods (GATT) was established after World War II in the wake of other multilateral institutions dedicated to international economic cooperation (World Bank, International Monetary Fund);
- ❧ After WWII there was a suggestion for an International Trade Organization (ITO), which however failed
- ❧ GATT therefore transformed in a *de facto* international organization.

Rounds of Negotiations

Year	Place/name	Subjects covered	Countries
1947	Geneva	Tariffs	23
1949	Annecy	Tariffs	13
1951	Torquay	Tariffs	38
1956	Geneva	Tariffs	26
1960-1961	Dillon Round	Tariffs	26
1964-1967	Kennedy Round	Tariffs and anti-dumping	62
1973-1979	Tokyo Round	Tariffs, non-tariff measures, “framework” agreements	102
1986-1994	Uruguay Round	Tariffs, non-tariff measures, rules, services, intellectual property, dispute settlement, textiles, agriculture, creation of WTO etc.	123

The Doha Round



- ❧ The Doha Development Round is the latest round of negotiations under the auspices of the WTO;
- ❧ Launched in Doha, Qatar in November 2001;
- ❧ Ambitious effort to make globalization more inclusive and help the world's poor, particularly by slashing barriers and subsidies in farming;
- ❧ Initial agenda comprised further trade liberalization and new rule-making, underpinned by commitments to strengthen substantial assistance to developing countries.

Doha Round



- ⌘ Negotiations have been highly contentious;
- ⌘ Disagreements still exist on agriculture subsidies;
- ⌘ Negotiations broke down in 2008 over a disagreement between exporters of agricultural bulk commodities and countries with large numbers of subsistence farmers on the precise terms of a 'special safeguard measure', protecting farmers from surges in imports.

A Sign of Consensus? The Bali Package



- ❧ The Bali Package is a trade agreement resulting from the Ninth Ministerial Conference of the WTO in Bali, Indonesia, in 2013.
- ❧ Aims at lowering global trade barriers and is the first agreement reached through the WTO that is approved by all its members;
- ❧ It forms part of the Doha Development Round;

Current Situation



- ❧ Doha Round Negotiations
- ❧ Following FTA between Japan and Mongolia in June 2016, all WTO members have one
- ❧ Regional vs. Global trade agreements
- ❧ TTIP (14 rounds)/ TiSA (70% of world trade in services)/ B&R Initiative etc.

Case Study: The EU-Chile FTA



- ❧ Entered into force in 2003
- ❧ Led to significant increase in trade in goods and services between the EU and Chile; liberalized investments and capital flows; strengthened the protection of intellectual property rights.
- ❧ In 2011 bilateral trade had more than doubled since 2003, passing from \$8 billion in 2003 to \$20 billion in 2011.
- ❧ Association Committee and Special Committees meet once per year to assess further liberalization.

Case Study II



- ❧ **Brexit**
- ❧ What does Brexit practically mean for UK-EU trade?
- ❧ Will things change even for simple products, i.e. chocolate?
- ❧ What does it mean for ongoing TTIP/ TiSA negotiations?
- ❧ How about already concluded FTAs?

New Developments in Finance

Introduction

- ∞ Notion of Sovereign Debt
- ∞ Restructuring sovereign debt in the absence of a unified international restructuring mechanism
- ∞ UN General Assembly (A/69/L.84): Customary law and basic international principles of law to apply in debt restructuring: sovereignty, good faith, transparency, impartiality, equitable treatment, sovereign immunity, sustainability and majority restructuring
- ∞ *Ad hoc* restructuring

Factors to be considered in a sovereign debt restructuring exercise

- ∞ (i) Nature of the country's creditors
- ∞ (ii) Type of debt to be restructured
- ∞ (iii) Level of IMF involvement

Three important legal issues – 3 case studies

- ∞ (i) Governing law of debt
- ∞ (ii) Good faith negotiations
- ∞ (iii) GDP linked securities

Governing law of debt- Greece

- ❧ 86% (or €177.3bn) of the bonds Greece was trying to restructure were governed by local law
- ❧ Condition of restructuring: (i) Exchange with new bonds EUR 0,47 for EUR 1 and (ii) unanimous consent
- ❧ The Greek Bondholder Act of 2012 omitted unanimous consent → 82,5% of Greek-law bondholders accepted the new amendment
- ❧ New bonds under English law: Legal certainty for bondholders

Good faith negotiations – Argentina

- ∞ 2016: Return in capital markets after 15 years
- ∞ Settlement with 7% of holdouts
- ∞ NY Courts lifted injunctions on the basis of partial recovery of losses and Argentina using good faith to negotiate
- ∞ IMF also lends when sovereign shows good faith in negotiations
- ∞ No multilateral legal framework → ad hoc treatment / good faith negotiations

GDP linked securities – Ukraine

- ∞ September 2015: Exchange Offer – old bonds with GDP backed securities
- ∞ Ukrainian GDP securities: (i) Covenant protection; (ii) Cross default provision; (iii) Put option; (iv) Most Favored Creditor Clause; (v) Enactment of local legislation to allow GDP securities to function

Final Remarks

- ∞ Absence of universal global sovereign debt restructuring
→ *ad hoc* solutions → self –regulation
- ∞ Sovereign v. Private Debt Restructuring: A similar exercise?
- ∞ Sovereign Debt Restructuring: New global trends and developments