Leveling the Playing Field

Transnational Regulatory Integration and Development

Edited by

Laszlo Bruszt and Gerald A. McDermott

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Preface

Emerging market countries face the dual challenge of attempting to define and incorporate transnational regulations into their societies while attempting to build their own versions of regulatory capitalism, a process by which public and private actors of a relevant domain contest one another’s institutional experiments. In a world where the euphoria of globalization has given way to lurching from one crisis to another, how can emerging market countries even imagine meeting this challenge? Is there a single unique path to transnational regulatory integration and local prosperity or is there a variety of paths and strategies? Moreover, to the extent there is variety, how can we identify the strategies that might facilitate or impede both regulatory integration and local institutional upgrading and how might countries from different regions of the world learn from one another?

These were some of the core questions we began asking several years ago as we observed the seemingly divergent experiences of institutional and economic upgrading in East Europe, Latin America, Asia, and Africa over the past 20 years. It was no surprise to find that emerging market countries were often pursing very different national policies and institutional experiments. But it was becoming increasingly evident that countries and many of their industries were ever more embedded in fundamentally different integration regimes with different constellations of rules, resources, and goals. That is, transnational integration was increasingly less about simply liberalizing trade and finance but rather about integrating often conflicting systems of regulation. Moreover, emerging market countries had significantly different public and private capacities to regulate economic activities, let alone manage the attendant negative and positive externalities. A closer examination of the patterns of transnational regulatory integration revealed not only a variety of roles of governments, multinational corporations (MNCs), international NGOs, and trade associations, but especially how different integration strategies could impact domestic institutional and economic upgrading in the developing world as well as shape the sustainability of transnational regulatory frameworks themselves.

This book aims to offer a fresh perspective in reconciling the seemingly incompatible goals of transnational regulatory integration and development.
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It offers a new analytical framework and a set of case studies that helps forge (a) a comparative analysis of integration and development and (b) the identification of the mechanisms that can foster both lasting transnational integration settlements and broad-based domestic institutional upgrading. To do so, it draws on a set of ongoing research from scholars across the disciplines who analyze these issues from a variety of regions around the world and in industries and domains ranging from food safety, manufacturing, telecommunications, finance, as well as labor and environmental rights.

This book has emerged from a series of conversations and debates among the contributors that participated in two workshops co-organized by the Global Governance Program of the European University Institute, the Inter-American Development Bank, and the Center for International Business Education and Research of the University of South Carolina. These workshops have benefited the volume in two unique ways. First, the workshops fostered debates about the ways to rethink the different mechanisms that link transnational regulatory integration and fundamental development problems. Second, the workshops offered the participants the opportunity to learn how integration strategies varied across regions and domains and how they might be compared with novel approaches. This volume incorporates many of these lessons that we think can aid both students and policy-makers in linking the creation of cross-border regulatory systems with the process of domestic institution building in emerging market countries.

The first lesson that emerged was that conventional approaches to transnational integration and development often led scholars to view outcomes as binary—either formal market integration and development were advancing or not. Rather, when one combined recent work on these issues, one found a great variety of outcomes of integration attempts in terms of the institutionalization of transnational rules and of the extent to which key public and private stakeholder groups were benefiting or losing out. The second was that these apparent outcomes were not permanent but rather unstable, as relevant foreign and domestic actors continued to experiment with different regulatory arrangements and local capacity-building projects. The third was that sustainable market and thus regulatory integration across borders was clearly linked to the domestic politics of institution building and economic upgrading in emerging market countries. New transnational standards could set in motion divisive conflicts in developing countries but they also can act as catalysts of initiating new public-private experiments to improve local regulatory capacities, firm capabilities, and social conditions. Even when formally adopted, they could create significant barriers to institutional change, benefiting relatively few stakeholder groups while marginalizing the majority. In turn, each of the chapters in this book explores the constraints that lead to the latter situation as well as the mechanisms that create paths toward the former outcome.
Preface

We are greatly indebted to the aforementioned institutions for their generous financial and organizational support. We are especially grateful to Antoni Estevadeordal, director of the Trade and Integration Division of the IADB. He and his team are relentless in their efforts to foment new thinking and generate pragmatic approaches to resolving the interlinked problems of transnational integration and local development. Their enthusiasm and insights greatly benefited not only the debates and lessons manifested in this book but also the creation of a new international network of scholars and practitioners dedicated to finding solutions to the ongoing challenges discussed herein. Realizing the workshops also would not have been possible without the support of Miguel Maduro, director of the Global Governance Program of the EUI, as well as Kendall Roth and Mike Shealy at the Moore School of Business.

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Introduction: The Governance of Transnational Regulatory Integration and Development

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1.1 Introduction

Long gone are the days when the creation of transnational or global markets was framed largely as a function of trade and financial liberalization. The twenty-first century is undoubtedly about transnational and global regulations (Baldwin 2011; Braithwaite 2008; Jordana and Levi-Faur 2004). International organizations like the WTO, regional regimes like the EU, NAFTA, CAFTA, or the MERCOSUR, and a host of non-state actors, including multinational corporations (MNCs) and international NGOs, are attempting to create transnational regulations. Motivations for these efforts vary, ranging from the goal to integrate national markets by harmonizing diverging and conflicting domestic regulations, the aspiration to manage the social or environmental externalities of more open markets, to the desire to weaken competitors (Vogel 1997; Braithwaite and Drahos 2000).

These efforts by international organizations, intergovernmental negotiations, together with the dramatic growth of private standards have led less to uniform, harmonized global rules and more to a “patchwork” of transnational public and private regulations, further segmenting rather than integrating markets (Djelic and Sahlin-Andersson 2006; Kobrin 2002). Differences in regulatory norms are increasingly seen as the key barriers to the growth of regional and global markets, and regulatory disputes make up some of the most contentious issues in world politics (Drezner 2007; Estevadeordal et al. 2009). Controversies ranging from the 2008 global financial crisis to the breakdown of the Doha Round of trade negotiations to the life-threatening...
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working conditions in Third World garment factories have simply made ever more salient core questions about which regulations matter, who makes the rules, and which socio-economic groups win and lose.

Regulation has long been central to the study of market making across the disciplines. Whether one views regulation as the rules that reduce transaction costs or that protect weaker members of society from negative externalities, regulations shape the distribution of opportunities and wealth as well as the allocation of rights and obligations among socio-economic actors (Büthe and Mattli 2011; Mattli and Woods 2009; Sunstein 1990). Seemingly simple changes in regulations might deprive thousands of producers of their livelihood, or alternatively, increase their market power and dramatically boost their economic opportunities (Dunn 2003; Braithwaite and Drahos 2000; Bruszt and Stark 2003). In turn, market regulation remains the locus of ongoing contestation by public and private actors that vary in their capacities to shape the definition of rules, the way they are implemented, and the distribution of their attendant costs and benefits.

This book examines how the extension of regulatory integration to developing countries affects the nature of these contestations and their outcomes in terms of both the spread of coordinated transnational regulations and their developmental outcomes. We use here the label “developing” as shorthand for low- and middle-income countries outside of the core of most developed countries. The dramatic increase in the attempts at regulatory integration involving less developed market economies brings a special twist into the patterns of contestation and the accompanying scholarly debates. The traditional concerns over transaction costs, social reproduction, and economic order are now linked to issues of differences in the capacities of advanced and developing countries to shape transnational rule making and benefit from the attendant redistribution of rights and obligations. As much as transnational regulatory integration could foster domestic reforms of regulatory institutions in the developing world, it could as easily foster resistance and repellence (Braithwaite 2008; Drezner 2007). Indeed, as John Ruggie (1982) suggested over thirty years ago, integration could leave the “regime takers” marginalized or force the “regime makers” to adjust their goals and the way they use their powers.

In considering developmental outcomes, this book argues that transnational markets do not emerge in a sustainable fashion by merely liberalizing trade or by imposing the same rules on countries at the different levels of development. Rather, integration strategies can decrease the negative and increase the positive developmental consequences of transnational regulations. The strategies that aim to create sustainable common rules should make transnational rules a common good. Such strategies have to face the problem of differences in domestic institutional conditions that prevent many of the
private and public actors in less developed countries from implementing and benefiting from new transnational rules. While actors in more developed and more powerful countries might gain from finding ways to link the issue of transnational regulatory integration with concerns about development, the transnational institutions that could help solve the attendant coordination problems are often not present.

The details of the strategies that could integrate sectors and national markets previously regulated by incompatible rules will differ region-by-region and sector-by-sector because of differences in the starting domestic and transnational institutional conditions. The different combinations of these conditions set the starting parameters of integration strategies. Successful strategies alter pre-existing institutional endowments in order to increase the capacities of actors in weaker countries both to implement and to benefit from the common rules. We offer here an analytical framework that identifies the diverse starting conditions that can shape the various paths of initial regulatory integration attempts. The framework then identifies the components of regulatory integration strategies that could address the interlinked requirements of moving ahead with the creation of common market rules and making them a common good.

The contemporary debate on creating a “level playing field” reflects some of the dilemmas of integrating “rule makers” and “rule takers” but has often viewed outcomes as binary—markets are harmonized with a uniform set of regulations or integration is blocked. On the one hand, many proponents of regulatory integration argue that imposing the same rights, obligations, and rules—from finance to labor to food safety to the environment—for all market players will reduce transaction costs and increase trade flows with broad welfare gains. On the other hand, critics argue that such an approach can easily conserve backwardness in the global East and South, or indeed disassociate many of the economic actors in the developing countries from international markets. In emerging market economies, governments often lack the capacities to enforce transnational regulations as well as monitor and manage their developmental effects (Stiglitz and Charlton 2006; Ismail 2007). Even if access to richer markets is offered, the new standards impose costs that most public and private actors with limited resources and capabilities cannot meet (Dunn 2003). These views, however, can overlook the much larger variation in institutional and economic outcomes, and thus miss how different approaches to transnational integration can impede or promote local adaptation.

This book takes as a point of departure the rather stark variation in the outcomes of transnational integration attempts within and across regions, policy domains and economic sectors. In many cases, governments or alliances of private actors in less developed countries successfully resist accepting or
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implementing transnational standards. In other cases, more developed countries or regional hegemons simply impose their rules on the weaker countries. In a few cases, governments and private actors can negotiate settlements that result in the spread of common rules that could bring benefits to various domestic actors in less developed countries. But attempts at arriving at such settlements many times fail to bring about encompassing market integration. Instead, MNCs and NGOs may mobilize to implement their own standards in specific sectors or policy fields in ways that combine upgrading regulatory and firm practices but benefit just a few stakeholder groups (Bartley 2010; Locke 2013). Lastly, governments might accept transnational rules on the books, but key domestic players can shape implementation to create various forms of local conversion or hybridization of transnational rules.

Such variation raises several important issues for students of integration and development. Why is it more likely to find resistance and repellence in some domains or regions, marginalization of “rule-takers” in others, and the proactive management of developmental externalities in still others? To what degree is variance simply a product of domestic institutional capacities or how can different approaches to transnational integration improve or worsen those conditions? What role do transnational public and private actors play in shaping both the approaches and the local outcomes?

This book offers analytical tools to answer these questions in two ways. First, we advance a comparative analysis by bringing together in a novel way the seemingly distinct literatures on transnational regulatory integration and development. The literature on transnational regulatory capitalism (Braithwaite 2008; Drezner 2007; Mattli and Woods 2009; Büthe and Mattli 2011) rarely considers the impact of this process on emerging market countries or the regional integration regimes in which they are embedded. In contrast, by bringing developmental issues and the mediating roles of regional regimes to the forefront, we help identify the conditions under which attempts at transnational regulatory integration are more or less sustainable.

Second, our framework helps identify dynamics—how different approaches to integration can alter or conserve regulatory quality and the distribution of their benefits. Building on research about transnational public and private regulation (Bartley 2010, 2011; Locke 2013; Mattli and Woods 2009), we note how pre-existing transnational and domestic institutional conditions can vary and shape in different ways the starting opportunities of the actors participating in transnational rule making. We also argue, however, that many of the attendant initial outcomes represent unstable equilibriums. Interests of the diverse private and public participants or the balance of power among them change over time (Keohane and Victor 2011). The outcomes of the first rounds of transnational regulations might “spill over” to other policy fields, mobilizing new actors to renegotiate them. More powerful actors in
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Transnational rule making might learn that they can lose potential gains if they do not invest in increasing the capacities of weaker actors to implement and/or to gain from regulatory integration. Actors from countries at different levels of development might learn that uncoordinated actions can have welfare effects that are inferior to solutions based on collaborative exploration of opportunities to change pre-existing domestic and/or transnational institutions. Based on the recognition of their interdependence, actors from more and less developed countries can combine and jointly search for ways to alter domestic and transnational institutions, increase the capacities of domestic public and private actors in emerging market countries, and enlarge the scope for sustainable regulatory change.

The book thus offers a dynamic, transformative approach, analyzing different combinations of transnational integration strategies that could alter the parameters of the starting institutional conditions and in this way change the outcomes of the integration attempts. We draw on previous studies that have offered analytical tools to evaluate various modes of governing collective action for transnational regulations (Keohane and Victor 2011; Keohane and Ostrom 1995; Sabel and Zeitlin 2008). We extend their approaches by highlighting how problems linked to domestic institutional weaknesses in less developed countries change the nature of the dilemmas that govern the joint search for common rules with broad-based benefits.

With this perspective, we focus on the strategies that can reduce the potential negative and increase the potential positive developmental externalities of regulatory integration in the less developed countries. As the relevant actors come to recognize their interdependence, either through conflict or deliberation, one can analyze transnational regulatory attempts in terms of coordination problems of creating common goods in the transnational arena (Keohane and Ostrom 1995). Transnational hierarchies have limited capacities to solve such coordination problems. The information about the constraints in implementing transnational rules in developing countries or the relative success of interventions to alter domestic capacities is dispersed, and external actors might lack capacities to incorporate this. Potential domestic beneficiaries of these rules and changes often lack capacities to voice and enact their claims. Weak institutional capacities can also prevent various stakeholder groups from recognizing the different ways in which the rules can be adopted in a beneficial manner (Locke 2013; Schrank 2013b).

On the other hand, the inclusion and empowerment of diverse domestic private and public actors, their embedding in a multiple network of transnational supporting and monitoring institutions, can dramatically improve the success of regulatory integration and its developmental effects (Bruszt and McDermott 2012). The more complex the interactions among diverse actors, with potentially conflicting interests and beliefs, the harder it is to...
create encompassing solutions without the use of strategies that prefer joint problem-solving and recursive learning (Sabel and Zeitlin 2012; Overdevest and Zeitlin in this volume). Strategies that broaden the range of interlinked policy issues related to regulatory change and organize negotiations and agreements around a bundle of policies at the inception can better associate diverse interests and create more lasting settlements (Bruszt and McDermott 2012; Hoekman 2013).

The key argument that we make in this volume is that variation in the choice of such strategies largely determines whether the outcomes will be closer to a patchwork of regulations that just increase the segmentation of transnational markets, or alternatively whether actors can level the playing field and extend the scope of transnational markets by assembling encompassing settlements supported and reproduced by a wide diversity of beneficiaries both from the most developed and the less developed economies.

This book purposively analyzes different combinations of transnational integration strategies with the aim of identifying the hindering and enabling effects on emerging market countries. Its comparative nature offers a rare opportunity for policy-makers and scholars to consider how diverse approaches to integration from different regions of the world have significant impacts on the quality of regulatory institutions and on the variance of the types of state and non-state actors that both shape and benefit from these changes. The lessons of the chapters have implications for many developing regions, industries, and policy domains, as our cases examine some of the most salient integration issues in regulatory domains as food safety, labor, environment, finance, telecommunications, and manufacturing supply chains and compare experiences from countries in Latin America and East-Central Europe. At the same time, we restrict our regional analysis to the most prominent and advanced arrangements in regional political-economic integration, such as NAFTA, CAFTA, MERCOSUR, and the EU accession and neighborhood arrangements.

The next section offers a typology of the outcomes of regulatory integration attempts in terms of the institutional capacity to implement international standards and in terms of their distributional effects on the ground. Sections 1.3 and 1.4 offer an analytical framework for the variation in these outcomes. We first focus on institutional statics, deriving different starting conditions for regulatory integration attempts based on two factors: pre-existing domestic institutional conditions and the properties of the pre-existing regional transnational regimes. The starting conditions, we argue, represent different opportunities and constraints for domestic and transnational agency to move integration attempts in the directions of the diverse outcomes described in section 1.2. We then turn to dynamics and offer an analytical basis for the
evaluation of strategies that transnational actors use to depart from the initial status quo.

1.2 Mapping Outcomes of Regulatory Integration Attempts

Regulatory institutions are mechanisms for coordinating diverse interests and considerations with the goals to extend economic transactions and to cope with the related externalities. They establish binding settlements, of varied temporality, among, for instance, producers and consumers, employers and employees, often to balance the perceived requirements to compete internationally and to fulfill domestic needs (Bruszt and Stark 2003). Transnational regulations include rules and standards derived from pure intergovernmental agreements as well as those derived from interactions among domestic and external private actors that may or may not be codified and enforced by national- or supranational-level public actors (Cafaggi 2006; Djelic and Sahlin-Andersson 2006). The former are found typically in bilateral trade agreements, WTO agreements, and regional trade and integration regimes, such as the EU, NAFTA, and MERCOSUR. The latter often emerge from the expansion of global value chains, where private actors—firms, associations, and NGOs—attempt to set standards governing such issues as products, working conditions, and the environment.

Transnational regulatory integration is the process by which public and private actors from different countries attempt to create and implement common rules or standards that govern cross-border transactions and their potential positive and negative externalities. These regulations are ideally constructed to be compatible with relevant national laws and non-discriminatory. This process aims at bringing about convergence in norms, rules, and policies between sectors and across countries (Stone Sweet and Sandholtz 1997). Deepening integration means extending normative convergence from a limited regulatory framework, such as for contract enforcement or the removal of certain non-tariff barriers, to a more complex one, including regulations in various non-economic domains. Regulatory fragmentation occurs when integration fails to bring about a common set of rules and results instead in multiple conflicting rules within the same sector, policy field, or territorially bounded market.

When considering outcomes involving emerging market countries, we move beyond the international relations and political economy literatures by capturing both failed integration attempts and the developmental consequences. We classify four ideal-type outcomes according to two dimensions. The first dimension assesses the degree to which transnational rules are adopted and enforced domestically. We distinguish between attempts at
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common rule making in terms of whether they result in codified adjustment of national standards that are monitored and enforced by domestic institutions. For the sake of simplicity, no enforcement includes not adopting the rule or only adopting the rule on the books but not enforcing it.

The second dimension is the degree to which the successful or failed transnational regulatory integration attempt benefits a relatively broad or narrow set of domestic constituents in the developing countries. At its most basic level, this variable captures the proportion or distribution of firms that could stay in the market and gain greater value-added opportunities or be excluded from these opportunities. By extension, this captures the distributional effects on firm stakeholders, such as the positive or negative externalities borne by socio-economic groups linked to the industry or domain. Although our first point of reference is the firm, the relational theory of the firm established in comparative political economy (Hall and Soskice 2001) allows us to incorporate the distributional effects on stakeholder groups in such areas as labor and environmental standards.

The combination of these two dimensions reveals four ideal-type outcomes as presented in Table 1.1. In Outcomes 1 and 2, regulatory integration attempts succeed in bringing about common enforced rules or standards in a particular domain. They differ, however, in their distributive effects, namely whether a broad or narrow group of firms have the capabilities to implement the standards. We assume that if many actors, e.g. firms, can implement the standards, then they have created the new organizational capabilities necessary to participate in new market opportunities and to extend the benefits of new practices to a broader set of stakeholder groups (Bartley 2010; Locke 2013; Schrank 2013b).

Outcome 1 is when the transnational rules are enforced and implemented in ways that benefit a broad constituency of the relevant industry or domain.

Table 1.1  Ideal-type outcomes of transnational regulatory integration attempts

<table>
<thead>
<tr>
<th>Distribution of benefits</th>
<th>Broad</th>
<th>Narrow</th>
</tr>
</thead>
<tbody>
<tr>
<td>Formal adoption and enforcement</td>
<td>Full enforcement</td>
<td>Outcome 1 Common Interest Regulation</td>
</tr>
<tr>
<td></td>
<td>No enforcement</td>
<td>Outcome 3 Resistance</td>
</tr>
</tbody>
</table>

1 Nonetheless, we do not distinguish at this point between firms that can or cannot increase their value-added production even if they have met the basic international standards.
domestically. This is akin to Mattli and Woods’s (2009) “common interest regulation.” It is usually reserved for integration attempts involving advanced countries with robust domestic institutions, such as among advanced countries in the EU. Examples in our chapters that appear to be reaching this outcome include the cases of Polish dairy farmers implementing new food safety standards and East-Central European countries meeting new environmental regulations. In both cases, the countries have been able to monitor and enforce the rules and help many firms in implementing the new standards.

Outcome 2 is “transnational regulatory capture” and often occurs when a dominating external actor succeeds in imposing transnational rules that imply, from the perspective of developing countries, a highly asymmetrical distribution of the costs and gains of regulatory change (Mattli and Woods 2009: ch. 1). Here the country adopts and enforces the new international rules, but only relatively few firms can actually implement them. In turn, few firms can partake in the economic benefits of the more sophisticated markets or few stakeholder groups can benefit from a rule that would potentially improve their working or environmental conditions. For instance, chapters in this volume and work by Dunn (2003) show how the imposition of new food safety standards in East-Central Europe via the EU and in Mexico via NAFTA creates significant entry barriers that large firms can overcome but small and medium size producers often cannot.

In Outcomes 3 and 4, attempts at creating a common set of enforced rules across the relevant countries have failed, and regulatory fragmentation is more likely to emerge. These outcomes differ from one another in terms of whether a broad or a narrow set of domestic actors benefits from the failure to bring about common transnational rules.

Outcome 3 can be called “resistance” when the rules are not adopted but there remains a preservation of benefits to a broad constituency. We find this when diverse domestic actors who might lose benefits from rule enforcement rally the state and society to block the new transnational rules. This outcome can limit regional or global regulatory integration but prevents losses to key actors in targeted countries. The case of the Multilateral Agreement on Investment is a classic example of joint action by a transnational coalition of civil society organizations and governments from the global South preventing a harmful transnational regulation initiated from the global North. (Cohn 2007; Neumayer 1999)

Outcome 4 can be called “low equilibrium stasis,” when transnational rules are not adopted and the skewed distribution of benefits in the relevant domain remains. This results in the preservation of the status quo with little integration of standards and limited advances in changing domestic institutions (Duina 2006. These are cases for lost opportunities to benefit from positive externalities of regulatory integration.
Outcomes 3 and 4 are arguably the most common in the global South, especially in South–South arrangements. The resistance to international rules can often begin as appearing to fit in Outcome 3, protecting local producers and groups from rules that would create immediate large disadvantages for their survival or that would remove local traditions. For instance, as we will see in chapters on the MERCOSUR, domestic resistance to enforcing new international standards in such industries as automotive and agriculture can allow local actors time to adapt. Jordana and Levi-Faur (2005) have also shown how domestic interests in Latin America thwart regulatory models promulgated by European and US MNCs. But in both instances, it is less clear whether the distribution of benefits might expand. Some private actors may be strong enough to initiate cross-border regional standards in particular industries or sectors, like in automotive, dairy, and grains. These standards could help expand the number of suppliers and beneficiaries. But often it can lead to those few private actors controlling entry to domestic or cross-border markets, which would be closer to Outcome 4. Duina (2006) has described how the MERCOSUR has attempted to create and implement transnational standards in many areas of trade and social policy on paper, but failed to translate them into national laws or practices on the ground. In their respective work on Latin America and Asia, Locke (2013) and Bartley (2010, 2011) have shown how transnational networks of NGOs and MNCs have had limited success in filling this void with private regulatory models and codes of conduct, especially for the potential benefit of relevant stakeholder groups.

Failed attempts at formal regulatory integration do not necessarily mean that integration is completely blocked or reversed. Rather, well organized or resource-strong non-state actors often attempt to create new transnational standards with or without the assistance of governments. Several chapters in this volume, especially those on the MERCOSUR and on the telecommunications and financial sectors, reveal coalitions of large domestic firms and MNCs promoting a variety of private standards and regulatory models. This sphere of ambiguity often results in regulatory fragmentation and severe implementation problems for relevant public and private actors. In many ways, this is similar to what scholars studying the advanced world have called “regime complexity:” a proliferation of regulatory schemes operating in the same policy domain, supported by different combinations of public and private actors, including states, international organizations, businesses, and NGOs (Keohane and Victors 2011; Overdevest and Zeitlin in this volume).

The four ideal-types are used in this volume to better locate cases which at a specific point in time might be navigating between two outcomes or stuck in a sphere of fragmentation. They force one to consider the factors
responsible for such divergence in outcomes and the strategies that could lead them towards more stable and encompassing regulatory integration with broad-based benefits. For instance, why do countries with similar levels of economic and institutional development vary in terms of their formal incorporation of transnational standards and their distribution of benefits? How might one country or region shift from one outcome to another? We now critically review how different analytical approaches address these concerns.

1.3 Explaining Outcomes: Domestic Agency and Transnational Public Power—The Static Approach

The literature on transnational regulatory integration seeks to explain regulatory outcomes in two main ways. The static approaches focus on pre-existing institutional endowments to identify factors that could help or hinder private and public actors with conflicting beliefs and interests to advance their own version of regulatory change. The dynamic approaches help explain why initial regulatory outcomes may not be stable and might lead to a renovation of the original institutional endowments. Also, the latter approaches offer criteria to evaluate the various strategies in terms of their abilities to move outcomes toward more encompassing regulatory settlements with better distribution of benefits. We combine and somewhat modify these two approaches to build our own analytical framework. Our static approach considers diverse starting conditions that could define the most likely initial outcomes of regulatory integration attempts, as well as the strategic dilemmas of regulatory change in dramatically different local and transnational contexts. We modify both the static and dynamic approaches in order to consider the more specific problems of less developed countries.

Static approaches mainly seek to explain why one regulatory regime or set of standards wins out over another and why then certain national governments might conform or integrate these rules into domestic institutions. They often portray the emergence of transnational regulation as a distributional game among national governments, key dominant firms, and occasionally international NGOs (Mattli and Woods 2009; Büthe and Mattli 2011; Simmons 2001; Drezner 2007). The outcomes depend in part on the employment and organization of financial and political resources that certain groups, most often MNCs, can use to influence governments and international organizations. Hence, a common argument is that transnational regulations usually reflect the preferences of the larger MNCs and the strongest public actors, such as the US or EU (Drezner 2007; Simmons 2001). An alternative is that the determinism of hegemons is mediated by a combination of domestic and transnational institutional factors (Büthe
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and Mattli 2011; Mattli and Woods 2009). To the extent that the forums for transnational rule making allow for transparency and the participation of a diversity of actors, then the rules can reflect a more balanced distribution of costs and benefits, even for weaker countries. But these effects also depend on the strength of domestic demand—the degree to which a broad set of relevant public and private actors has adequate knowledge and material resources.

As much as these works push us to consider domestic and transnational institutional conditions, their focus on largely successful transnational regulatory agreements among advanced countries creates explanatory problems when considering emerging market countries. For instance, as suggested in the previous section, to the extent that the growth of transnational standards penetrates less developed countries, they have limited reach and often lead to market fragmentation. Moreover, domestic implementation varies, with governments either blocking or being incapable of enacting new rules, while non-state actors initiate their own standards.

These difficulties point to two problems in specifying the structural conditions for emerging market countries when they engage in transnational regulatory integration. One problem is a mis-specification of the domestic institutional conditions. The vast majority of the research tends to focus on the integration games or processes among advanced industrial nations and their respective firms and NGOs. Differences among countries in institutional capacities, if they are mentioned, are used to account for the range of interests that will be taken into account in accepted and implemented transnational rules and not whether and to what extent a common rule could come about in the first place. It tends to overlook that developing countries often lack institutional capacities needed for the definition and implementation of rules, while diverse state and non-state actors lack the organizational capacities to promote and access certain information and ideas (Abbott and Snidal 2010). Many of these countries do not have the resources and capacities to capitalize on the opportunities of regulatory integration, let alone monitor and manage the developmental effects of the attendant rules (Stiglitz and Charlton 2006; Ismail 2007).

A second problem is that much of this literature tends to overlook the fact that many developing countries are either already integrated or are in the process of integrating themselves into regional, public multidimensional regimes. These regional Transnational Integration Regimes (TIRs), such as NAFTA, CAFTA, MERCOSUR, and the EU accession and neighborhood agreements, have their own mediating affects on transnational rule creation and adoption regardless of the specific industry domain (Bruszt and McDermott 2012; Bruszt and Greskovits 2010). Countries with similar domestic starting conditions but embedded in different TIRs might vary in the ways they link
transnational rules from one domain to another or link rule implementation with the recognition of claims from different actors.

In sum, in order to account for the variation in initial integration outcomes, one must consider the variation of both the domestic institutional conditions across countries and the variety of transnational integration regimes across regions.

1.3.1 An Alternative Framework: The Static Stage

We develop the static part of our framework to account for probable initial outcomes, by specifying two dimensions that account for domestic and transnational institutional conditions. The first dimension considers the relative strength of domestic agency in emerging market countries. Domestic agency here refers to the capacities of domestic actors to define, implement, and enforce transnational rules. Relatively strong domestic agency allows domestic actors to adjust transnational rules to domestic needs, and/or adjust domestic institutions to the requirements of transnational rules, cope with the attendant negative developmental externalities, and broaden the range of local actors that could benefit. The strengths and weaknesses of private and public actors are strongly interlinked in shaping domestic development agency in most of the cases. Relatively weak public capacities can result in an inability to enforce new rules, to anticipate or mitigate their potential negative developmental consequences, and to support a variety of non-state actors’ capabilities to implement them. On the other hand, many non-state groups might lack the organizational capacities to promote different claims and regulatory models, while a few resource-rich, entrenched actors might have the capacities to advance their own private standards. While the capacities of private and public actors do not always correlate, for the sake of simplicity here, we treat them as interlinked aspects of domestic agency.

Our second dimension considers regional transnational public capacities to create and sanction binding rules as well as solve the attendant collective action problems in various local contexts. Regional TIRs vary in the degree to which they are based on significant political and economic power asymmetries (e.g. a hegemon) or based on more balanced, if not fragmented power structures that allow greater room for member vetoes and self-protection. Transnational hierarchies might be better able to define and impose rules and ensure compliance via side payments (Abbot and Snidal 2009; Kahler and Lake 2009; Suwa-Eisenmann and Verdier 2007). Mere imposition of the rules, however, rarely creates lasting regulatory institutions. Rather, TIRs may be more or less capable at assisting domestic actors in improving their institutions to enable compliance and manage the attendant negative externalities of the new rules (Orenstein et al. 2008; Schimmelfennig and Sedelmeier
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2005; Tallberg 2002; Bruszt and McDermott 2012). Similar to Mann’s “infrastructural power,” this capacity allows the actors in transnational regimes to combine their resources and provide centrally organized services or regional public goods (Mann 1984).

We depict our framework in simplified form in Figure 1.1. Each axis is viewed as a continuum, and the combinations of the supranational and domestic institutional characteristics allow us to identify ideal-type outcomes and stages of regional regulatory integration. The vertical Y-axis is a continuum describing the relative strength of public and private capacities for domestic agency in a country. Moving from low to high implies that the country is increasing its capacities to monitor and enforce the new regulations as well as the capacities to ensure that a relatively broad set of stakeholder groups can participate in and benefit from the implementation of the new regulations.

The horizontal X-axis is a continuum describing the variation in regional institutional capacities. On the right side, one finds relatively loose institutional arrangements among countries where there are no strong power asymmetries between the participating actors who have relatively weak regulatory implementation capacities. Moving from the right to the left we find not only the increased importance of a regional hegemon, vis-à-vis the emerging market country, for imposing common regional rules but also an increase in the capacities of the TIR to resolve related collective action problems in adjusting the rules to local contexts. This also implies that regulatory integration increases in complexity. Toward the right side, transnational settlements result in common rules solely at the level of specific sectors or policy areas. Toward the left side, regional arrangements are able to integrate national economies that might have prior conflicting regulatory systems.

Hence, toward the left side of the figure, one finds the world of regional TIRs with hegemons, but with different transnational public capacities. The EU stands out not just as the largest but also as the one with significant capacities for regulatory convergence and empowering institutional change in the post-communist countries of East-Central Europe. NAFTA and CAFTA also have hegemonic structures but with limited integration capacities. The emerging TIRs in Latin America, East Asia, and Africa would be found toward the right side, as they lack a capable hegemon and the capacity to coordinate and/or impose regional regulatory norms. In this world, TIRs are less coherent and have limited ability to mediate the seemingly more dominant industry- or issue-specific transnational private regulatory networks, often known as Transnational Regulatory Regimes (TRRs) (Jordana and Levi-Faur 2005).

Combining the two dimensions yield several dramatically different institutional contexts to attempts at regulatory integration. While not being
deterministic, they greatly delimit the space in which firms, NGOs, and governments can strategize to conserve or change the regulatory status quo. In the four corners of the Figure 1.1 we find the four ideal-typical outcomes discussed in section 1.1. In the upper left corner, we find Outcome 1, “common interest regulation,” which emerges from the combination of relatively strong domestic public and private capacities for domestic agency with a TIR that has strong public capacities. A typical example for that could be the integration of Northern European countries into the EU. The more advanced stages of the integration of some of the most developed East-Central European countries are moving to this outcome as well.

Outcome 2, “transnational regulatory capture,” is in the bottom left corner and is a combination of weak domestic agency with a strong regional hegemon with limited capacities to produce regional public goods. The initial stages of the regulatory integration of East-Central Europe and the integration of Mexico into NAFTA are cases that are the closest to this corner.

In the upper right corner, we have Outcome 3, “resistance.” The combination of relatively strong domestic agency and the absence of a regional hegemon provides for a context in which domestic actors might have the capacity to block the imposition of non-beneficial rules, but lack the transnational institutional environment that could help them advance coherent attempts in regional rule harmonization. It is more likely that transnational coordination is limited to attempts at relatively narrow regulatory
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integration at the level of well-organized sectors. In the MERCOSUR, the auto sector and parts of the agriculture industry are attempting to move in this direction, whereby a limited number of strong domestic firms and MNCs create their own cross-border standards and try to have them validated at the MERCOSUR level (see the chapters by Costa and Jacoby, and Delich and Lengyel).

Finally, the lower right corner represents Outcome 4, the least congenial institutional context for regulatory integration, with the combination of very weak domestic developmental agency and a TIR with fragmented power and no public capacities. In this setting, the probability of even the initiation of attempts at regulatory integration is very low.

The only truly stable settlements are in the upper left corner where domestic and external actors have both the incentives and the capacities to reproduce the status quo. Outside of this corner we find diverse institutional contexts in which there are significant weaknesses in institutional capacities and/or developmental outcomes. In turn, key groups might have strong incentives and opportunities to alter the parameters of their context and employ strategies that can move outcomes away from an unstable equilibrium. We will discuss these conditions and strategies in the next section.

Figure 1.2 provides a sampling of our cases in a variety of intermediate spaces, including indications of paths of movement between outcomes. On the left side, TIRs have relatively stronger impacts on rule-taking countries than TRRs. The TIRs provide the key architecture for transnational private and

**Figure 1.2** Examples of regulatory integration attempts with paths of change

1. Common Interest Regulation
   - 2002–04 EU Integration of CEEC 5
   - USDA Projects w/Mex Food
   - Autos & Agro in Mercosur
   - Regional Public Goods

2. Transnational Regulatory Capture
   - Initial EU Integration of CEEC 5
   - NAFTA Integration of Mexico
   - TIRs > TRRs
   - TRRs > TIRs
   - Mercosur

3. Resistance
4. Stasis
public actors to alter domestic socio-economic and institutional conditions in rule-taking countries and potentially move these countries upward. Examples could be the complex institution-building programs of the EU in the Eastern and Central European countries applying for EU membership, or in a much more limited way, the various developmental programs in Mexico and Central America described in several chapters in this volume (Bruszt and McDermott 2012; and see the chapters by Spendzharova and Vachudova, Andonova and Tuta, Bruszt and Langbein, McDermott and Avendaño, Schrank and Piore).

In the space between the lower and upper right corners, there are no regional TIRs that could help public and private actors to solve complex problems of coordination (see the chapter of Jordana and Levi-Faur and, as a contrast, the chapter by Andonova and Tuta). Attempts at regulatory harmonization might have only a weakly defined territorial dimension and are more sector- or domain-based, allowing TRRs to multiply and fragment markets. For instance, the chapters by Jordana and Levi-Faur, Costa and Jacoby and Lengyel and Delich provide examples of the attempts at regulatory integration by industry-based networks, like telecoms in Latin America, and autos and agriculture in the MERCOSUR. Possibilities for broader regulatory harmonization and improved domestic agency more often than not come from institutional bootstrapping strategies initiated by transnational networks of regulators, business associations, MNCs, NGOs, and governments. Although there are not many, typical examples are regional public goods programs supported by the Inter-American Development Bank that focus on creating new regional systems of infrastructure and standards while improving the relevant domestic capacities (Estevadeordal et al. 2004).

Finally, the large space in the middle of the figure is where we find the highest degree of regulatory fragmentation of transnational markets, or “regime complexity,” the proliferation of regulatory schemes operating in the same policy domain, supported by varying combinations of public and private actors, including states, international organizations, businesses, and NGOs. While many have described this space as one of the most difficult for the initiation of coherent regulatory integration, the chapters by Overdevest and Zeitlin and Pistor explain how this very regulatory uncertainty can give rise to patterns of experimental governance that can induce pathways toward settlements linking regulatory harmonization with domestic developmental agency.

1.4 Assembling Transnational Markets: Integration Strategies and Domestic Developmental Agency

In this section, we analyze how different integration strategies can improve domestic development agency and, in turn, provide the basis for more
encompassing and sustainable transnational regulatory arrangements. We argue that moving towards regulatory arrangements that can integrate transnational markets implies a search for ways to upgrade domestic agency in developing countries with the goal to increase domestically the potential benefits of incorporating transnational rules while decreasing their potential negative consequences. The more complex domestic institutional problems are, the greater will be the need to assist domestic institutional change via external intervention. The latter, the external governance of domestic institutional change, requires transnational institutional capacities that in most of the cases are not at hand. Assembling transnational markets via common rules thus has the dilemma of how to upgrade domestic institutions and create simultaneously transnational capacities to govern domestic change successfully.

As discussed in the previous section, with the exception of the upper left corner of Figure 1.2, several of the actors participating in or affected by regulatory integration might have limited incentives to stick to the status quo and might have strong incentives to search for solutions that could yield more encompassing regulations with a better distribution of its gains. Such expectations about change are increasingly commonplace in the literature on integration. For instance, the institutional parameters that have shaped initial outcomes might change: balance of power or the way actors define their interests might change, dominating actors might see their net gains increase if they depart from the status quo (Keohane and Victor 2011). More powerful actors in transnational rule making might learn that they cannot “externalize” the costs of regulatory harmonization and might lose potential gains if they do not invest in increasing the capacities of weaker actors to implement and/or to gain from regulatory integration. Similarly, neo-functionalist have called attention to the various ways in which prior rounds of transnational regulations might “spill over” to other policy fields, mobilizing resistance and bringing in new actors to contest previous settlements (Haas 1958; Niemann and Schmitter 2009). Constructivists have also shown how transnational networks and communities of private actors or public regulators might help actors to learn about alternative ways to settle regulatory conflicts; they might offer forums for deliberations that could lead to the reframing of the goals of regulatory change and redefine the preferences of the participating actors (Djelic and Quack 2010).

While these schools of thought emphasize different sources of instability to integration attempts, they also increasingly stress that these very breakdowns or uncertainties can give rise to increased recognition by the relevant actors of their interdependencies (Sabel and Zeitlin 2010). Actors from countries at different levels of development might learn either as a result of lasting conflicts or via deliberations that uncoordinated actions might have
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outcomes that are inferior to solutions that are based on collaborative exploration of opportunities to create common transnational rules. The closer they get to recognizing their interdependence, the more likely the creation of the common rules becomes linked to the coordination problems of producing common goods in transnational arenas, more specifically, common regulations with broad-based distribution of benefits (Keohane and Ostrom 1995; see also the chapter by Overdevest and Zeitlin in this volume).

We have argued that significant structural factors might constrain attempts at solving such coordination problems—capacity and resource limitations that impede key public and private actors in developing countries from accessing vital information, mobilizing around alternative ideas, or implementing and enforcing new regulations. Altering these structural constraints is at least as important as changing beliefs, principles of learning, or processes of altering interests and time horizons—factors cited by the mentioned literature dealing with transnational coordination problems.

In earlier works, we suggested studying such structural constraints in developing countries by differentiating between problems linked to the demand and supply sides of building domestic institutions that could help developing countries to benefit from regulatory integration attempts (Bruszt and McDermott 2012). On the demand side, public and private actors that might have an interest in new institutional capacities and might be potential beneficiaries of regulatory change often lack the resources and channels to gain the sustained attention of the state. Entrenched groups maintain the status quo not only because they profit from it but also because there are no encompassing structures to facilitate horizontal ties to weaker groups, which can open new possibilities for experimentation and create win-win solutions (Schneider 2004; Tendler 1997).

On the supply side, states often lack the capacity needed for coordinating institutional upgrading, while many non-state actors lack the material and knowledge resources to undertake their own initiatives (McDermott 2007). Adaptation and enforcement of transnational rules in local contexts, as well as enabling local actors to benefit from these rules, need specific state capacities. But many states in developing countries do not have the requisite skills, knowledge, or resources, and have no capacity to coordinate diverse stakeholder groups who together have complementary resources and information. At the same time, the benefits of this coordination can be sacrificed if the groups lack the power and processes with which to contest one another’s claims or models (Evans 2004; McDermott 2007; Tendler 1997).

Notice that framing blockage to both institutional change and regulatory integration in these terms, rather, say than reference to purely state capture or culture, highlights a few core dilemmas in the governance of institutional change for an external actor—be it an MNC, a multilateral agency or
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a regional hegemon. One is that, without dedicated empowerment of different key public and private (often weaker) actors, the benefits and sustainability will be limited. Another is that the variety of combinations of the specific demand and supply side constraints in countries at different levels of development limit a universal solution or design while demanding a flow of information to external actors to adapt their approaches and coordinating efforts to specific contexts. Domestic configurations of power can frustrate, amplify, or distort the application of transnational regulatory standards in particular places, might conflict with them, and might thus result either in rejection, partial fulfilments, or some form of local conversion or hybridization (Bartley 2010, 2011). These concerns are echoed in recent critiques of externally induced institutional change, be they in the form of aid packages, imposed market reforms, or private regulations from MNCs and NGOs. On the one hand, an emphasis on universal solutions prevents external actors from developing capacities to track why certain models fail or succeed and what adjustments can be made (Easterly 2006; Evans 2004). On the other hand, seeing regulatory integration solely as a function of positive and negative incentives overlooks the need to empower diverse stakeholder groups to search for solutions that combine implementation with expanded benefits (Locke 2013).

Assembling transnational markets via common rules must account for these dilemmas and more often than not it presupposes change in the capacities of transnational actors who want to further domestic institutional change. This latter point may not be directly obvious, as it goes beyond simply the overt power and incentive packages usually provided by the external actors. For instance, as we have discussed, even if a TIR has the capacity to impose externally invented solutions, it might have weak capacities to detect why certain solutions worked or not and how it could coordinate, assist, and monitor institutional change in a variety of local contexts.

To summarize, we have identified key governance dilemmas of domestic institutional change that involve external actors. There are no universal recipes for the right way to adjust the requirements of furthering common transnational rules with the need for institutional upgrading in diverse local contexts. Information on what could work is dispersed and in many cases it can only be collected by the empowering of local actors. Potential problems of implementation are not known ex ante. Transnational actors might have weak capacities to coordinate, assist, and monitor institutional change. To this list we can add a final one: regulatory norms across regulatory domains are interlinked and the more narrow regulatory integration attempts are the more likely will they yield resistance by stakeholders in other regulatory fields. Altering regulation of competition or state aid, for example, might have effects on other regulatory domains like environment or labor standards.
Introduction

Bundling efforts of regulatory change in diverse domains, therefore, might help to increase their sustainability.

Based on this characterization of the governance dilemmas, we will outline the main components of integration strategies highlighting their specific goals and means and the way they can facilitate or impede (1) changes in domestic developmental agency and (2) the capacity of transnational actors to govern domestic institutional change.

1.4.1 The Goals and Means of Integration Strategies

We can contrast the various strategies based on two components of their goals and two components of their means. The former are the scope and depth of the goals of institutional change. The latter are whether monitoring and assistance are dyadic or multiplex and the degree to which they are based on principles of checklist compliance or joint problem-solving. Figure 1.2 portrays the different paths and mixes of these components found in our cases.

Scope refers to the different policy domains in which the attempts at regulatory integration require institutional changes from participating countries. This can be rather narrow, focusing on a few economic trade rules, or quite extensive, reaching into social and political domains. But even if the scope is narrow, it is likely that the changes will have spillover effects into other domains and upon a variety of stakeholder groups (Haas 1958; Niemann and Schmitter 2009). Goals that have relatively broad scope affecting related domains and organize negotiations around a bundle of policies can potentially incorporate these groups at inception, offering them opportunities to shape and “own” reforms that can account for the constraints they face due to regulatory integration (Hoekman 2013).

Depth refers to the emphasis placed on building different types of domestic capacities. Most often the goals are shallow, with simply an emphasis on changes in rules. Relatively greater depth means improving the capacities to enforce and monitor new regulations (Schimmelfennig and Sedelmeier 2005; Stiglitz and Charlton 2006) and to enable a broad variety of stakeholder groups to benefit from these changes. Relatively shallow goals assume that rules changes will trigger incentives for further domestic changes; relatively deeper goals target implementation with a focus on institutional change that could allow for decreasing negative and increasing positive externalities of regulatory integration.

The means of integration are assistance (i.e. resources) in helping the target country meet the designated goal and monitoring the degree to which the country meets the goals. These means vary not simply in size or quantity but especially according to two qualitative components: the structure of transnational horizontal relationships and the nature of information feedback loops.
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The first component is the degree to which the interactions between relevant external and domestic actors can be dyadic, involving solely two institutional actors (eg, state to state), or multiplex, including a variety of public and private actors to create ongoing professional relationships (Padgett and Ansell 1993). Some integration strategies that promote mainly dyadic relationships assume that general economic and political incentives will foster transnational relationships between peer groups or actors. In contrast, other integration strategies purposively support multiplexity by using legal triggers and resources to foster transnational relationships among a variety of groups relevant to the domain, such as NGOs, associations, firms, and subnational governments. Promoting multiplexity offers the external actors a greater variety of information and experiments related to domestic changes, while many domestic actors are empowered via new alliances, resources, and knowledge (Andonova 2004; Jacoby 2004; Tallberg 2002). For both sides, if the transnational horizontal linkages have relatively greater multiplexity, then it is less likely that there would be single gatekeeper in the developing country controlling resources, contacts, and information about the given policy domain.

The second component of the means is the relative emphasis on checklist compliance or joint problem-solving, denoting the ways in which the relevant external and domestic actors share and analyze information within and across policy domains to reveal shortcomings and how to address them (Carothers 2003; Easterly 2006; Sabel and Zeitlin 2008). Feedback via checklist compliance means that information is used simply to determine whether a country meets the designated goal, but not much else. This assumes that such revelations would give incentives to the relevant domestic actors to take corrective action. Feedback via joint problem-solving principles emphasizes the need for relevant external and domestic actors to evaluate shortcomings with the aim of generating alternative solutions to be followed. Even if assistance and monitoring criteria are non-negotiable and inflexible, repeated information about why the country is falling short in one domain can force deliberations in several directions, such as revising the sequencing of steps within the domain, altering the type of assistance being delivered, or targeting resources toward particular groups better suited to undertake the given reform (Jacoby 2004; Vachudova 2005). When multiplexity and joint problem-solving are combined, they can greatly improve accountability and the legitimacy among all parties as they become part of a “community of practice” that instills ownership and adherence to common norms (Bartley and Smith 2010).

The combination of these goals and means helps one compare and contrast transnational integration strategies and evaluate their resulting paths of change, such as those presented in Figure 1.2. The case studies in this
volume demonstrate this in two important ways. First, movement up and to the left in Figure 1.2 comes in the context of integration strategies that place relatively strong emphasis on broad-based capacity-building in their goals and on multiplexity and joint problem-solving. In contrast, the weaker outcomes appear to remain when integration strategies emphasize goals that are narrow and shallow, along with means that stress dyadic ties and checklist compliance principles. Second, integration strategies often vary in their combinations of components, and pilot projects can lead to broader changes in regulatory regimes. The cases of integration taking place outside of EU accession show great variation in their strategies and their paths of changes. We find that many attempts at moving away from the status quo and upwards on the right side of Figure 1.2 are initiated by non-state actors of a particular industry or domain with rather narrow goals, but make progress by emphasizing capacity-building and joint problem-solving. Such results and those from NAFTA and CAFTA (on the right-hand side) also suggest how key public and private actors in different domains are discovering more or less optimal combinations of goals and means, and in turn, are confronted with promoting significant further experiments in the governance of TIRs and TRRs.

1.4.2 Statics and Dynamics in Regional TIRs with Rule Takers and Hegemons

Part I of the book compares and contrasts the different approaches to regulatory integration in the most advanced TIRs, where the less developed new member countries must accept the rules and standards of the more advanced member countries. These are cases that can potentially move upward on the left-hand side of Figure 1.2. They focus on NAFTA, CAFTA, and the EU Eastern accession process and such regulatory domains as food safety, environmental protection, corruption, and labor rights. The chapters highlight how the TIRs vary in defining institutional goals, utilize horizontal professional networks, and adapt the strategies of the hegemon. These differences lead to variations in terms of regulatory capacity, the participation of non-state actors, and the upgrading of practices on the ground.

In their analysis of the impact of NAFTA on development of public and private food safety regulations in Mexico, McDermott and Avendaño argue that NAFTA has induced two parallel paths of adjustment. With NAFTA’s limited emphasis on scope and depth but a stronger emphasis on dyadic and checklist compliance, the dominant path for Mexico is a weak decentralized system of regulation and dominance of large exporting firms. In the less dominant, emerging path, Mexican and US authorities have in certain instances collaborated with sectoral associations to improve both regulatory institutions and firm practices in medium-sized firms. These gains, however, depend
largely on former corporatist associations, which constrain broad-based participation and institutional change. At the same time, the progress with pilot projects signals a potential shift in the integration strategies within food safety, with US agencies focusing increasingly on administrative capacities and joint problem-solving principles of evaluation in Mexico.

In contrast, the chapter by Bruszt and Langbein shows how the EU adjusted its strategies of food safety regulatory integration during the Eastern enlargement, with its greater emphasis on building elementary state capacities to regulate and develop a sector in a country where both domestic private and public actors were weak. In Poland the EU faced well-organized private actors in developmental alliance with an effective state, and EU assistance could focus on furthering an inclusive developmental strategy. In Romania, with the combination of a disorganized economic sector and an insulated weak state, the EU had to create basic elements of sectoral state organization and could address the distributive aspects of market integration to a much lesser degree, resulting in the dissociation of many domestic producers from the market in the process of integrating the sector.

Piore and Schrank analyze how Mexico and Central American countries have responded to integration in terms of fortifying labor market regulations and labor practices in the firm. NAFTA’s reliance on shallow institutional goals and market incentives has constrained both regulatory and firm upgrading. But the authors also show in certain cases how greater emphasis on administrative capacities and joint problem-solving can reverse this trend. In particular, they reveal how regulatory improvements can lead to improved practices and firm performance when labor inspectorates collaborate with firm support agencies and stakeholder groups, lining deterrence with upgrading and empowerment.

Aspinwall then examines two sides of the NAFTA approach: the weakness of the reliance on market incentives, the dominant mechanism, and the potential strength of linking integration with both capacity-building and the empowerment of transnational NGO networks. On the one hand, the NAFTA side agreement on labor allowed for a re-entrenchment of the old guard. On the other hand, the side agreement on environment induced domestic investments into regulatory capacity and the expansion of the components of multiplexity and joint problem-solving, which in turn empowered non-state actors in the reform process.

The remaining chapters on EU Eastern expansion reinforce our framework and the claims of Bruszt and Langbein. The chapter by Andonova and Tuta explains how the EU utilizes transnational networks (multiplexity) to improve the capacities of relevant domestic public and private actors to enforce and implement its environmental standards. They find that the variation in environmental policy in Romania and Bulgaria, two countries with
ex ante limited public and private institutional capacities, depends largely on key differences in their policy networks, namely the types of non-state actors that are empowered membership and the organizational structure.

Vachudova and Spendzharova analyze how the EU adapts its goals and means to integration so as to reply to new challenges and to compensate for weaknesses in domestic capacities to fight corruption in countries with weak judiciaries and political accountability. In Bulgaria and Romania, the EU implemented a novel monitoring instrument, called the Cooperation and Verification Mechanism (CVM) that expanded the components of scope, multiplexity, and joint problem-solving. CVM had a positive impact by giving domestic elites stronger incentives to pursue reform, especially when progress on CVM benchmarks has been linked to goods that voters in Bulgaria and Romania highly value. The EU then applied these lessons to adapt its integration approach in the new candidate countries in the Western Balkans.

1.4.3 Emerging TIRs in the Global South: Blockage and Coordination in the MERCOSUR

Part II analyzes the most advanced attempt at market integration after the EU and NAFTA and especially for the south–south world—the MERCOSUR. The chapters consider this TIR in comparative perspective, emphasizing not simply its well-known limitations, but especially the emerging forms of transnational coordination for creating and implementing common rules and standards. Because of its overall level of development and its structural power balance, the MERCOSUR can be viewed as a laboratory of lessons for other emerging regional TIRs in the developing world and where TRRs are relatively stronger. In particular, the chapters highlight the interaction between three forces: the discretion that public and private actors have in shaping if not blocking outright key rules; the weakness of supranational public capacities and domestic state capacity; and the skewed distribution of domestic non-state actors to participate in the rule-making process.

Costa and Jacoby compare how different public–private standards in the auto industry emerge as part of different integrations approaches in East-Central Europe and in the MERCOSUR. Their comparison reveals how TIRs can have informal spillover effects outside their formal territorial and sectoral scope. The TIRs can effectively create different impacts on TRRs, but MNCs can still gain the upper hand in defining transnational standards and paths of regional regulatory integration. In particular, the chapter outlines different strategies that the MNCs pursue to potentially improve the capacities of the TIR, even in the MERCOSUR case.

The chapter by Lengyel and Delich explores how weaknesses in the formal integration goals and means of the MERCOSUR are creating space for
alternative mechanisms for the cross-border coordination and local adoption of international food safety standards. With limited capacities at the MERCOSUR and state levels, governments have difficulty reconciling the use of “inclusive” standards for local firms with more “exclusive” standards to compete in international markets. These constraints have opened three simultaneous patterns of creating transnational standards and local capabilities. First, with its growing economic and political power, Brazil has increased its ability to define regional standards. Second, large dominant firms build their own multiple and joint problem-solving linkages to define exclusive private standards. Third, local public–private alliances use joint problem-solving principles to improve the capacities of smaller firms.

1.4.4 Fragmentation and Regime Complexity in TRRs

The third and final part of the book provides alternative views about the more common approach to the transnationalization of markets: those focusing on the emergence of cross-border industry or domain-based rules and standards or TRRs. Although the chapters focus on very different domains (finance, environment, and telecoms), they highlight two common arguments in the book. First, they all show how emerging market countries confront competing models of regulation, with conflicting forms of governance and distributional effects on the ground. Second, they also highlight alternative combinations of the aforementioned components of regulatory integration that can impede or facilitate domestic capacity-building, broad-based adoption of international standards, and the empowerment of a variety of local state and non-state actors.

Overdevest and Zeitlin explain how novel transnational regulatory governance mechanisms can further adoption and enforcement of international standards in highly complex regulatory environments. They show that an increasingly comprehensive transnational regime can be assembled by strategies that accommodate local diversity and foster recursive learning from decentralized implementation experience even in situations where interests diverge and no hegemon can impose its own will. Based on the design principles of experimentalist governance, they identify a variety of pathways and mechanisms that promote productive interactions in regime complexes. Although there is no hegemon, adaptive transnational integration and local capacity-building can emerge when there is greater emphasis on multiplexity, symmetry, and joint problem-solving.

The chapter by Jordana and Levi-Faur analyses how competing TRRs in telecommunications impact regulatory integration in Latin America and the reform of sectoral regulation domestically. This is a world where there are only fledgling TIRs. These TIRs have weak capacity to help transnational
networks to solve their coordination problems. Unlike within the EU, TIRs in Latin America have extremely limited capacity to frame and assist attempts of transnational regulatory networks at furthering regulatory integration (see the chapter by Andonova and Tuta for a contrasting case). The authors suggest that Latin American networks in telecommunications reflect the institutional weaknesses of the region and remain exposed to particular forms of dependent governance. While institutions within the region and outside it often support and nurture them, they are alive and contribute to an intense exchange of information and policy experiences within the countries in the region.

Lastly, Pistor argues that three distinct TRRs are emerging in the world of finance, with special attention to the potential resolution of the euro crisis. The contending “governance regimes” combine both public and private actors, but differ greatly in their mechanisms of problem-solving and coordination, impacts on domestic capacity-building, and normative understanding of markets and regulation. The chapter identifies three types of governance regimes that have been tried and tested in the past or are up for testing now: a laissez-faire regime, a coordinative, and a centralized regime. Each of these regimes relies on distinct combinations of goals and means.

1.5 Concluding Remarks

If the current global financial crisis has taught us anything, it is that the transnationalization of markets is fraught with fragility, which makes domestic institutional development that much more contingent on the interaction between local and foreign approaches to regulatory integration. In opening their economies to accelerate growth and upgrade their capabilities, societies of the developing world have known this all too well. The framework presented here and the chapters in this book strive to define the contours of this contingency by linking the approaches to transnational regulatory integration with the domestic process of institution-building in emerging market countries. They show how these countries face different types of political constraints due to both domestic variation in institutional capacities and the supranational regimes in which they find themselves increasingly embedded. But these factors are not static or immutable. As our framework suggests, the chapters also explain how different combinations of the goals and means of TIRs and TRRs can reify or reshape the constraints and opportunities that domestic and external actors face as they forge distinct paths of transnational regulatory integration and domestic regulatory renovation.

In combining advances in comparative and international political economy, the approach advanced in this book makes two basic claims. First,
sustained regulatory integration depends in large part on the capacities of domestic public and private actors to incorporate, adapt, and implement international rules and standards at the formal regulatory level and at the firm or organizational level in a broad-based manner. The process of capacity-building, however, can take different paths and cannot be read off a generic template and thus induced by arm’s length incentives or a largess of foreign resources. Rather, it is a process of contestation and experimentation, in which public and private actors often recombine resources to experiment with new formal and informal regulatory models and challenge one another’s claims about the attendant costs, benefits, and legitimacy. Hence, the second argument advanced here is that the variation in the goals and means of intersecting integration approaches can empower different public and private actors on the ground, in turn shaping the process of contestation and experimentation at the local and regional levels. Rather than separating the external from the internal or the public from the private in tracking regulatory integration, the chapters here suggest that scholars and policy-makers pay closer attention to the ways in which assistance and monitoring in integration approaches can stimulate or impede horizontal linkages, accountability, and problem-solving among a broader set of local and outside actors.

The arguments advanced in this book naturally have their limits. Any interactive framework has difficulty clarifying the causality of political and strategic choices of the relevant public and private actors as well as specifying the sequencing of choices that can lead to a particular outcome of institutional upgrading and regulatory integration.

Nonetheless, our framework and cases should provide a basis to compare integration approaches and their outcomes. While not all encompassing, the chapters in this book do examine the core issues at the intersection of transnational and domestic regulatory change in emerging market countries. Moreover, by analyzing these issues across and within industries, domains, and regions that are some of the more relevant to these types of countries and that have made some of the most concerted efforts in transnational integration, the chapters highlight how certain integration strategies can impede or facilitate regulatory change for the few or the many, and thus can be applied to other contexts. At the same time, the comparative nature of this book and our framework should open debate about which types of mechanisms of integration can stimulate broad-based cross-border, coordinated experiments in regulatory institutions and adoption of new standards. If anything, the chapters here should compel scholars to examine more closely how more or less hierarchical approaches to regulatory integration combine distinct goals and means and in turn empower or constrain the relevant state and non-state actors to contest one another’s institutional experiments on the ground.