



# The Making of the Indo-Pacific Economic Framework for Prosperity (IPEF)



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# 12

## **Much Ado about Something? Australia's Views on IPEF's Prospects**

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Peter DRAPER

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# Much Ado about Something? Australia's Views on IPEF's Prospects

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Peter DRAPER

The Indo-Pacific Economic Framework for Prosperity (IPEF) negotiations represent an opportunity for Australian stakeholders, albeit one relatively less tantalising – or costly – than traditional free trade agreements. The IPEF's market access content is limited to digital trade, and less ambitious than the current United States (US) benchmark in the United States-Mexico-Canada Agreement (USMCA). Moreover, the IPEF's regulatory initiatives are largely cooperative, rather than binding. While the US may intend to use the IPEF to spread its preferred standards agenda, unless the adoption of those standards is firmly linked to both finance and investment flows from advanced IPEF members, developing country counterparts may remain aloof. Consequently, Australian business stakeholders seem to have downgraded their expectations of the outcomes, whereas civil society stakeholders remain wary of the IPEF's potential regulatory content. Nonetheless, Australian stakeholder groups are largely united around using the IPEF to anchor the US in regional economic arrangements. Therefore, eventual ratification will not present insurmountable obstacles.

## List of Abbreviations

<b>ACTU</b>	Australian Council of Trade Unions
<b>AFTINET</b>	Australian Fair Trade & Investment Network
<b>ALP</b>	Australian Labor Party
<b>APEC</b>	Asia-Pacific Economic Cooperation
<b>BCAs</b>	Border Carbon Adjustment Measures
<b>BEPS</b>	Base-Erosion and Profit-Shifting
<b>CPTPP</b>	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
<b>DFAT</b>	Department of Foreign Affairs and Trade
<b>ESG</b>	Environmental, Social and Governance
<b>FTA</b>	Free-Trade Agreement
<b>G7</b>	Group of Seven
<b>GEA</b>	Green Economy Agreement
<b>GHG</b>	Greenhouse Gas
<b>IPEF</b>	Indo-Pacific Economic Framework
<b>IRA</b>	Inflation Reduction Act
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>US</b>	United States
<b>USMCA</b>	United States-Mexico-Canada Agreement
<b>WTO</b>	World Trade Organization

## Introduction

The Indo-Pacific Economic Framework for Prosperity (IPEF) represents an eclectic combination of old and new in the world of trade agreements. While clearly not constituting a traditional market access-oriented free trade agreement (FTA) of the kind the region is familiar with, it does contain a partial market access agenda in Pillar 1's digital focus. The other three Pillars traverse regulatory terrain and emphasise the construction of cooperative frameworks based on adopting common standards: an agenda familiar to non-trade officials working in multilateral settings such as the Organisation for Economic Co-operation and Development's (OECD) Base-Erosion and Profit-Shifting initiatives (BEPS)<sup>1</sup> *vis-à-vis* the IPEF Pillar 4's focus on tax and anti-corruption.

Therefore, while there are good reasons to be sceptical about the IPEF's utility, its substance is not unfamiliar to Australian negotiators. Moreover, in recent years, Australia has been at the forefront of negotiating sectoral regulatory pacts containing combinations of market access and regulatory frameworks, albeit on a bilateral basis and with the like-minded Singapore.<sup>2</sup>

A core difference between the IPEF and multilateral negotiation settings, however, is that the United States (US) is driving it, in contrast to its relative neglect of the World Trade Organization (WTO), in particular. From a negotiating perspective, a multilateral setting offers greater balancing potential or coalitional settings and the opportunity to arbitrage amongst large trading powers whose economic sizes roughly offset each other, particularly for middle powers such as Australia. While the IPEF does contain significant economic powers, in Japan and India particularly, the US remains dominant. Hence, to the extent that the US sees the IPEF as an opportunity to entrench its standards in the region, channelling that agenda in ways that are productive for the Australian economy would be more difficult where US standards diverge from Australian norms. Moreover, Australian negotiators are very interested in further embedding the US into regional economic frameworks, not least to counter China's growing regional influence. Therefore, they need to balance their own economic objectives, which are often aligned with those of the US, with the need to occasionally blunt US demands that might alienate IPEF partners. This has been a longstanding issue on the WTO, notably concerning US Democratic Administrations' pursuing of stronger environment and labour rights in trade agreements – a core factor in the collapse of the WTO's 1999 Seattle Ministerial conference. This makes for a complex negotiation dance, particularly in relation to the more sensitive issues on the table.

This paper discusses Australian perspectives on the IPEF's anticipated outcomes, negotiation challenges and implementation issues. Given that these negotiations are still underway and at an early stage, the material is sourced primarily from internet sources and confidential background interviews with Australian stakeholders. Thereafter, Australia's participation in the IPEF negotiations is assessed, including a limited case-study on the Pillar 3 – Clean Economy – negotiations. The final section concludes.

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1 "Inclusive Framework on Base Erosion and Profit Shifting", Organisation for Economic Co-operation and Development, <https://www.oecd.org/tax/beps/>. The BEPS concerns corporate tax planning strategies to shift profits from higher tax jurisdictions to lower tax jurisdictions in order to maximise group profits, thereby eroding higher tax jurisdictions' revenue bases.

2 "Australia-Singapore Digital Economy Agreement", Australian Government – Department of Foreign Affairs and Trade, 8 December 2020, <https://www.dfat.gov.au/trade/services-and-digital-trade/australia-and-singapore-digital-economy-agreement>;

"Singapore-Australia Green Economy Agreement", Australian Government – Department of Foreign Affairs and Trade, 18 October 2022, <https://www.dfat.gov.au/geo/singapore/singapore-australia-green-economy-agreement>

## Anticipated Outcomes

At the broadest level, the IPEF is a cooperative framework (Pillars 2 to 4) with market access features (Pillar 1). As such, the anticipated outcome is the establishment of a matrix of cooperation agreements, and limited market access. The high-level anticipated outcomes per Pillar are represented in Figure 1.

**Figure 1:** Summary of IPEF’s Negotiation Foci

PILLAR 1	PILLAR 2	PILLAR 3	PILLAR 4
Trade	Supply chains	Clean energy	Tax & anti-corruption
High-standard	Transparency	Technology deployment	Fair competition
Free	Diversity	Decarbonisation	Enforcement
Fair	Security	Resilience	Sharing expertise
Sustainable	Sustainability	Finance	Capacity building
Workers	Resilience emphasis	Infrastructure	
Digital emphasis		Technical assistance	

Source: IPEF Ministerial Statements

Clearly, the Pillar 1 market access agenda has limited scope and applicability, with the emphasis on workers’ interests, as well as fairness, representing a particular framing that circumscribes stakeholder interest and engagement. Still, the anticipated outcome is binding market access, particularly for digital services, and associated rules to govern cross-border data flows and storage.

Pillars 2 and 3, on the other hand, respond to current concerns being expressed by many countries over economic resilience and decarbonisation, and as such enjoy much wider buy-in. In both cases, anticipated outcomes are anchored on the establishment of cooperative frameworks, for example, consultation mechanisms and information sharing, and elaboration of common standards — particularly concerning decarbonisation technologies — over time.

Pillar 4’s emphasis on fair competition resonates with the BEPS conventions and derivative global minimum tax<sup>3</sup> in relation to tax, and OECD as well as other multilateral codes covering corruption. As such, the overall objective is the focused implementation of existing arrangements and the provision of assistance to the IPEF’s developing country members for this purpose. This is in keeping with western economies’ generalised shift to more values-based approaches to the governance of their large firms supply chains.

## Negotiation Challenges

At least four negotiation challenges are clearly discernible.

3 “International community strikes a ground-breaking tax deal for the digital age”, OECD Tax, 8 October 2021, <https://www.oecd.org/tax/international-community-strikes-a-ground-breaking-tax-deal-for-the-digital-age.htm>

### **No market access agenda (except Pillar 1)**

This is a well-known IPEF limitation. In a traditional FTA negotiation, there is generally abundant market access on the table covering both goods and services. This creates scope for the trade-offs to ensure there is enough for everyone to sign the deal.

The IPEF does have a very limited market access agenda in Pillar 1, but it concerns an issue — digital trade governance — that is highly sensitive for some members. For example, India and Indonesia advocate for stronger domestic data storage provisions and the right to impose taxes on digital trade flows, and / or e-commerce. By contrast, the US has historically pursued free data flows and prevention of data storage provisions in its trade agreements. Furthermore, the other Pillars contain distinct regulatory domains with the emphasis being on establishing cooperative frameworks rather than market access per se. This means there is little scope for reciprocity within each pillar, never mind across the Pillars. That said, since each Pillar effectively stands alone in principle there is nothing to prevent concluding them distinctly, and out of sequence. Notably, this has already occurred for Pillar 2.

### **Is the US pursuing a ‘Brussels effect’ outcome?**

In its public statements on the IPEF, US representatives consistently emphasise their expectation that the IPEF signatories will adopt high standards across the four pillars, anchored in US preferences for a ‘worker-centric’ trade policy, in what could be construed as a ‘Washington effect’ to mirror the well-known ‘Brussels effect’<sup>4</sup>. Is this realistic? And what could it mean in practice?

The answers to these questions depend on how the other participants respond, especially developing country members such as India and Indonesia. Obviously, that is also contingent on the Pillar in focus, with some (market access for digital trade) being particularly difficult, and others (Pillar 2’s supply chain resilience) less so. This arguably also explains why Pillar 2 was substantively concluded first, and quickly. Each country will have to make its own judgments concerning the implementation requirements and adjustment costs, in relation to the potential benefits on offer through locking into higher standards, on an issue-by-issue basis.

### **Many countries, and diverse economies and needs**

The regulatory agenda is complex. It encompasses largely private (voluntary) standards as well as mandatory standards, across a wide domain. Countries are positioned very differently within this rapidly evolving complexity, and given their diverse economic structures and needs, they will be looking for different things from the negotiations. By contrast, notwithstanding this heterogeneity, it is likely that there will be common interests in adopting common standards approaches in certain areas, for example, in relation to the uptake of green hydrogen as an energy source. The IPEF can provide a focus for such identified common interests, and by establishing cooperative frameworks, the details can be worked out in subsequent detailed working groups.

### **Would standards alignment deliver the anticipated investment outcomes?**

The ‘standards uptake for investment’ principle is a core bargain at the heart of IPEF’s standards agenda. In essence, this means that by adopting cutting-edge standards, developing countries

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4 Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (Oxford University Press, 2020)



expect investment from private sector firms to flow to their economies. They also expect that developed countries will facilitate the uptake of those standards through implementation support packages. Against this, developing countries have budget constraints and opportunity costs for scarce funds. It raises the question on whether capacity building, technical and financial assistance promise sufficient incentives to promote uptake of higher standards, given the institutional resourcing requirements to implement such packages, versus, for example, deploying scarce funds to build more schools. These trade-offs are present in all four Pillars although their manifestations will vary from developing country to developing country, depending on each country's domestic institutional and political economy constraints.

### Implementation Issues

These really depend on the outcomes, specifically, who stays the course and on what issues, and the content of agreed outcomes. Put another way, this will be a function of levels of ambition and associated implementation appetite. Considering the anticipated outcomes, we can speculate about the resultant mix of outcomes.

First, developed countries and US security allies, including Australia, Japan, New Zealand, Singapore, South Korea, and the Philippines, are likely to stay the course and commit to a package of outcomes. In the US case, this would be primarily to satisfy geopolitical imperatives, namely remaining economically engaged in the region. US security allies share this motivation and hope for meaningful economic concessions. The Australian case is discussed in the next section.

Second, and for a variety of reasons already canvassed above, the remaining developing countries are more likely to go for an *à la carte* approach. The three prominent reasons are:

1. They may struggle to reach the regulatory 'bar'.
2. While financial and technical assistance will help, design and implementation capacities are important and sometimes lacking.
3. In this light, would recipients prioritise this agenda over other, potentially more pressing, governance matters and resourcing trade-offs?

Given that the IPEF is designed to be amenable to opt-in and opt-out approaches, this means that there is no longer the need for an overarching IPEF Agreement per se, but rather a collection of full and partial scope architectures with developing countries occupying different points of the implementation spectrum.

### Australian Perspectives

#### General observations

According to one stakeholder consulted for this research, Australia's embrace of the IPEF cements the evolution of Australian trade policy away from a singular focus on achieving commercial outcomes, towards privileging security considerations.<sup>5</sup> Australia's top trade priority is US engagement in the Indo-Pacific region to buttress the US-anchored rules-based order and resist

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5 Robert Glasser, Cathy Johnstone and Anastasia Kapetas (eds), Australian Strategic Policy Institute, *The geopolitics of climate and security in the Indo-Pacific*, (Canberra: Australian Strategic Policy Institute), 24 February 2022, <https://www.aspi.org.au/report/geopolitics-climate-and-security-indo-pacific>

Chinese dominance. First prize is for the US to return to the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) Agreement, but that is not going to happen. The IPEF, notwithstanding the negotiation challenges, is the only game in town. These dynamics are reflected in the evolving Pillar 1 digital trade negotiations, with Australian business groups consulted for this research preferring to prioritise existing regulatory frameworks, notably the CPTPP, rather than the likely ‘worker-centric’ provisions to be established under the IPEF. One business stakeholder noted that the IPEF is relatively marginal in terms of Australian trade policy priorities and the country’s extensive domestic regulatory agenda. That said, Australian businesses will participate, but in support of the security alliance, not because they expect meaningful commercial outcomes.

The Australian Labour Party (ALP) government, by contrast, is comfortable with a ‘worker-centric’ trade project as espoused by the Biden Administration. One stakeholder interviewed for this research observed that the US’ trade policy approach is evolving towards the European model, with similarities across approaches to labour and human rights, as well as digital trade, becoming apparent. Moreover, Australian civil society groups and trade unions — the core of the ALP’s voting base — are in favour of embedding labour, environmental, and inclusivity provisions into trade agreements and in this regard, they see the IPEF as an opportunity. The Australian Council of Trade Unions (ACTU)<sup>6</sup> is enthusiastic, and advocates for embedding strong, enforceable, labour rights across all four Pillars. Moreover, they see an opportunity to develop a robust labour rights framework for future trade agreements, building on the IPEF platform. In this light, the IPEF could be made to work to the current Australian government’s advantage.

Nonetheless, civil society, while broadly supportive of the IPEF’s goals, has expressed some scepticism. On top of the list is the legal non-enforceability of the final set of IPEF agreements, with the probable exception of Pillar 1, meaning that the agreed texts will be aspirational.<sup>7</sup> Similarly, with the IPEF’s core value proposition consisting of a ‘reforms for investment’ bargain, civil society has expressed concerns that implementation of IPEF’s values content (labour rights for example) will exclude them.<sup>8</sup> Similarly, there are concerns over the negotiations process and associated decision-making, specifically the secrecy provisions that will govern access to negotiations texts that are seen as more stringent than those governing CPTPP negotiations.<sup>9</sup>

There are broader concerns in the Australian trade policy community. One centres on whether the IPEF will compete with existing initiatives, notably the Asia-Pacific Economic Cooperation (APEC) process. In this view, the IPEF may contribute to regional fragmentation by promoting standards that diverge from evolving regional norms. Moreover, while the US remains strongly supportive of the APEC, it may no longer be driving the organisation in the ways it used to, since its energies have diverted to driving the IPEF.

Nonetheless, the lead government agency, the Department of Foreign Affairs and Trade (DFAT) is supportive of the IPEF, which is seen as a new kind of trade agreement that responds to the post-COVID-19 era by addressing contemporary concerns over supply chain resilience, green economy, and digital trade. Moreover, together with Japan and Singapore, DFAT negotiators are focused

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6 “Indo-Pacific Economic Framework”, Australian Council of Trade Unions (ACTU), 12 January 2023, <https://www.dfat.gov.au/sites/default/files/ipef-submission-actu.pdf>

7 “AFTINET Submission to the Department of Foreign Affairs and Trade on the Indo-Pacific Economic Framework”, Australian Fair Trade and Investment Network, 2 November 2022, <http://aftinet.org.au/cms/sites/default/files/221024%20%20AFTINET%20IPEF%20submisssion%20to%20DFAT%20fiinal.pdf>

8 *Ibid.*

9 *Ibid.*

on assisting the US to find landing zones for the various pillars that would work in the regional context.

### Pillars 1, 2 and 4

Regarding Pillar 1, several positives have been identified by various Australian stakeholders. First, unlike the other Pillars, a single undertaking approach will be applied, meaning that nothing is agreed until everything is agreed. In principle, this widens the scope for trade-offs within the Pillar, although not across Pillars, and ensures commitment to the whole package. As a result, some Australian stakeholders advocating for strong outcomes on digital trade issues express optimism that the Pillar 1 Agreement may end up buttressing Australia's Digital Trade Strategy,<sup>10</sup> thereby bolstering Australian competitiveness.<sup>11</sup> In this regard, it could conceivably be a useful supplement to existing bilateral arrangements such as the digital trade provisions in the CPTPP. Furthermore, it could conceivably leverage Australian strengths in cyber-security capacity-building (*inter alia*) to assist the IPEF's developing country participants with bolstering their cyber-security defences.<sup>12</sup>

However, at the time of writing, Australian business stakeholders were sceptical that an ambitious outcome could be achieved, with US official negotiation positions apparently being 'United States-Mexico-Canada Agreement (USMCA) minus', and noted that their US counterparts were considering exiting the negotiations. According to several stakeholders consulted during the course of conducting research for this paper, the issue has become highly politicised in the US Congress and is anchored on a tacit alliance between liberal Democrats led by Senator Warren, and the extreme right, led by Senator J. D. Vance.

These US politics are reflected in some Australian stakeholder criticisms. Civil society worries that the emphasis on food security will be used to bolster investments into the IPEF's developing country participants from countries that heavily subsidise their agriculture, thus potentially undermining their production capabilities.<sup>13</sup> Similarly, civil society and labour groups expressed concerns regarding the potential digital trade provisions of Pillar 1, notably that these might mirror those in the USMCA, where the provisions strongly favour free data flow and minimal restrictions on the US technology giants. These groups worry that it would represent a substantial step back for Australian regulation of those companies, given that prior Australian trends were towards regulating for more accountability, gig-economy workers' rights, higher privacy standards, more stringent cyber-security obligations, and greater market contestability.<sup>14</sup> Moreover, the civil society submission expressed concern that Pillar 1 might be used to negotiate access to public services, thereby restricting governments' rights to regulate,<sup>15</sup> and that market access negotiations might extend to restrictions on government procurement programmes acting as industry development programmes.<sup>16</sup> Given the US's own 'Buy America' procurement provisions, such concerns seem misplaced.

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10 "Digital Trade Strategy", Australian Government – Department of Foreign Affairs and Trade, 1 April 2022, <https://www.dfat.gov.au/trade/services-and-digital-trade/e-commerce-and-digital-trade/digital-trade-strategy#executive-summary>.

11 Huon Curtis, Samantha Hoffman, and Gatra Priyandita "Australian views on the Indo-Pacific Economic Framework", *ASPI Strategic Insights*, 171, July 2022, [https://ad-aspi.s3.ap-southeast-2.amazonaws.com/2022-07/Australian%20views%20on%20the%20IPEF\\_0.pdf?VersionId=i5uDFFh3AJOPG8a5rphC0rkXakarNeQs](https://ad-aspi.s3.ap-southeast-2.amazonaws.com/2022-07/Australian%20views%20on%20the%20IPEF_0.pdf?VersionId=i5uDFFh3AJOPG8a5rphC0rkXakarNeQs)

12 *Ibid.*

13 *op. cit.*

14 *op. cit.*

15 *op. cit.*

16 *Ibid.*

There is broader support for Pillar 2's objectives. In the wake of the COVID-19 pandemic and China's economic coercion of Australia, the opportunity to address Australian supply chain vulnerabilities is embraced.<sup>17</sup> Moreover, the ALP government's election platform included rebuilding the domestic manufacturing base, towards which end, several subsidies have already been developed. And as other nations look to reduce their own supply chain vulnerabilities, substantial opportunities are emerging for Australia to play a key role, notably in the mining and production of critical minerals. Therefore, Pillar 2 builds on existing momentum and will complement other initiatives such as the India-Japan-Australia Supply Chain Resilience Initiative.<sup>18</sup>

However, in its submission to DFAT's stakeholder consultations, the Australian Fair Trade & Investment Network (AFTINET) expressed concerns that the US goal of 'decoupling' from China will be expressed through the IPEF in ways that could negatively affect partner countries, including Australia. Moreover, the ACTU recommends that companies in IPEF countries be obliged to undertake human rights due diligence investigations to access any Pillar 2 benefits. In this light, the Pillar 2 deal struck at Detroit<sup>19</sup> was positively received in Australia and seemed to push the right political buttons in terms of keeping all stakeholders on board. The establishment of three structures to oversee implementation<sup>20</sup> will bring focus and engagement, if implemented in good faith by all parties. Moreover, the Australia-Republic of Korea joint initiative to boost IPEF partners' capacities for identifying, monitoring, and managing critical supply chain vulnerabilities, gives practical expression to Pillar 2's objectives.<sup>21</sup>

Finally, Pillar 4 is not controversial in Australia, since the country has long advocated for a good governance agenda and has implemented various development assistance projects towards this end. Corruption can not only undermine Australian business participation in the region, but also democratic norms, institutions, and the rule of law. Given this, Australian stakeholders are aligned with the IPEF's objective of promoting shared norms, based on common definitions and practices, for dealing with these issues.<sup>22</sup>

### Some reflections on ratification issues and processes

Regarding concerns over the US political system and whether it might arbitrarily overturn the IPEF, Australian negotiators note that the IPEF generally does not touch on 'hot button' US domestic political issues and as such, it is not likely to be controversial. That said, the digital trade-competition interface is well-known to be sensitive in the US, and this may affect the construction of Pillar 1 as

17 "Vulnerable Supply Chains", Study Report, Productivity Commission – Australian Government, 22 July 2021, <https://www.pc.gov.au/inquiries/completed/supply-chains/report>

18 "Joint statement on the Supply Chain Resilience Initiative by Australian, Indian and Japanese trade ministers", Australian Government – Department of Foreign Affairs and Trade, 27 April 2021, <https://www.dfat.gov.au/news/media-release/joint-statement-supply-chain-resilience-initiative-australian-indian-and-japanese-trade-ministers>

19 "Substantial Conclusion of Negotiations on Landmark IPEF Supply Chain Agreement", US Department of Commerce, May 27 2023, <https://www.commerce.gov/news/press-releases/2023/05/substantial-conclusion-negotiations-landmark-ipef-supply-chain>

20 An IPEF Supply Chain Council to oversee development of sector-specific action plans; an IPEF Supply Chain Crisis Response Network to act as an emergency communications channel; and a "tripartite" IPEF Labor Rights Advisory Board to address labour rights concerns.

21 "IPEF Supply Chains Agreement – more resilient supply chains for uncertain times", Senator the Hon Don Farrell, Minister for Trade and Tourism, Special Minister of State, 28 May 2023, <https://www.trademinister.gov.au/minister/don-farrell/media-release/ipef-supply-chains-agreement-more-resilient-supply-chains-uncertain-times>

22 *op. cit.*

well as its reception in Congress. Similarly, if an attempt is made to use Pillar 3 to grant access to the US' green subsidies via the Inflation Reduction Act (IRA), that could invite some Congressional scrutiny.

In Australia, given the bipartisan consensus on the centrality of the Australia-US military alliance, eventual ratification and implementation is not likely to be controversial, possibly excepting Pillar 1 – depending on what is eventually agreed. Since the Pillars are likely to be separated out and ratified, potentially four ratification procedures could be required. This would be cumbersome, but will not likely result in substantial controversy, potentially barring Pillar 1.

### Case Study: Pillar 3 — Clean Economy

#### Australian Approaches

Recent extreme weather events, combined with the election of an ALP government facing pressure from an independent climate activist political movement (the 'Teals')<sup>23</sup> delivered a government favourably inclined to take substantial action on decarbonisation and addressing climate change more generally. This builds on several prior policy and regulatory pillars established by previous governments, most significantly the Safeguard Mechanism,<sup>24</sup> as recently reformed.

On the foreign policy front, the new government is keen to push back on Chinese diplomatic incursions into Southeast Asia and the South Pacific. Climate change is the South Pacific Islands' single most important foreign policy priority, and thus, being seen to take visible action to address the issues is consequential not only for the planet but also for Australia's regional positioning. Fiji's participation in the IPEF is notable in this regard. These imperatives are captured in the Australian government's Climate Change Action Strategy,<sup>25</sup> which gives priority to mainstreaming climate change mitigation into Australia's development assistance. Other trade-related initiatives are important. Australia and Singapore recently concluded their 'Green Economy' Agreement (GEA)<sup>26</sup>. In broad outline, this has a similar foundation to IPEF's Pillar 3, being constructed along practical

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23 Sam Hawley and Stephen Smiley, "Who are the 'teal independents'? Your questions answered about the candidates fighting for some of Australia's wealthiest electorates", ABC News, 20 April 2022, <https://www.abc.net.au/news/2022-04-20/teal-independents-who-are-candidates-what-electorates/101000412>. Funded by billionaire climate activist Simon Holmes à Court, these Members of Parliament prioritise ambitious action on climate issues.

24 The Safeguard Mechanism covers the 215 largest heavy industry carbon emitters, for whom an annually declining carbon budget is set.

"Safeguard Mechanism", Australian Government – Department of Climate Change, Energy, the Environment and Water, <https://www.dcceew.gov.au/climate-change/emissions-reporting/national-greenhouse-energy-reporting-scheme/safeguard-mechanism#:~:text=The%20Safeguard%20Mechanism%20is%20the,gas%20emissions%20of%20these%20facilities>

25 "Climate Change Action Strategy", Department of Foreign Affairs and Trade – Australian Government, November 2019, <https://www.dfat.gov.au/about-us/publications/climate-change-action-strategy>

26 "Australia Singapore Green Economy Agreement", Australian Government – Department of Foreign Affairs and Trade, 18 October 2022, <https://www.dfat.gov.au/sites/default/files/singapore-australia-gea-official-text-signed.pdf>

and implementation-oriented lines.<sup>27</sup>

A review of select stakeholder Parliamentary testimony on the GEA reveals broad support for it. The bilateral institutional arrangements are seen to bring focus and certainty to private sector exchanges in relation to the rapidly evolving regional decarbonisation landscape and the regulatory, as well as business uncertainties this gives rise to.<sup>28</sup> Moreover, Australia can learn from Singapore in some areas, notably the adoption of international reporting standards and frameworks in relation to financial disclosure, potentially unlocking environmental, social and governance (ESG) funds Australian companies do not currently have access to.<sup>29</sup> Similarly, the two parties – both IPEF members – could use the Agreement to develop linked carbon offset markets, in close collaboration with regulators and stakeholders, to pioneer Article 6 of the Paris Agreement<sup>30</sup> carbon trading mechanisms.<sup>31</sup> Similarly, the Hydrogen Council sees the GEA as an opportunity to internationalise the emerging Australian hydrogen certification scheme, or Guarantee of Origin, thereby facilitating export of green hydrogen produced in Australia.<sup>32</sup>

Still, the GEA is not without its critics, with one stakeholder observing that it runs the risk of adding to the ‘noodle bowl’ of trade agreements already in place whilst not adding additional value given that other forums are pioneering most of the issues covered by the GEA.<sup>33</sup> In this regard, one stakeholder argued that other forums such as the Group of Seven (G7) and the OECD are likely to result in more consequential outcomes than what the IPEF is likely to produce *vis-a-vis* Pillar 3.

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27 The overarching purpose is to promote cooperation in seven targeted areas of common interest to advance economic growth whilst transitioning to net zero emissions. These are:

1. Trade and investment
2. Standards and conformance
3. Green and transition finance
4. Carbon markets
5. Clean energy decarbonisation and technology
6. Skills and capabilities for green growth
7. Engagements and partnerships, especially with the private sector.

Annex A of the Australia Singapore Green Economy Agreement contains a list of joint initiatives meant to give practical expression to these cooperation objectives, with the implementation status of each initiative also provided.

28 “Singapore-Australia Green Economy Agreement Submission”, Business Council of Australia, 27 January 2022, <https://www.dfat.gov.au/sites/default/files/singapore-gea-submission-business-council-australia.pdf>;

“Singapore-Australia Green Economy Agreement: Export Council of Australia Submission”, Export Council of Australia, 31 January 2022, <https://www.dfat.gov.au/sites/default/files/singapore-gea-submission-export-council-australia.pdf>

29 “Singapore-Australia Green Economy Agreement Submission”, Carbon Disclosure Project, n.d, <https://www.dfat.gov.au/sites/default/files/singapore-gea-submission-carbon-disclosure-project.pdf>

30 “Article 6 acknowledges that countries can pursue voluntary cooperation in the implementation of their Nationally Determined Contributions to allow for higher mitigation ambition and to promote sustainable development.” See Alexandra Soezer, “What is Article 6 of the Paris Agreement, and why is it important?”, *United Nations Development Programme*, 9 November 2022, <https://www.undp.org/energy/blog/what-article-6-paris-agreement-and-why-it-important#:~:text=Article%206%20acknowledges%20that%20countries,and%20to%20promote%20sustainable%20development>

31 *op. cit.*

32 Australian Hydrogen Council, Letter to Kathryn Campbell AO CSC, Secretary Department of Foreign Affairs and Trade, 20 December 2021.

33 “Singapore Green Economy Agreement: Submission to the Department of Foreign Affairs and Trade”, Australian Chamber of Commerce and Industry, January 2022, <https://www.dfat.gov.au/sites/default/files/singapore-gea-submission-acci.pdf>

Nonetheless, the Australian government's ambition is for the GEA to serve as the template for the IPEF's Clean Energy Pillar. In this regard, Australian negotiators see Pillar 3's outcome as being establishment of cooperative frameworks, using standards development to give content. Subsequent work programmes would lead to concrete activities including the development of specific standards, with countries' participation motivated by the desire to attract investments into decarbonisation initiatives. There will be substantial crossover with Pillar 2, for example that Pillar's hydrogen initiative. An example of concrete activities might be a clean economy investment conference, designed to lead to investment pledges. Similarly, Australia is pioneering standards development in key low-carbon technologies. It is far down the track in designing a hydrogen guarantee of origin and moving towards standardisation of carbon emission accounting frameworks.

If the IPEF members were to adopt Australian designs, then Australia would have a first-mover advantage: a potential 'Canberra effect'.

### Issues

For trade and investment to flow smoothly in relation to clean energy products, common carbon emissions accounting approaches are required. As per the Paris Agreement, developed countries are required to abate their greenhouse gas emissions at a faster pace than developing countries, with the latter being accorded 'Common but Differentiated Responsibilities'.<sup>34</sup> This builds on and replaces the 1997 Kyoto Protocol,<sup>35</sup> which exempted developing countries from implementing greenhouse gas (GHG) emissions abatement.<sup>36</sup> Therefore, it is generally true that developed countries, such as Australia, are substantially ahead of developing countries in measuring GHG emissions, including through the operation of value chains. Moreover, to the extent that developed countries have national approaches to the measurement of GHG emissions along value chains, or embedded emissions accounting – Australia does not have one – each has its own design and measurement problems. By contrast, developing countries are further behind in measuring carbon emissions, never mind accounting for them through value chains. This raises the premium on developing common approaches, although it does not make it easier. In addition, it is not clear what role the IPEF might play in this relative to multilateral forums, particularly the OECD, which is already quite far down the track with developing its Inclusive Forum on Carbon Mitigation Approaches,<sup>37</sup> for which the agenda seems to be similarly framed to the IPEF's Pillar 3.

As the OECD's Inclusive Forum reiterates, countries are pursuing both priced and non-priced approaches to carbon mitigation, a broad divergence that is consistent with the Paris Agreement. However, as developed countries start to develop and implement Border Carbon Adjustment Measures (BCAs) to minimise potential carbon leakage, with these schemes based on carbon price differentials, developing country movements towards adopting carbon mitigation policies becomes more complicated. In fact, to the extent that they rely on exports from carbon-intensive industries

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34 "The Explainer: The Paris Agreement", *United Nations Framework Convention on Climate Change*, 26 February 2021, <https://unfccc.int/blog/the-explainer-the-paris-agreement>

35 "KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE", *United Nations Framework Convention on Climate Change*, 1998, <https://unfccc.int/resource/docs/convkp/kpeng.pdf>

36 "Marking the Kyoto Protocol's 25th anniversary", United Nations, <https://www.un.org/en/climatechange/marking-kyoto-protocol%E2%80%99s-25th-anniversary>

37 "Inclusive Forum on Carbon Mitigation Approaches", *Organisation for Economic Co-operation and Development*, <https://www.oecd.org/climate-change/inclusive-forum-on-carbon-mitigation-approaches/>

to developed countries implementing BCAs, developing countries are in effect being pushed to adopt domestic carbon pricing and at levels like their developed country trading partners. This raises the tricky question: Given the core 'common but differentiated responsibilities' principle embedded in the Paris Agreement process, should this be a priority for developing countries? It will be interesting to see if, and if so how, these dynamics might play out in the IPEF.

Overall, these dynamics raise the premium on adopting regulatory best practice, forcing the issue up developing countries' domestic policy agendas. That raises the bar on their expectations, particularly for the "policy reforms for investment nexus" at the heart of the IPEF's construction.

## Conclusion

Clearly, the IPEF is not like the FTAs traditionally negotiated by IPEF partners, whether developed or developing, although it does contain elements of old and new. This gives rise to a complex negotiation dynamic, but one not likely to seriously threaten ultimate success, given the emphasis on establishing cooperative frameworks rather than binding market access arrangements subject to dispute settlement. For Australia, it offers the additional benefit of keeping the US engaged in the region via negotiation of economic arrangements, and as such is welcomed. That said, certain issues under negotiation will be closely scrutinised by civil society groups as well as business organisations, albeit their motivations and concerns differ substantially. However, the level of business interest in the IPEF appears to be lower than for the traditional deep FTAs pursued by Australia in the past. Overall, given the relative lack of controversy, the likely piecemeal adoption of Pillars as they are concluded, and cross-party support for keeping the US engaged in regional processes, ratification procedures are unlikely to be controversial. It only remains to be seen what the content of the outcomes will be.



## About the author

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Professor Draper was also a Senior Research Fellow at the South African Institute of International Affairs. In South Africa's national Department of Trade and Industry he was head of bilateral economic relations (East Asia then Mercosur), and head of the economic analysis and research unit in the Department's International Trade and Economic Development Division. Prior to that he was an academic teaching economic history and political economy and headed the Department of Economics and Economic History at the then University of Durban-Westville (now University of KwaZulu-Natal). He is a recipient of an honorary Doctorate degree from the Friedrich-Schiller-University in Jena, Germany.