

# REGIONAL INTERNATIONAL ARBITRATION CONFERENCE

## DAWN OF INTERNATIONAL ARBITRATION IN THE SOUTH PACIFIC

12 & 13 February 2018

Westin Denarau Island, Nadi, Fiji

### TRADE & INVESTMENT FACILITATION BY ARBITRATION AND THE RULE OF LAW

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WTO Chair, NUS

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Keynote Address  
by Gary Born

Government, Private Sector,  
Lawyers and Judges

Disputes in the  
South Pacific

Bula Vinaka

Mock  
Arbitration

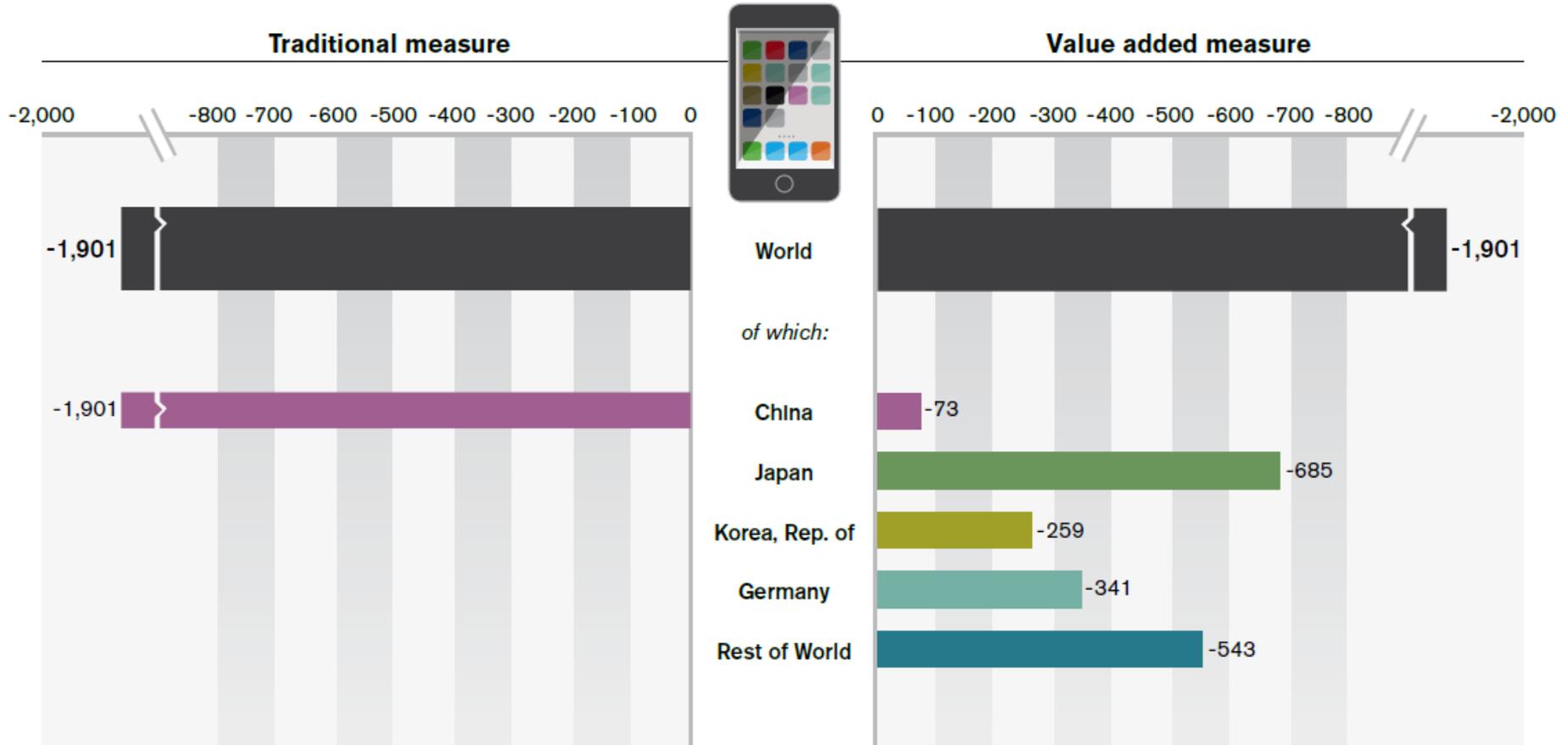
Promotion of FDI  
through International  
Arbitration Reform

New York Convention  
and the South Pacific



United Nations  
UNCITRAL

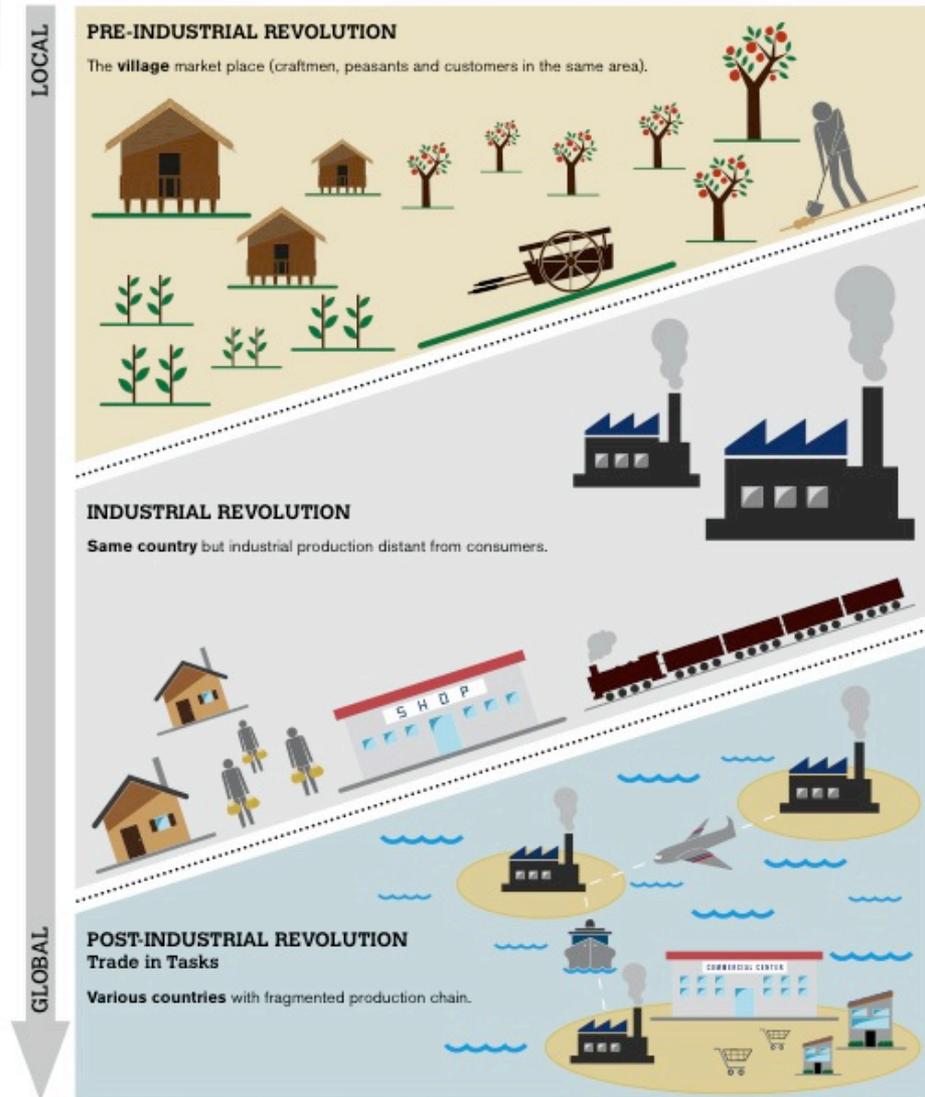
# Made in the World



Source: Meng and Miroudot, based on Xing and Detert (2010)

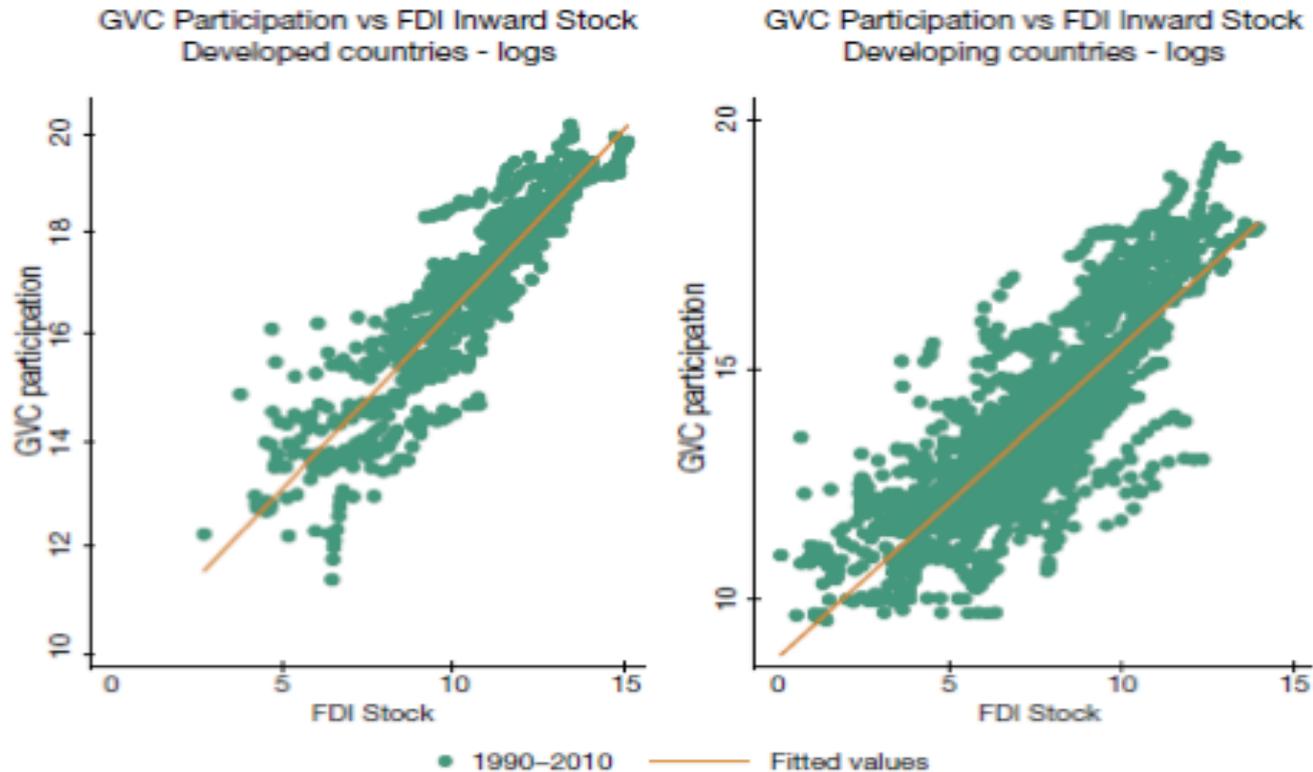
## From Single Producer to Global Value Chains (GVC)

- Globalization, Technology and MNC Production Networks and Just In Time (JIT) manufacturing have changed trade patterns.
- Behind the border measures are more important to trade flows for both **goods and services**.
- The **Rule of Law** adds to the attractiveness of individual states and even of regions for this GVC growth.



Source: WTO Secretariat.

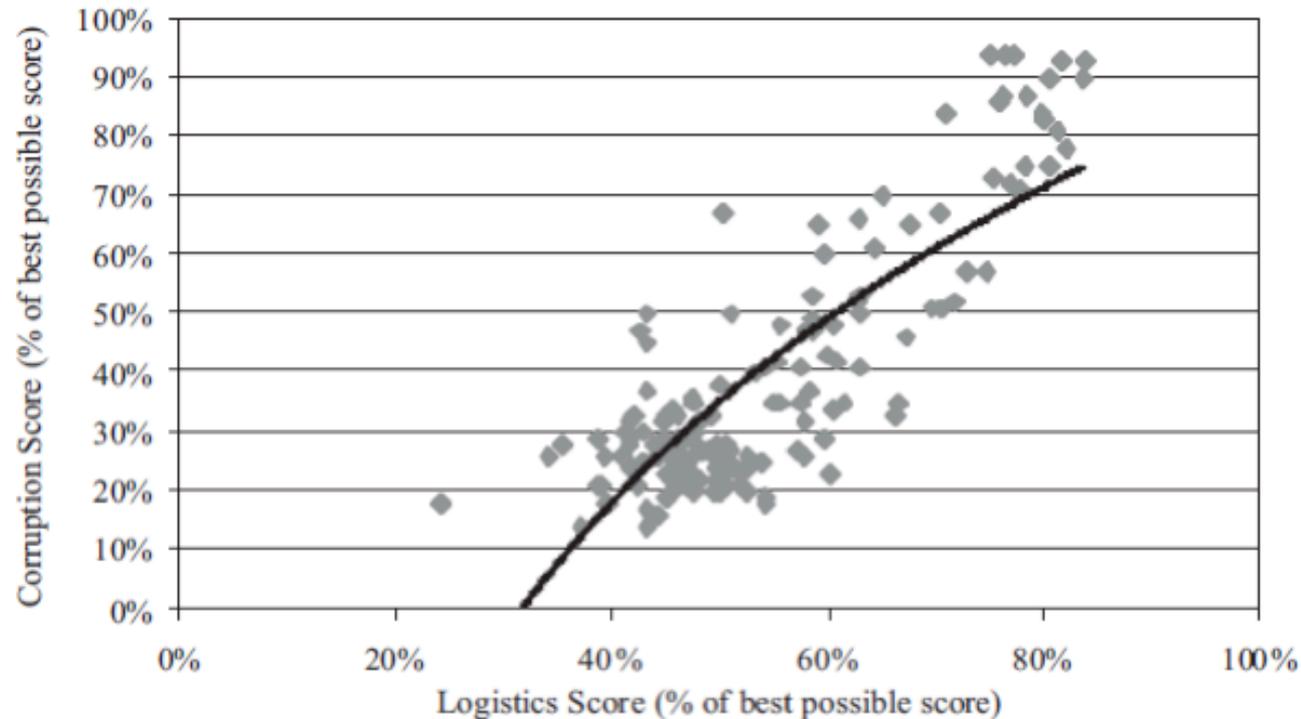
# FDI and GVC Participation



Source: UNCTAD-Eora GVC Database, UNCTAD FDI Database, UNCTAD analysis.

Note: Data for 187 countries over 20 years. The regression of the annual GVC participation growth on the annual FDI inward (stock) growth yields a positive and significant correlation (at the 5 per cent level) both for developed and developing countries ( $R^2 = 0.77$  and  $0.44$ , respectively). The correlation remains significant considering the two time periods 1990 - 2000 and 2001 - 2010 separately. Regressions use lagged (one year) inward FDI (stock) growth rates and include year fixed effects to account for unobserved heterogeneity.

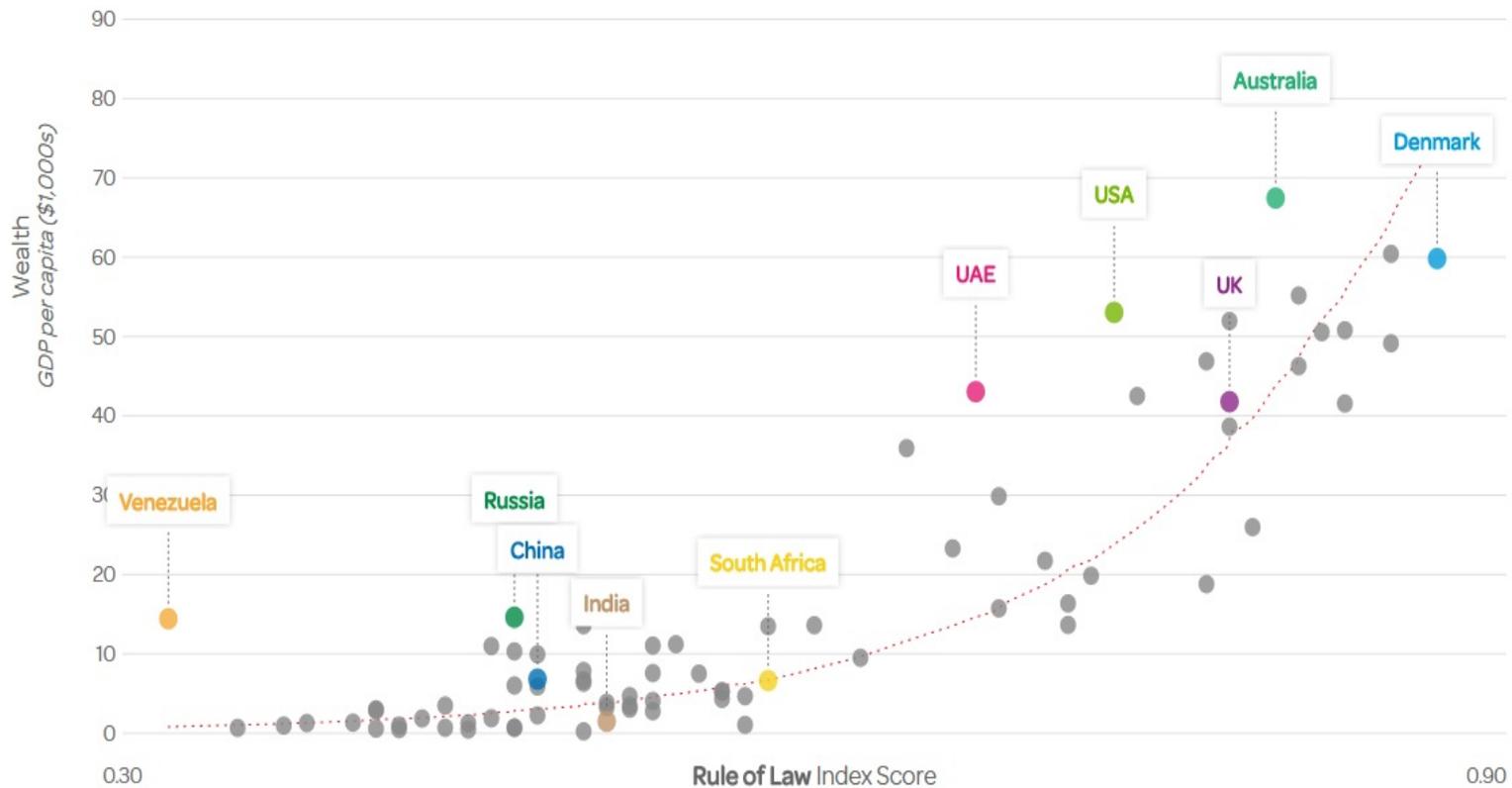
# Relationship between Logistic Performance and Corruption



Source: World Bank and Turku School of Economics (Finland), Logistics Performance Index, <http://info.worldbank.org/etools/tradesurvey/modelb.asp>, and Transparency International, Corruption Perceptions Index, <http://www.transparency.org/>.

Note: Each point is a country's set of scores for both indices.

# GDP and WJP RoL Index: Correlation but Causation(?)



Source: Lexis Nexis RoL Impact Tracker 2017

# Integration through the Rule of Law: Elements of Legalization

Goldstein, Kahler, Keohane, and Slaughter:

- 1. Obligation** refers to international actors being legally bound by legal rules and procedures, whether international or domestic.
- 2. Precision** means that these rules and procedures define rights and obligations in unambiguous ways.
- 3. Delegation** relates to the grant of authority to third parties, such as courts, arbitrators, and administrative bodies, to interpret and apply rules during dispute settlement.

# Arbitration and the Rule of Law

International Arbitration provides MNCs with greater confidence that:

1. Disputes can be efficiently settled;
2. That awards can be enforced across many jurisdictions; and
3. That bargains and agreements can be made to stick.

For Host States, International Arbitration acts as a support for existing judicial systems:

1. Sharing workload and expertise; and
2. Reducing upfront resource commitment.