



# Improving Transparency as a Tool for the Implementation of the WTO Agreement on Agriculture

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# Agriculture transparency and WTO objectives

- Reducing information asymmetries among governments, and between the state, economic actors, and citizens.
  1. Governments: with transparency, surveillance improves implementation of existing obligations
  2. Analysts: comprehensive picture of effects of policy
  3. Economic actors: uncertainty about market conditions and requirements can be crippling

# What matters for firms

- Uncertainty huge at extensive margin
- Transparency and certainty on NTMs is as much a factor for firms as is “binding” of tariffs
  - Services regulation; compliance with certification requirements
- Transparency really matters for small firms, and firms without access to private information about foreign markets

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# What matters for governments

- Verification that national law, policy, and implementation achieve the intended objective
- Knowing extent to which differing national laws are functionally similar, or recognizably similar
- Especially important with domestic policy
  - Behind the border measures hard to observe

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# Transparency in WTO

- “degree to which trade **policies** and **practices**, **and** the **process** by which they are established, are open and predictable”.
- Includes how:
  - ❑ a rule or a policy is developed domestically
  - ❑ the rule is enforced or a policy is implemented
  - ❑ the rule is published
  - ❑ other Members of the WTO are notified
  - ❑ notification is discussed in Geneva
  - ❑ Geneva results published.

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# Three generations of transparency

- “Right to know” since GATT 1947
  - Publication, enquiry points, notification
  - sunlight as disinfectant, but not enough, thus:
- Monitoring and surveillance since the Tokyo Round
  - TPRM, “specific trade concerns”
  - Seek clarification; ask about what should have been notified
  - Process only includes Members, thus:
- Reporting and engagement since 2002
  - TBT and SPS Information Management Systems (IMS)
  - new Integrated Trade Intelligence Portal (I-TIP)
  - World Trade Report ...

# Institutional design matters

- Notification: “a transparency obligation requiring member governments to report trade measures to the relevant WTO body if the measures might have an effect on other Members”
- Specific trade concern: “The [SPS] Committee shall encourage and facilitate ad hoc consultations or negotiations among Members on specific [SPS] issues”(12.2)

# What explains disputes pattern?

Agreements invoked in disputes, 2005-11

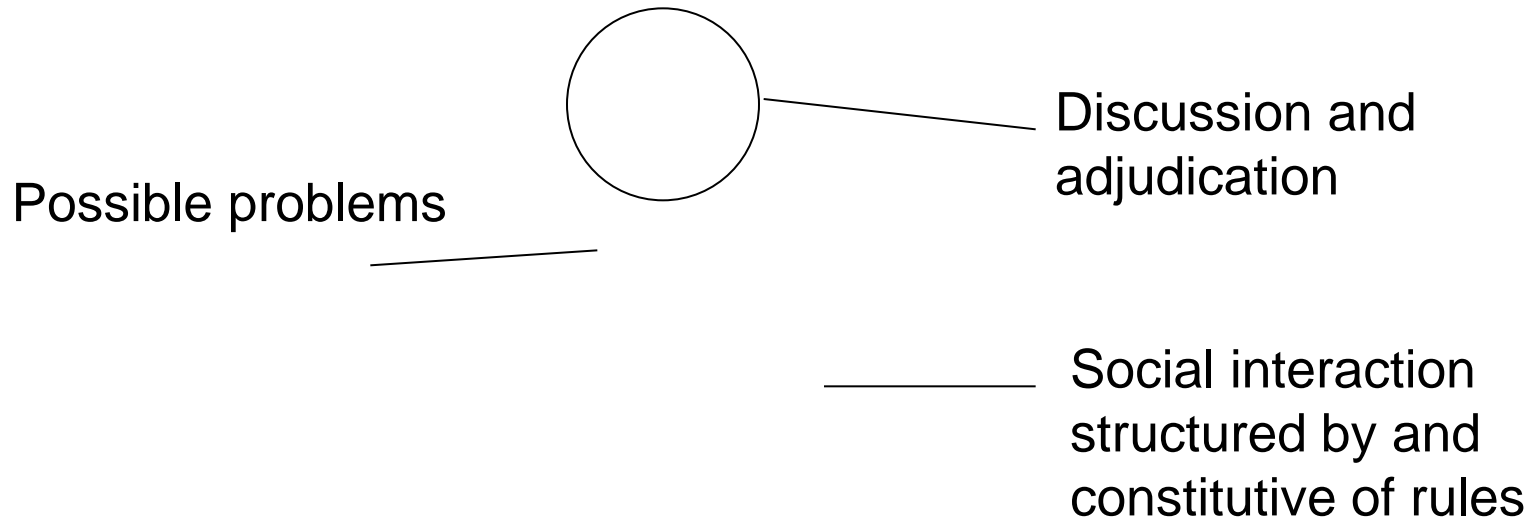
- **AD 31** ↔ **Agriculture 9**
- **SCM 27**
- **GATS 5**
- Safeguards 9
- Customs 4
- TRIMs 8
- Rules of origin 3
- TBT 8
- TRIPS 3
- SPS 7
- Licensing 1

\*GATT invoked much more frequently, but not always as the main subject

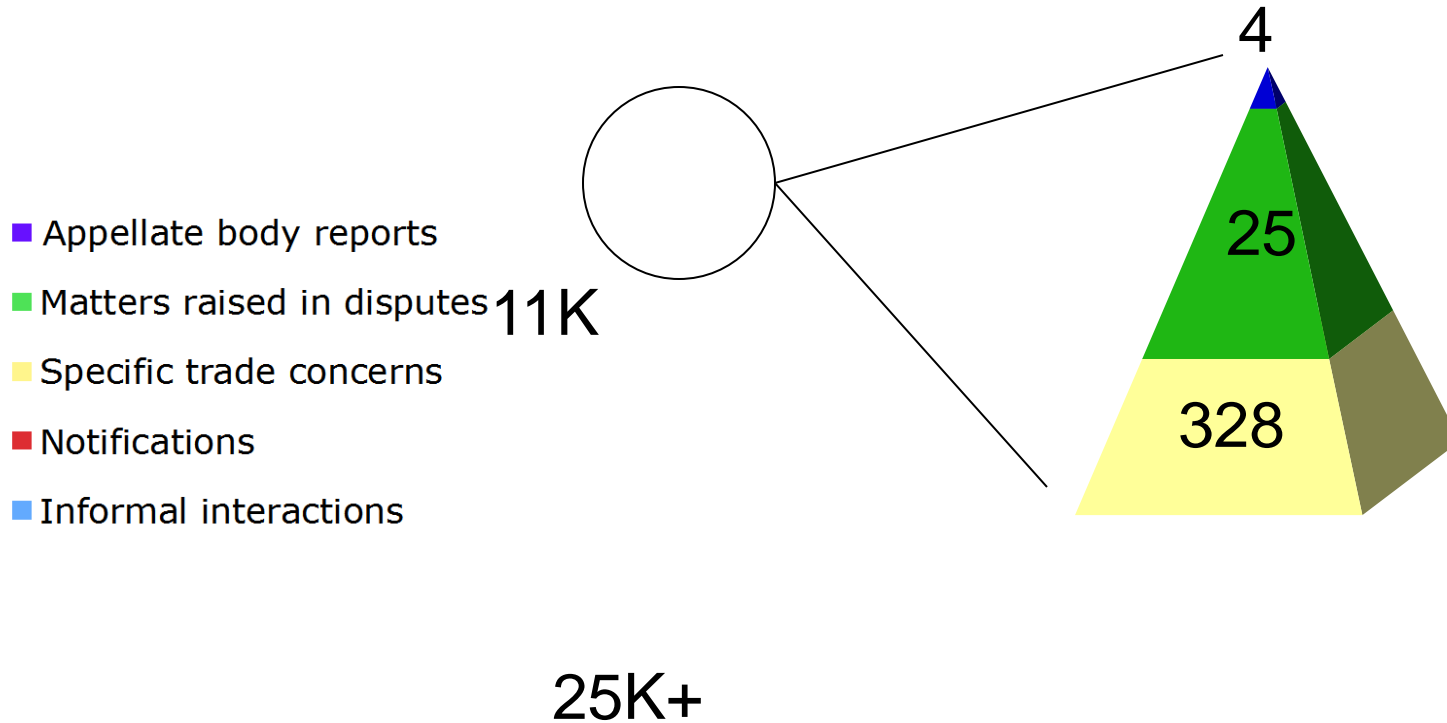
Source Leitner, Kara and Simon Lester, (2012) 'WTO Dispute Settlement 1995-2011: A Statistical Analysis,' Journal of International Economic Law 15:1 (March 2012), Table 5.



# The Great Pyramid of the Legal Order



# The great pyramid at WTO SPS cases 1995 - 2011



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# Same pyramid in other committees?

- No “STC” in SPS 12:2,
- Similar language: Agriculture 18:6,
- That leads to Standard Item 2 on Agriculture agenda
  - Many questions; same sorts of things as STC
  - Q&A now online
  - No analytic summaries as in SPS and TBT

# Data problems

- Formal notifications may not be accurate, or complete
- Real-time monitoring hampered by absent and late notifications
- Trade Policy Review process shows how to use “verified” third-party data
- Can shadow WTO notifications through OECD data
  - OECD Secretariat updates faster than Members
  - Controversial with India

# Complementary but different classification systems for farm support policy

## OECD PSE

- Policy Research
- Policies presented 'at-a-glance'
- Definitions: includes 'Borders Issues' in 'Measures of Support' category

## WTO AoA

- Schedule compliance
- 1. Market Access (tariff, border issues)
- 2. Domestic Support (price support, direct payments)
- 3. Export Competition

# Surveillance problems

- “Specific trade concerns” best in SPS, TBT
  - But few active participants; results not always reported
- Agriculture Q&A process improving
  - Many questions; same sorts of things as STC
  - Q&A now online
  - No analytic summaries as in SPS and TBT

# Formal efforts to Increase transparency in the Committee's Process 2009-2011

- Falconer Text
- Reinvigorate work of Ag Committee through improved transparency measures
  - Engagement in implementation discussions
  - Enhance quality and timeliness of notifications
  - Clarifying requirements through workshops
  - Sharing best practices
  - monitoring

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# Better Data

- For members who are worried about other members implementing their commitments, better data helps
- For analysts trying to understand the situation, better data
- For firms looking to manage their experiences at the border, better data helps



# Types of Questions in Committee

- Who asks the questions?
  - Usually amongst the developed countries, many questions from developed countries to the developing and more and more by developing countries to developed.
- Who gets asked?
  - Sometimes capacity developing
- What kind of questions are being asked?
  - Subsidy levels, implementation, or understanding

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# What we are learning about the pyramid

- Most issues are not/need not be notified
- Most notifications occasion no questions
- Most disputes do not mention notifications
  - Only notify what will not cause dispute?
- Most disputes not preceded by questions in committee

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# The transparency trilemma

1. Surveillance system designed to monitor official obligations
  - ❑ Even the TPRM serves governments first
2. Analysts try to build picture of economic impact not implementation of commitments
3. Firms only served if
  - ❑ Governments publish information at home
  - ❑ All WTO data accessible, in user-friendly form