

The Design of Trade Agreements (DESTA) CODEBOOK

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For this version of the dataset, we rely on newly coded data from a DESTA-OECD collaboration for the following areas: services, global value chains, investments, temporary entry of business persons, competition, regulatory cooperation and transparency, e-commerce, data flows, capital movement and exchange rates, and non-trade issues. Also some of the market access and intellectual property rights variables have been newly coded as part of this collaboration.

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1 Agreements Covered

We endeavoured to put together a list of all agreements that have the potential to liberalize trade. Partial scope agreements thus are included as soon as they liberalize at least some trade, whereas framework agreements (with very few exceptions), trade and co-operation agreements, etc. are excluded. We did not include interim agreements (for this reason, no agreements with the Palestinian Authority are included). Neither did we consider agreements with tiny island states such as the Marshall Islands or Tuvalu.

Sources: Our list of agreements builds on the list of agreements notified to the World Trade Organization (356 of our agreements also appear in that list) and a list held by the World Trade Institute (aka “Hufbauer list”). We added agreements that we uncovered from a large number of other sources, including the lists maintained by the Organization of American States’ Foreign Trade Information System (<http://www.sice.oas.org/>), the Asia Regional Integration Centre (<http://aric.adb.org/fta-all>) and the World Bank (<http://wits.worldbank.org/gptad/library.php>). Finally, we systematically searched the websites of foreign, trade and economics ministries.

Additional information: The Central America Free Trade Agreement (CAFTA) is listed twice (once without – signed in May 2004 – and once with the Dominican Republic – signed in August 2004). In terms of contents, the two agreements are identical and the latter superseded the former.

2 Meta Data

Note: All blank entries in the data are “NAs” (not available).

[**number**] Unique ID for each entry in the database. This variable should be used to merge the meta data to the different sections of coded provisions and specific variables available for download on the website. See [entry_type] for more information.

[**base_treaty**] Unique ID of each agreement. Note that this variable is the same for all entries that refer to a given agreement. See [entry_type] for more information.

[**name**] Name of the agreement

Explanation: For bilateral agreements, the two countries are always listed in alphabetical order (“Chile Korea”, NOT “Korea Chile”). For accessions, [name] includes the name of the agreement followed by the acceding country and ending with the term “accession” (e.g. “MERCOSUR Venezuela accession”). For withdrawals, [name] includes the name of the agreement followed by the term “withdrawal” and ending with the withdrawing country (e.g. “EFTA withdrawal Portugal”).

EC is used throughout instead of EEC, EU, etc. US is used throughout for the United States of America and, likewise, UK is used for the United Kingdom. Korea is used instead of Republic of Korea or South Korea. Macedonia is used instead of FYROM. Taiwan is used instead of Taipei, or Chinese Taipei. DR Congo is used for the Democratic Republic of the Congo. For countries that disappeared/dissolved (e.g. Yugoslavia and the Soviet Union), we consistently coded the successor states (in this case, Serbia and Russia) as members.

[**entry_type**] Entries in the database are classified into six categories:

- **base_treaty:** indicates that the entry refers to an agreement. For these entries the variable [number] matches the variable [base_treaty].
- **accession:** indicates that the entry refers to a change in the country coverage of an agreement. Accessions can occur directly or indirectly (see [typememb]). Accession entries do not contain coded provisions. The variable [base_treaty] indicates the base treaty the accession refers to and is used in the entry unique ID variable [number]. For instance, “17+3” contains information on the third round of accessions to treaty “17”. Each round corresponds to one country joining the agreement.
- **withdrawal:** coded similarly to accession, with the only difference that “+” in [number] is substituted by “_”.
- **protocol or amendment:** indicates entries that build on or modify other agreements. The variable [base_treaty] indicates the base treaty the protocol/amendment refers to. Coding of provisions in these entries refers only to the protocol/amendment and not to the main treaty. However, all variables in the dispute settlement mechanism (DSM) section match the ones of the main treaty if the protocol/amendment refers to it.
- **consolidated:** indicates entries that have been consolidated with their relevant corresponding base treaty. When consolidating, the presence of provisions takes precedence over the absence of provisions. All values of [number] are obtained by adding an “a” to the non-consolidated [number]. For instance, entry “250a” is the consolidated version of entry “250”. For subsetting of consolidated entries see [consolidated].
- **negotiation:** indicates treaties that are currently under negotiation and do not contain coded provisions.

[consolidated] Whether an agreement has a consolidated and a non-consolidated version

1	For consolidated entries
-1	For non-consolidated entries
0	For all others

[year] Year of signature

[entryforceyear] Year in which the agreement entered into force

[language] Language of the legal text in the agreement

English
Spanish
Arabic
French
Portuguese
German

[typememb] Type of the agreement according to its membership

1	Bilateral
2	Plurilateral
3	Plurilateral & third country
4	Region-region (e.g. CARIFORUM EC EPA)
5	Accession (e.g. UK EU accession agreement signed in 1972)
6	Accession to an agreement as a result of membership in a regional agreement (for example, when Romania entered the EU, it also signed up to the FTA between the EU and Mexico signed in 2000)
7	Withdrawal

[regioncon] Geographic location of an agreement's signatory states

Africa	Signatory states located in Africa
Americas	Signatory states located in the Americas
Asia	Signatory states located in Asia
Europe	Signatory states located in Europe
Intercontinental	Signatory states located across continents
Oceania	Signatory states located in Oceania

[wto_listed] Whether the agreement is included in the lists maintained by the WTO (RTAs in force, inactive, accessions or early announcements/under negotiation)

0	Not included
1	Included

[wto_name] Name of the agreement in the WTO list

[**c1...c91**] Numeric ISO codes in three digits for member states at time of signature (ISO3n)

Note: ISO code 729 is used for Sudan and ISO code 530 is used for the Netherlands Antilles. In absence of an agreed upon ISO code, ISO code 900 is used for Kosovo.

[**mc1...mc91**] Type of membership according to the agreement referring to the member states in [*c1...c91*], e.g. the type of membership in [*mc1*] refers to the country in [*c1*], etc.

mc1...mc91	<i>Type of agreement according to membership</i>	<i>Type of membership according to agreement</i>
0 0	Bilateral agreement	0 = member in bilateral agreement
0 0 0...	Plurilateral agreement	0 = member in plurilateral agreement
0... 1 1...	Plurilateral and third country	0 = third country member 1 = member in plurilateral agreement
2 2... 3 3...	Region-region agreements	2 = member in regional agreement A 3 = member in regional agreement B
2... 1...	Accession (e.g. UK EU accession agreement in 1972)	1 = accessing country
3... 2...	Accession to an agreement as a result of membership in a regional agreement (for example, when Romania entered the EU, it also signed up to the PTA between the EU and Mexico signed in 2000)	2 = accessing country
2 2...1...	Withdrawal	1 = withdrawing country

Explanation: These variables are used to produce the dyadic versions of the dataset and have to correspond to the type of membership indicated in [typememb].

3 Market Access

[mar_typedepth]

-
- 1 Partial Scope Agreement
 - 2 (full) Free Trade Agreement
 - 3 Customs Union
 - 4 Services Agreement
 - 5 Framework Agreement; no specific provisions
-

Explanation: Relies on the Hufbauer and WTO coding – if the two lists did not coincide, we acted as referee. If no code was available from either source, we coded based on the provisions within the agreement; no attempt was made to establish the specificity of the plans to achieve the objective set out. An agreement thus is coded as “3” if the text stipulates the aim of establishing a common external trade policy, independent of whether or not it actually sets out a concrete plan at reaching this objective. We coded Hufbauer’s type 4 agreements (accession) following the type of the regional trade agreement that the acceding state joins.

[mar_transition_a] Maximum years allowed for tariff cuts for country A (NA = data not available)

[mar_transition_b] Maximum years allowed for tariff cuts for country B (NA = data not available)

[mar_transition_c... mar_transition_l] Same applies as above

[mar_goods_nt] Is there a provision on national treatment (NT) for goods?

-
- | | |
|---|-----|
| 0 | No |
| 1 | Yes |
-

Explanation: National treatment (NT) provisions stipulate that parties to the agreement should not apply internal taxes or other internal charges, laws, regulations or requirements affecting imported or domestic products so as to afford protection to domestic production. It is a core principle in GATT (Article III). The answer is yes when there is such provision (generally with exceptions). Also coded as 1 if it is granted only for specific products.

[mar_goods_mfn] Is there a provision on most-favoured nation (MFN) treatment for goods (no MFN, MFN, third-party MFN)?

-
- | | |
|---|-----|
| 0 | No |
| 1 | Yes |
-

Explanation: In a PTA, most-favoured nation (MFN) treatment requires parties to the agreement to grant to other parties the most favourable tariff and regulatory treatment granted to any third party (third-party MFN). MFN treatment can be subject to exceptions or limited to past agreements. The coding is 1 where there is a third-party MFN provision for trade in goods.

4 Services

Note: Roy (2011) offers a detailed coding of services provisions (152 sub-sectors for mode 3 and 142 for mode 1 commitments) in 67 agreements. Roy et al. (2009) code for 32 agreements whether their services commitments are based on a negative or a positive list approach.

[**ser_general**] Does this agreement include general provisions stipulating the liberalization of trade in services?

0	No mention of services trade liberalization
1	Services trade liberalization mentioned as general objective

Explanation: Coded 1 if the aim of liberalizing services is mentioned in the agreement's preamble. Also 1 are agreements with a services chapter or article that does not contain any substantive liberalization measures (for example, national treatment (NT) obligation or schedules of commitments). The purpose here is to make a qualitative judgement about the depth of the services obligations.

Note: It can be both general and specific.

[**ser_specific**] Does this agreement include specific provisions stipulating the liberalization of trade in services?

0	No mention of services trade liberalization
1	Substantive provisions liberalizing trade in services

Explanation: Coded 1 if agreements with a services chapter or article contain any substantive liberalization measures on trade in services.

Note: It can be both general and specific.

[**ser_gatsref**] Does the agreement contain a reference to the General Agreement on Trade in Services (GATS)?

0	No mention of the GATS
1	GATS mentioned

Explanation: Reference to "international agreements in the area" or the WTO in general is coded as 1. If there is only a definition of GATS it is coded as 0.

[**ser_list_positive**] Are services liberalized following a positive list approach?

0	No substantive service provisions
1	Positive list approach (list of sectors to be covered)

Explanation: The same agreement may include both positive and negative list approaches. If the general provisions of the agreement apply to all services sectors, we coded 1, even if the agreement includes a positive list of commitments. In general, it can be expected that negative lists provide for deeper commitments.

Note: It can be either positive or negative or mixed.

[**ser_list_negative**] Are services liberalized following a negative list approach?

-
- | | |
|---|--|
| 0 | No substantive service provisions |
| 1 | Negative list approach (all sectors are covered except those listed) |
-

Explanation: The same agreement may include both positive and negative list approaches. If the general provisions of the agreement apply to all services sectors, we coded 1, even if the agreement includes a positive list of commitments. In general, it can be expected that negative lists provide for deeper commitments.

Note: It can be either positive or negative or mixed.

[**ser_list_mixed**] Are services liberalized following a positive and negative list approach?

-
- | | |
|---|---|
| 0 | No substantive service provisions |
| 1 | Positive and negative list approach (all sectors are covered except those listed) |
-

Explanation: The same agreement may include both positive and negative list approaches. If the general provisions of the agreement apply to all services sectors, we coded 1, even if the agreement includes a positive list of commitments. In general, it can be expected that negative lists provide for deeper commitments.

Note: It can be either positive or negative or mixed.

[**ser_mfn**] Does the service chapter contain an most-favoured nation (MFN) clause?

-
- | | |
|---|---|
| 0 | No MFN clause included in the service chapter |
| 1 | MFN clause included in the service chapter |
-

Explanation: Coding of this point is difficult because sometimes specific sectors and/or countries are excluded from the most-favoured nation (MFN) obligation. Also existing PTAs are sometimes excluded from this provision. We coded 1 even if existing PTAs are excluded. We coded 1 if a general MFN clause clearly also applies to services.

[**ser_nt**] Does the service chapter contain a general national treatment (NT) clause?

-
- | | |
|---|--|
| 0 | No national treatment clause included in the service chapter |
| 1 | National treatment clause included in the service chapter |
-

Explanation: Coded 1 if national treatment (NT) is included in the service chapter.

Note: It can be both ser_nt ==1 and ser_nt_limited ==1.

[**ser_nt_limited**] Does the service chapter contain a national treatment (NT) clause that is limited to certain sectors?

-
- | | |
|---|--|
| 0 | No national treatment clause included in the service chapter |
| 1 | National treatment clause included in the service chapter is limited in scope to specific sector |
-

Explanation: Coded 1 when some restrictions apply to the national treatment (NT) clause; often, national treatment is offered only in a specific sector, mainly maritime transport (e.g. EC agreements).

Note: It can be both ser_nt ==1 and ser_nt_limited ==1.

[**ser_nonestablishment**] Does the service chapter grant the right of non-establishment (that is, does it allow the provision of services without local presence)?

-
- | | |
|---|--|
| 0 | The right of non-establishment is not explicitly allowed (it may be either omitted or explicitly excluded) |
| 1 | The right of non-establishment is explicitly granted |
-

Explanation: Coded 1 if there is an explicit provision on this point, even if specific sectors and/or countries are excluded from the national treatment (NT) obligation (provide local services without local presence).

[**ser_review**] Does the service chapter include a general review provision?

-
- | | |
|---|---|
| 0 | No review provision in service chapter |
| 1 | General review provision in service chapter |
-

Explanation: Sometimes the review provision may apply to only a few of the provisions in the services agreement. Coded 0 if the review provision only applies to part of the services chapter (if only for specific service chapter it is coded in variable `ser_review_specific_sector`). There are significant differences across those agreements with a review provision: some specify yearly meetings, others only vaguely state that a review should take place at a later stage. We may be missing general review provisions that apply to all chapters of an agreement and thus are not mentioned in the service chapter.

Note: It can be general and/or specific review.

[**ser_review_specific_sector**] Does the service chapter include a specific review provision?

-
- | | |
|---|--|
| 0 | No review provision in service chapter |
| 1 | Specific review provision in service chapter |
-

Explanation: Sometimes the review provision may apply to only a few of the provisions in the services agreement. Coded 1 if the review provision only applies to part of the services chapter. Coded 0 if there is a general review provision. There are significant differences across those agreements with a review provision: some specify yearly meetings, others only vaguely state that a review should take place at a later stage. We may be missing general review provisions that apply to all chapters of an agreement and thus are not mentioned in the service chapter.

Note: It can be general and/or specific review.

[**ser_review_outdated**] What is the level of implementation of the continuous review provision?

-
- | | |
|---|-----------------------|
| 0 | Provision is vague |
| 1 | Provision is outdated |
-

Explanation: Coded 1 if the review mechanism comes with a specific timeframe (e.g. yearly, plan of action). Coded 0 if the review provision only applies to part of the services chapter.

Note: If `ser_review == 0 AND ser_review_specific_sector == 0` then this variable must be 0.

[**ser_review_body_specific**] Is there a body responsible of the continuous review provision?

0	Provision is vague
1	Provision installs body and/or specific plan-of-action

Explanation: Coded 1 if there is a body in charge of the review. Coded 1 even if the review provision only applies to part of the services chapter.

[**ser_single_provisions_professional_business**] Are there specific provisions for business and professional services sectors scattered in the agreement?

0	No
1	Yes

Explanation: Coded 1 if there are no chapters, but separate regulation (articles) for this sector.

[**ser_group_provisions_professional_business**] Is there a group of provisions for business and professional services sectors?

0	No
1	Yes

Explanation: Coded 1 if the provisions are grouped together in one part of the agreement (e.g. in a chapter, annex exclusively on said topic or multiple paragraphs).

[**ser_sector_professional_business_excluded**] Is the business and professional services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

[**ser_single_provisions_communication**] Are there specific articles for communication services sectors?

0	No
1	Yes

Explanation: Coded 1 if there are no chapters, but separate regulation (articles) for this sector.

Note: Communication also includes to telecommunication.

[**ser_group_provisions_communication**] Are there specific chapters for communication services sectors?

0	No
1	Yes

Explanation: Coded 1 if the provisions are grouped together in one part of the agreement (e.g. in a chapter, annex exclusively on said topic or multiple paragraphs).

[ser_sector_communication_excluded] Is the communication services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

[ser_single_provisions_construction] Are there specific articles for construction and related services sectors?

0	No
1	Yes

Explanation: Coded 1 if there are no chapters, but separate regulation (articles) for this sector.

[ser_group_provisions_construction] Are there specific chapters for construction and related services sectors?

0	No
1	Yes

Explanation: Coded 1 if the provisions are grouped together in one part of the agreement (e.g. in a chapter, annex exclusively on said topic or multiple paragraphs).

[ser_sector_construction_excluded] Is the construction and related services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

[ser_single_provisions_distribution] Are there specific articles for distribution services sectors?

0	No
1	Yes

Explanation: Coded 1 if there are no chapters, but separate regulation (articles) for this sector.

[ser_group_provisions_distribution] Are there specific chapters for distribution services sectors?

0	No
1	Yes

Explanation: Coded 1 if the provisions are grouped together in one part of the agreement (e.g. in a chapter, annex exclusively on said topic or multiple paragraphs).

[ser_sector_distribution_excluded] Is the distribution services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

[ser_single_provisions_education] Are there specific articles for education services sectors?

0	No
1	Yes

Explanation: Coded 1 if there are no chapters, but separate regulation (articles) for this sector.

[ser_group_provisions_education] Are there specific chapters for education services sectors?

0	No
1	Yes

Explanation: Coded 1 if the provisions are grouped together in one part of the agreement (e.g. in a chapter, annex exclusively on said topic or multiple paragraphs).

[ser_sector_education_excluded] Is the education services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

[ser_single_provisions_energy] Are there specific articles for energy services sectors?

0	No
1	Yes

Explanation: Coded 1 if there are no chapters, but separate regulation (articles) for this sector.

[ser_group_provisions_energy] Are there specific chapters for energy services sectors?

0	No
1	Yes

Explanation: Coded 1 if the provisions are grouped together in one part of the agreement (e.g. in a chapter, annex exclusively on said topic or multiple paragraphs).

[ser_sector_energy_excluded] Is the energy services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

[ser_single_provisions_environmental] Are there specific articles for environmental services sectors?

0	No
1	Yes

Explanation: Coded 1 if there are no chapters, but separate regulation (articles) for this sector.

[**ser_group_provisions_environmental**] Are there specific chapters for environmental services sectors?

0	No
1	Yes

Explanation: Coded 1 if the provisions are grouped together in one part of the agreement (e.g. in a chapter, annex exclusively on said topic or multiple paragraphs).

[**ser_sector_environmental_excluded**] Is the environmental services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

[**ser_single_provisions_financial**] Are there specific articles for financial services sectors?

0	No
1	Yes

Explanation: Coded 1 if there are no chapters, but separate regulation (articles) for this sector.

[**ser_group_provisions_financial**] Are there specific chapters for financial services sectors?

0	No
1	Yes

Explanation: Coded 1 if the provisions are grouped together in one part of the agreement (e.g. in a chapter, annex exclusively on said topic or multiple paragraphs).

[**ser_sector_financial_excluded**] Is the financial services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

[**ser_single_provisions_health_social**] Are there specific articles for health and social services sectors?

0	No
1	Yes

Explanation: Coded 1 if there are no chapters, but separate regulation (articles) for this sector.

[**ser_group_provisions_health_social**] Are there specific chapters for health and social services sectors?

0	No
1	Yes

Explanation: Coded 1 if the provisions are grouped together in one part of the agreement (e.g. in a chapter, annex exclusively on said topic or multiple paragraphs).

[**ser_sector_health_social_excluded**] Is the health and social services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

Explanation: Coded 1 if the health and social services sector is explicitly excluded from the provisions in the services chapter

[**ser_single_provisions_tourism**] Are there specific articles for tourism services sectors?

0	No
1	Yes

Explanation: Coded 1 if there are no chapters, but separate regulation (articles) for this sector.

[**ser_group_provisions_tourism**] Are there specific chapters for tourism services sectors?

0	No
1	Yes

Explanation: Coded 1 if the provisions are grouped together in one part of the agreement (e.g. in a chapter, annex exclusively on said topic or multiple paragraphs).

[**ser_sector_tourism_excluded**] Is the tourism services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

[**ser_single_provisions_transport**] Are there specific articles for transport services sectors?

0	No
1	Yes

Explanation: Coded 1 if there are no chapters, but separate regulation (articles) for this sector.

[**ser_group_provisions_transport**] Are there specific chapters for transport services sectors?

0	No
1	Yes

Explanation: Coded 1 if the provisions are grouped together in one part of the agreement (e.g. in a chapter, annex exclusively on said topic or multiple paragraphs).

[**ser_sector_transport_air_excluded_domestic**] Is the domestic air transport services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

[**ser_sector_transport_land_excluded_domestic**] Is the domestic land transport services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

[**ser_sector_transport_maritime_excluded_domestic**] Is the domestic maritime transport services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

[**ser_sector_transport_air_excluded_international**] Is the international air transport services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

[**ser_sector_transport_land_excluded_international**] Is the international land transport services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

[**ser_sector_transport_maritime_excluded_international**] Is the international maritime transport services sector explicitly excluded from the provisions in the service chapter?

0	No
1	Yes

Bibliography

Roy, Martin (2011). “Services Commitments in Preferential Trade Agreements: An Expanded Dataset”, WTO Staff Working Paper.

Roy, Martin, Juan Marchetti, and Hoe Lim (2009). “Services Liberalization in the New Generation of Preferential Trade Agreements (PTAs): How Much Further than the GATS?”, in Antoni Estevadeordal, Robert Teh, and Kati Suominen (eds) *Regional Rules in the Global Trading System* (Cambridge: Cambridge University Press).

5 Global Value Chains (GVCs)

[**gvc_reference_general**] Does the agreement contain a general reference to global value chains (GVCs)? (preamble, GVC chapter, provisions on logistics or other aspects of GVCs, no provisions)?

-
- | | |
|---|--|
| 0 | No mention of global value chains |
| 1 | Global value chains mentioned in the preamble or objectives of the agreement |
-

Explanation: The agreement may mention global value chains (GVCs) or use synonyms such as international supply chains, regional value chains or international production networks. The two criteria are the reference to the international or regional nature of supply chains (as opposed to domestic) and the focus on trade issues related to the supply of intermediate inputs and the fragmentation of production (as opposed to trade in final goods and services). For example, a preamble mentioning “further regional economic integration” is not specifically referring to GVCs. A reference to GVCs is for example “promoting the development and strengthening of regional supply chains”. Provisions specifically dealing with GVCs are provisions that first mention explicitly supply chains (or any synonym) and second introduce some rule, mechanism or exception in relation to GVCs. Such provisions include for example: the creation of a committee to discuss GVC issues or provisions supporting the inclusion of SMEs in GVCs. Mentioned in the preamble or in one/two sentences, superficial inclusion of GVCs (intention, not binding).

Note: There can be a general reference as well as a specific reference in the PTA. Synonyms: regional value chains, supply chains

[**gvc_reference_specific**] Does the agreement contain a specific reference to global value chains? (GVC chapter, provisions on logistics or other aspects of GVCs, no provisions)?

-
- | | |
|---|--|
| 0 | No mention of global value chains |
| 1 | Provisions specifically dealing with global value chains |
-

Explanation: The agreement may mention global value chains (GVCs) or use synonyms such as international supply chains, regional value chains or international production networks. The two criteria are the reference to the international or regional nature of supply chains (as opposed to domestic) and the focus on trade issues related to the supply of intermediate inputs and the fragmentation of production (as opposed to trade in final goods and services). For example, a preamble mentioning “further regional economic integration” is not specifically referring to GVCs. A reference to GVCs is for example “promoting the development and strengthening of regional supply chains”. There is a specific article/paragraph/chapter on GVC (binding). Provisions specifically dealing with GVCs are provisions that first mention explicitly supply chains (or any synonym) and second introduce some rule, mechanism or exception in relation to GVCs. Such provisions include for example: the creation of a committee to discuss GVC issues or provisions supporting the inclusion of SMEs in GVCs.

Note: There can be a general reference as well as a specific reference in the PTA.

[gvc_cooperation_general] Is there a general mechanism mentioned to deal specifically with GVC issues or related issues between the parties?

-
- 0 No mechanism
 - 1 Co-operation is mentioned but not organised
-

Explanation: Many trade agreements have chapters on regulatory co-operation or mechanisms to review any issue in relation to the disciplines of the agreement. This question aims at identifying mechanisms that are specifically (and explicitly) about global value chains. For example, the agreement creates a committee to promote the development and strengthening of supply chains (with an explicit mention of such an objective). If the co-operation is mentioned (in the preamble or as an objective) but no committee or mechanism is foreseen, the coding is 1.

[gvc_cooperation_specific] Is there a specific mechanism defined to deal specifically with GVC issues or related issues between the parties?

-
- 0 No mechanism
 - 1 Provisions organising the co-operation
-

Explanation: Many trade agreements have chapters on regulatory co-operation or mechanisms to review any issue in relation to the disciplines of the agreement. This question aims at identifying mechanisms that are specifically (and explicitly) about global value chains. For example, the agreement creates a committee to promote the development and strengthening of supply chains (with an explicit mention of such an objective).

6 Investments

[**inv_reference_general**] Does the agreement contain a general reference to investment protection or promotion?

0	No mention
1	General reference, endeavours without specific scope

Explanation: Coded 1 if the aim of protecting or promoting investment is mentioned, e.g. in the agreement's preamble.

[**inv_chapter**] Does the agreement contain a specific chapter on investment?

0	No mention
1	Investment chapter beyond services (separate chapter)

Explanation: Coded 1 if investment protection goes beyond services (part of services chapter does not suffice). In GATS-type agreements, investment disciplines are contained in the services chapter as well as a limited investment chapter and interactions between these chapters are governed as stated in one of these chapters. In the NAFTA-type agreements, investment disciplines are contained in the investment chapter and there is limited interaction with the services chapter.

Note: In EU agreements investment might be captured under the term establishment. This equalization is only valid if it refers to NT.

[**inv_reference_service**] Does the agreement refer to investment only in the service chapter or article?

0	No mention
1	Investment only included in services chapter

Explanation: Coded 1 if investment is ONLY protected in the services sector. In GATS-type agreements, investment disciplines are contained in the services chapter as well as a limited investment chapter and interactions between these chapters are governed as stated in one of these chapters. In the NAFTA-type agreements, investment disciplines are contained in the investment chapter and there is limited interaction with the services chapter.

Note: If `inv_chapter == 1` then, this variable will automatically be 0.

[**inv_definition_enterprise**] Is investment defined as enterprise-based?

0	No definition or not enterprise-based
1	Enterprise-based

Explanation: The enterprise-based definition of investment is limited to the investor establishing in the host country (creation or acquisition of a firm). Coded 0 if enterprise is simply part the asset-based list and the definition of investment isn't based on enterprises.

Note: It is either enterprise-based OR asset-based.

[inv_definition_asset] Is investment defined as asset-based?

0	No definition or not asset-based
1	Asset-based

Explanation: The definition of investment is open-ended (i.e. any type of asset) and asset-based. In an asset-based definition, a list of assets that are regarded as investment is provided, going beyond the enterprise. The list can include movable and immovable property, non-equity investment, contractual rights, intellectual property rights etc.

Note: It is either enterprise-based OR asset-based.

[inv_definition_business_operations] Does the investment definition require substantial business operations/activities?

0	No
1	Yes

Explanation: Related synonyms are “carrying out business activities there”.

[inv_strategic_partnership_contract] Does the definition of investment include contracts?

0	No
1	Contracts are included in investment definition

Explanation: In global value chains, it is common to find non-equity relationships (NEMs) between companies sometimes described as strategic partnerships or strategic alliances. Certain forms of non-equity relationships (NEMs) are similar to investment (despite not being based on equity) because there is a certain degree of control from one entity over the other. And such non-equity modes of investment may be subject to the same disciplines as investment in the agreement. We code 7 specific types of NEMs in the following variables, but this variable codes the general basis of strategic partnership (grounds for legal reasoning) that contracts are included in the definition of investment.

[inv_strategic_partnership_manufacturing_services] Does the investment chapter include non-equity relationships (NEMs) in the form of contract manufacturing and/or service outsourcing?

0	No
1	Yes

Explanation: Coded 1 for NEMs in the form of contract manufacturing (e.g. manufacturing of intermediates, assembly and final product) and services outsourcing (e.g. customer and aftersales service but also support services such as IT). These are contractual relationships whereby an international firm contracts out to a host country firm production, service or processing elements of its GVC. Information can often be found in the definition of investment.

[inv_strategic_partnership_farming_marketing_agricultural] Does the investment chapter include non-equity relationships (NEMs) in the form of contract farming and/or marketing of agricultural products?

0	No
1	Yes

Explanation: Coded 1 for NEMs in the form of contract farming: contractual relationship between an international buyer and (association of) host country farmers which establishes conditions for the farming and marketing of agricultural products. Information can often be found in the definition of investment.

[inv_strategic_partnership_licensing] Does the investment chapter include non-equity relationships (NEMs) in the form of licensing?

0	No
1	Yes

Explanation: Coded 1 for NEMs in the form of licensing. In this contractual relationship an international firm (licensor) grants to a host country firm (licensee) the right to use an intellectual property (e.g. copyrights, trademarks, patents, industrial design rights, trade secrets) in exchange for payment (a royalty). Licensing can take various forms, including brand licensing, product licensing and process licensing. In-licensing refers to a company acquiring a license from another firm. In that case, a company takes on some of the financial or technological burden associated with developing a product, then gets to share in its returns. This type of licensing is mostly used in pharmaceuticals sector. Out-licensing is essentially giving the license to a company. This entails sale of intellectual property to other firms. Information can often be found in the definition of investment.

[inv_strategic_partnership_franchising] Does the investment chapter include non-equity relationships (NEMs) in the form of franchising?

0	No
1	Yes

Explanation: Coded 1 for NEMs in the form of franchising. Franchising is a contractual relationship in which an international firm (franchisor) permits a host country firm (franchisee) to run a business modelled on the system developed by the franchisor in exchange for a fee or a percentage on goods or services supplied by the franchisor. Franchising includes international master franchising, with a single equity owner of all outlets in a market and unit franchising, with individual entrepreneurs owning one or more outlets. When either the production mode in-licensing or franchising is selected, the company sells its right to intellectual property to an entity within a foreign market for a royalty fee. The main benefits of this type of investment are low development cost and low risk in overseas expansion. Information can often be found in the definition of investment.

[inv_strategic_partnership_management_contracts] Does the investment chapter include non-equity relationships (NEMs) in the form of management contracts?

0	No
1	Yes

Explanation: Coded 1 for NEMs in the form of management contracts. Under this contractual relationship, operational control of an asset in a host country is assigned to an international firm, the contractor, which manages the asset in return for a fee. A turnkey project is a form of management contract in which a client pays a contractor to design and construct new facilities and train the personnel. This mode of investment enables a company to earn returns from process technology in countries where FDI is restricted but falls short of a long-term presence. Information can often be found in the definition of investment.

Note: Turnkey contract are also coded as 1.

[inv_strategic_partnership_concessions] Does the investment chapter include non-equity relationships (NEMs) in the form of concessions?

0	No
1	Yes

Explanation: Coded 1 for NEMs in the form of concessions. Under contractual relationship, operational control of an asset in a host country is assigned to an international firm, the concessionaire, which manages the asset in return for an entitlement to (part of) the proceeds generated by the asset. Concessions can take different forms and are usually complex, such as build-own-transfer (BOT) arrangements, which include elements of investment by the TNC or ownership of the asset for a period. Concessions can also be structured in other ways, including as public-private partnerships (PPPs). Information can often be found in the definition of investment.

Sufficient synonyms are “rights granted under public law”.

[inv_strategic_partnership_strategic_alliances_contractual_joint_ventures] Does the investment chapter include non-equity relationships (NEMs) in the form of strategic alliances and/or contractual joint ventures?

0	No
1	Yes

Explanation: Coded 1 for NEMs in the form of strategic alliances and contractual joint ventures. These entail a contractual relationship between two or more firms to pursue a joint business objective. For example, under a co-marketing agreement a number of companies jointly market their products and services with the objective to reach more customers. The disadvantage of such relationship is the low coordination between the companies involved. Strategic alliance is an overall term for long-term working relationship between two separate firms. Partners may provide the alliance with products, distribution channels, manufacturing, capability, capital equipment, knowledge, expertise, or intellectual property. Strategic alliances involve intellectual property transfer, specialization, shared expenses and risk. For this mode of investment, the contract determines the terms, obligations and liabilities of the parties but does not entail the creation of a new legal entity. Particularly in R&D, contract R&D and contract design are widely used to perform certain research and development work ordered by another firm. While, in practice, it remains difficult to negotiate and enforce contracts, this type of relationship gives a company the ability to tap into the best locations for certain innovations at low costs. Information can often be found in the definition of investment.

Note: This can be found in the “juridical person” section.

[inv_strategic_partnership_dummy] Does the definition of investment cover any of the types of strategic partnerships coded above?

0	No
1	Yes

Explanation: This is the dummy variable of the sum of all strategic partnership variables. If one or more of the variables on strategic partnerships is coded as 1 then this variable is coded as 1, otherwise 0.

[inv_denial_benefits] Can non-party companies be denied the benefit of the investment provisions?

0	No
1	Yes

Explanation: The coding is 1 when there is a provision on the denial of benefit (general).

[inv_denial_benefits_business_operations] Can non-party companies be denied the benefit of the investment provisions if enterprise has no substantive (or substantial) business activities in the host country?

0	No denial of benefit (or limited to diplomatic reasons)
1	Substantive business operations

Explanation: The coding is 1 when there is a provision on the denial of benefit and the only reason for a non-party to be denied the benefit of the investment provisions is that the enterprise has no substantive (or substantial) business activities in the host country. Clauses limited to the existence of diplomatic relations with the non-party are coded 0 as well as the absence of a specific provision on the denial of benefit. Information can often be found in the definition of investment. Coded 1 if benefits are denied to box companies. If coded 1 then `inv_denial_benefits` needs to be coded as 1 as well.

Note: Check for “a real and continuous link” e.g. in EU agreements or if third parties own or control the investment.

[inv_list_positive] Is investment liberalised following a positive list approach?

0	No investment liberalisation
1	Positive list approach

Explanation: Investment liberalisation refers to market access and national treatment (NT) commitments between parties and the way reservations or limitations are listed. A positive list approach (coded 1) can be either a full positive list where sectors and specific commitments are listed or a GATS-style approach where a positive list of sectors is listed and then reservations are introduced (NCMs).

Note: It is either a positive or negative or mixed list approach.

[**inv_list_negative**] Is investment liberalised following a negative list approach?

0	No investment liberalisation
1	Negative list approach

Explanation: Investment liberalisation refers to market access and national treatment commitments between parties and the way reservations or limitations are listed. A negative list approach (coded 1) only lists reservations, all sectors being covered unless excluded. In the NAFTA-style approach (negative list), there are two types of reservations: reservations for existing measures and reservations for future measures.

Note: It is either a positive or negative or mixed list approach.

[**inv_list_mixed**] Is investment liberalised following a mixed (negative AND positive) list approach?

0	No investment liberalisation
1	Mixed approach

Explanation: Investment liberalisation refers to market access and national treatment (NT) commitments between parties and the way reservations or limitations are listed. When agreements mix different approaches (for example, one party has a negative list, the other a positive list; or market access is through a positive list and national treatment (NT) through a negative list), the coding is 1.

Note: It is either a positive or negative or mixed list approach.

[**inv_schedule_market_access**] Is there a market access obligation applicable to investments across all sectors (goods and services), integrated scheduling approach?

0	No
1	Yes

Explanation: The coding is 1 when reservations to market access are listed in a similar schedule for goods and services. It can be a positive list following the GATS approach or a negative list following the NAFTA-approach. The criteria is whether the same scheduling approach is followed across sectors for market access obligations. This must be namely mentioned, market access or access to market(s).

[**inv_pre_est_oper**] Are pre-establishment operations covered by non-discrimination provisions (before investment)?

0	No
1	Yes

Explanation: Coded 1 if non-discriminatory provisions are granted to foreign investors in the pre-establishment phase (before) of the investment procedure in a given country. Coded 1 if NT/MFN article for investment grants establishment or acquisition.

[**inv_est_oper**] Is establishment (i.e. greenfield) covered by non-discrimination provisions?

0	No
1	Yes

Explanation: Coded 1 if non-discriminatory provisions (for example NT/MFN provisions) are granted to foreign investors in establishment phase (during) of the investment procedure in a given country. Coded 1 if it refers to e.g. expansion, management, conduct, operation, etc.

[**inv_post_est_oper**] Are post-establishment operations (i.e. free movement of capital and resale) covered by non-discrimination provisions?

0	No
1	Yes

Explanation: Coded 1 if non-discriminatory provisions (for example NT/MFN provisions) are granted to foreign investors in post establishment phase (after) of the investment procedure in a given country. Coded 1 if it refers to e.g. sale, liquidation, end of life, etc.

[**inv_acquisition_merger**] Are acquisition (i.e. merger) covered by non-discrimination provisions?

0	No
1	Yes

Explanation: Coded 1 if non-discriminatory provisions (for example NT/MFN provisions) include merger and/or acquisitions as a valid means of investment. If there is a justified exception such as competition law, it is also coded as 1.

[**inv_mfn**] Does the agreement grant most-favoured nation (MFN) treatment for investment?

0	No
1	Yes

[**inv_nt**] Does the agreement grant national treatment (NT) for investment?

0	No
1	Yes

[**inv_stand_treat_minimum**] Does the agreement grant a minimum standard of treatment for investment?

0	No treatment
1	Minimum standard of treatment (no specific definition)

Explanation: Standards of Treatment: coded 0 if no standard of treatment is granted to investors; 1 if a minimum standard of treatment is granted.

Note: In contrast to national treatment (NT) and most-favoured nation (MFN) treatment, which are contingent standards based on the treatment afforded to other groups of investors, the standard treatment is an absolute standard drawn from customary international law.

[**inv_stand_treat_fet**] Does the agreement grant a fair and equitable treatment (FET) for investment?

0	No treatment or no FET
1	Fair and equitable treatment (FET)

Explanation: Standards of Treatment: coded 0 if no standard of treatment is granted to investors or no FET; 1 if a fair and equitable treatment (FET) is granted for investment.

[**inv_stand_treat_fet_defined**] Does the agreement define a fair and equitable treatment (FET) for investment?

0	No definition
1	Definition of FET

Explanation: Only code if `inv_stand_treat_fet == 1`.

[**inv_stand_treat_fps**] Does the agreement grant full protection and/or security (FPS) for investment?

0	No treatment or no FPS
1	Full protection and security (FPS)

Explanation: Standards of Treatment: coded 0 if no standard of treatment is granted to investors or no FPS; 1 if full protection and/or security (FPS) is granted for investment.

[**inv_stand_treat_fps_defined**] Does the agreement define full protection and/or security (FPS) for investment?

0	No definition
1	Definition of FPS

Explanation: Only code if `inv_stand_treat_fps == 1`.

[**inv_reference_trims**] Does the agreement contain a reference to the Agreement on Trade Related Investment Measures (TRIMs)?

0	No
1	Yes

[**inv_performance_limitation**] Does the agreement limit the use of performance requirements?

0	No provision
1	Limitation

Explanation: Coded 1 when the agreement encourages parties to limit the use of performance requirements (non-binding clauses) or accepts performance requirements under specific conditions. Similar or same extent to the Agreement on Trade Related Investment Measures (TRIMs), but does not need a specific mentioning of TRIMs.

[**inv_performance_trimspius**] Does the agreement prohibit the use of performance requirements?

0	No provision
1	Prohibition

Explanation: Only coded 1 when performance requirements are prohibited with a list going beyond Agreement on Trade Related Investment Measures (TRIMs) obligations. Check with the Illustrative List in the annex of the TRIMs agreement. An example of a TRIMs-plus obligation is the level or percentage of goods or services. *Note:* TRIMs-plus is an obligation which was already included in TRIMs (in a general manner) and is now more detailed (specific).

[**inv_performance_trimsextra**] Does the agreement prohibit the use of performance requirements?

0	No provision
1	Prohibition

Explanation: The coding is 1 only when performance requirements are prohibited with a list going beyond Agreement on Trade Related Investment Measures (TRIMs) obligations. Check with the Illustrative List in the annex of the TRIMs agreement. Examples of TRIMs-extra obligations are transfer of a particular technology, a production process, or other proprietary knowledge to a person in its territory. *Note:* TRIMs-extra is an obligation which was not included in TRIMs before and covers a new area (extra).

[**inv_transf_pay**] Does the agreement grant transfers and payments without restrictions?

0	Restrictions
1	No restrictions specifically mentioned

Explanation: Coded 1 if there are no restrictions on transfers or payments, e.g. free transfer of funds, money, assets, currency, etc.

Note: If variable `inv_free_transfers_restrictions` is 1, `inv_transf_pay` is automatically 0 and if variable `inv_transf_pay` is 1, variable `inv_free_transfers_restrictions` is automatically 0. Both variables can be 0 but not 1 for the same PTA.

[**inv_free_transfers_restrictions**] Does the agreement include a restricted provision on free transfer of funds (repatriation of profits)?

0	No
1	Yes

Explanation: Coded 1 if there are any restrictions/exceptions listed for the transfers and/or payments such as insolvency, criminal offences, notification to the central bank, exchange rate policy, monetary policy and or safeguard balance of payments etc. (safeguard/prudential measures).

Note: If variable `inv_free_transfers_restrictions` is 1, `inv_transf_pay` is automatically 0 and if variable `inv_transf_pay` is 1, variable `inv_free_transfers_restrictions` is automatically 0. Both variables can be 0 but not 1 for the same PTA.

[inv_direct_expropriation] Does the agreement have measures on expropriation (prohibition, limitation, no provision)?

0	No
1	Yes

Explanation: Measures on expropriation generally prohibit expropriation, except in some limited cases (public purpose) with compensation. The coding is 1 when such measure is in the agreement, 0 otherwise.

[inv_indirect_expropriation] Does the agreement include a provision on indirect expropriation?

0	No indirect expropriation
1	Indirect expropriation

Explanation: PTAs might address two situations. The first is a direct expropriation, in which an investment is nationalised or otherwise directly expropriated through formal transfer of title or outright seizure (variable `inv_expropriation`). The second situation is an indirect expropriation, in which an action or series of actions by a Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure. Coded 1 if there is indirect expropriation (situation 2).

[inv_indirect_expropriation_defined] Does the agreement include a definition of indirect expropriation?

0	No definition
1	Definition of indirect expropriation

Explanation: Only coded if `inv_indirect_expropriation == 1`.

[inv_compensation_expropriation] Does the agreement grant a compensation to investors in the case of expropriation?

0	No treatment
1	Compensation

Explanation: Coded 0 if no standard of treatment is granted to investors; 1 if compensation is granted to investors in the case of expropriation.

[inv_compensation_strife] Does the agreement grant a compensation to investors in the case of strife?

0	No treatment
1	Compensation in case of strife

Explanation: Coded 0 if no standard of treatment is granted to investors; 1 if compensation is granted to investors in the case of strife (e.g. civil war, revolution, earthquakes, terrorism). Compensation in those cases is often lower than in the case of expropriation.

[inv_transparency] Does the agreement include transparency provisions that cover investment?

0	No
1	Yes

Explanation: Transparency provisions covering investment are defined as provisions that introduce a legal obligation to make information on relevant laws, regulations and policies affecting investment as publicly available, as well as to inform parties on any change in these laws, regulations and policies. Investment should be explicitly mentioned or the provision clearly part of the investment obligations in the agreement.

[inv_rule_inconsistency_service] Does the agreement include rules for the interaction between the investment and service chapter (inconsistency)?

0	Not relevant (no chapter for services, only investment) OR no rule
1	Rules stating the interaction

Explanation: When there is both an investment and trade in services chapter in the PTA, the question refers to the existence of rules dealing with the interaction between the two. These rules can either be in the investment or in the services chapter. They indicate which chapter prevails in the case of inconsistency and/or provide a clear delineation between the scope of the two chapters so that there is no overlap. Could be in either the services or the investment chapter and have to be explicitly mentioned.

Note: There has to be a mechanism/rule on what happens if there is an inconsistency between those chapters.

[inv_consistency] Does the agreement include rules for the relation with other overlapping PTAs?

0	No
1	Yes

Explanation: With the proliferation of PTAs, it is not uncommon to see two or more agreements in force with the same partners (e.g. a bilateral PTA and a regional PTA with the same partners). The question refers to the inclusion of rules dealing with the potential inconsistency between overlapping PTAs. These rules can, for example, indicate which agreement prevails in case of inconsistency.

Note: The provision has to be related to investment but does not necessarily need to be within the investment chapter.

[inv_reference_bit] Does the agreement contain a reference to a bilateral investment treaty or bilateral investment treaties in general?

0	No mention
1	Reference to bilateral investment treaty (BIT)

Explanation: Coded 1 if it specifically refers to a bilateral investment treaty (BIT) or if it refers to BITs (bilateral/international investment treaties/international agreements relating to investment).

[inv_bits_inconsistency] Does the agreement include rules for the relation with bilateral investment treaties (BITs) in the case of inconsistencies?

0	No rule
1	Rules in case of inconsistency

Explanation: Bilateral investment treaties (BITs) can co-exist with preferential trade agreements dealing with investment or are terminated with the entry into force of the trade agreements. There are also cases where a trade agreement is signed and there is no BIT. The coding is 1 when the trade agreement specifically refers to an existing or potential bilateral investment treaty involving the same parties and sets rules in case of inconsistency.

[inv_bits_terminate] Does the agreement include rules for the relation with bilateral investment treaties such as termination/replacement?

0	No rule
1	The agreement terminates and replaces the BIT

Explanation: Bilateral investment treaties (BITs) can co-exist with preferential trade agreements dealing with investment or are terminated with the entry into force of the trade agreements. There are also cases where a trade agreement is signed and there is no BIT. The coding is 1 when the PTA terminates the BIT (and it is explicitly mentioned in the text of the agreement).

[inv_dtts] Does the agreement include rules for the relation with double taxation treaties (DTTs)?

0	No
1	Yes

Explanation: Double taxation treaties are bilateral agreements that deal with tax matters and address issues related to the tax jurisdiction. There is a potential overlap with investment agreements when it comes to non-discrimination or dispute settlement as investment agreements do not exclude tax issues from the coverage of their provisions. This question refers to the existence of provisions setting some rules or addressing the potential inconsistency between the trade agreement covering investment and a double taxation treaty involving the same parties.

Note: It does not need to be explicitly called “double” taxation, it might also refer to the “tax convention” and can be in other chapters, e.g. “Final Provisions” / “General Provisions and Exceptions”, but it has to refer to taxation agreements between two countries/states (not between investor and state).

[inv_coordination_general_body] Is there a consultation or co-ordination mechanism for investment?

0	No
1	Yes

Explanation: Coded 1 if the PTA has a general/trade/joint committee for consultations/coordination that includes investment.

Note: Coded 1 if the general/trade/joint committee for consultations/coordination is mentioned within the investment chapter, or if investment is mentioned in the provisions for the general/trade/joint committee for consultations/coordination.

[inv_coordination_specific_body] Is there a consultation or co-ordination mechanism specifically for investment?

0	No
1	Yes

Explanation: The coding is 1 if within the investment chapter or as part of investment *provisions, there is a specific mechanism for parties to consult or co-operate on investment issues.*

Note: This refers to bodies for consultation/coordination specifically set up for investment such as working groups.

[inv_regulatory_coordination] Does the agreement include regulatory co-operation provisions that cover investment?

0	No
1	Yes

Explanation: The coding is 1 if the regulatory co-operation provisions of the agreement cover investment. Regulatory co-operation provisions are identified in the section on regulatory co-operation. The coding is 0 if investment is excluded from these provisions or if the agreement does not include regulatory co-operation provisions. Code 0 if not found within the regulatory co-operation section.

[inv_responsible_business_conduct] Does the investment chapter refer to responsible business conduct?

0	No
1	Yes

Explanation: The coding is 1 if the agreement refers to responsible business conduct, defined as a set of standards and business ethics promoted by governments for companies that invest. Such standards cover different areas such as labour, the environment, human rights or anti-corruption. The characteristic of responsible business conduct is that instead of defining standards that are enforced by the law, governments encourage companies to commit themselves to standards and to engage with stakeholders.

Note: Business conduct is often part of the corporate social responsibility provisions or the responsible investment. It does not suffice if states shall not reduce their standards to attract investment e.g. for environmental/labour standards (does only rely on states, not enterprises/business conduct).

[inv_ctry_dsm] Is there an investor-state dispute settlement mechanism (DSM) for investment (investor-country)?

0	No dispute settlement mechanism (DSM)
1	Investor-state dispute settlement mechanism (DSM)

Explanation: We distinguish between investor-state DSM and state-state DSM, since the latter is more likely to be effective than the former. Indeed a state-sanctioned by a state-state DSM violates an international law principle (the “pacta sunt servanda”-principle).

[**inv_ctry_ctry_dsm**] Is there a state-state dispute settlement mechanism (DSM) for investment (country-country)?

0	No dispute settlement mechanism (DSM)
1	State-state dispute settlement mechanism (DSM)

Explanation: We distinguish between investor-state DSM and state-state DSM, since the latter is more likely to be effective than the former. Indeed a state-sanctioned by a state-state DSM violates an international law principle (the “pacta sunt servanda”-principle).

Note: Coded 1 if the provision is related to investment. Code 0 if there are general Dispute Settlement Provisions, where investment is not explicitly mentioned.

Bibliography

Houde, Marie-France, Akshay Kolve-Patil, and Sébastien Miroudot (2007). “The Interaction between Investment and Services Chapters in Selected Regional Trade Agreements.” OECD Trade Policy Working Papers, No. 55.

Leshner, Molly, and Sébastien Miroudot (2006). “Analysis of the Economic Impact of Investment Provisions in Regional Trade Agreements.” OECD Trade Policy Working Papers No. 36. Available at: <http://www.oecdilibrary.org>.

7 Temporary Entry of Business Persons

[**temp_ser_movement**] Does the agreement allow the movement of natural persons in the provision of services?

-
- | | |
|---|---|
| 0 | Movement of natural persons is not explicitly allowed (it may be either omitted or explicitly excluded) |
| 1 | Movement of natural persons in the provision of services is explicitly allowed |
-

[**temp_ser_movement_gatsplus**] If there are provisions on the movement of natural persons: do the provisions match GATS-commitments or go beyond GATS-commitments?

-
- | | |
|---|--------------------------|
| 0 | Matches GATS-commitments |
| 1 | GATS-plus |
-

Explanation: Check GATS-provisions: most often more specific commitments of GATS-provisions.

[**temp_ser_movement_gatsextra**] If there are provisions on the movement of natural persons: do the provisions match GATS-commitments or do they even include new areas of regulation for each member of the agreement?

-
- | | |
|---|--------------------------|
| 0 | Matches GATS-commitments |
| 1 | GATS-extra |
-

Explanation: Check GATS-provisions, e.g. speedier process for visas. If there is visa co-operation transparency then there is also GATS-extra.

[**temp_visa_cooperation_transparency**] Are there provisions on transparency and co-operation to facilitate visa for business persons?

-
- | | |
|---|-------------------------------|
| 0 | No provision on visas |
| 1 | Co-operation and transparency |
-

Explanation: The coding is 1 when visas are mentioned in the agreement and subject to provisions on co-operation and transparency that can facilitate the processing of visa and immigration formalities.

Note: Visa provisions can be found in the investment or service chapter or in a generally applicable provision/chapter. Coded 0 if trade in service or investment is excluded from the generally applicable provision. Coded 0 if visa provisions are only mentioned in for example trade in goods chapter.

[**temp_visa_mechanism**] Are there provisions on specific mechanisms to facilitate visa for business persons?

-
- | | |
|---|--|
| 0 | No provision on visas |
| 1 | Mechanism facilitating the delivery of visas |
-

Explanation: The coding is 1 when the agreement creates specific mechanisms or rules that give to natural persons from a party to the agreement an advantage over non-parties to obtain a business visa. For example, a specific visa is created or some visa requirements are waived for the parties to the agreement.

Note: Visa provisions can be found in the investment or service chapter or in a generally applicable provision/chapter. Coded 0 if trade in service or investment is excluded from the generally applicable provision. Coded 0 if visa provisions are only mentioned in for example trade in goods chapter.

[**temp_visa_freedom**] Does the agreement create for a visa-free movement?

0	No provision on visas
1	Visa-free movement

Explanation: Coded 1 when the agreement states that no visas are required.

Note: Visa provisions can be found in the investment or service chapter or in a generally applicable provision/chapter. Coded 0 if trade in service or investment is excluded from the generally applicable provision. Coded 0 if visa provisions are only mentioned in for example trade in goods chapter.

[**temp_inv_mov_bus_per**] Does the agreement allow for the temporary Movement of Business or Natural People?

0	Restrictions
1	No restrictions specifically mentioned

Explanation: This provision is important because any investment generally implies the movement of key personnel and business. However, especially the removal of barriers on the temporary entry and stay of key personnel can be controversial because it touches upon sensitivities in migration law. In most cases, this provision is specific to (investment-related) temporary migrations.

Note: This variable is expected to be found in the investment or service section.

[**temp_inv_boardmembers_requirements_limited**] Does the agreement include limiting provisions (restrictions) on the free appointment of board members and senior managers?

0	No provision
1	Nationality or residency requirements are limited

Explanation: Restrictions on the appointment of senior managers and/or board members generally take the form of residency requirements or nationality requirements. These requirements can cover all board members and managers, a majority, or a minimum number. Any limitation to the use of residency and/or nationality requirements for board members and directors is coded as 1.

Note: These variables are not limited to the investment chapter but can also be found e.g. in the financial service chapter. There can be a limitation and a prohibition in the PTA.

[**temp_inv_boardmembers_requirements_prohibited**] Does the agreement include prohibiting provisions on the free appointment of board members and senior managers?

0	No provision
1	Nationality requirements are prohibited

Explanation: Restrictions on the appointment of senior managers and/or board members generally take the form of residency requirements or nationality requirements. These requirements can cover all board members and managers, a majority, or a minimum number. If there is a full prohibition of nationality requirements for all board members and directors, the coding is 1 (in this case, residency requirements do not matter).

Note: These variables are not limited to the investment chapter but can also be found e.g. in the financial service chapter. “Neither Party may require that an enterprise of that Party that is a covered investment appoint to senior management positions natural persons of any particular nationality” is coded as 1. There can be a limitation and a prohibition in the PTA.

8 Intellectual Property Rights (IPRs)

[**ipr_gen_stat**] Does the treaty only include a general statement on the protection of intellectual property rights (IPRs) or substantive provisions protecting IPRs?

0	No mention of IPRs protection
1	IPRs protection mentioned as general objective
2	Substantive provisions protecting IPRs

Explanation: An agreement is coded 1 if only the aim of protecting IPRs is mentioned (for example, in the agreement's preamble, or in general provisions). It is coded 2 if any substantive provisions on IPRs are included. The purpose here is to make a qualitative judgement about the depth of IPRs protection.

IPRs Conventions: Does the agreement include references to multilateral conventions on the protection of intellectual property rights (IPRs)?

[ipr_rome]	Rome Convention	1 if yes, 0 otherwise
[ipr_paris]	Paris Convention	1 if yes, 0 otherwise
[ipr_bern]	Convention Bern	1 if yes, 0 otherwise
[ipr_copy_right]	WIPO Copyright Treaty	1 if yes, 0 otherwise
[ipr_phono]	WIPO Phonograms Treaty	1 if yes, 0 otherwise

[**ipr_specific_prov**] Are there specific provisions in relation to substantive standards of intellectual property rights protection?

0	No
1	Yes

[**ipr_pharma**] Are there references to pharmaceuticals?

0	No
1	Yes

[**ipr_geo_indic**] Are there references to geographical indications (GIs)?

0	No
1	Yes

Explanation: An agreement is coded the first two questions 1 when there are provisions protecting IPRs in specific sectors, e.g. pharmaceutical. Moreover, an agreement is coded 1 when there are provisions that require products to specify the geographical provenance/geographical indications (GI).

Note: Regarding geographical indications (GIs), an agreement is coded 0 when there was a reference to GI in terms of definition, e.g. IPR refers to trademarks, patents, GI, etc. without any further mentioning of GI-related obligations).

[**ipr_trips_1994_dummy**] Does the agreement contain a reference to the Agreement on Trade Related Intellectual Property Rights (TRIPS)?

0	No
1	Yes

[**ipr_scope_substantial_dummy**] Are there specific provisions in relation to substantive standards of protection?

0	No
1	Yes

[**ipr_specific_enforcement_dummy**] Are there specific provisions in relation to enforcement?

0	No
1	Yes

[**ipr_mfn**] Is most-favoured nation (MFN) treatment granted in relation to IPRs (without considering investment chapters)?

0	No
1	Yes

[**ipr_nt**] Is national treatment (NT) granted in relation to IPRs (without considering investment chapters)?

0	No
1	Yes

[**ipr_as_investment**] Are IPRs defined as investment?

0	No
1	Yes

[ipr_investment_mfn] If IPR defined as investment: Is most-favoured nation (MFN) treatment granted in relation to IPRs in investment chapters?

0	No
1	Yes

[ipr_investment_nt] If IPR defined as investment: Is national treatment (NT) granted in relation to IPRs in investment chapters?

0	No
1	Yes

[ipr_investment_strategic_partnership_contract] If IPR defined as investment: Does the definition of investment include contracts?

0	No
1	Contracts are included in investment definition

Explanation: In global value chains, it is common to find non-equity relationships (NEMs) between companies sometimes described as strategic partnerships or strategic alliances. Certain forms of non-equity relationships (NEMs) are similar to investment (despite not being based on equity) because there is a certain degree of control from one entity over the other. And such non-equity modes of investment may be subject to the same disciplines as investment in the agreement. We coded 7 specific types of NEMs in the following variables, but this variable codes the general basis of strategic partnership (grounds for legal reasoning) that contracts are included in the definition of investment.

[ipr_investment_strategic_partnership_manufacturing_services] If IPR defined as investment: Does the investment chapter include non-equity relationships (NEMs) in the form of contract manufacturing and/or service outsourcing?

0	No
1	Yes

Explanation: Coded 1 for NEMs in the form of contract manufacturing (e.g. manufacturing of intermediates, assembly and final product) and services outsourcing (e.g. customer and aftersales service but also support services such as IT). These are contractual relationships whereby an international firm contracts out to a host country firm production, service or processing elements of its GVC. Information can often be found in the definition of investment.

Note: Check if intellectual property rights (IPRs) are namely excluded, and if so coded as 0.

[ipr_investment_strategic_partnership_farming_marketing_agricultural] If IPR defined as investment: Does the investment chapter include non-equity relationships (NEMs) in the form of contract farming and/or marketing of agricultural products?

0	No
1	Yes

Explanation: Coded 1 for NEMs in the form of contract farming: contractual relationship between an international buyer and (association of) host country farmers which establishes conditions for the farming and marketing of agricultural products. Information can often be found in the definition of investment. Information can often be found in the definition of investment.

Note: Check if intellectual property rights (IPRs) are namely excluded, and if so coded as 0.

[ipr_investment_strategic_partnership_licensing] If IPR defined as investment: Does the investment chapter include non-equity relationships (NEMs) in the form of licensing?

0	No
1	Yes

Explanation: Coded 1 if IPR defined as investment. As licenses are a form of IPR this means that licenses are included and this variable is coded as 1.

[ipr_investment_strategic_partnership_franchising] If IPR defined as investment: Does the investment chapter include non-equity relationships (NEMs) in the form of franchising?

0	No
1	Yes

Explanation: Coded 1 if IPR defined as investment. As franchising is a form of IPR this means that franchising is included and this variable is coded as 1.

[ipr_investment_strategic_partnership_management_contracts] If IPR defined as investment: Does the investment chapter include non-equity relationships (NEMs) in the form of management contracts?

0	No
1	Yes

Explanation: Coded 1 for NEMs in the form of management contracts. Under this contractual relationship, operational control of an asset in a host country is assigned to an international firm, the contractor, which manages the asset in return for a fee. A turnkey project is a form of management contract in which a client pays a contractor to design and construct new facilities and train the personnel. This mode of investment enables a company to earn returns from process technology in countries where FDI is restricted but falls short of a long-term presence. Information can often be found in the definition of investment.

Note: Check if intellectual property rights (IPRs) are namely excluded, and if so coded as 0.

[**ipr_investment_strategic_partnership_concessions**] If IPR defined as investment: Does the investment chapter include non-equity relationships (NEMs) in the form of concessions?

0	No
1	Yes

Explanation: Coded 1 for NEMs in the form of concessions. Under contractual relationship, operational control of an asset in a host country is assigned to an international firm, the concessionaire, which manages the asset in return for an entitlement to (part of) the proceeds generated by the asset. Concessions can take different forms and are usually complex, such as build-own-transfer (BOT) arrangements, which include elements of investment by the TNC or ownership of the asset for a period. Concessions can also be structured in other ways, including as public-private partnerships (PPPs). Information can often be found in the definition of investment.

Note: Check if intellectual property rights (IPRs) are namely excluded, and if so coded as 0.
Sufficient synonyms: rights granted under public law.

[**ipr_investment_strategic_partnership_strategic_alliances_contractual_joint_ventures**] If IPR defined as investment: Does the investment chapter include non-equity relationships (NEMs) in the form of strategic alliances and/or contractual joint ventures?

0	No
1	Yes

Explanation: Coded 1 for NEMs in the form of strategic alliances and contractual joint ventures. These entail a contractual relationship between two or more firms to pursue a joint business objective. For example, under a co-marketing agreement a number of companies jointly market their products and services with the objective to reach more customers. The disadvantage of such relationship is the low coordination between the companies involved. Strategic alliance is an overall term for long-term working relationship between two separate firms. Partners may provide the alliance with products, distribution channels, manufacturing, capability, capital equipment, knowledge, expertise, or intellectual property. Strategic alliances involve intellectual property transfer, specialization, shared expenses and risk. For this mode of investment, the contract determines the terms, obligations and liabilities of the parties but does not entail the creation of a new legal entity. Particularly in R&D, contract R&D and contract design are widely used to perform certain research and development work ordered by another firm. While, in practice, it remains difficult to negotiate and enforce contracts, this type of relationship gives a company the ability to tap into the best locations for certain innovations at low costs. Information can often be found in the definition of investment.

Note: Check if intellectual property rights (IPRs) are namely excluded, and if so coded as 0.

[**ipr_investment_strategic_partnership_dummy**] If IPR defined as investment: Does the definition of investment cover any of the types of strategic partnerships coded above?

0	No
1	Yes

Explanation: This is the dummy variable of the sum of all strategic partnership variables. If one or more of the variables on strategic partnerships is coded as 1 then this variable is coded as 1, otherwise 0.

9 Public Procurement

[**proc_prov**] Does the agreement contain substantive provisions on public procurement?

-
- 0 No public procurement provisions
 - 1 General aim
 - 2 Substantive provisions
-

Explanation: General aim may be a reference in the preamble of the agreement or included in a list of broad areas of co-operation. An agreement is coded 1 even if a time frame for negotiations towards a public procurement chapter is given. An agreement is coded 2 only if the agreement itself contains concrete provisions.

[**proc_national**] Does the agreement guarantee national treatment (NT) with respect to public procurement?

-
- 0 No public procurement provisions
 - 0 No
 - 1 Yes
-

Explanation: Sometimes, this is granted only in one direction or there are longer transition periods in one direction than in the other.

[**proc_transparency**] Does the chapter on public procurement include a transparency provision?

-
- 0 No public procurement provisions
 - 0 No
 - 1 Yes
-

Explanation: For some we had to code NA, because the details of the procurement agreement are decided by a joint committee later on.

[**proc_entities**] Which entities are covered by the agreement's procurement provisions?

-
- 1 Central government
 - 2 1+Regional government
 - 3 2+Government enterprises
-

Explanation: For some we had to code NA, because the details of the procurement agreement are decided by a joint committee later on.

[**proc_coverage**] What is the scope of the public procurement provisions in the agreement?

-
- 0 No public procurement provisions
 - 1 Goods only
 - 2 Services only
 - 3 Goods and services
-

Explanation: There are often exceptions to this coverage.

[**proc_wto**] Does the agreement contain a reference to the WTO/GATT procurement agreements?

-
- 0 No
 - 1 Yes
-

Explanation: "Other conventions in this field" is also coded 1.

10 Competition

[**comp_chap**] Does this agreement include a competition chapter?

-
- | | |
|---|------------------------|
| 0 | No competition chapter |
| 1 | Competition chapter |
-

Co-operation and Institution-building

Variables in this subsection assess what is the degree of co-operation and/or institution-building on competition. For this, we code seven forms of co-operation and institution-building.

[**comp_not_distort**] Is there a provision on undertakings not to distort competition?

-
- | | |
|---|--|
| 0 | No provision |
| 1 | Undertaking not to distort competition |
-

Explanation: Coded 1 if there is a general reference not to distort competition (e.g. fair competition, not to distort competition), which can be found e.g. in the competition chapter, in the service chapter, annex, protocol, etc. and even if it is only granted for a specific sector (e.g. telecommunication). Also code 1 if specific areas are mentioned (e.g., state aid, state trading enterprise, merger, acquisitions, monopolies and cartels).

[**comp_info**] Is there a provision on the exchange of information or notification?

-
- | | |
|---|---|
| 0 | No provision |
| 1 | Provisions including an exchange of information or notification requirements in relation to competition |
-

Explanation: We focus on active information and notification procedures. Provisions for only partial areas of competition, we coded 0 (e.g. if there are two areas, but only one involves a form of information exchange). If information exchange relates to cases when competition law is breached, it is also coded 0.

Note: The provision does not need to be binding.

[**comp_general_body**] Is there a provision on a general institution responsible for competition?

-
- | | |
|---|--|
| 0 | No provision |
| 1 | Existence of a Joint Committee responsible for competition |
-

Explanation: Coded 1 if there are competition procedures and there is a General Committee/Joint Committee (or similar) that among other issues also deals with competition.

[**comp_specific_body**] Is there a provision on the establishment of specific bodies for competition?

-
- | | |
|---|--|
| 0 | No provision |
| 1 | Establishing a working group dealing with competition-related issues |
-

Explanation: Specific treaty body mainly on competition such as working groups for competition.

[comp_coor_autho_non_binding] Is there a non-binding provision on the coordination among national authorities?

-
- 0 No provision
 - 1 Non-binding provisions describing co-operation among national authorities
-

Explanation: Coded 1 if the agreement includes a reference to specific coordination procedures for external, already existing national bodies that work together (yet remain autonomous). Coded 1 if there is only coordination “upon request”, “shall make”, “may”, “reasonable/best effort”. In the co-operation provisions it can also be coordination procedures covered. It can be both binding and non-binding.

[comp_coor_autho_binding] Is there a binding provision on the coordination among national authorities?

-
- 0 No provision
 - 1 Binding provisions describing co-operation among national authorities
-

Explanation: Coded 1 if the agreement includes a reference to specific coordination procedures for external, already existing national bodies that work together (yet remain autonomous). Coded 0 if there is only coordination “upon request”, “shall make”, “may”, “reasonable/best effort”.

[comp_com_autho] Is there a provision on the creation of a common authority/institution on competition?

-
- 0 No provision
 - 1 Creation of a common authority
-

Explanation: Coded 1 if there is an external body coordinating competition (international, intranational, supranational).

Coverage

[comp_monopoly_cartels] Is there a provision on monopolies and/or cartels?

-
- 0 No provision
 - 1 Monopolies and/or cartels
-

Explanation: Monopolies and/or cartels are mentioned. We also coded 1 when there is reference to expressions related to abuse of market dominance (e.g., “all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition” or “abuse by one or more undertakings of a dominant position in the territories of the Parties as a whole or in a substantial part thereof.” This needs to be related to competition (either within competition chapter or as reference).

[**comp_merger_acquisitions**] Is there a provision on mergers and/or acquisitions?

0	No provision
1	Mergers and/or acquisitions (M&As)

Explanation: We also include provisions that relate to “anti-competitive business conduct” if they are related to mergers and/or acquisitions. Also coded 1 if there is a reference to an EU Regulation (EU Merger Regulation). This needs to be related to competition (either within competition chapter or as reference).

Note: For investment code the variable “inv_acquisition_merger”.

[**comp_soe**] Is there a provision on state-owned enterprises?

0	No provision
1	State-owned enterprises

Explanation: We include any reference to states acting as enterprises (e.g. state trading firms). This needs to be related to competition (either within competition chapter or as reference).

[**comp_state_aid**] Is there a provision on state aid?

0	No provision
1	State aid

Explanation: Coded 1 if there is a provision on state aid. This needs to be related to competition (either within competition chapter or as reference).

[**comp_subsidies**] Is there a provision on subsidies?

0	No provision
1	Subsidies

Explanation: Coded 1 if the agreement includes a provision on subsidies. Coded 0 if only mentioned in definition (for example of customs duties), code 0 if only Agreement on Subsidies and Countervailing measures is mentioned, coded 0 if only in service chapter, coded 0 if only mentioned in exception (this chapter does not apply to...). This needs to be related to competition (either within competition chapter or as reference).

[**comp_na**] Is there a reference to an annex/protocol on competition, which is unavailable?

0	No missing competition data
1	Missing competition data (competition annex/protocol is missing)

Explanation: In earlier versions, all competition variables include a category “NA”. This can be misleading as “NA” (or blanks) also stands for uncoded agreements in DESTA. Therefore, we add this separate variable coding missing data to clarify the meaning of “NA”. Here we coded 1 for missing data on competition annex/protocol, 0 if there is no annex/protocol referred to in connection with competition that is missing.

Note: If DESTA coded “NA” it should subsequently be “NA” for all competition variables.

11 Technical Barriers to Trade (TBT)

Note: Piermartini and Budetta (2009) provide a coding scheme for technical barriers to trade (TBT) provisions. They code for a total of 47 variables, distinguishing among standards, technical regulations and conformity assessment and between mutual recognition and harmonization. However, on quite a few of these variables they hardly find any variation across their agreements. For example, across the 64 agreements that they consider, they only find a significant number of mutual recognition provisions with respect to conformity assessment.

There is an overlap of 60 agreements between this respective database and the Piermartini and Budetta database. Intercoder reliability for our variable [tbt_wto] is 88 percent. Checks of the deviant cases largely confirmed our initial coding.

[tbt_prov] Does the agreement contain a TBT chapter or provision(s)?

0	No
1	Yes

[tbt_wto] Does the agreement contain a reference to the WTO Agreement on TBTs (the GATT Standards code)?

0	No
1	Yes

[tbt_coop] Does the agreement call for co-operation and information exchange on TBTs?

0	No
1	Yes

[tbt_distort] Does the agreement contain a requirement for standards to be least trade-distorting?

0	No
1	Yes

Explanation: This is only coded 1 if there is a specific requirement for standards to be least trade-distorting. A general reference to the objective of facilitating trade is not sufficient. Even if coded 0, the agreement may include in another part a provision prohibiting non-tariff barriers, which could have an effect on this part of the agreement.

[tbt_dispute] Does the agreement contain a dispute settlement provision for TBTs?

0	No
1	Yes

Explanation: Coded 1 even if only mentioned that disputes in this field should be dealt with by the agreement's joint committee.

[**tbt_intstand**] Does the agreement encourage the use of international standards?

0	No
1	Yes

Explanation: International here refers to both regional and global.

[**tbt_harmon**] Does the agreement contain provisions that stipulate the (partial) harmonization of TBT?

0	No
1	Harmonization as a general aim
2	Selective harmonization for specific sectors
3	Full harmonization

Explanation: We coded 1 if the agreement stipulates the aim of harmonization with international rules. Full harmonization is hardly written down. We coded 3 for some EU agreements with potential accession countries.

Bibliography

Piermartini, Roberta and Michele Budetta (2009). “A Mapping of Regional Rules on Technical Barriers to Trade”, in Antoni Esteveordal, Robert Teh, and Kati Suominen (eds) *Regional Rules in the Global Trading System* (Cambridge: Cambridge University Press).

12 Sanitary and Phytosanitary (SPS) Measures

[**sps_prov**] Does the agreement contain a sanitary and phytosanitary (SPS) chapter or provision(s)?

0	No
1	Yes

[**sps_wto**] Does the agreement contain a reference to the WTO Sanitary and Phytosanitary (SPS) agreement?

0	No
1	Yes

Explanation: An agreement is also coded 1 if the agreement simply refers to “international conventions and agreements in this field” or similar.

[**sps_coop**] Does the agreement contain provisions calling for information exchange and technical cooperation on SPS measures?

0	No
1	Yes

[**sps_harmon**] Does the agreement contain provisions that stipulate the harmonization of SPS provisions?

0	No
1	Harmonization as a general aim
2	Full harmonization

Explanation: An agreement is coded 1 if the agreement stipulates the aim of harmonization with international rules. Some EU agreements refer to harmonization on the basis of EU legislation, which is coded 2.

13 Regulatory Co-operation and Transparency

[**regulation_transparency_article**] Does the agreement contain an obligation on transparency (article, provision)?

0	No
1	Yes

Explanation: Coded 1 if they are generally applicable. Coded 0 if restricted to specific topics such as IPR.
Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency.

[**regulation_transparency_chapter**] Does the agreement contain a chapter on transparency?

0	No
1	Yes

Explanation: Coded 1 if they are generally applicable. Coded 0 if restricted to specific topics such as IPR.
Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency.

[**regulation_cooperation_article**] Does the agreement contain an article (provision) on regulatory co-operation?

0	No
1	Yes

Explanation: Coded 1 if they are generally applicable. Coded 0 if restricted to specific topics such as IPR. Regulatory co-operation or coherence covers any provision aimed at reducing the impact of divergences in regulatory approaches among the parties to the agreement. It includes a wide spectrum of provisions from consultations and exchanges of information to mutual recognition and harmonisation.
Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency.

[**regulation_cooperation_chapter**] Does the agreement contain a chapter on regulatory co-operation?

0	No
1	Yes

Explanation: Coded 1 if they are generally applicable. Coded 0 if restricted to specific topics such as IPR. Regulatory co-operation or coherence covers any provision aimed at reducing the impact of divergences in regulatory approaches among the parties to the agreement. It includes a wide spectrum of provisions from consultations and exchanges of information to mutual recognition and harmonisation.
Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency.

[**regulation_coherence_article**] Does the agreement contain an article (provision) on regulatory coherence?

0	No
1	Yes

Explanation: Coded 1 if they are generally applicable. Coded 0 if restricted to specific topics such as IPR.
Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency.
Synonyms: “consistency”.

[**regulation_coherence_chapter**] Does the agreement contain a chapter on regulatory coherence?

0	No
1	Yes

Explanation: Coded 1 if they are generally applicable. Coded 0 if restricted to specific topics such as IPR.

Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency.

Synonyms: “consistency”.

[**regulation_online_publication**] Is there the obligation to publish regulations online?

0	No
1	Yes

Explanation: Coded 1 if they are generally applicable and if electronic publications are required. Coded 0 if restricted to specific topics such as IPR.

Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency.

[**regulation_national_coordination_point**] Does the agreement establish a national point for regulatory co-ordination (e.g. TPP)?

0	No
1	Yes

Explanation: Coded 1 if the agreement explicitly mentions that parties have to create or notify the existence of a national contact point for regulatory coherence or regulatory co-operation. The contact point can be referred to as “central” or “national”. Coded 1 if they are generally applicable. Coded 0 if restricted to specific topics such as IPR.

Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency.

[**regulation_information_exchange**] Does the agreement include reference to information exchanges?

0	No
1	Yes

Explanation: Coded 1 if they are generally applicable. Coded 0 if restricted to specific topics such as IPR or modern biotechnology.

Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency.

[**regulation_cooperation_private_standards**] Does the agreement include reference to co-operation on private standards?

0	No
1	Yes

Explanation: Coded 1 if there is any reference to private standards in the agreement in the context of regulatory co-operation. Coded 0 if restricted to specific topics such as IPR.

Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency.

[regulation_new_comment_public] Does the agreement include a public comment obligation for new regulations?

0	No
1	Public comment obligation/information exchange with the public

Explanation: Coded 1 if for any new regulation the agreement introduces there is an obligation to have public comments. Coded 1 if they are generally applicable. Coded 0 if restricted to specific topics such as IPR.

Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency.

[regulation_new_comment_public_foreign] Does the agreement include a public comment obligation for new regulations that is open for foreigners?

0	No
1	Public comment obligation/information exchange that are open to foreigners

Explanation: Coded 1 if for any new regulation the agreement introduces there is an obligation to have public comments that are open to foreigners. Coded 1 if they are generally applicable. Coded 0 if restricted to specific topics such as IPR.

Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency.

[regulation_new_consultation_public] Does the agreement include a public consultation obligation that is open to foreigners?

0	No
1	Yes

Explanation: Coded 1 if for any new regulation the agreement introduces there is an obligation to have a public consultation. Coded 1 generally applicable. Coded 0 if restricted to specific topics such as IPR.

Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency or in the business facilitation chapter.

[regulation_new_consultation_foreign_parties] Does this obligation explicitly provide for consultation with foreign parties?

0	No
1	Yes

Explanation: Coded 1 if they are generally applicable and explicitly need to be consulted. Coded 0 if restricted to specific topics such as IPR. This does not exclude public comment or consultation obligations. Foreign Party does not mean a third country (member) but refers to PTA member parties that are not automatically involved in the treaty process such as government of the PTA member states (the other Party).

Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency or in the business facilitation chapter.

[**regulation_new_consultation_private_sector**] Does this obligation explicitly provide for consultation with the private sector?

0	No
1	Yes

Explanation: Coded 1 if they are generally applicable and explicitly need to be consulted. Coded 0 if restricted to specific topics such as IPR. This variable does not exclude public comment or consultation obligations. If particular persons, goods or services of the other Party is mentioned coded 1.

Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency or in the business facilitation chapter.

[**regulation_new_consultation_mixed**] Does this obligation explicitly provide for consultation with foreign parties AND the private sector?

0	No
1	Yes

Explanation: Coded 1 if they are generally applicable and explicitly need to be consulted. Coded 0 if restricted to specific topics such as IPR. This variable does not exclude public comment or consultation obligations.

Note: These provisions are expected to be found in a general chapter on regulatory co-operation/transparency or in the business facilitation chapter.

14 Trade Defence Instruments

Anti-dumping Measures

[tr_ad_prov] Is there an anti-dumping provision?

0	No
1	Yes

[tr_ad_wto] Is there a reference to GATT/WTO?

0	No
1	Yes

Explanation: Both partners accept the provisions in GATT or WTO. Reference to international treaties in this area are also coded as 1. Yet, joint efforts to elaborate future rules (with help of GATT/WTO) are not coded.

[tr_ad_allowed] Is it allowed to use anti-dumping measures?

0	No mentioning
1	Yes

[tr_adallowedspec] Is the allowance of the use of anti-dumping measures further specified?

0	Allowed without further specification
1	Allowed with specific provisions

Explanation: If tr_adallowedspec is coded 1, specify

[tr_ad_outruled] Is the use of anti-dumping measures explicitly out-ruled?

0	No mentioning
1	Yes

Explanation: Coded 1 if there is an explicit statement not to take recourse to anti-dumping (AD) measures, and 0 otherwise.

Anti-dumping: Specific Provisions

[tr_admas] Do parties search for mutually accepted solutions prior to investigation?

0	No mentioning
1	Yes

[tr_addeminimis] Do parties explicitly agree on a de minimis dumping margin (or dumped volume) that differs from the GATT/WTO?

0	No mentioning
1	Yes

Explanation: WTO-margin less than 2%, volume less than 3%. In a separate column, we specify the exact thresholds.

[tr_adsunset] Do parties agree on a duration of anti-dumping duty that differs from GATT/WTO?

0	No mentioning
1	Yes

Explanation: The WTO's sunset requirement establishes that dumping duties shall normally terminate no later than five years after first being applied. In a separate column, we specify the exact thresholds.

[tr_adlesserduty] Do parties explicitly agree on a lesser duty rule?

0	No mentioning
1	Yes

Explanation: The WTO talks about the desirability, no obligation. We also include the disallowance of zeroing.

[tr_adpublic] Do parties agree on taking broader public interest in account (beyond sector interests)?

0	No mentioning
1	Yes

[tr_adlegal] Does the PTA's dispute settlement not apply to anti-dumping (AD)?

0	No mentioning
1	Yes

[tr_adlegalwto] Do the parties agree that the resolution of a dispute can occur in the WTO?

0	No mentioning
1	Yes

Explanation: We coded also 1 when the PTA dispute settlement does not apply to anti-dumping (AD) and parties reserve their rights and obligations under WTO law.

Subsidies and Countervailing Duties

[tr_sub_prov] Are there any subsidy provisions?

0	No
1	Yes

Explanation: We coded articles with titles “subsidies” or “state aid”. We also include specific subsidies (e.g. “agricultural subsidies” or “export subsidies”). We list all subsidies-related provisions in an extra column.

[tr_sub_gen_ref] Is there a general reference to subsidies?

0	No
1	Yes

Explanation: We coded general references such as “Any aid granted by a State Party to this Agreement or through State resources in any form whatsoever... shall be incompatible with the proper functioning of this Agreement” or “The Member States shall not introduce new, or expand existing subsidies and shall work towards the elimination of any such measures by ... ”.

[tr_sub_wto] Is there a reference to GATT/WTO?

0	No
1	Yes

Explanation: Parties refer to WTO/GATT provisions on subsidies or countervailing duties (also if only countervailing duties are mentioned).

[tr_sub_policy] Do parties develop a common policy on subsidies?

0	No
1	Yes

Explanation: Joint procedures in case of safeguard are not sufficient to be coded, there need to be joint rules that refer to a common policy. We included also following two cases (if one party is allowed to provide more subsidies than another party; if one party is called to create an institution that focuses on state aid).

[tr_sub_allowed] Is there an explicit reference to allowing subsidies?

0	No
1	Yes

Explanation: For instance when parties explicitly mention their right to use subsidies.

[tr_sub_outruled] Is there an explicit reference to outrule subsidies?

0	No
1	Yes

Explanation: E.g. wording such as “Neither Party shall introduce or maintain any subsidy on any good destined for the territory of the other Party”. Are only limits to certain areas listed, we code 1 in [tr_sub_gen_ref].

[tr_countervail] Are countervailing duties mentioned in the agreement?

0	No
1	Yes

Explanation: Measures against subsidies or “countervailing duties”.

Safeguard / Escape Clause

[tr_safe_prov] Does the agreement contain specific safeguard provisions for PTA parties?

0	No
1	Yes

[tr_safe_wto] Does the agreement refer to GATT/WTO provisions on safeguards?

0	No
1	Yes

Explanation: Parties retain rights and obligations under GATT Art. XIX, Safeguards Agreement; also if parties only retain the rights and obligations of the investigation provisions of the GATT/WTO safeguard agreements, we code 1.

[tr_safe_outruled] Does the agreement outrule the use of safeguards?

0	No
1	Yes

Explanation: Coded 1 if all “quantitative restrictions” or “safeguards measures” are explicit banned.

[tr_safe_globexcl] Do PTA members agree on conditions under which partners will be excluded from multilateral safeguard measures?

0	No
1	Yes

Explanation: If there are exceptions for PTA partners in case a general/global safeguard is applied (coded 1). Exceptions could define a different substantial share of total imports or it is mentioned that imports from the other Party does not contribute to serious injury or threat thereof.

[tr_safe_trans] Do parties allow safeguard measures only during a transition period?

0	No
1	Yes

[tr_safe_ceiling] Do parties allow safeguard measures on products up to the most-favoured nation (MFN) duty or the temporal suspension of a duty reduction?

0	No
1	Yes

Explanation: This is a measure that controls for the scope and degree of the measure taken. If a tariff measure is introduced it is less than most-favoured nation (MFN) duty (or applied duty, base rate) or it could mean that the speed of tariff liberalization is affected (for some period the duty stays at the same number).

[tr_safe_dur] Parties agree on a duration (and extension) of safeguard duty that is different from GATT/WTO.

0	No
1	Yes

Explanation: Safeguards in the WTO are up to four years renewable once, therefore on aggregate eight years. We only specify if on the aggregate this number is different. There has to be a number, the expression “what is strictly necessary, to remedy the situation” is not sufficient to code 1.

Additional Issues

[tr_struct_adjust] Does the agreement mention structural adjustment?

0	No
1	Yes

Explanation: Besides “structural adjustment”, another term used synonymously is the “protection of an infant industry”.

[tr_bop] Does the agreement mention balance of payment (BOP)?

0	No mentioning
1	Balance of payment mentioned

Explanation: Often BOP provisions are found in the chapter “safeguards”.

15 E-commerce

[**ecommerce_provisions**] Does the agreement contain provisions on e-commerce?

0	No provision on e-commerce
1	Provisions on e-commerce in selected chapters

Explanation: E-commerce is defined by the WTO as the production, distribution, marketing, sale or delivery of goods and services by electronic means. Following Monteiro and Teh (2017), keywords that can be used to identify e-commerce provisions are: computerized, cyber, digital, electronic, electronic commerce, e-commerce, e-government, information and communication, ITC, internet, online, paperless and telecommunication.

[**ecommerce_chapter**] Does the agreement contain a chapter on e-commerce?

0	No provision on e-commerce
1	Full chapter on e-commerce

Explanation: E-commerce is defined at WTO as the “production, distribution, marketing, sale or delivery of goods and services by electronic means”. Following Monteiro and Teh (2017), keywords that can be used to identify e-commerce provisions are: computerized, cyber, digital, electronic, electronic commerce, e-commerce, e-government, information and communication, ITC, internet, online, paperless and telecommunication.

[**ecommerce_nt**] Does the agreement provide for national treatment (NT) in e-commerce?

0	No
1	Yes

Explanation: The coding is 1 if there is a specific clause on national treatment (NT) for digital products or in the context of e-commerce provisions. National treatment for services (as found in the trade in services chapter) or for investment (as found in the investment chapter) is not relevant for this question. National treatment means that parties should give a treatment no less favourable to other parties than they accord to domestic producers.

[**ecommerce_mfn**] Does the agreement provide for most-favoured nation (MFN) treatment in e-commerce?

0	No
1	Yes

Explanation: The coding is 1 if there is a specific clause on most-favoured nation (MFN) treatment for digital products or in the context of e-commerce provisions. Most-favoured nation treatment for services (as found in the trade in services chapter) or for investment (as found in the investment chapter) is not relevant for this question. MFN treatment means that parties should give a treatment no less favourable to other parties than they accord to non-parties.

[ecommerce_technology_neutrality] Does the agreement include a principle of technology neutrality (i.e. same treatment for digital supply)?

0	No
1	Yes

Explanation: There are different versions of the principle of technological neutrality. It is understood here as a non-discrimination principle between products delivered electronically and other modes of supply (e.g. physical delivery). Technological neutrality limited to trade documents (paperless trading) is not taken into account. The neutrality should be about the product and its mode of delivery.

[ecommerce_inconsistency_rules] Does the e-commerce chapter indicate which provisions prevail in case of inconsistencies?

0	No reference to other chapters or no e-commerce chapter
1	Rule in case of inconsistency with other chapters

Explanation: Services and investment chapters also deal with e-commerce to the extent that they cover products that are digital or can be delivered electronically. The coding is 1 if the e-commerce chapter has a provision indicating which provisions prevail in case of inconsistency with other chapters.

[ecommerce_service_investment_provisions] Does the e-commerce chapter refer to provisions on services and investment in other chapters?

0	No reference to other chapters or no e-commerce chapter
1	Specific reference to services and investment provisions

Explanation: Services and investment chapters also deal with e-commerce to the extent that they cover products that are digital or can be delivered electronically. The coding is 1 if there is a specific provision in the e-commerce chapter dealing with the interaction between e-commerce provisions and services and investment disciplines.

[ecommerce_services_ma_nt_computer_and_related_services] Are there services (and investment) market access (MA) and national treatment (NT) commitments for the computer and related services sectors needed for e-commerce?

0	No
1	Yes

Explanation: The coding is 1 if the services and investment chapters have market access and national treatment (NT) commitments in the following sectors: computer services, telecommunications and financial services. The answer does not depend on exceptions and limitations. As long as there are commitments in some of the sub-sectors (both for cross-border trade and mode 3 or investment) for these three categories of services, the coding is 1. The coding is 0 if one of these sectors is fully excluded (for example financial services totally excluded in the agreement or computer services fully unbound both for market access and national treatment).

[ecommerce_services_ma_nt_telecommunications] Are there services (and investment) market access (MA) and national treatment (NT) commitments for the telecommunications sectors needed for e-commerce?

0	No
1	Yes

Explanation: The coding is 1 if the services and investment chapters have market access and national treatment (NT) commitments in the following sectors: computer services, telecommunications and financial services. The answer does not depend on exceptions and limitations. As long as there are commitments in some of the sub-sectors (both for cross-border trade and mode 3 or investment) for these three categories of services, the coding is 1. The coding is 0 if one of these sectors is fully excluded (for example financial services totally excluded in the agreement or computer services fully unbound both for market access and national treatment).

[ecommerce_services_ma_nt_financial_services] Are there services (and investment) market access (MA) and national treatment (NT) commitments for the financial sectors needed for e-commerce?

0	No
1	Yes

Explanation: The coding is 1 if the services and investment chapters have market access and national treatment (NT) commitments in the following sectors: computer services, telecommunications and financial services. The answer does not depend on exceptions and limitations. As long as there are commitments in some of the sub-sectors (both for cross-border trade and mode 3 or investment) for these three categories of services, the coding is 1. The coding is 0 if one of these sectors is fully excluded (for example financial services totally excluded in the agreement or computer services fully unbound both for market access and national treatment).

[ecommerce_barriers] Does the agreement mention avoiding unnecessary barriers to e-commerce?

0	No
1	Yes

Explanation: The coding is 1 if parties commit to avoid any unnecessary regulatory burden on e-commerce, or to minimise the regulatory burden of electronic commerce. Best endeavour clauses or the recognition of the importance of avoiding unnecessary barriers are also coded as 1.

[ecommerce_wto] Does the agreement mention the applicability of WTO rules?

0	No
1	Yes

Explanation: The coding is 1 if there is an explicit reference to the applicability of WTO rules on e-commerce or relevant WTO provisions.

[**ecommerce_duty**] Is there a provision on the non-imposition of customs duties?

0	No
1	Yes

Explanation: The coding is 1 if there is a provision stating that no customs duties should be imposed on electronic transmissions and digital products or if there is a recognition of the current practice of not imposing customs duties.

[**ecommerce_dispute_settlement_yes**] Does the dispute settlement mechanism apply to e-commerce provisions?

0	No
1	Yes

Explanation: The coding is 1 if dispute settlement applies to e-commerce provisions and in particular the core provisions on non-discrimination and customs duties (their exclusion changes the coding to 0), either explicitly or by application of the general rules of the treaty.

[**ecommerce_dispute_settlement_no**] Does the dispute settlement mechanism explicitly exclude e-commerce chapter from dispute settlement?

0	No
1	Yes

Explanation: The coding is 1 if the treaty explicitly excludes e-commerce chapter from dispute settlement.

Bibliography

Monteiro, José-Antonio and Robert Teh (2017). "Provisions on Electronic Commerce in Regional Trade Agreements". WTO Staff Working Paper, No. ERSD-2017-11, World Trade Organization, Geneva. Available at: <http://hdl.handle.net/10419/163426>

16 Data Flows

[**data_flow_free_movement**] Does the agreement include a provision on the free movement of data?

0	No
1	Yes

Explanation: The coding is 1 if there is a principle in the agreement that cross-border data flows are free between the parties (with possible exceptions). Such principle goes beyond traditional services market access commitments that would only cover data corresponding to the supply of a service. The principle can be included in the e-commerce chapter but should be broader than e-commerce to cover in particular private information exchanged by companies independently of commercial transactions.

[**data_flow_barrier**] Is there a mechanism to address barriers to data flows?

0	No
1	Yes

Explanation: The coding is 1 if there is a mechanism dealing specifically with data flows issues such as the creation of a committee, a consultation mechanism or rules within the agreement limiting specific barriers to data flows.

[**data_flow_impose_localisation_requirements**] Is there a provision imposing data localisation requirement?

0	No provision on data localisation
1	Provision imposing data localisation requirements

Explanation: The coding is 1 if parties have agreed to implement data localisation requirements or allow such requirements.

[**data_flow_limit_prohibit_localisation_requirements**] Is there a provision imposing data localisation requirement?

0	No provision on data localisation
1	Provision limiting or prohibiting data localisation requirements

Explanation: Code 1 if the agreement has provisions aimed at limiting or prohibiting the use of data localisation requirements. The provision should be specific (i.e. for all types of data flows) and not a commitment that could cover such barrier in the case of trade in services or investment.

17 Capital Movement and Exchange Rates

[**capital_movement_beyond_investment_services**] Does the agreement contain general provisions on the movement of capital beyond the investment (FDI flows) and services (transactions)?

0	No
1	Yes

Explanation: Coded 1 if the agreement has one or several general provisions dealing with capital flows, including transfers, payments and foreign currencies, but not limited to FDI flows or services transactions. The provisions can be about the freedom of movement of capital or on the contrary introduce restrictions. These provisions can be in a dedicated chapter or in the investment or services chapter. “General” means that the provisions are for all capital flows (or all flows under the categories defined) and not limited to a specific sector or a specific area for which there are disciplines in the agreement.

[**capital_movement_imf_obligations**] Does the agreement invoke IMF obligations not to impose restrictions?

0	No
1	Yes

Explanation: Coded 1 if there is any reference to IMF obligations in the provisions on capital movement. The provision can be general (consistency with IMF obligations) but should be in relation to the free movement of capital (e.g. not a reference to exchange controls permitted by the IMF agreement). The provision can also specifically refer to IMF Art. VIII which prohibits restrictions on payments and transfers.

Note: These provisions can be found within a separate section or the investment chapter.

[**capital_movement_oecd_codes_liberalisation**] Does the agreement refer to OECD Codes of Liberalisation?

0	No
1	Yes

Explanation: Coded 1 if OECD Codes of Liberalisation for Capital movements and/or Current Invisible Operations are mentioned (regardless of which yearly version).

Note: These provisions can be found within a separate section or the investment chapter.

[**capital_movement_restricted_regulation**] Is the freedom of movement of capital only partially regulated for services (restricted to schedules, i.e. sectors, modes)?

0	No
1	Yes

Explanation: Coded 0 if the free movement of capital applies to all services sectors. Coded 1 if there are limitations in term of sector and modes. The negative list does not prevent the exclusion of some sectors (or modes) so the criteria would be whether freedom of movement of capital is a general principle or a principle that applies to scheduled sectors (in a negative or positive list). Services sectors excluded from the scope of this agreement (e.g. air transport carve-out) might be ignored (still 0 if freedom of movement of capital is a general principle).

Note: These provisions can be found within a separate section or the investment chapter.

[**capital_movement_freedom_inward**] Is the freedom of movement confined to inward capital flows?

0	No
1	Yes

Explanation: Coded 1 if flows entering the country (inward transactions) are covered. Rules applying to capital can be different for flows entering the country (inward capital transactions) or leaving the country (outward capital transactions).

Note: These provisions can be found within a separate section or the investment chapter. There are either inward or outward or mixed capital flows.

[**capital_movement_freedom_outward**] Is the freedom of movement confined to outward capital flows?

0	No
1	Yes

Explanation: Coded 1 if flows leaving the country (outward transactions) are covered. Rules applying to capital can be different for flows entering the country (inward capital transactions) or leaving the country (outward capital transactions).

Note: These provisions can be found within a separate section or the investment chapter. There are either inward or outward or mixed capital flows.

[**capital_movement_freedom_mixed**] Is the freedom of movement confined to inward AND outward capital flows?

0	No
1	Yes

Explanation: Coded 1 if mixed capital flows (inward and outward) are covered. If the freedom of movement of capital applies to transactions “between the Parties” or “with another Party” without specifying whether these transactions are inward or outward, it means that both inward and outward capital flows are covered.

Note: These provisions can be found within a separate section or the investment chapter. There are either inward or outward or mixed capital flows.

[**capital_movement_coverage_payments**] Does the coverage and treatment of capital flows apply (only) to payments?

0	No
1	Only payments (not transfers)

Explanation: Coded 1 if only payments are covered by the provisions on capital flows and transfers are excluded. As opposed to payments, transfers are capital movements that are not made in exchange for a good, a service or a financial obligation (e.g. a transfer of income between a resident and a non-resident).

Note: These provisions can be found within a separate section or the investment chapter. This is coded as either payments or payment & transfers.

[capital_movement_coverage_payments_transfers] Does the coverage and treatment of capital flows apply to payments AND transfers?

0	No
1	Payments AND transfers

Explanation: Coded 1 if both payments and transfers are covered. As opposed to payments, transfers are capital movements that are not made in exchange for a good, a service or a financial obligation (e.g. a transfer of income between a resident and a non-resident). This variable is not coded for goods and only coded for services when services definition refers to investment. This is usually expressed as commercial presence. Transactions may be transfers. If it says capital can move freely, capital can refer to both, payments and transfers.

Note: These provisions can be found within a separate section or the investment chapter. This is coded as either payments or payment & transfers.

[capital_movement_exceptions_balance_of_payments] Does the agreement contain exceptions for balance of payment (BOP) reasons?

0	No
1	Yes

Note: These provisions can be found within a separate section or the investment chapter.

[capital_movement_exception_prudential_carveout] Does the agreement contain exceptions for prudential carve-outs?

0	No
1	Yes

Explanation: Coded 1 if the agreement allows restrictions to capital movements for prudential reasons such as the protection of investors, depositors and holders or the stability of the financial system. This prudential exception clause should be related to the capital movement provisions and not limited to financial services as often found in services chapters.

Note: These provisions can be found within a separate section or the investment chapter.

[capital_movement_exception_imf_restriction] Does the agreement contain exceptions for IMF imposed restrictions?

0	No
1	Yes

Explanation: Coded 1 if IMF articles or rules are mentioned.

Note: These provisions can be found within a separate section or the investment chapter.

[exchange_rates_reference_general] Does the agreement address exchange rates in any way?

0	No
1	Yes

Explanation: We coded synonyms such as “freely convertible currency”, “exchange at fix rate” and these provisions can often be found in the financial service section of a treaty (they don’t have to be in a section on capital movement or exchange rates).

Note: These provisions can be found within a separate section or the investment chapter.

[exchange_rates_reference_restriction] Does the agreement contain currency exchange restrictions?

0	No
1	Yes

Explanation: These currency exchange restrictions could be under the name of emergency measures, financial crisis, prudential measures, etc.

Note: These provisions can be found within a separate section or the investment chapter.

18 Non-Trade Issues

[**nti_corruption**] Does the agreement refer to corruption?

0	No
1	Yes

Explanation: Most references to corruption are found in protocols on mutual assistance in custom matters. References to corruption often use the following phrasing: prevention of illegal activities; fighting against laundering and the proceeds arising from criminal activities; measures against operations in breach/contravention of customs legislation; combating fraud and illicit trade; preventing deceptive practices; fighting corruption. Imprecise phrases such as “The Parties shall develop customs co-operation to ensure that the provisions on trade are observed” have not been coded.

Note: These provisions can be general, in a separate chapter or only apply to a specific sector.

[**nti_corruption_chapter**] Is there a chapter on corruption?

0	No
1	Yes

[**nti_labour**] Does the agreement refer to labour standards?

0	No
1	Yes

Explanation: References to labour standards often use the following phrasing: promotion of higher labour standards; enforcement of labour law; consistency of domestic law with the internationally recognized labour rights; fair treatment of workers; social security rights dealing with: sickness, invalidity, old-age, industrial accident, unemployment.

[**nti_labour_chapter**] Is there a chapter on labour?

0	No
1	Yes

[**nti_env**] Does the agreement refer to environmental standards?

0	No
1	Yes

Explanation: References to environmental protection often use the following phrasing: protection and preservation of the environment; enforcement of environmental law; sustainable development; renewable energies and energy efficiency and saving; water/waste management; measures against desertification; environment and nuclear safety; references to emission pollutants, toxic substances; general exceptions to GATT Art. XX and XXI. Imprecise phrases such as “protection of human health, animals and plants” are not coded.

[**nti_env_chapter**] Is there a chapter on environment?

0	No
1	Yes

19 Dispute Settlement

[ds_prov] Does this agreement include provisions for solving disputes?

0	No
1	Yes

Explanation: There does not need to be an explicit article; provisions could be found under chapters such as “fulfilment of obligations” or “joint committee”. When coded as 0 all other variables in this section are also coded as 0.

[ds_del_con] Is there a provision on consultation?

0	No
1	Yes

Explanation: Only consultation requirements in respect to problems and disputes are coded as 1. If disputes are referred to joint committees and they have the explicit duty to engage in consultations for the proper implementation that is coded 1.

[ds_del_med] Is there a provision on mediation?

0	No
1	Yes

Explanation: Mediation means recourse to a “third party”, discussion of the case in the joint committee is not sufficient to be coded as mediation. Other expressions are “good office” or “conciliation”.

[ds_del_arb] Is there a provision on arbitration?

0	No
1	Yes

Explanation: Usually in form of “ad hoc panels” with three or five members. If the joint committee can delegate to specialized expert groups to make binding recommendations to settle disputes, we also coded 1.

[ds_del_sb] Is there a provision on the creation of a standing body with delegated powers?

0	No
1	Yes

Explanation: A standing body with delegated powers, e.g. the European Court of Justice.

[ds_del_ext] Is there a reference to external DS institutions?

0	No
1	Yes

Explanation: We code when other courts are explicitly mentioned and referred to (e.g., WTO, ICJ). It is sufficient to have explicit reference to the WTO and that parties have rights to bring cases in that fora.

[**ds_forum**] Is there a provision on the choice of DS fora?

0	No
1	Yes

Explanation: Are there any provisions on the choice of forum.

[**ds_forum_complain**] Does the ultimate option for forum choice foresee the complainant to choose the forum?

0	No
1	Yes

Explanation: We coded only the ultimate option. This variable is always 0 if [ds_forum_parties] is coded as 1.

[**ds_forum_parties**] Does the ultimate option for forum choice foresee the parties to chose the forum jointly?

0	No
1	Yes

Explanation: We coded only the ultimate option. This variable is always coded as 0 if [ds_forum_complain] is coded as 1.

[**ds_forum_restrict**] Are there restrictions/limits to the use of multiple fora?

0	No restriction (non-exclusive)
1	Restriction to one forum (exclusive)

Explanation: When there is no restriction we coded 0. We coded 1 if it excluded to use another forum once the first one is used.

[**ds_binding_prov**] Is there a provision on bindingness?

0	No
1	Yes

[**ds_binding_exp_yes**] Is it explicitly mentioned that provisions on DS are binding?

0	No
1	Yes

Explanation: Here we coded whether parties are explicitly bound or not. We coded 1 when following statements are made: “The ruling of the arbitral tribunal shall be final and binding”, or “on receipt of the final report of a panel, the Parties shall agree on the resolution of the dispute, which shall be in conformity with the determinations and the recommendations, if any, of the panel, unless otherwise agreed by the Parties”, or “the resolution, whenever possible, shall be to eliminate the non-conformity or the nullification or impairment”.

[**ds_binding_exp_no**] Is it explicitly mentioned that provisions on DS are NOT binding?

0	No
1	Yes

Explanation: Here we coded whether parties are explicitly bound or not. We coded 1 if it is mentioned that the arbitral decision is non-binding.

Forms of Sanctions/Retaliation

[**ds_sanc_prov**] Are there any provisions related to retaliation in case of non-implementation?

0	No
1	Yes

Explanation: We coded provisions that foresee the implementation of retaliation or compensation measures. A special case are treaties that foresee the use of trade remedies against sudden imports either as safeguard measures, measures against dumping or countervailing duties, which we coded as 0. We only coded the use of measures to “retaliate” against unfair practices as 1 if there is also a “fulfilment of obligations” article that gives states the option to take unilateral action (which is similar to a sanction/retaliation).

[**ds_sanc_dp**] Do both parties select jointly the appropriate level of retaliation/compensation/sanctions?

0	No
1	Yes

Explanation: Joint selection also can occur in the form of agreeing on compensation (e.g., “if the Parties are unable to agree on a resolution within 30 days of presentation of the final report, or such other period as the Parties may agree, the Party complained against shall, if so requested by the complaining Party, enter into negotiations with a view to agreeing to compensation”.)

[**ds_sanc_compl**] Does the complainant select the appropriate level of retaliation/compensation/sanctions?

0	No
1	Yes

Explanation: Explicit mentioning that the complainant selects the amount.

[**ds_sanc_tp**] Does a third part select the appropriate level of retaliation/compensation/sanctions?

0	No
1	Yes

Explanation: The third party in most cases is the original panel that is asked to decide (e.g., “at the request of any of the Parties, the original arbitration panel shall rule ... whether the suspension of benefits should be terminated or modified”.)

[**ds_sanc_seq**] Is there an order in the process of selecting appropriate levels of retaliation/compensation/sanctions?

0	No
1	Yes (sequencing)

Explanation: If we coded at least two out of the three previous variables, then we coded 1 here. This illustrates sequencing.

[**ds_sanc_sect**] Are there provisions on retaliation in the same sector?

0	No
1	Yes

Explanation: We coded 1 when there are provisions that suggest retaliation to be pursued in the same sector where the original measure which breached the contract occurred.

[**ds_sanc_cross**] Is cross-retaliation possible (sanctions in other sector)?

0	No
1	Yes

Explanation: We coded 1 when there are provisions allowing retaliation to be pursued in a different sector than where the original measure which breached the contract occurred.

[**ds_sanc_money**] Are monetary sanctions (compensation) possible?

0	No
1	Yes

Explanation: This can occur in different areas, e.g. labour, environment.

Exemptions

[**ds_exempt**] Are there any exemptions from dispute settlement (DS)?

0	No
1	Yes

[**ds_exempt_pos**] Is there an explicit positive list of areas covered under the DSM of the PTA?

0	No
1	Yes

Explanation: We list those areas that are explicitly mentioned in the dispute settlement chapter or for which there is theme-specific DS mechanism (for areas, see appendix). Additional requirements (e.g., consultations before using the usual chapter of DS) are not coded as positive list; there needs to be a substantial difference in how disputes are resolved. If parties refer to other dispute settlement provisions (e.g., for internet domain names), this is sufficient to be coded as 1.

[**ds_pos_count**] We count the number of areas mentioned (see appendix)

[**ds_exempt_neg**] Is there an explicit negative list of exemptions from DS?

0	No
1	Yes

Explanation: We list areas that are partially or totally exempt from dispute settlement. General exceptions (restrictions on grounds of morality, public policy or public security) are not listed.

[**ds_neg_count**] We count the number of areas mentioned (see appendix)

[**ds_priv_standing**] Is there a provision allowing private actors to bring a case against the other party breaching the agreement?

0	No
1	Yes

Explanation: We also coded 1 if there is an investment chapter with an investor-state arbitration clause. We also coded 1 if companies have a right of access to national regulating bodies or courts to solve disputes, such as in the areas of telecommunication.

[**ds_chain**] Is there a provision requiring for a Joint Committee or (Association) Commission to address the dispute before the establishment of the arbitral panel?

0	No
1	Yes

[**ds_time_frames**] Does the treaty list time frames related to stages and implementation of dispute settlement decisions?

0	No
1	Yes

Explanation: We do not differentiate between pre-award and post-award time frames; we coded 1 when parties foresee time frames for implementation.

[**ds_interim**] Does the panel issue an initial/draft/interim report prior to the issuance of the final report?

0	No
1	Yes

[**ds_chairman_cons**] What is the ultimate procedure by means of which the chairman of the arbitral panel is selected? The chairman is selected by consultation of parties.

0	No
1	Yes

Explanation: This is one of four different possibilities ([**ds_chairman_cons**],[**ds_chairman_joint**],[**ds_chairman_lot**],[**ds_chairman_third**]) We code only the ultimate option. All variables are set to 0 if the selection procedure is not specified.

[**ds_chairman_joint**] What is the ultimate procedure by means of which the chairman of the arbitral panel is selected? The chairman is selected by arbitrators jointly.

0	No
1	Yes

Explanation: See [**ds_chairman_cons**]

[**ds_chairman_lot**] What is the ultimate procedure by means of which the chairman of the arbitral panel is selected? The chairman is selected by lot.

0	No
1	Yes

Explanation: See [**ds_chairman_cons**]

[**ds_chairman_third**] What is the ultimate procedure by means of which the chairman of the arbitral panel is selected? The chairman is selected a third party (e.g. WTO DG).

0	No
1	Yes

Explanation: See [**ds_chairman_cons**]

[ds_separate_ops] Does the process allow for separate opinions to be included in the panel report?

0	No
1	Yes

Explanation: The question is whether members of the panel are allowed to form and draft separate opinions that are to be included in the panel report (e.g., “panelists may furnish separate opinions on matters not unanimously agreed”).

[ds_mas_count_pre] How many times do parties evoke the concept of “mutually agreeable solution” (MAS) throughout the text of the DS chapter until the award is out?

[ds_mas_count_post] How many times do parties evoke the concept of “mutually agreeable solution” (MAS) throughout the text of the DS chapter post award?

Explanation: We distinguish between amicable solutions prior to the award and after the award. In the post award period we also code when there is reference to “mutually satisfactory compensation”, but not if they agree on the reasonable time to implement. In the pre award phase we also code as MAS when there is a possibility to suspend or terminate the proceedings by agreement (both suspension and termination are coded 1 each). The same applies to the post-award. If it is stated the MAS can occur any time in the process, we decided to code 2 pre and 2 post award to weight this general statement. If a specific mediation process is included, we count every substantive reference to a MAS and count this for the pre-award period

Appendix: Abbreviations for “negative” and “positive list”

1	Sanitary and Phytosanitary Measures
2	Technical Barriers to Trade (includes Regulation)
3	Services (3a: Telecom, 3b: Financial Services, 3c: Temporary Movement, 3d: Air Transport, 3e: Electronic Commerce)
4	Competition Policy
5	Investment
6	Intellectual Property Rights (6a: Domain Names)
7	Public Procurement
8	Trade Remedies (AD and CVD)
9	Safeguards
10	Business Environment
11	Balance of Payments
12	Regulatory Co-operation
13	Labour
14	Environment
15	Goods (15a: Cars, 15b: Agricultural Goods)
16	Rules of Origin
17	Economic Co-operation
18	Tax
19	Subsidies
20	Energy
21	Public Companies
22	Trade Facilitation
