



MEGA-REGIONALS
and the Future of International Trade and Investment Law

Keynote

**Mega regionals: challenges,
opportunities and research
questions**

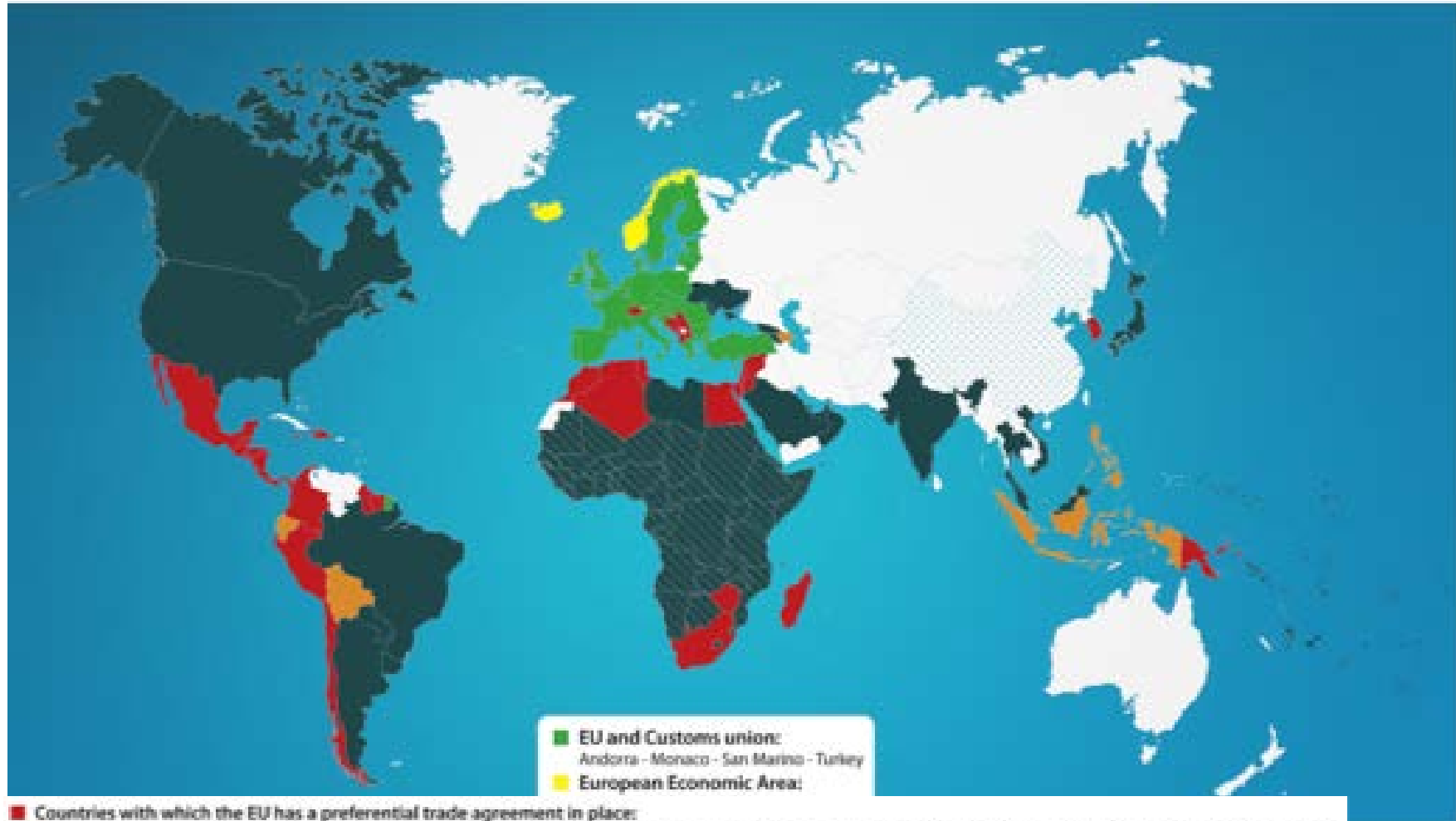
Peter-Tobias Stoll
pstoll@gwdg.de

International economic law: stability, stagnation and change

- IEL less consolidated than other areas of international law: diversity of regimes and structures
 - global: Havana Charter, NIEO, WTO, ICSID
 - regional: EU, Mercosur etc.
 - coalitions: OECD, Tokyo codes, plurinationals
 - bilateral: FCN, BITs, PTAs
- long periods of stability, consolidation, stagnation
 - almost 20 years since the establishment of the WTO
- categorical changes?
 - changes in governance, content, concepts
 - change of forums, rhetorics, formats
 - recombination of elements

Questions

- how much of a change?
- pros / cons



■ Countries with which the EU has a preferential trade agreement in place:

Mexico - Chile - Peru - Morocco - Algeria - Tunisia - Egypt - Jordan - Israel - Occupied Palestinian Territory - Lebanon - Syria - Former Yugoslav Republic of Macedonia - Albania - Serbia - Montenegro - Bosnia-Herzegovina - Switzerland - Republic of Korea (South Korea) - Antigua* - Barbuda* - Belor* - Bahamas* - Barbados* - Dominica* - Dominican Republic* - Grenada* - Guyana* - Haiti* - Jamaica* - St Kitts and Nevis* - St Lucia* - St Vincent and the Grenadines* - Suriname* - Trinidad and Tobago* - Colombia - Honduras - Nicaragua - Panama - Guatemala - Papua New Guinea* - Sth Africa - Madagascar* - Mauritius* - Seychelles* - Zimbabwe* - Costa Rica - El Salvador

■ Countries with which the EU negotiates or has a preferential agreement pending official conclusion:

Canada - India - Malaysia - Brazil - Argentina - Uruguay - Paraguay - Saudi Arabia - Botswana* - Cameroon* - Ivory Coast* - Kuwait - Qatar - United Arab Emirates - Fiji* - Oman - Bahrain - Libya - Cook Island* - Kiribati* - Lesotho* - Swaziland* - Mozambique* - Marshall Islands* - Micronesia* - Nauru* - Samoa* - Solomon* - Tonga* - Tuvalu* - Vanuatu* - Angola* - Namibia* - Comoros* - Djibouti* - Eritrea* - Ethiopia* - Malawi* - Sudan* - Zambia* - Burundi* - Kenya* - Rwanda* - Uganda* - Tanzania* - Central African Republic* - Chad* - Congo* - Democratic Republic of Congo* - Equatorial Guinea* - Gabon* - Sao Tome and Principe* - Benin* - Burkina Faso* - Cape Verde* - Gambia* - Ghana* - Guinea* - Guinea-Bissau* - Liberia* - Mali* - Mauritania* - Niger* - Nigeria* - Senegal* - Sierra Leone* - Togo* - Zambia* - Vietnam - Moldova - Armenia - Georgia - United States of America - Thailand - Japan - Ukraine - South Africa* - Mauritius* - Madagascar* - Seychelles* - Zimbabwe* - Papua New Guinea* - Singapore - Morocco

■ Countries with which the EU is considering opening preferential negotiations:

Azerbaijan - Brunei Darussalam - Indonesia - Philippines - Ecuador - Bolivia

■ Countries with which the EU is negotiating a stand-alone investment agreement:

China

<http://trade.ec.europa.eu/doclib/html/149622.htm>

*Economic Partnership Agreements



<http://www.dfat.gov.au/fta/tpp/tpp-overview.pdf>

Mega-regionals: dimensions of change

- Governance and format
 - a thicket of bilateral agreements / negotiations
 - with some pioneer moves, which set the tone
- Content
 - trade
 - elimination of tariffs
 - NTB mechanisms
 - TRIPs plus
 - procurement
 - investment
 - recombination: trade & investment
 - generalization and reform of investment law
 - competition
 - addressing public policy issues: sustainable development, environment, labour standards, culture
- Significance
 - geographically/economically large scale
 - comprehensive

Mega-regionals: where we stand

- tariff elimination / services market access
- NTBs
 - based on existing bilateral agreements with a mixed record
- public policy dimensions of trade
 - not really far reaching
 - disconnect to mechanisms for NTBs
- TRIPs plus
- including investment and competition
 - reform, but also generalization of investment law, no far-reaching attempts to systemically integrate
 - competition issues - based on existing agreements, mentioning of possibility to later replace antidumping

Relation to the WTO

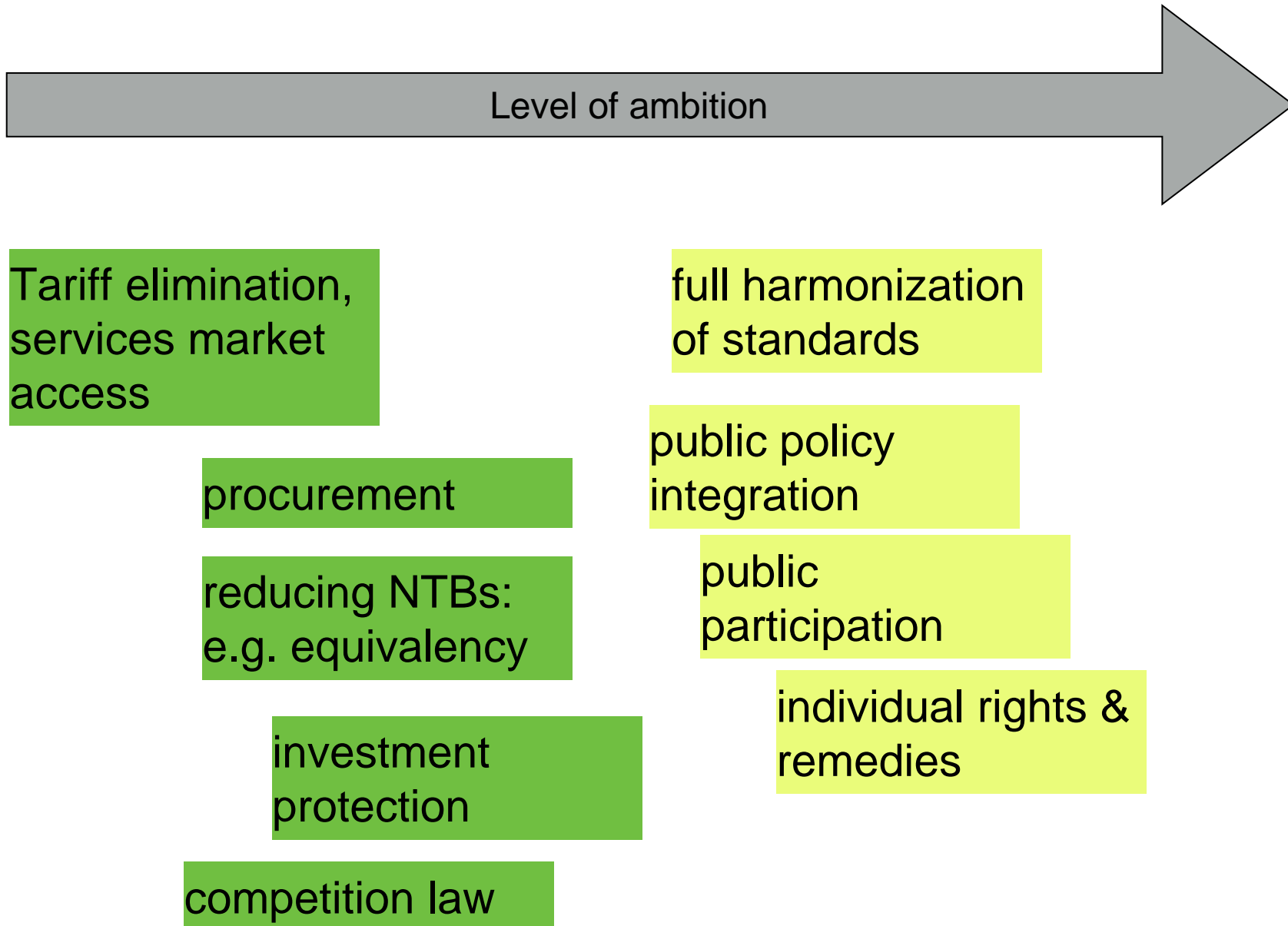
- potential for conflict
 - Art. XXIV GATT/Art. VII GATS
 - internal dispute settlement vs. WTO dispute settlement
 - public policy issues (sustainable development, environment, labour standards, culture)
 - WTO minus
- departure from mfn
 - yes: market access
 - probably not entirely: mechanisms for NTBs, TRIPs plus
- departure from WTO as a regime
 - „add on“ technique
 - but: departure from multilateralism and consensus
- future
 - hybrid structure

a hybrid structure?



John William Waterhouse - Ulysses and the Sirens (1891), wikicommons

What to expect



a change?

- yes: significance, impetus, market access, investment
- no: „new concepts“
 - public policy issues
 - participation of public, rights & remedies for individuals

Pros / cons

- for whom? (Parties, WTO members, world economy, WTO as a regime, societies, individuals)
- dimensions: economic, legal, political/legitimacy
- short-term, long-term

advantages

- market access for Parties
- NTBs, TRIPs plus: also for others
- momentum for trade liberalization
- ...
- workaround for current stagnation at WTO
- ...

disadvantages

- exclusionary effects
- considerable fragmentation
- rule of origin problem
- ...
- putting into question WTO as a main forum for int'l trade policy
- ...