



GOOD REGULATORY PRACTICE AND ENVIRONMENTAL SERVICES

THE WTO DISCIPLINES ON SERVICES DOMESTIC REGULATION AND
THEIR RELEVANCE IN THE ENVIRONMENT SECTOR

Jaime Coghi Arias

Chair of the Joint Initiative on Services Domestic Regulation

13 May 2025



OUTLINE

- The WTO Disciplines on Services Domestic Regulation
- Good Regulatory Practice For Environmental Purposes – From the Disciplines on Services Domestic Regulation to Preferential Trade Agreements
- Selected Examples (*Transparency and Publication; Stakeholder Engagement; Standards and Cooperation*)
- Some Concluding Reflections



THE WTO DISCIPLINES ON SERVICES DOMESTIC REGULATION (SDR)



A set of principles on good regulatory practice for services sectors adopted by 72 WTO Members accounting for more than 90 % of world services trade.



THE SDR DISCIPLINES

- Aim to ensure that existing *liberalization commitments are not impaired by opaque and complex authorization procedures*
- Do not question WTO Members' *right to regulate* to pursue national policy objectives
- Set of regulatory disciplines relating to “*authorization*” i.e. permission to supply a service resulting from a procedure that demonstrates compliance with licensing and qualification requirements and technical standards
- *Horizontal application* to sectors *where specific commitments are undertaken in GATS schedules (MFN application)*
- Encouragement to *apply to additional sectors* (including environmental services)



Transparency

Legal Certainty and Predictability

Regulatory Quality and
Facilitation



Transparency



Ensuring prompt availability of
information for service suppliers
and stakeholder involvement

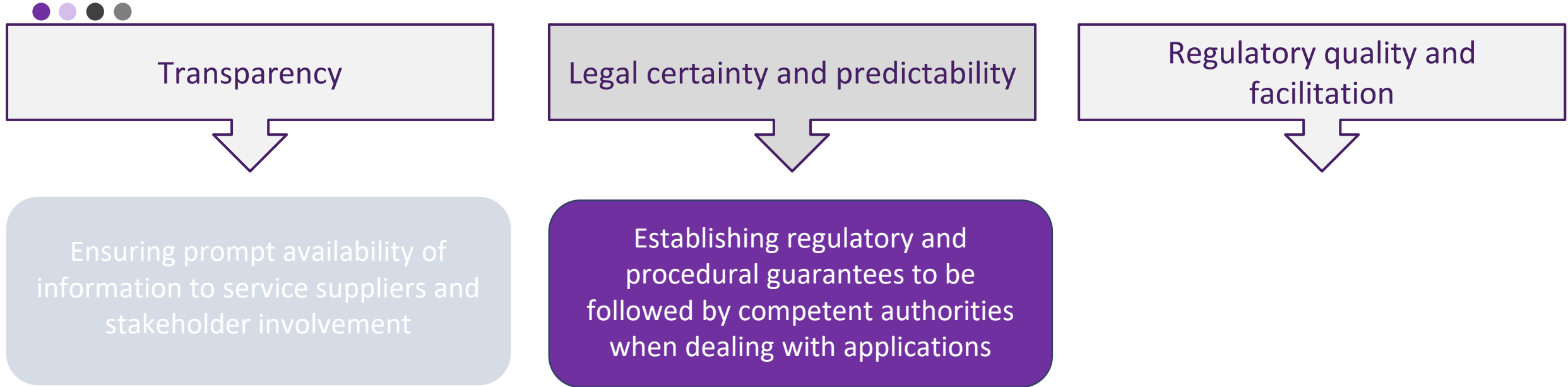
Legal certainty and predictability



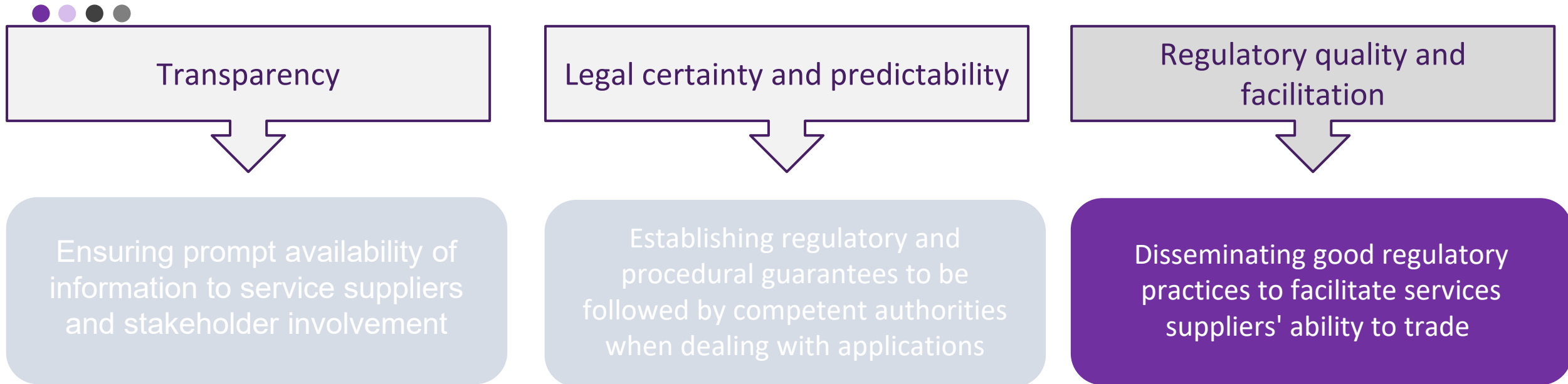
Regulatory quality and
facilitation



- Publish and make available information required to comply with requirements and procedures for authorization, including through electronic means
- Establish appropriate mechanisms for responding to enquiries from service suppliers
- Engage stakeholders by publishing proposed laws and regulations, providing opportunity for comments from interested persons, and considering comments received



- Establish indicative timeframes for processing application
- Provide information on the status of application and process it in a timely manner
- Inform about decisions on application, including about additional information required to complete it
- Inform applicants of reasons for rejection of application and allow resubmission
- Allow authorization once granted to enter into effect without undue delay
- Hold examinations at reasonably frequent intervals



- Require applicants to approach only one competent authority to obtain authorization
- Permit submission of applications at any time throughout the year, or at least, allow reasonable periods of time for submission
- Accept electronic applications and authenticated copies of documents
- Ensure that authorization fees are reasonable, transparent, and do not in themselves restrict the supply of service
- Support professional bodies wishing to establish dialogues on issues relating to recognition of professional qualifications
- Ensure that competent authorities reach their decisions in a manner independent from services suppliers
- Consolidate information on a single online portal
- Develop technical standards through open and transparent processes
- Base measures relating to authorization on objective and transparent criteria
- Ensure that procedures are impartial, adequate and do not unjustifiably prevent fulfilment of authorization requirements
- Ensure that authorization measures do not discriminate between men and women



GOOD REGULATORY PRACTICE AND ENVIRONMENTAL SERVICES

- Are principles of good regulatory practice relevant for environmental services?
- To what extent are the SDR Disciplines relevant for environmental services?
- Have WTO Members developed specific regulatory principles (beyond the SDR disciplines) to effectively address the unique characteristics and requirements of environmental services?



GOOD REGULATORY PRACTICE AND ENVIRONMENTAL SERVICES

From the SDR disciplines... to preferential trade agreements (PTAs)
– Different approaches to good regulatory practice principles

SDR DISCIPLINES

- ***Horizontal application*** across all services sectors
- Cross cutting principles of good regulatory practice not specifically linked with environmental objectives
- ***Broad flexibilities*** to allow for different degrees of implementation in different sectors at the domestic level

PTAs

- Most PTAs contain ***horizontal regulatory principles in trade in services chapters*** (including environmental services)
- Some PTAs provide for ***dedicated environment chapters with regulatory principles for the environmental sector (goods + services)***
- Some PTAs include ***issue specific regulatory principles*** which are specifically address for environmental objectives



TRANSPARENCY AND PUBLICATION

SDR Disciplines

Publication and Information available

13. If a Member requires authorization for the supply of a service, further to Article III of the Agreement, the Member shall promptly publish, or otherwise make publicly available in writing, the information necessary for service suppliers or persons seeking to supply a service to comply with the requirements and procedures for obtaining, maintaining, amending and renewing such authorization. Such information shall include, inter alia, where it exists:

- (a) the requirements and procedures;
- (b) contact information of relevant competent authorities;
- (c) fees;
- (d) technical standards;
- (e) procedures for appeal or review of decisions concerning applications;
- (f) procedures for monitoring or enforcing compliance with the terms and conditions of licenses or qualifications;
- (g) opportunities for public involvement, such as through hearings or comments; and
- (h) indicative timeframes for processing of an application.

For purposes of these disciplines, "publish" means to include in an official publication, such as an official journal, or on an official website. Members are encouraged to consolidate electronic publications into a single portal.

Agreement on Climate Change, Trade and Sustainability (ACCTS)

CHAPTER 3 TRADE IN ENVIRONMENTAL SERVICES

Article 3.9 - Transparency

1. Each Party shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Chapter. International agreements pertaining to or affecting trade in environmental and environmentally related services to which a Party is a signatory shall also be published.
2. Where publication as referred to in paragraph 1 is not practicable, such information shall be made otherwise publicly available.



STAKEHOLDER ENGAGEMENT

SDR Disciplines

Opportunity to Comment and Information before Entry into Force

14. To the extent practicable and in a manner consistent with its legal system for adopting measures, each Member¹³ shall publish in advance:
- (a) its laws and regulations of general application it proposes to adopt in relation to matters falling within the scope of paragraph 1 of this Section; or
 - (b) documents that provide sufficient details about such a possible new law or regulation to allow interested persons and other Members to assess whether and how their interests might be significantly affected.
15. To the extent practicable and in a manner consistent with its legal system for adopting measures, each Member is encouraged to apply paragraph 14 of this Section to procedures and administrative rulings of general application it proposes to adopt in relation to matters falling within the scope of paragraph 1 of this Section.
16. To the extent practicable and in a manner consistent with its legal system for adopting measures, each Member shall provide interested persons and other Members a reasonable opportunity to comment on such proposed measures or documents published under paragraphs 14 or 15 of this Section.
17. To the extent practicable and in a manner consistent with its legal system for adopting measures, each Member shall consider comments received under paragraph 16 of this Section.
18. In publishing a law or regulation referred to in paragraph 14 (a) of this Section, or in advance of such publication, to the extent practicable and in a manner consistent with its legal system for adopting measures, a Member is encouraged to explain the purpose and rationale of the law or regulation.
19. Each Member shall, to the extent practicable, endeavour to allow reasonable time between publication of the text of a law or regulation referred to in paragraph 14 (a) of this Section and the date on which service suppliers must comply with the law or regulation.

USMCA

Chapter 24: Environment - Article 24.5: Public Information and Participation

1. Each Party shall promote public awareness of its environmental laws and policies, including enforcement and compliance procedures, by ensuring that relevant information is available to the public.
2. Each Party shall provide for the receipt and consideration of written questions or comments from persons of that Party regarding its implementation of this Chapter. Each Party shall respond in a timely manner to these questions or comments in writing and in accordance with domestic procedures, and make the questions or comments and the responses available to the public, for example by posting on an appropriate public website.
3. Each Party shall make use of existing, or establish new, consultative mechanisms, for example national advisory committees, to seek views on matters related to the implementation of this Chapter. These mechanisms may include persons with relevant experience, as appropriate, including experience in business, natural resource conservation and management, or other environmental matters.

Chapter 28: Good Regulatory Practices - Article 28.9: Transparent Development of Regulations

4. If a Party expects a draft regulation to have a significant impact on trade, the Party should normally provide a time period to submit written comments and other input on the items published in accordance with paragraph 1 that is: (a) not less than 60 days from the date the items identified in paragraph 1 are published; or (b) a longer time period as is appropriate due to the nature and complexity of the regulation, in order to provide interested persons adequate opportunity to understand how the regulation may affect their interests and to develop informed responses.
5. With respect to draft regulations not covered under paragraph 4, a Party shall endeavor, under normal circumstances, to provide a time period to submit written comments and other input on the information published in accordance with paragraph 1 that is not less than four weeks from the date the items identified in paragraph 1 are published.
6. In addition, the Party shall consider reasonable requests to extend the comment time period under paragraph 4 or 5 to submit written comments or other input on a draft regulation.
7. Each Party shall endeavor to promptly make publicly available any written comments it receives, except to the extent necessary to protect confidential information or withhold personal identifying information or inappropriate content. If it is impracticable to publish all the comments on the website provided for in Article 28.7 (Dedicated Website), the regulatory authority of a Party shall endeavor to publish those comments on its own website.
8. Before finalizing its work on a regulation, a regulatory authority of a Party shall evaluate any information provided in written comments received during the comment period.



STANDARDS AND COOPERATION

SDR Disciplines

Technical Standards

21. Each Member shall encourage its competent authorities, when adopting technical standards, to adopt technical standards developed through open and transparent processes, and shall encourage any body, including relevant international organizations, designated to develop technical standards to use open and transparent processes.

EU – Viet Nam FTA

Chapter 7: Non-tariff barriers to trade and investment in renewable energy generation Article 7.5: Standards, Technical Regulations and Conformity Assessment

1. If relevant international standards established by the International Organization for Standardization or the International Electrotechnical Commission exist, the Parties shall use those international standards, or their relevant parts, as a basis for any standard, technical regulation or conformity assessment procedure, except when those international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued. In those cases, a Party shall, upon request of the other Party, identify the part of the respective standard, technical regulation or conformity assessment procedure which substantially deviates from the relevant international standard and provide justification as to the reasons for the deviation.

Article 7.7 Implementation and Cooperation

1. The Parties shall cooperate and exchange information on any issues relating to the implementation of this Chapter in the relevant specialised committees established pursuant to Article 17.2 (Specialised Committees). The Trade Committee may decide to adopt appropriate implementing measures to this effect.
2. The Parties shall exchange information, regulatory experiences and best practices in areas such as:
 - (a) the design and non-discriminatory implementation of measures promoting the use of energy from renewable sources;
 - (b) technical regulations, standards and conformity assessment procedures, such as those relating to grid code requirements.
3. The Parties shall promote cooperation, with respect to domestic or regional technical regulations, regulatory concepts, standards, requirements and conformity assessment procedures which comply with international standards, in relevant regional fora.

Agreement between New Zealand and the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu on Economic Cooperation

Chapter 17 Trade and Environment Article 3 Environmental Goods and Services

1. The Parties recognise that facilitating trade in environmental goods and services through elimination of tariff and non-tariff barriers can enhance economic performance and address global environmental challenges including climate change; natural resources protection; water, soil and air pollution; management of waste and waste water; and depletion of the ozone layer.
2. Accordingly, the Parties shall: [...] (d) encourage the application of good regulatory principles to the design of any future standards and regulations relating to environmental goods and services, including transparency, proportionality, a preference for least trade-distorting measures, and the use of internationally agreed standards

Article 5 Cooperation

1. The Parties agree to cooperate on mutually agreed environmental issues, including through the interaction and involvement, as appropriate, of government, industry, educational and research institutions of each Party.
2. The Parties may encourage and facilitate cooperative activities, as appropriate, through the following modes of cooperation: (a) exchange of environmental experts and management personnel, including study visits and other technical exchanges; (b) exchange of technical information and publications to enhance mutual understanding of environmental laws, policies and institutions of the Parties; (c) joint conferences, seminars, workshops and meetings; and (d) collaborative research on subjects of mutual interest.



SOME CONCLUDING REFLECTIONS

- Principles of good regulatory practice matter across services sectors, including for environmental services
- The SDR disciplines do not have a specific environmental focus, but they address issues of importance for the environmental sector
- Some PTAs go beyond the SDR disciplines in containing tailor-made regulatory principles which address the unique characteristics of environmental services (including in combination with environmental goods in dedicated environment chapters/annexes)
- For WTO Members, the SDR disciplines may provide a useful benchmark on which to build for improving the transparency, predictability and efficiency of environmental services in support of environmental goals



THANK YOU

JAIME.COGHI@COMEX.GO.CR

