

## Specialization: Megaregional Agreements and Digital Trade

This specialization explores megaregional agreements through the lens of “megaregulation” and ventures a look into the future of international economic law when applied to digital data and artificial intelligence.

### 1. Megaregulatory Agreements and Megaregionalism (May 18)

This class will discuss recent trends towards “megaregulatory” agreements and aspirations towards “megaregionalism”. We will compare and contrast the Trans-Pacific Partnership (TPP) in its reincarnation as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the Regional and Comprehensive Economic Partnership (RCEP). We will use two recent theoretical accounts to analyze these agreements: Kingsbury et al claim that TPP/CPTPP instantiates “megaregulation” as a new form of inter-state economic ordering. Hsieh views RCEP through the lens of “new Asian regionalism”. We will conclude by asking how these frameworks can accommodate the United States’ push for an “Indo-Pacific Economic Framework for Prosperity” (IPEF).

#### Questions to discuss:

- How does the resurrected Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) differ from previous free trade agreements?
- Is CPTPP engaged in “megaregulation”?
- Can CPTPP foster trans-Pacific “megaregionalism”?
- How does CPTPP relate to the Regional and Comprehensive Economic Partnership Agreement (RCEP) that the Association of Southeast Asian Nations (ASEAN) concluded with its most important trading partners?
- How to account for China’s participation in RCEP and its application to CPTPP?
- To what extent is IPEF departing from CPTPP/megaregulation?

#### Required reading:

- Benedict Kingsbury et al, Introduction: The Essence, Significance, and Problems of the Transpacific Partnership, in: [Megaregulation Contested: Global Economic Ordering After TPP](#) (OUP 2019) ch. 1 (focus on pp. 1-8).
- Pasha L. Hsieh, Signing the RCEP As a Milestone, in: Pasha L. Hsieh, [New Asian Regionalism in International Economic Law](#) (CUP 2021) ch. 3 (focus on pp. 67-81).
- White House Fact Sheet: [In Asia, President Biden and a Dozen Indo-Pacific Partners Launch the Indo-Pacific Economic Framework for Prosperity](#) (May 23, 2022).

#### Background reading:

- Kingsbury et al, TPP as Megaregulation, in: [Megaregulation Contested: Global Economic Ordering After TPP](#) (OUP 2019) ch. 2 (elaborating on “megaregulation” as a concept).
- Pasha L. Hsieh, Introduction: New Asian Regionalism As a Global Paradigm Shift, in: Pasha L. Hsieh, [New Asian Regionalism in International Economic Law](#) (CUP 2021) ch. 1 (explaining “new Asian regionalism”).

#### Primary materials:

- Consolidated version of TPP11 (merging CPTPP and TPP): [www.iilj.org/megareg/materials](http://www.iilj.org/megareg/materials) (for reference).
- Legal Text of the RCEP Agreement: <https://rcepsec.org/legal-text> (for reference).
- Ministerial Text for Trade Pillar of the Indo-Pacific Economic Framework for Prosperity (IPEF): <https://www.mofa.go.jp/files/100391688.pdf> (for reference).

## 2. International Economic AI & Data Law (May 19)

The Uruguay round that culminated in the founding of the World Trade Organization (WTO) predates the global commercialization of Internet technology, the platformization of the digital economy, and recent advancements in artificial intelligence / machine learning. In this class, we will discuss how international economic law responds to these developments. Megaregulatory agreements like CPTPP have created a new template of rules for the digital economy, including provisions designed to protect the “free flow” of personal data. More recent digital economy agreements, in particular the Digital Economy Partnership Agreement between Chile, Singapore, and New Zealand address an even broader range of issues, including AI governance.

### Questions to discuss:

- To what extent does existing WTO law govern the global digital economy?
- What kind of rules on “electronic commerce” and “digital trade” are emerging?
- How should data flow restrictions be regulated under international economic law?
- How to conceptualize “AI” from the perspective of international economic law?
- How do “digital economy agreements” differ from traditional trade agreements?

### Required readings:

- Thomas Streinz, Digital Megaregulation Uncontested? TPP’s Model for the Global Digital Economy, TPP as Megaregulation, in: [Megaregulation Contested: Global Economic Ordering After TPP](#) (OUP 2019) ch. 14 (focus on pp. 329-336).
- Thomas Streinz, Designing International Economic Data Law, [Proceedings of the ASIL Annual Meeting, Volume 115](#), 2021, pp. 73-78.
- Shin-yi Peng, Ching-Fu Lin & Thomas Streinz, Artificial Intelligence and International Economic Law: A Research & Policy Agenda, in: [Artificial Intelligence and International Economic Law: Disruption, Regulation, and Reconfiguration](#) (CUP 2021) ch. 1 (focus on pp. 10-21).
- MTI (Ministry of Trade and Industry) Singapore, [Digital Economy Partnership Agreement](#) (overview).

### Background readings:

- Shin-yi Peng, Digital Trade, in: [The Oxford Handbook of International Trade Law](#) (2<sup>nd</sup> ed. 2022) ch. 29 (providing an overview over “digital trade” debates).

### Primary materials:

- CPTPP, Article 14.11
- [US-Japan Digital Trade Agreement](#), Article 11

- [EU template](#) of horizontal provisions for cross-border data flows and for personal data protection in EU trade and investment agreements
- RCEP, Article 12.15
- DEPA (for reference)
- WTO Joint Statement Initiative for electronic commerce (for reference)

**Instructor:**

Thomas Streinz is the Executive Director of [Guarini Global Law & Tech](#), Adjunct Professor of Law, and Fellow at the [Institute for International Law and Justice](#) at New York University School of Law. He works on Internet governance, the regulation of the global data economy, and global law and technology. At NYU Law, he convenes the [Guarini Colloquium: Regulating Global Digital Corporations](#) (with Benedict Kingsbury and Joseph H. H. Weiler) and teaches courses on [Global Data Law](#) (with Angelina Fisher and Benedict Kingsbury) and [Global Tech Law](#) (with Benedict Kingsbury and David B. Stein). He is a co-editor of "[Artificial Intelligence and International Economic Law: Disruption, Regulation, and Reconfiguration](#)" (CUP 2021) and of "[Megaregulation Contested: Global Economic Ordering After TPP](#)" (OUP 2019).

**Schedule:**

- Thursday, May 18, 1:30-3:30pm (Singapore Standard Time) = 6:30-8:30am (Lisbon, Portugal)
- Friday, May 19, 1:30-3:30pm (Singapore Standard Time) = 6:30-8:30am (Lisbon, Portugal)