

Non-Tariff Measures - Sanitary and Phytosanitary requirements, Technical regulations and Standards: Challenges and the Role of States

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What is an SPS/TBT Measure?

Is it food, drinks or feed and is its objective to protect one of these?

- Human/Animal/Plant life, or a country and it reads risk from the following:
 - ✓ Additives
 - ✓ Contaminants
 - ✓ Toxins
 - ✓ Plant- or animal carried diseases
 - ✓ Diseases causing organisms
 - ✓ Pest entering , establishing or spreading

YES

SPS

NO

Is it a Technical Regulation, Standard, or Procedure for assessing whether a product conforms with a Standard

YES


TBT

NO

OTHERS

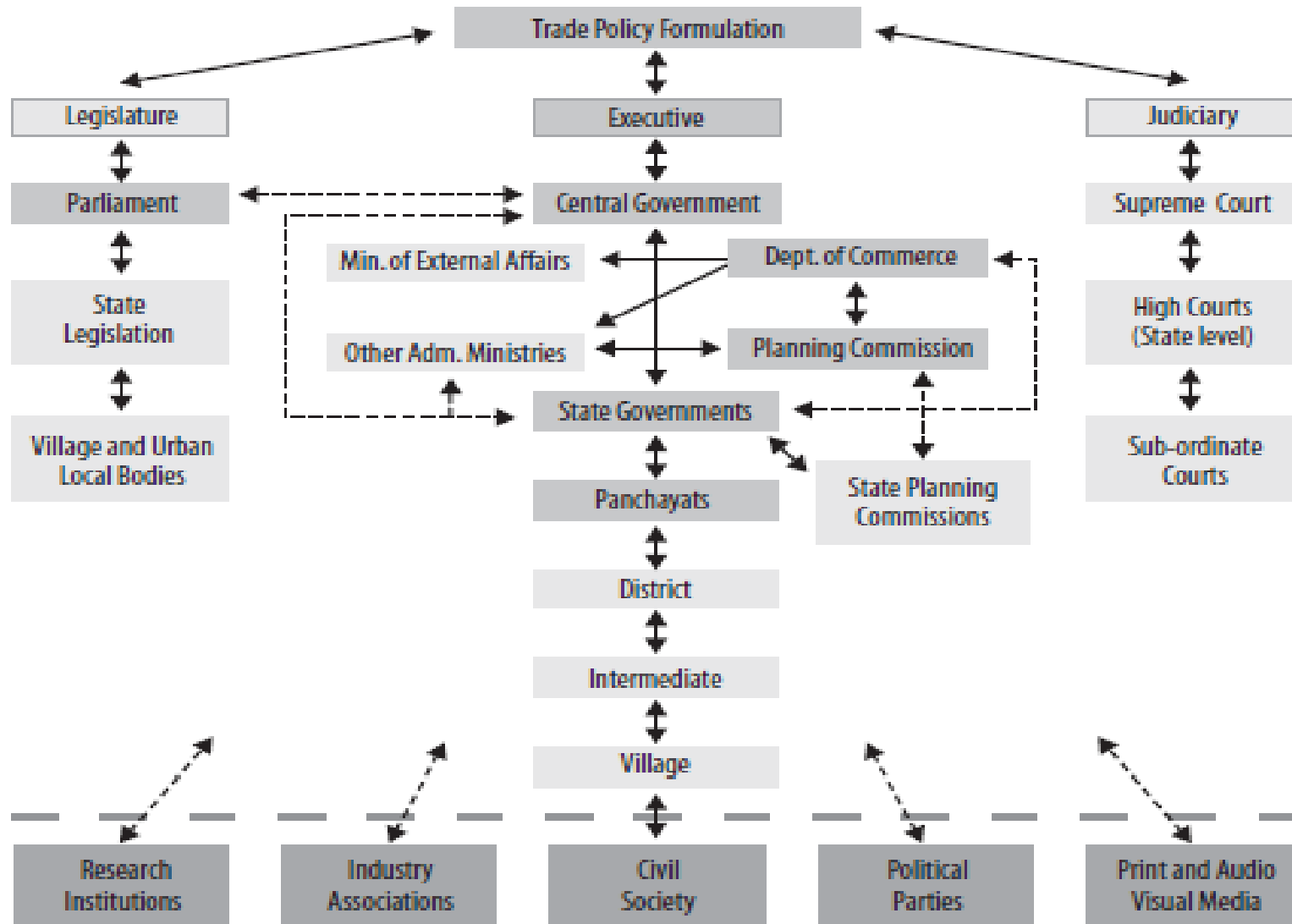


Federal Structure

- **Union/Central List**
 - The union list consists of **97 items**
 - **State list**
 - The state list consists of **66 items** and **individual states** have exclusive authority to legislate on these individual items
 - **Concurrent list**
 - Concurrent list consists of **47 items**. Uniformity is desirable but not essential on items in this list: Marriage and divorce, transfer of property, education, contracts, bankruptcy and insolvency, trustees and trusts, **adulteration of foodstuffs, drugs and poisons, economic and social planning**, trade unions, **labour welfare**, electricity, newspapers, books and printing press, stamp duties.
 - **Exceptions**
 - **Though states have exclusive areas to items on the states list**, Articles 249, 250, 252, and 253 state situations in which the federal government can legislate.
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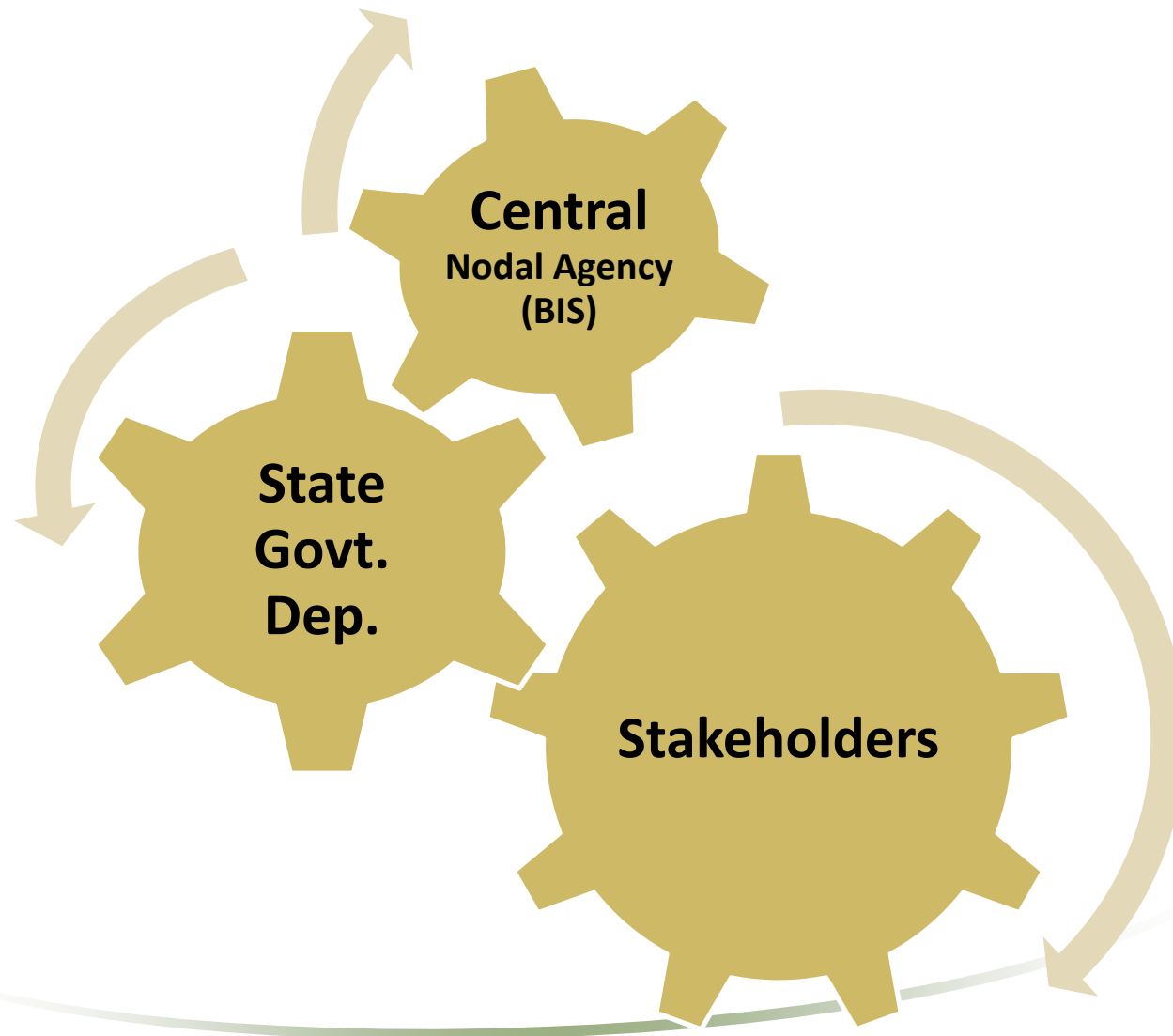
Actors in Trade Policy Making

Chart 1: Agencies involved in the formulation of trade policy in India



Mechanism of Ideal Functioning

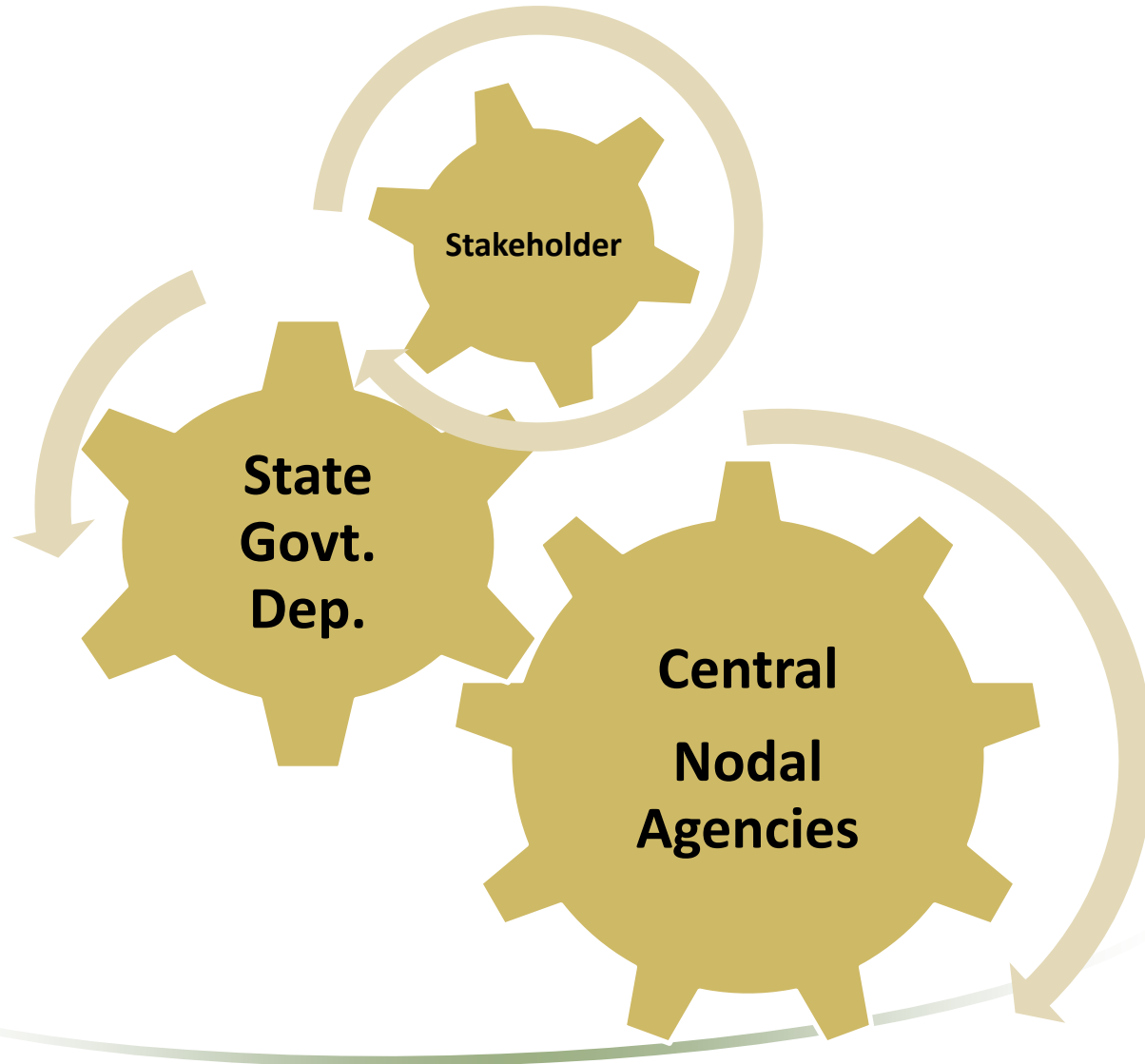
Notify to the WTO (TBT Committees)





Mechanism of Ideal Functioning

Notify to the WTO (SPS Committees)



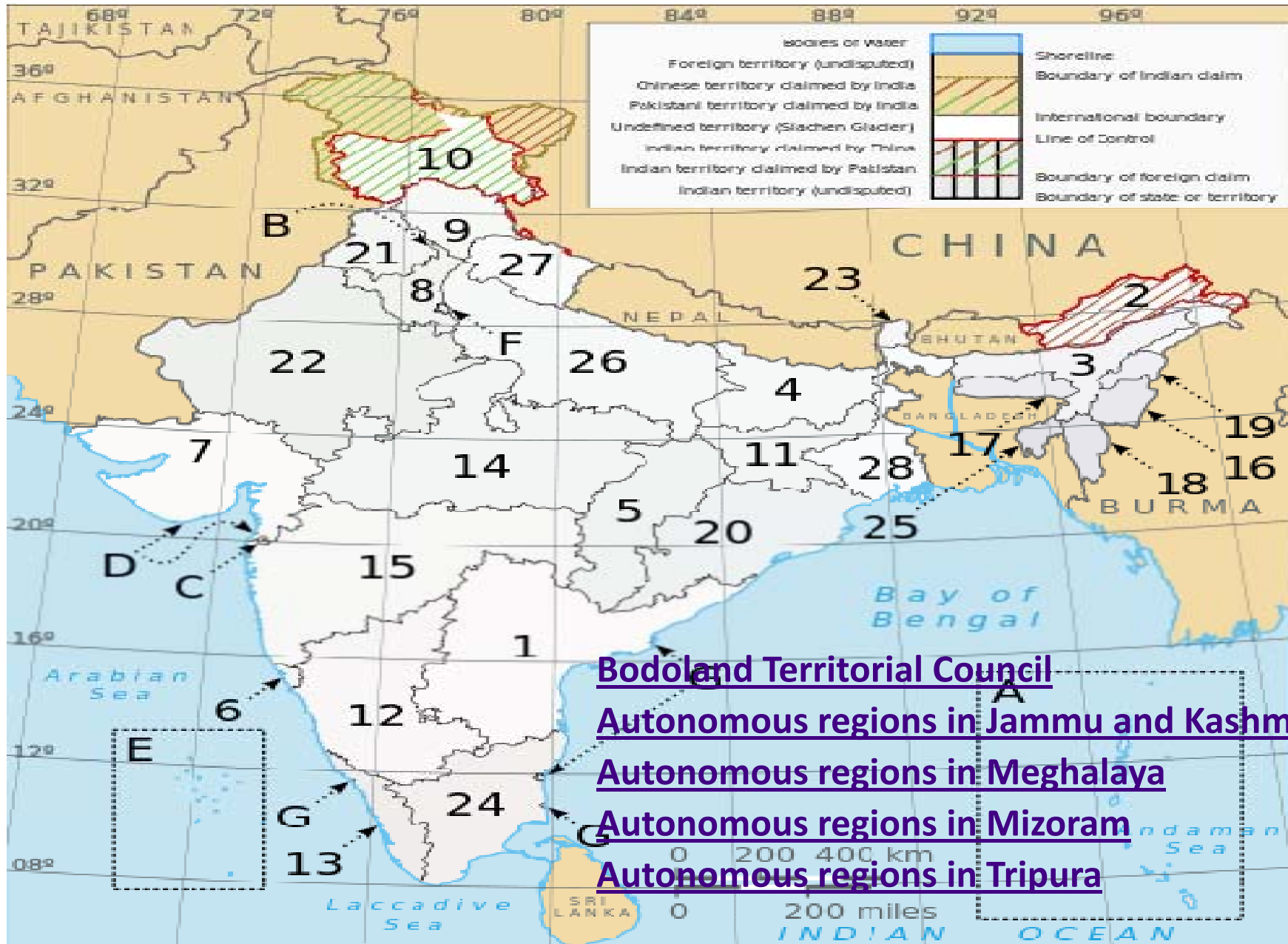


Possible Area's under which States Can Set their own Standards

In consultation with the WTO's Nodal Agency on SPS and TBT

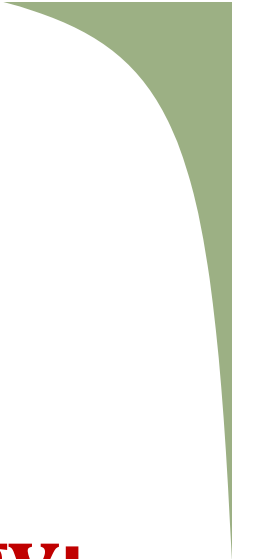
- Education (Services)
- Public health and sanitation; hospitals and dispensaries. (SPS/TBT)
- Agriculture, including agricultural education and research; protection against pests and prevention of plant diseases. (SPS)
- Preservation protection and improvement of stock and prevention of animal diseases; veterinary training and practice. (SPS/TBT)
- Water, that is to say water supplies, irrigation and canals, drainage and embankments, water storage and water power. (TBT)
- Fisheries. (SPS)
- Etc.....

How Effectively India Can Legislate?





**Let us take an Example of Metrology:
*for identification of states role***



Four Broad System of Metrology... Cont1/2

1. Traditional systems:

- ✓ The dimensions of the human body.
 - ✓ **Limitation:** *Units of measure could vary not only from location to location, but from person to person.*

2. Metric systems

- ✓ A number of metric systems of units have evolved since the adoption of the original metric system in France in 1791. The current international standard metric system is the International System of Units. An important feature of modern systems is standardization. Each unit has a universally recognized size.
- ✓ Both the Imperial units and US customary units derive from earlier English units.
- ✓ US customary units are still the main system of measurement used in the United States despite Congress having legally authorized metric measure on 28 July 1866.
- ✓ Some steps towards US metrication have been made, particularly the redefinition of basic US units to derive exactly from SI units, so that in the US the inch is now defined as 0.0254 m (exactly), and the avoirdupois pound is now defined as 453.59237 g (exactly)

Four Broad System of Metrology 2/2

3. Natural systems

- ✓ Systems of units based on these are called natural units. Similar to natural units, atomic units (au) are a convenient system of units of measurement used in atomic physics. Also a great number of unusual and non-standard units may be encountered.


4. Legal control of weights and measures

- ✓ **Two Main articles:** Weights and Measures Act / Trading standards
- ✓ To reduce the **incidence of retail fraud**, many **national statutes** have standard definitions of weights and measures that may be used (hence "statute measure"), and these are verified by legal officers.



Committee E56 on Nanotechnology

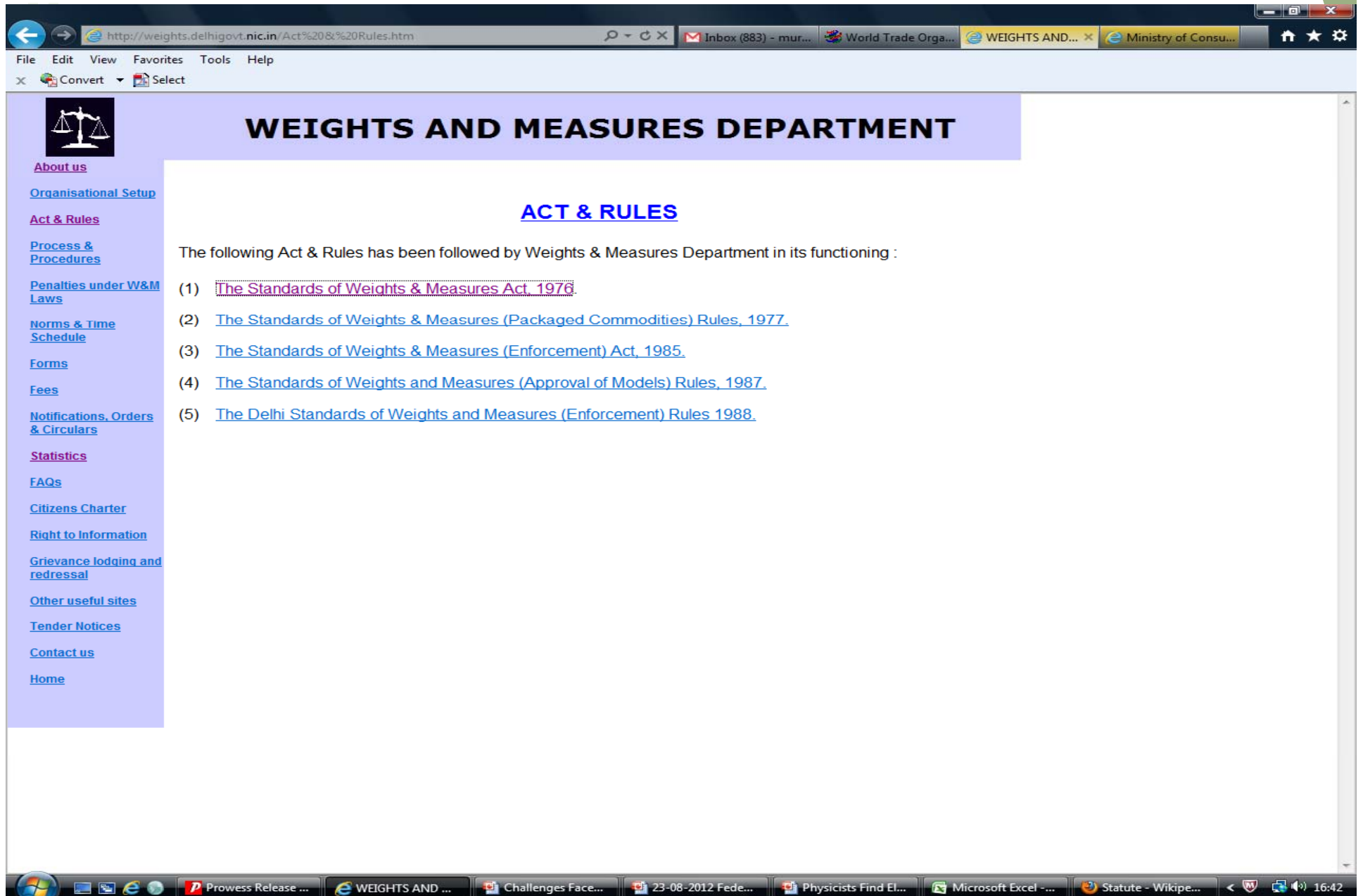
Sub Committees

- E56.01 Informatics and Terminology
 - E56.02 Characterization: Physical, Chemical, and Toxicological Properties
 - E56.03 Environment, Health, and Safety
 - E56.04 Intellectual Property Issues
 - E56.05 Liaison and International Cooperation
 - E56.06 Nano-Enabled Consumer Products
 - E56.90 Executive
 - E56.91 Strategic Planning and Review
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Example one: Land/Distance Measurements

- a) 1 Acre = 43,560 square feet
- b) 1 Furlong = 660 feet
- c) 1 Knot = 6080.2 feet
- d) 1 Acre = .4047 hectare
- e) 1 Hectare = 10,000 square meters
- f) 1 Link = .66 feet
- g) 1 Acre = 4047 square meters
- h) 1 Inch = 25400 mm
- i) 1 Mile = 5,280 feet
- j) 1 Chain = 100 links
- k) 1 Kilometer = 3280.83 feet
- l) 1 Mile = 8000 links
- m) 1 Foot = 12 inches
- n) 1 Kilometer = .62 mile
- o) 1 Yard = 36 inches
- p) 1 Yard = 3 feet's
- q) 1 Square Yard = 9 square feet
- r) 1 Acre = 100 cents
- s) 1 Kilometer = 1000 meters
- t) 1 Mile = 1760 yards
- u) 1 Cent = 434.6 sq. ft
- v) 1 Feet = 30.48 cm
- w) 1 nautical mile = 080 feet 5
Links = 1 meter
- x) 1 Ares = 2.470 cents

Indian Weights and Measures Act & Rules



The screenshot displays the official website of the Weights and Measures Department of India. The browser's address bar shows the URL <http://weights.delhigovt.nic.in/Act%20&%20Rules.htm>. The page features a purple header with the text "WEIGHTS AND MEASURES DEPARTMENT" and a logo of a scale of justice. A left-hand navigation menu lists various sections such as "About us", "Organisational Setup", "Act & Rules", "Process & Procedures", "Penalties under W&M Laws", "Norms & Time Schedule", "Forms", "Fees", "Notifications, Orders & Circulars", "Statistics", "FAQs", "Citizens Charter", "Right to Information", "Grievance lodging and redressal", "Other useful sites", "Tender Notices", "Contact us", and "Home". The main content area is titled "ACT & RULES" and contains the following text: "The following Act & Rules has been followed by Weights & Measures Department in its functioning :". Below this text is a numbered list of five items:

- (1) [The Standards of Weights & Measures Act, 1976](#)
- (2) [The Standards of Weights & Measures \(Packaged Commodities\) Rules, 1977](#)
- (3) [The Standards of Weights & Measures \(Enforcement\) Act, 1985](#)
- (4) [The Standards of Weights and Measures \(Approval of Models\) Rules, 1987](#)
- (5) [The Delhi Standards of Weights and Measures \(Enforcement\) Rules 1988](#)

The Windows taskbar at the bottom shows several open applications, including "Prowess Release ...", "WEIGHTS AND ...", "Challenges Face...", "23-08-2012 Fede...", "Physicists Find El...", "Microsoft Excel - ...", and "Statute - Wikip...", along with the system clock showing 16:42.



Goa Metrology- Weights and Measures

FOR CONSUMERS TO KNOW:


- ✓ All weights, measures, weighing and measuring instruments used by the Trader in their trade, commerce and industry are required to be verified periodically and stamped by the Inspector Legal Metrology, under the Law. Look for the stamp of verification on the weights and measures, etc.
- ✓ The trader in their trade, commerce and industry, is required to use the beam scale suspended from hook or stand, to avoid manipulation by hand, to his own advantage.
- ✓ When buying land or a plot for house building the Consumers always should buy in terms of hectares or square meters. Acres, yards, feet and inches are no longer recognized under the Law in force.
- ✓ The Consumers should avoid the use of 'pao kilo' or 'quarter kilo' and ask for 200 grams or 200 ml or for similar easily calculable quantity in terms of decimal units.

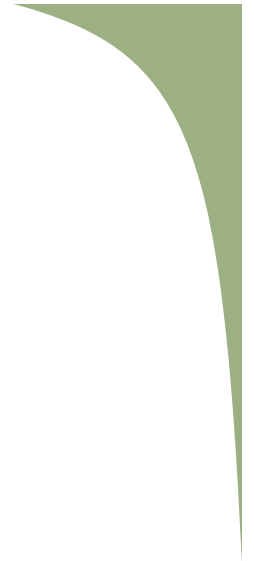
**The Goa Standards of Weights & Measures (Enforcement) Rules,
1987.**



In Summary the Metrological Issues



- Every country maintains its own metrology system.
 - maintaining and furthering both **commercial** and scientific metrology
 - The **accuracy and traceability** of commercial measurements is enforced per the laws of the individual states
 - Commercial metrology is also known as "**weights and measures**" and is essential to commerce of any kind above the pure barter level.
- 



Specific Trade Concerns: and the Role of States

STC under SPS Committee

STC under TBT Committee



Specific Trade Concerns raised under the Committee against India

1. **Specific Trade Concern (STC-61)** : “Import restrictions on bovine semen”
2. **Members raising the STC:** Canada, EC
3. **Members supporting the STC:** US
4. **First date raised:** 1/3/1999


CWS Findings

- It is apparent that all the Members who have raised concerns against India **have been maintained their own regulations;**
- In no country the **standards are at an internationally harmonised level (OIE);**
- In case of EC, Canada and the US the standards are **even higher than the international standard;** and
- Since the date of initiation in 1999 lot of changes have happened, now these regulations are in **perfect harmony with OIE standards** in the case bovine semen. In the case of India it maintains the World Organization for Animal Health (OIE): Import of bovine semen will be allowed against the fulfilment of sanitary conditions described in the health protocol for bovine semen. **(There is no evidence of deviation.)**, notification no: G/SPS/N/IND/50 EMRG, dated, 11/1/2007.



CWS Findings

Final Summary

- It is certain that the **Indian standards is harmonised with the international standard, it is true that the notification by the EU, Canada and the US who have higher standards than Indian standard are unnecessarily complaining.**
 - The notification of other countries who have been given as our findings as each notification (case) is required to be discussed with the technical authorities in India so as to examine whether our observations are true, is there any international Standard, if so what should be our future action plan, especially if any we have strong export interest on these items
- 

Specific Trade Concerns raised under the Committee against India (TBT)

1. Specific Trade Concern (STC) “India’s Drugs and Cosmetics rules”
2. Members raising the STC: EC
3. Members supporting the STC: US
4. First date raised: 7/5/2007

CWS Findings

- It is apparent that the EU and the US who have raised concerns against India have been maintained their own regulations;
- Regarding the fee issues we are not competent authority; and
- Indian standard is the “Standard prescribes method of test for determination of microbial purity of cosmetics”. **This according to us is not an unachievable target standard.**

Final Summary

- When EU and US can have higher standards, why cannot we test for microbial purity of cosmetics; and
- These notifications of other countries which have been indentified by us in our report. Each of these notification is required to be examined on a case by case approach with the technical experts or authorities in India, so as to identify whether the CWS observations are true, and it also required to check if there is any new development on harmonisation of international standard, if so what should be our future action plan, especially if any we have strong export interest on these items.



Specific Trade Concerns- How do the States Respond

Specific trade concerns([G/SPS/GEN/204/Rev.11](#))

1. Import restrictions due to dioxin contamination in Germany — **concerns of the European Union**
 2. Viet Nam's ban on offal's — **concerns of the United States**
 3. Ukraine import restrictions on poultry and poultry products — **concerns of Mexico**
 4. United States import restrictions on chrysanthemums (a flower)— **concerns of Costa Rica**
- 

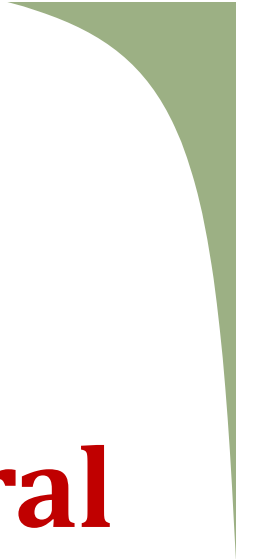


Why Should the States Participate?



To protect the livelihood(Ecology), employment and generate investment

- **To protect their own Domestic stakeholders;**
 - ✓ Additives
 - ✓ Contaminants
 - ✓ Toxins
 - ✓ Plant- or animal carried diseases
 - ✓ Diseases causing organisms
 - ✓ Pest entering , establishing or spreading
 - **Best practices of any state/country**
 - ✓ For example milking the Bovine or others cattle - use of clean stainless steel bucket - for daily use
 - **To set standards in Industrial processing**
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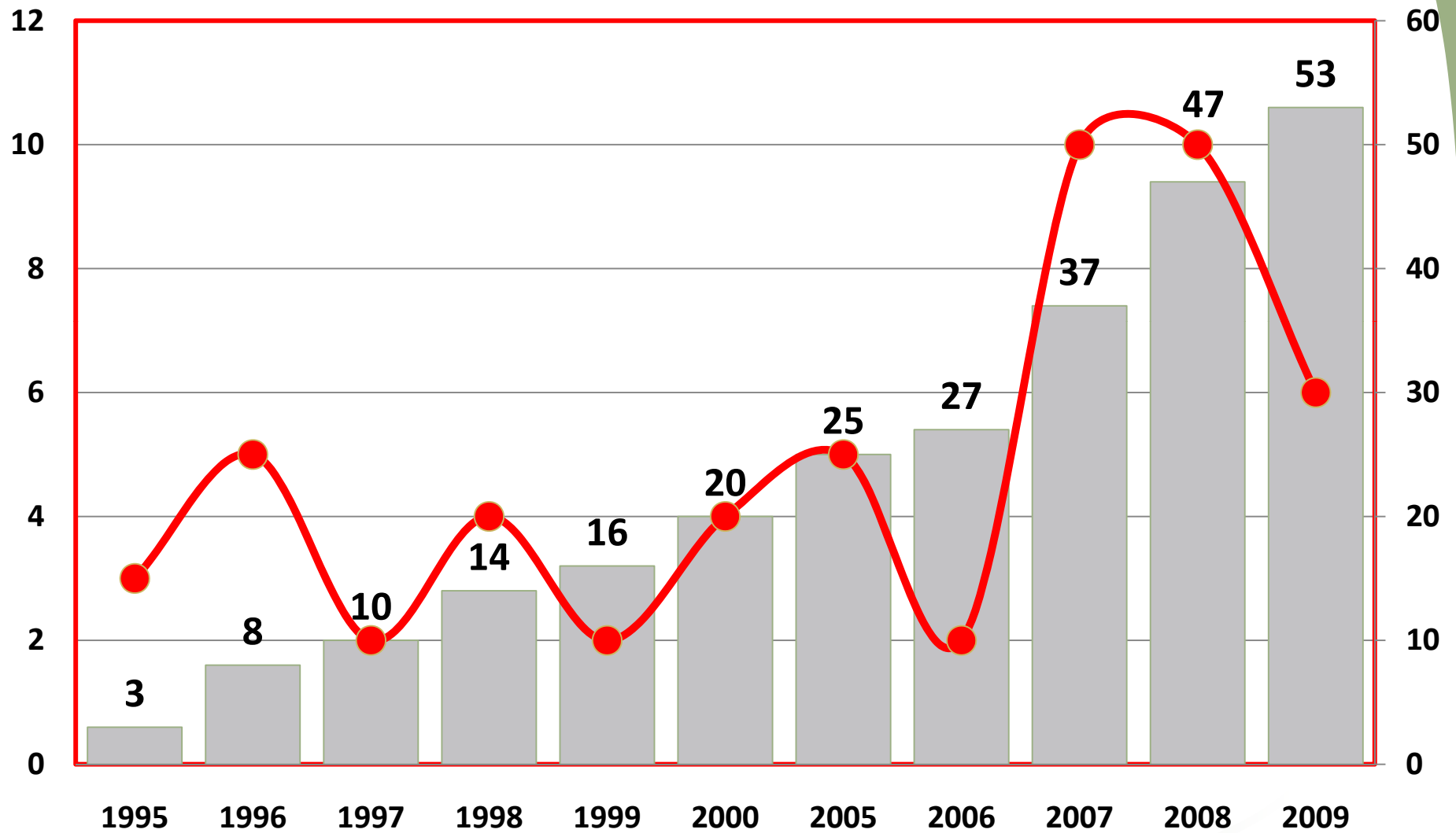


Growing Significance of Federal Diversity in WTO Notifications:

Example of United States of America



US: TBT Measure with Federal Elements



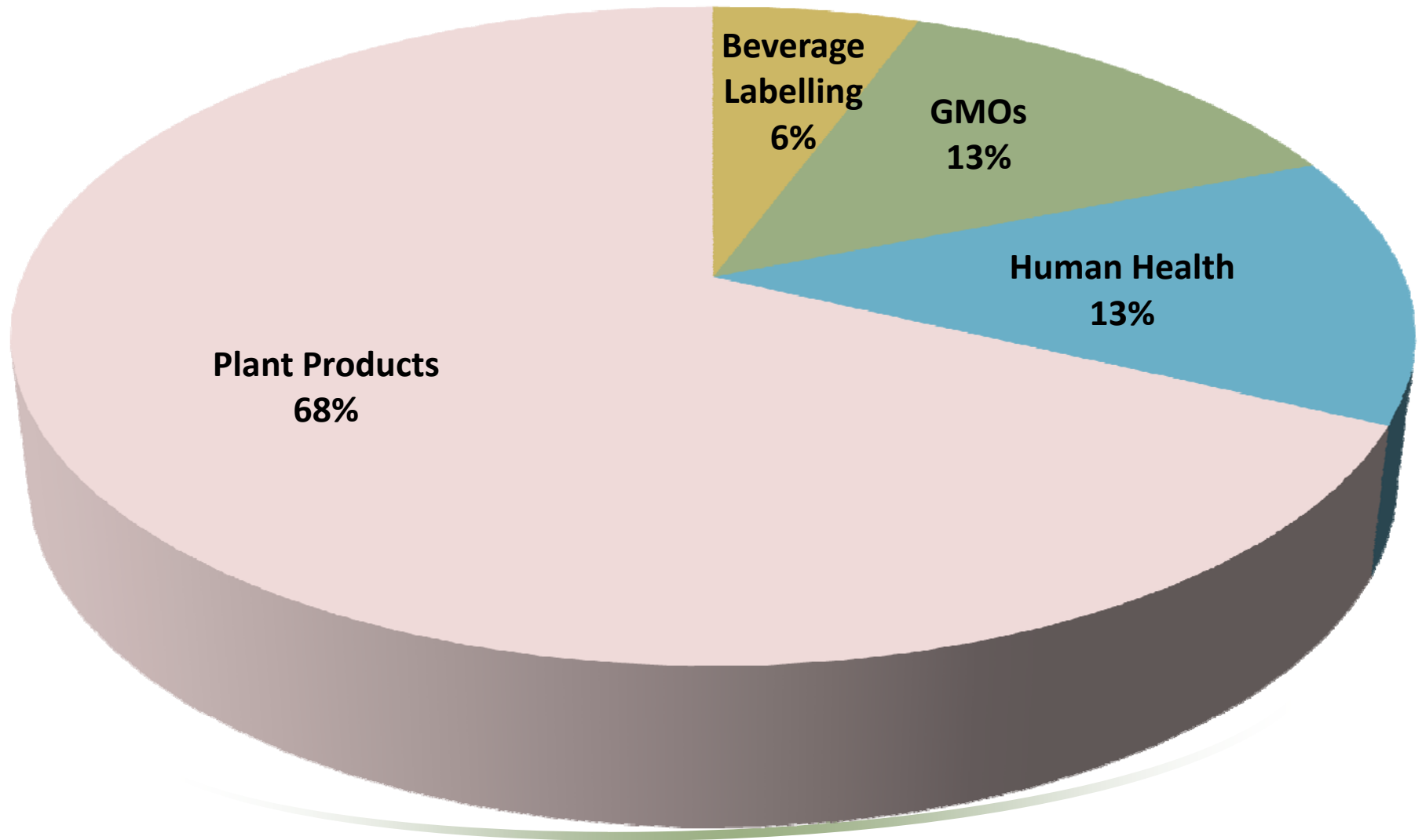
■ Cumulative TBT Measures

● Federal TBT Measures

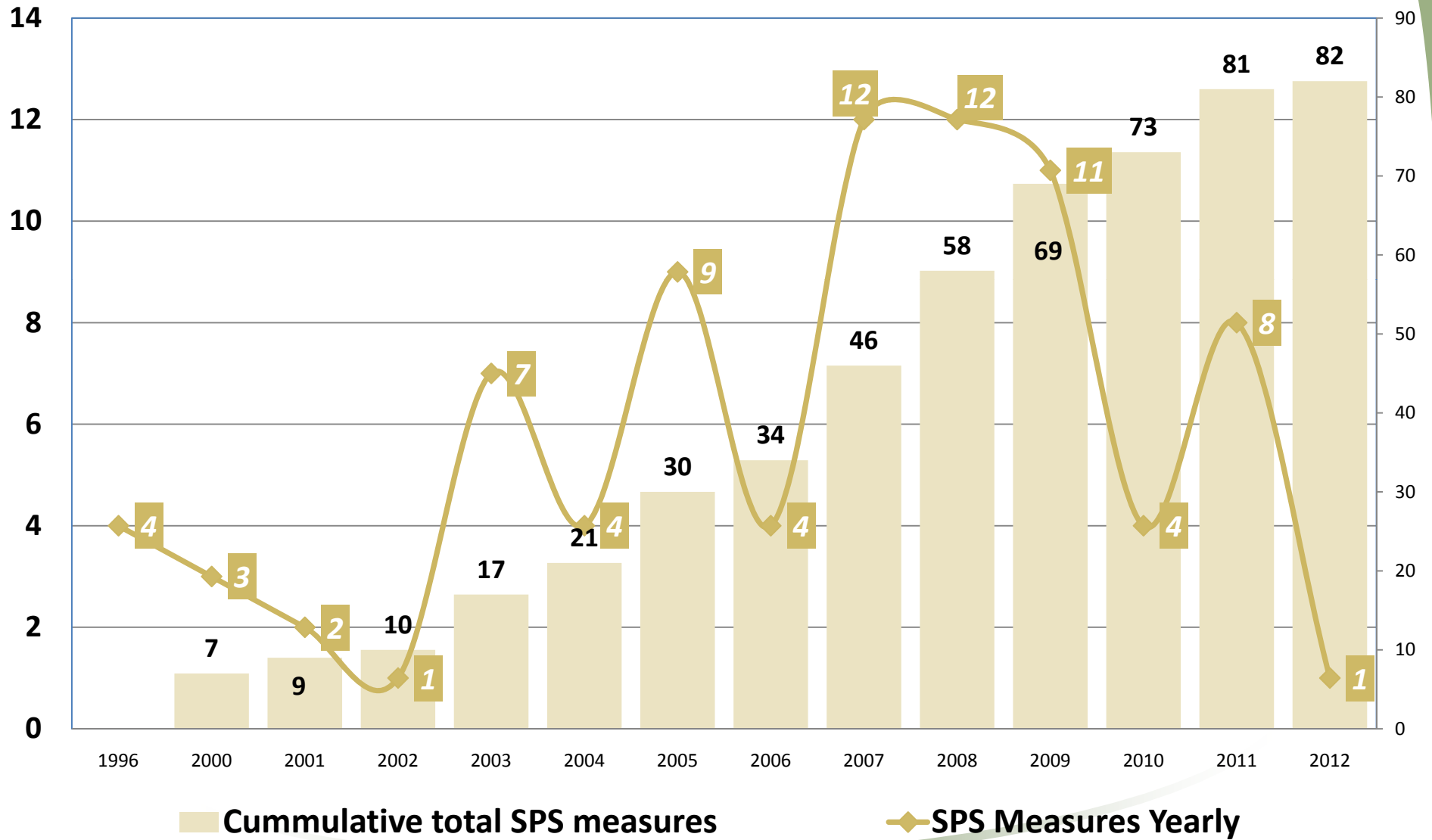


USA Federalism: A Reality

TBT Measures: The Role US States



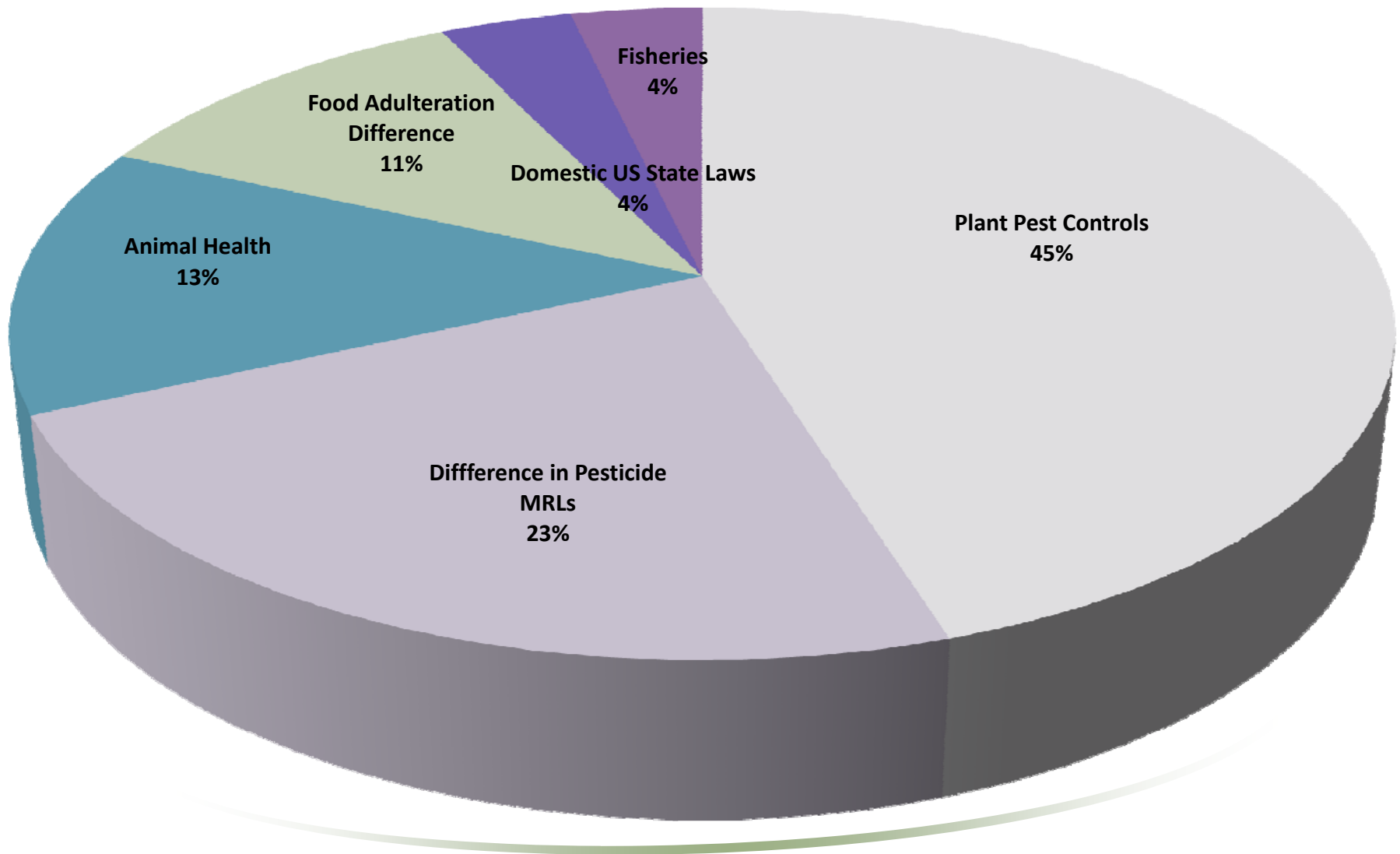
US: SPS Measures with Federal Elements

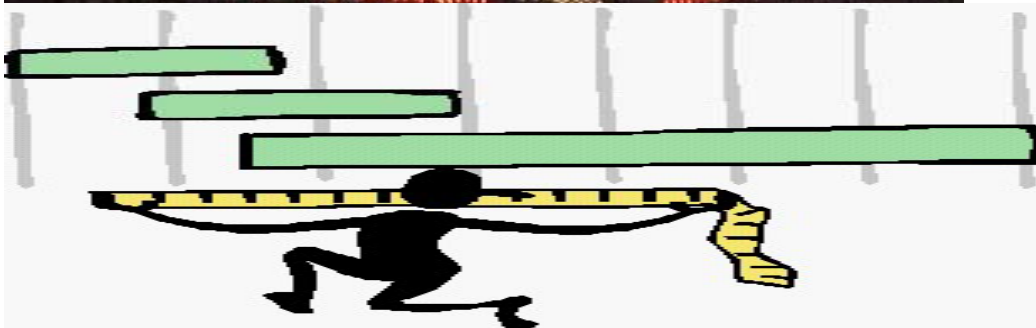
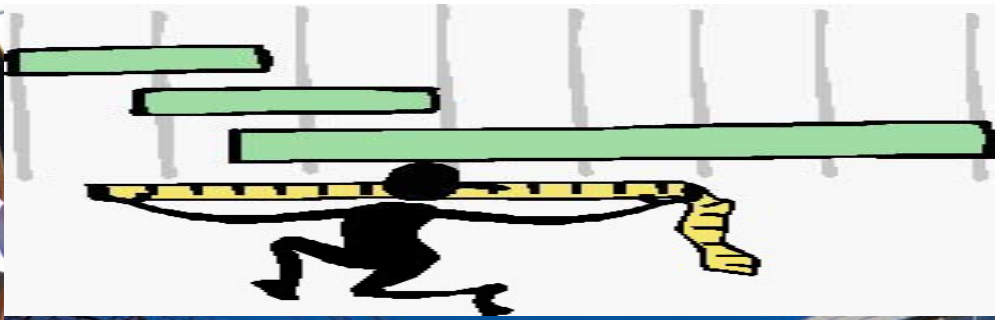




USA Federalism: A Reality

SPS Measures: The Role US States





**Thank
You**