



TECHNICAL BARRIERS TO TRADE: HARMONIZATION, COHERENCE, COOPERATION

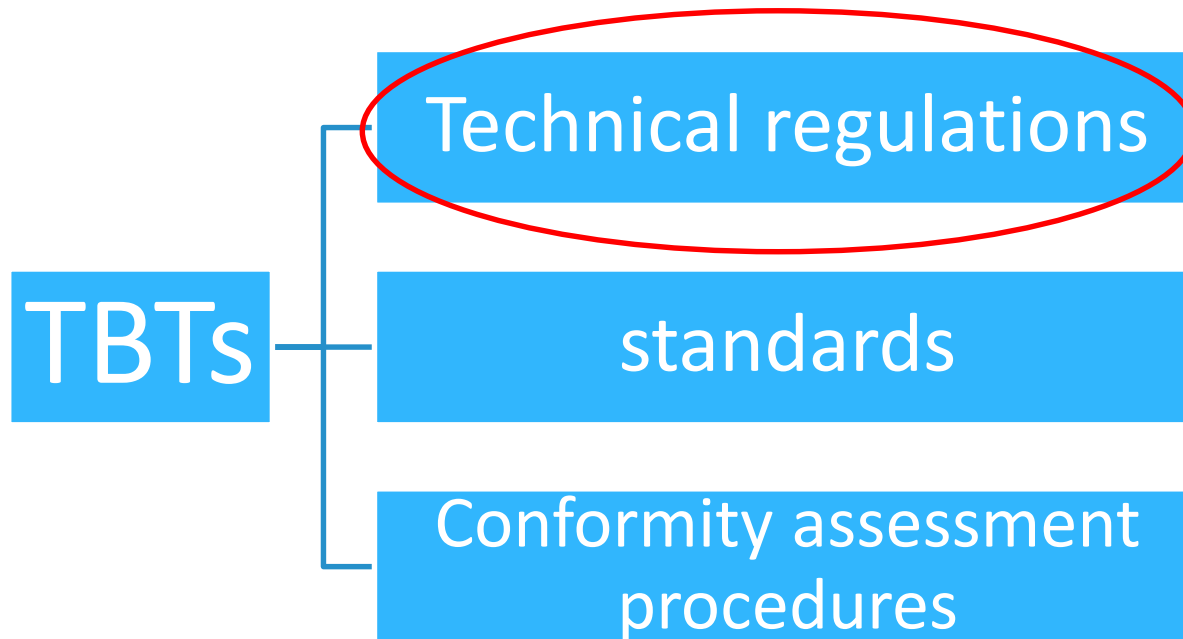
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STRUCTURE OF PRESENTATION

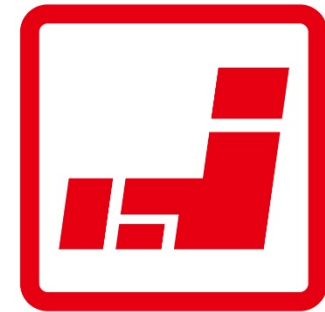
1. What are technical barriers to trade (TBTs)?
2. Why do TBTs matter?
3. How does the WTO address TBTs?
4. How does the TPP address TBTs?
5. How will the TTIP address TBTs?
6. Concluding Observations: Post-TPP/TTIP

1. WHAT ARE TECHNICAL BARRIERS TO TRADE (TBTs)?



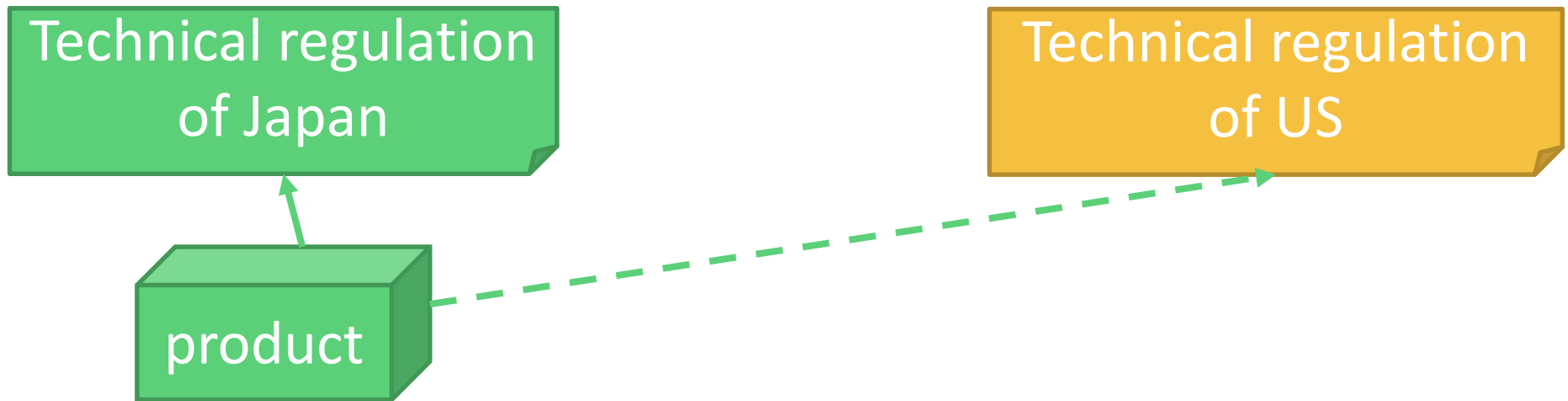
- Technical regulations=Document which lays down **product characteristics or their related processes and production methods** ... with which compliance is **mandatory** (TBT Agreement, Annex 1, para.1)

EXAMPLES



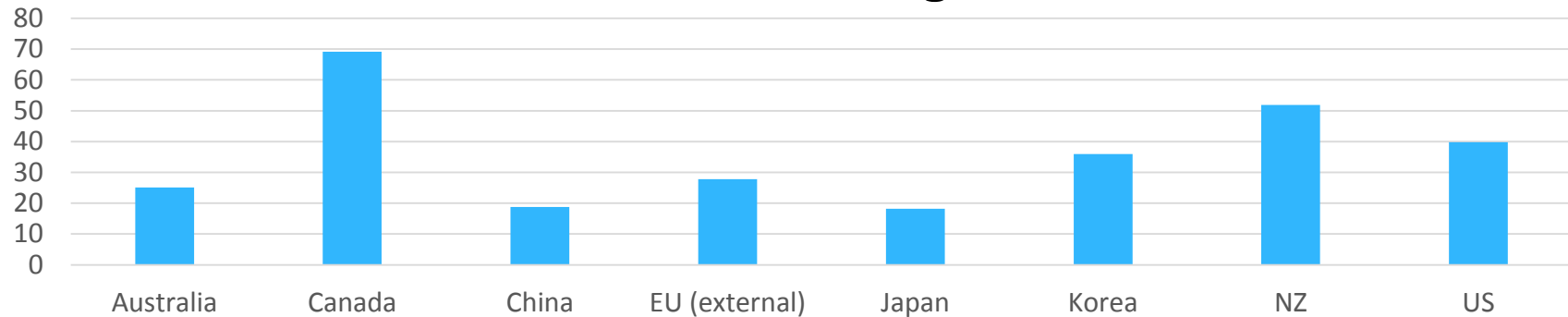
日本製
MADE IN JAPAN

2. WHY DO TBTs MATTER?



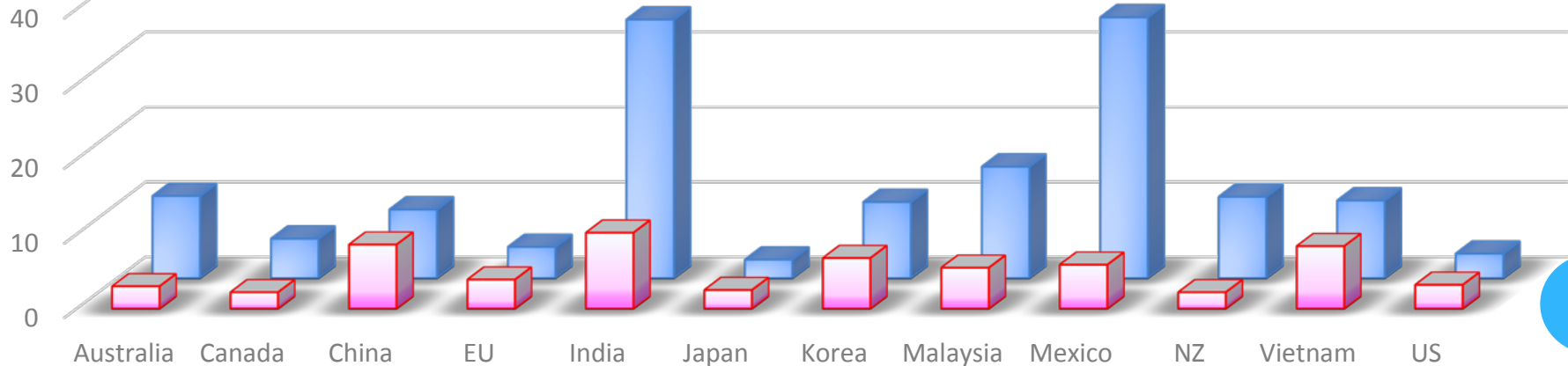
- **Differences** in technical regulations may create a **trade barrier**.
 - **Non-tariff barriers**
- **Harmonization** and states' regulatory powers

FTA coverage



Source: Kajita & Yasuda, FTA Guidebook 2014 (JETRO)

Simple average tariff rate



Simple average MFN applied

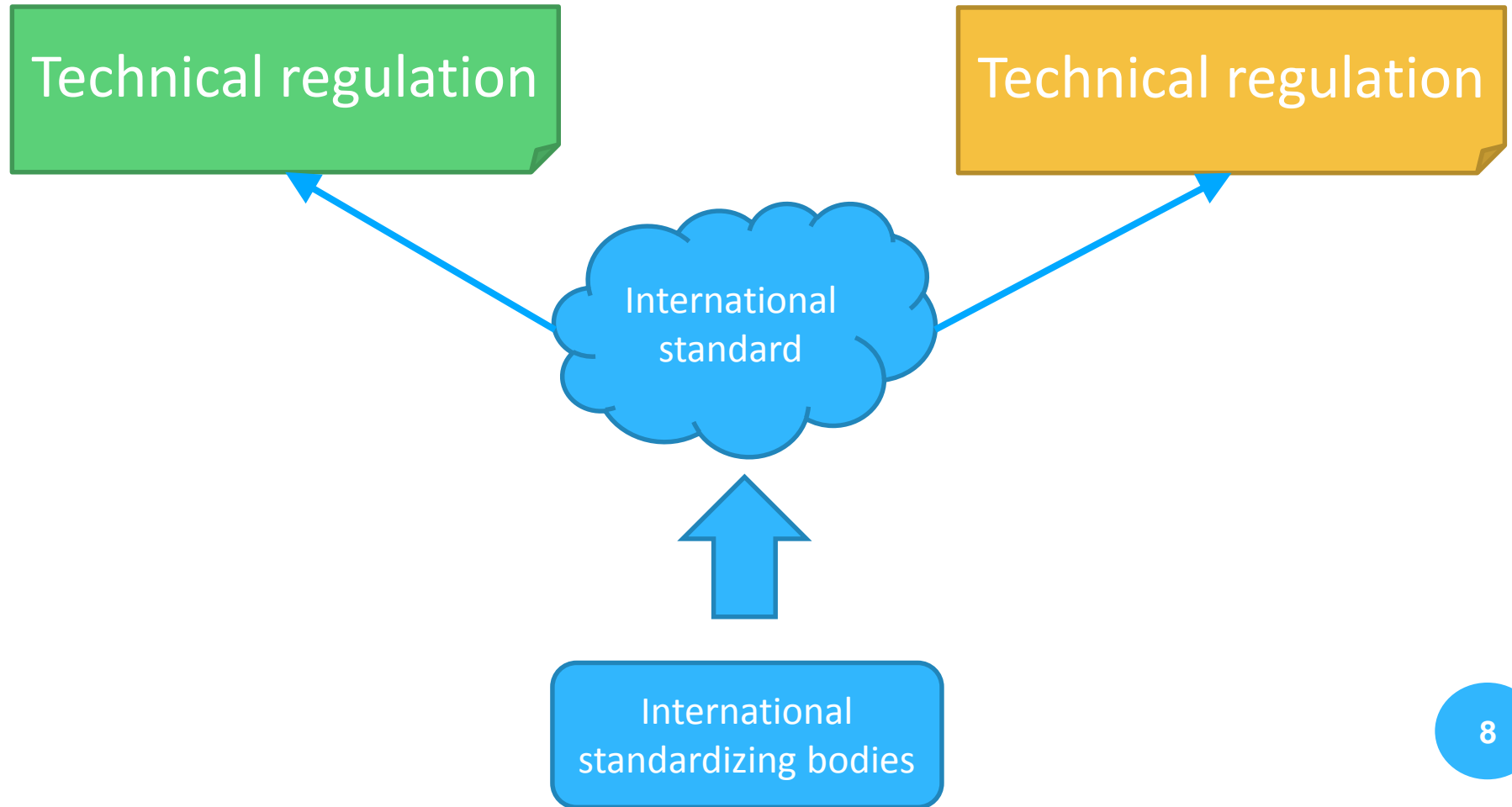
Simple average final bound

Source: WTO World Tariff Profiles 2015

3. HOW DOES THE WTO ADDRESS TBTs?

1. Members shall ensure that in respect of technical regulations, products imported from the territory of any Member shall be **accorded treatment no less favourable** than that accorded to like products of national origin and to like products originating in any other country. (TBT Agreement, Art.2.1)
2. Members shall ensure that technical regulations are **not** prepared, adopted or applied with a view to or with the effect of **creating unnecessary obstacles to international trade**. ...(TBT Agreement, Art.2.2)
3. Where technical regulations are required and relevant **international standards** exist or their completion is imminent, Members shall use them, or the relevant parts of them, **as a basis for their technical regulations** except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems. (TBT Agreement, Art.2.4)

LIMITED HARMONIZATION UNDER THE WTO



4. HOW DOES THE TPP ADDRESS TBTs?

- The objective of the TBT Chapter is to facilitate trade, including by eliminating unnecessary technical barriers to trade, enhancing transparency, and promoting greater **regulatory cooperation** and **good regulatory practice**.(TPP, Art.8.2)

1. **Regulatory coherence** refers to the **use of good regulatory practices** ... in order to facilitate achievement of domestic policy objectives, and in efforts across governments to enhance regulatory cooperation in order to further those objectives and promote international trade and investment, economic growth and employment. (TPP, Art.25.2)

- **Regulatory impact assessments** (TPP, Art.25.1)
- **Public access to information** (TPP, Art.25.5)

2. **Regulatory cooperation**

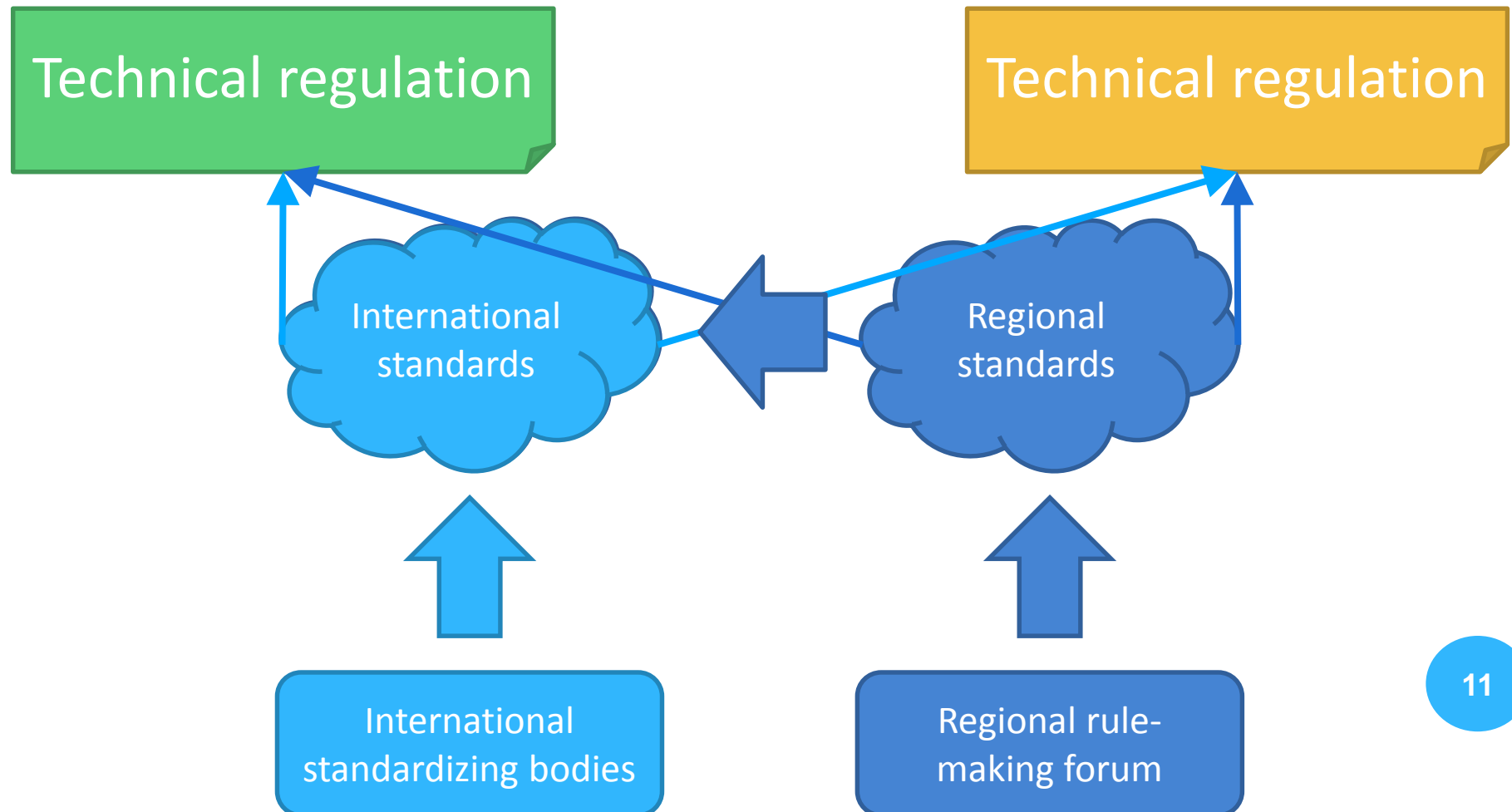
- **Information exchange** (TPP, Art.8.9.2(a)(i))
- **Technical assistance** (TPP, Arts.8.9.2(a)(iii) & (iv))

5. HOW WILL THE TTIP ADDRESS TBTs?

- **Regulatory cooperation** is **one of the three pillars** of the TTIP, and consists of **12 chapters**.
- The objectives are: (TTIP EU Proposal May 2015, Art.1.1)
 - a. To reinforce regulatory cooperation thereby facilitating trade and investment in a way that supports the Parties' efforts to stimulate growth and jobs, **while pursuing a high level of protection of inter alia: the environment; consumers; public health, working conditions; social protection and social security; human, animal and plant life; animal welfare; health and safety; personal data; cybersecurity; cultural diversity; and preserving financial stability;**
 - b. To **reduce unnecessarily burdensome, duplicative or divergent regulatory requirements** affecting trade or investment, particularly given their impact on small and medium sized enterprises, **by promoting the compatibility** of envisaged and existing EU and US regulatory acts;
 - c. To promote an effective regulatory environment, which is transparent and predictable for citizens and economic operators;
 - d. To **further the development, adoption and strengthening of international instruments**, and their timely implementation and application, as a means to work together more effectively with each other and with third countries to strive toward **consistent regulatory outcomes**.

6. CONCLUDING OBSERVATIONS: POST-TPP/TTIP

- Harmonization **accelerated** by TPP/TTIP



○ To sum up:

- TBT Agreement has achieved **limited harmonization**.
- TPP/TTIP may **accelerate harmonization** through **regulatory cooperation**.
- Opportunities and challenges for Japan

- This presentation is partly based on Yuka Fukunaga
“International Standardization to be Changed by Mega FTAs”
(福永有夏「メガFTAが変える国際標準化—規格の調和から規制の収斂へ」『世界経済評論』(2015年12月15日))