



## **A Center for Law and Development**

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Globalization is changing the nature of markets and the laws and regulations that shape them, with significant implications for social and economic development. As the rules governing the market respond to changes in technology, inter-connected supply chains, and environmental challenges, it will become increasingly important to approach market rules based on their potential for inclusive economic growth, poverty reduction, and social participation. Internationally, this will strengthen existing agreements and institutions and reinforce the Sustainable Development Goals (SDGs) and other frameworks. At the country level, it will enable strategic approaches to how rules are designed and implemented in order to increase investment opportunities, create jobs, and improve livelihoods and economic rights across sectors.

The New Markets Lab (NML) was established in 2010 to house a systems approach and set of tools for leveraging law and regulation as a tool for sustainable economic development in an evolving global market. It is the only organization of its kind: an international center for law and development that houses comparative economic legal and regulatory expertise and an international team focused on systemic and inclusive economic, legal, and regulatory change. NML's systems approach focuses on areas of law that are critical to economic development but are also heavily regulated – including trade, agricultural markets, services, standards, and the digital economy – applying deep-dive analysis of particular issues with systemic assessments of economic legal systems more broadly. NML has expanded its systems approach and toolkit over the course of a decade's worth of projects and programs, and the organization has become known as a neutral center for comparative economic legal expertise. NML's methodology is grounded in practical realities, making high-level law and policy more attuned to real opportunities and challenges and bridging the gaps between the laws on the books and their application in practice.

NML has now successfully applied its model in over twenty countries in sub-Saharan Africa and Asia, building unique comparative experience in economic law and regulation. NML's institutional partners have ranged from sector-focused foundations like the Alliance for a Green Revolution in Africa (AGRA) and the Syngenta Foundation for Sustainable Agriculture (SFSA), to international institutions including the World Bank and World Economic Forum, to think tanks and corporations. By virtue of its own network and the reach of its partners, NML contributes to produce tangible changes in law and policy, better implementation of economic laws, public-private engagement in rulemaking, improved rule of law, and enhanced legal capacity in many countries.

NML's model is also upending traditional models for legal and development organizations through a globally diverse and entrepreneurial team, many of whom are young lawyers from around the world with a different vision for the role law can play in economic development. NML was founded by Katrin Kuhlmann, a lawyer and law professor who started a career in international law

hoping to find a path that linked law and economic development. After working as an international lawyer at two top U.S. law firms, a trade negotiator at the U.S. Trade Representative's Office, and a senior non-profit leader, she set out to develop a way to address the fundamental disconnect between high-level economic agreements and on-ground economic development needs, founding NML to bridge this gap and help other lawyers forge a path in law and development. Alongside NML, she has developed a unique in-class and field-based curriculum on law and development, which she has taught at Georgetown University Law Center, where she is currently a Visiting Professor, and Harvard Law School. She is joined at NML by lawyers from around the world, including Argentina, Brazil, China, Colombia, Ethiopia, the European Union, Ghana, India, Lebanon, Malawi, Nigeria, South Africa, Uganda, Ukraine, and the United States. Several members of NML's team, including Associate Counsel Ana María Garcés Escobar and Uganda-based International Legal Specialist Adron Naggayi Nalinya are working to extend NML's model to new regions (e.g. Latin America) and issues.

### ***Systems Approach to Law and Regulation Designed to Leverage Sustainable Economic Development***

NML's systems approach targets critical aspects of the enabling environment, individually and systemically, in the context of international frameworks and good practices. It is beneficial for countries as they assess the various options available to align with global and regional rules ("policy space") and the economic evidence needed to prioritize policy and regulatory measures. Regionally and internationally, NML's tools help facilitate "interoperability" across borders in order to build viable international markets in which law has a positive impact. NML's approach complements existing benchmarking tools, going a layer deeper to understand the nuances in different regulatory systems, how laws and regulations function in practice, and regulatory tradeoffs and options.

NML has built its systems approach over nearly a decade of experience, starting with a successful proof of concept (TransFarm Africa) developed in partnership with the William and Flora Hewlett Foundation that demonstrated the role of the regulatory environment in unlocking emerging investment opportunity in Tanzania's agricultural sector. This proof of concept also produced real results: improvements in seed regulations spurred the commercialization of the potato sector in Tanzania by a market innovator along an agricultural corridor (Tanzania Food Corporation/Mtanga Foods in the SAGCOT corridor), resulting in a tenfold increase in yields for thousands of farmers, jobs for men and women on- and off-farm.

- Since its inception, NML has focused on trade and agricultural corridors as a system-wide framework that integrates economic, regulatory, and social considerations and identifies possible avenues for addressing gaps in market fragmentation. NML's approach to corridors is based upon the connections between investment potential along a corridor, design and implementation the enabling environment to generate greater economic opportunity, relevant governance structures and public-private platforms, and integration of sustainable development issues. Most recently, NML applied its methodology in a detailed situational, legal, and regulatory analysis of the Moyale corridor between Kenya and Ethiopia in partnership with USAID's East Africa Trade and Development Hub. NML has also partnered with the World Bank in Rajasthan to develop a set of interventions and

partnerships to adopt a development corridors approach to infrastructure investment to attract private sector investment and improve income prospects of rural farmers, including women, along the spices and horticulture value chains. The India corridors project incorporated a comprehensive legal and regulatory component that included contract farming, the enabling environment for farmer producer organizations, regulation of commodity exchanges and platforms, legal and regulatory aspects of horticultural value chain development, and international practices in standards and trade facilitation.

- Building on its earlier work on the regulatory systems for agricultural inputs, NML launched an ongoing program with SFSA in 2015 that has examined how seed is regulated in about a dozen countries and the four main regional bodies in sub-Saharan Africa. This work has revealed notable patterns in how countries regulate within and across borders, as well as highlighted best practices in regulation that have emerged from within sub-Saharan Africa and other developing markets. NML's work with SFSA has focused in particular on improving the regulatory system to benefit smallholder farmers and emerging enterprises, and the work has expanded to include other issues, such as intellectual property rights (IPR), and countries (most recently, Myanmar). NML also designed a project with the Southern Agricultural Growth Corridor of Tanzania (SAGCOT), with support from AGRA and USAID, to map Tanzania's entire regulatory system related to seed (including registration and certification of seed, IP, and trade) and build capacity among local stakeholders to improve implementation of the regulatory system for seed and other inputs. Most recently, NML has partnered with Emerge Centre for Innovations-Africa and the East African Community (EAC), through AGRA, on the EAC's new seed and fertilizer laws and policies.
- NML has approached its work in agricultural regulation from a systemic level, drawing lessons from different aspects of value chain regulation that can help the system work better as a whole. For example, NML and the African Fertilizer and Agribusiness Partnership (AFAP), with support from AGRA and USAID, partnered to generate improvements in the design and implementation of fertilizer regulation at the country and regional levels. Building on this foundation, NML and AGRA joined up with other partners – the International Fertilizer Development Center (IFDC), Michigan State University (MSU), and the Regional Network of Agricultural Policy Research Institutes (ReNAPRI) – to build the evidence base for market-based fertilizer policy and regulation. Also through AGRA, NML has collaborated with the Ethiopian Agricultural Transformation Agency (ATA) to design a contract farming scheme tailored to Ethiopia's market, which resulted in a government proclamation on contract farming, and is working with Uganda Agribusiness Alliance (UAA) to assess regulatory interventions to improve access and availability of agricultural finance. Through work with partners like the International Fund for Agricultural Development and Center for Strategic and International Studies (CSIS), NML has taken a wholistic view of the rules and regulations affecting agricultural value chains and trade, which link together multiple issues and leverage NML's issue-focused projects and programs.
- In addition to work in the agricultural sector, NML has applied its model to unlock the potential for sustainable development in a number of key sectors, value chains, and

corridors. NML's projects have covered e-commerce and services, industrial products, and handicrafts and apparel. In 2018, NML and the Center for International Private Enterprise (CIPE) launched a comprehensive guide to digital economic regulation, drawing upon best practices and country experiences to assess trends, tradeoffs, and models in e-commerce regulation; following the guide, NML and CIPE have worked at the country level to customize e-commerce regulation based on local demand. NML has also created several guides on the regulation of services (financial services, information and communication technology (ICT), transport, and tourism) that were designed to walk governments and private sector stakeholders through options for designing services regulatory regimes. In addition, NML has partnered with the International Growth Centre to examine the role of the regulatory system in unlocking growth potential in Tanzania's cosmetics sector and with CUTS International on how law and regulation within the East African Community (EAC) impact growth of the apparel sector. NML has also partnered with the Corporate Council on Africa on trade facilitation and regulation of energy in sub-Saharan Africa.

- Across projects and programs, NML has created a number of innovative tools, which include a library of *Legal and Regulatory Guides* that clearly present laws, regulations, and their implementation, benchmarked against regional and international good practices. NML has developed Legal Guides on diverse topics, including digital trade, legal aspects of social investment in East Africa, and issues facing women entrepreneurs.

NML's programs also center on development-focused models for international and regional trade designed to tailor broader agreement frameworks to local needs and the SDGs. NML has advocated for new models for trade agreements and trade preference programs, initiatives to improve food security, and new approaches in rule of law that balance the interests of diverse economies and legal systems. NML has made notable contributions that link international legal frameworks with development considerations, working with partners like the World Economic Forum, UN Agencies, think tanks (such as CSIS, Brookings, and the German Marshall Fund), and African regional economic communities to provide thought leadership on new approaches to trade and development.

In the summer of 2019, NML launched a research program to re-think the role of development in trade agreements. This work will be part of an ongoing program under the New Markets Lab, in collaboration with partners like UNCTAD and others, to build a more inclusive model for trade that better furthers economic development for all. It is particularly timely given the tremendous potential for economic development through new trade agreements like the African Continental Free Trade Area. The new model will more closely link trade with sustainable development considerations, including the SDGs and the "building blocks" of trade and development, which encompass both "traditional" components of trade agreements (such as trade facilitation, SPS standards, intellectual property, and technical barriers to trade like packaging and product standards), and frontier issues (such as digital trade, food security, labor and supply chains, environment, investment, competition, and gender). NML's program will produce a set of tools and an inventory of good practices, drawing upon models from around the world and NML's systems approach, along with recommendations for the future, with engagement in Washington, D.C., Africa, and elsewhere to operationalize more development-driven trade law and policy.

## ***Better Application of Law and Regulation to Close the “Implementation Gap”***

NML’s work goes well beyond the diagnosis of law and regulation to turn its tools into results.

- To simplify legal and regulatory processes and procedures, NML has developed a library of [Regulatory Systems Maps](#), which visually depict key legal and regulatory processes – and their implementation – step-by-step, highlighting regulatory bottlenecks and tradeoffs. The maps have been a constructive mechanism for supporting evidence-based advocacy and reforms and a useful comparative tool for collecting qualitative data on different regulatory processes and procedures across borders.
- NML has also developed a series of *Law and Development Case Studies* focused on helping policymakers, students, and the private sector better understand practical, real-time regulatory constraints to market innovation and illuminate pathways for system-wide change. The Case Studies have covered issues ranging from implementation of trade agreements at the national level, evaluation of markets based on differing regulatory approaches, and the impact of gaps in law and regulation (and their implementation) from the perspective of women and small businesses.

NML is launching a technology platform, RegMaps, to house its Regulatory Systems Maps and other tools. Technology solutions are taking off in areas like financial regulatory compliance but have not yet been widely applied to law and development. RegMaps will break new ground in simplifying intricate legal and regulatory challenges that limit market growth and investment, highlighting priorities for reform, sharing successes and good practices, and allowing users to navigate economic rules in a simple, easy-to-understand format.

## ***Improved Legal and Regulatory Capacity***

NML also focuses on a key constraint worldwide: building the capacity to improve legal and regulatory systems in order to generate inclusive growth, transform sectors, and reduce poverty. Many are not aware of the range of rules affecting them, limiting economic opportunity to a select few. Policymakers and regulators, negotiators, lawyers, enterprises, NGOs, and industry associations also need support for learning and applying a systems approach to law and regulation. Legal capacity building is an integral part of both NML’s structure and programmatic work, and the organization works to build legal capacity through interactive legal tools, stakeholder consultation, ongoing partnerships, and scenario-based regulatory modules that rely on systems analysis and human-centered design.

NML is increasingly incorporating economic analysis and political economy considerations into its capacity building work as well. Better evidence for policy and regulatory reform is needed, and governments around the world can benefit from understanding the costs, benefits, and tradeoffs involved in different regulatory approaches.

Lawyers also need practical experience with systems approaches, particularly at an early career stage. Despite the growing number of young lawyers interested in pursuing careers in law and development, there simply are not enough practical training programs during or, in particular, following law school. In response, NML has established a legal fellowship program to provide

both technical knowledge and “learning by doing,” creating a global community of practice in law and development and an important in-country resource for NML and its partner organizations. NML has already proven to be a stepping stone to careers in legal reform and policymaking, with NML’s alumni working in government, international institutions, and the private practice of international law. As NML’s programs and network grow, the organization and its alumni will be a powerful resource for systems-based regulatory change.