Assuring Coherence in Regulation and Trade:
Institutional Arrangements for Doing So

SESSION # 5

Ashley C. BROWN
Executive Director, Harvard Electricity Policy Group
Harvard Kennedy School
Harvard University
Assuring Coherence in Regulation and Trade: Institutional Arrangements for Doing So

Multi-Year Expert Meeting
UNCTAD
Geneva, Switzerland
May 20, 2016

Ashley C. Brown
Executive Director, Harvard Electricity Policy Group
Harvard Kennedy School
Harvard University
Trade Framework

- Rules and Principles Must Be Articulated in Binding Trade Agreement(s)
- Means of Adjudicating Disputes, if Different from Normal Adjudicative Mechanisms, Must Be Set Forth in the Agreement
Regulatory Framework

- Statutes and Rules Must Be Fully Articulated
- Must Provide for a Transparent Adjudicative Process for Rendering Decisions
- Parties Who Believe Trade Issues Are Present in a Pending Matter Should Have Opportunity/Obligation to Raise Them in Regulatory Decision Making Process
  - Regulator Should Have Opportunity to Reconcile Trade and Regulatory Conflicts
Resolving Regulation vs. Trade Agreement Disputes: The Options

A. Adjudicatory Processes (e.g. U.S.)
B. Cabinet Level Decision Maker (e.g. CAMEX Brazil)
C. Arbitration / Mediation
D. Processes Mandated by Treaty or WTO
E. Judicial Appeals