

The Linkage between International Economic Law and Access to Water and Water Scarcity

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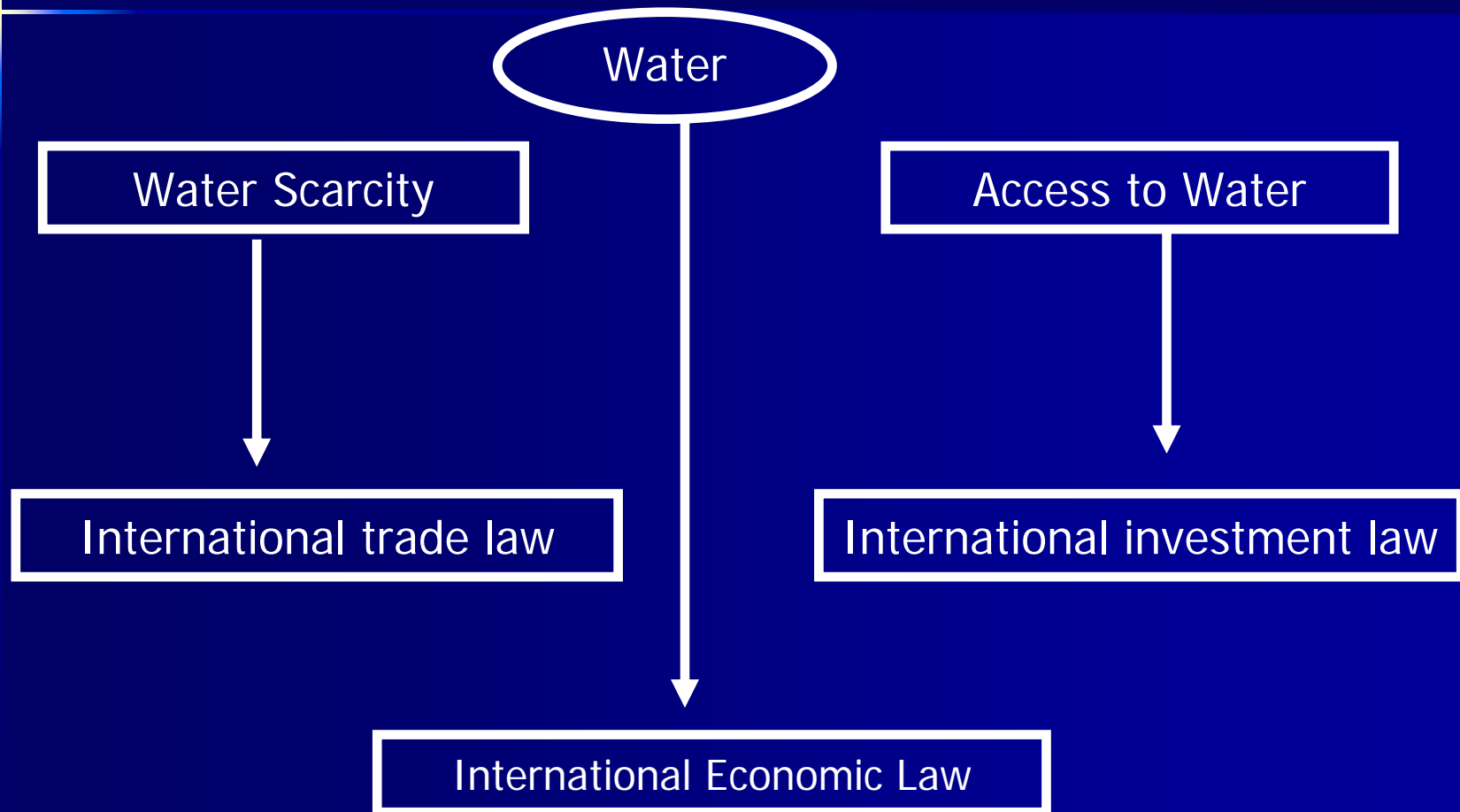
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Reforms", 20-21 April, 2007**

F. Costamagna & F. Sindico, "The Linkage between International Economic Law and Access to Water and Water Scarcity"

Goals & Outline



F. Costamagna & F. Sindico, "The Linkage between International Economic Law and Access to Water and Water Scarcity"

Trade and Water Scarcity



Water export ban for environmental purposes

Legal analysis of
WTO compatibility of
the water export
ban



GATT, art. XI and AoA, art. XI

GATT, art. XX

Trade and Water Scarcity

Bridging the gap between the WTO and international water law

New institutional setting

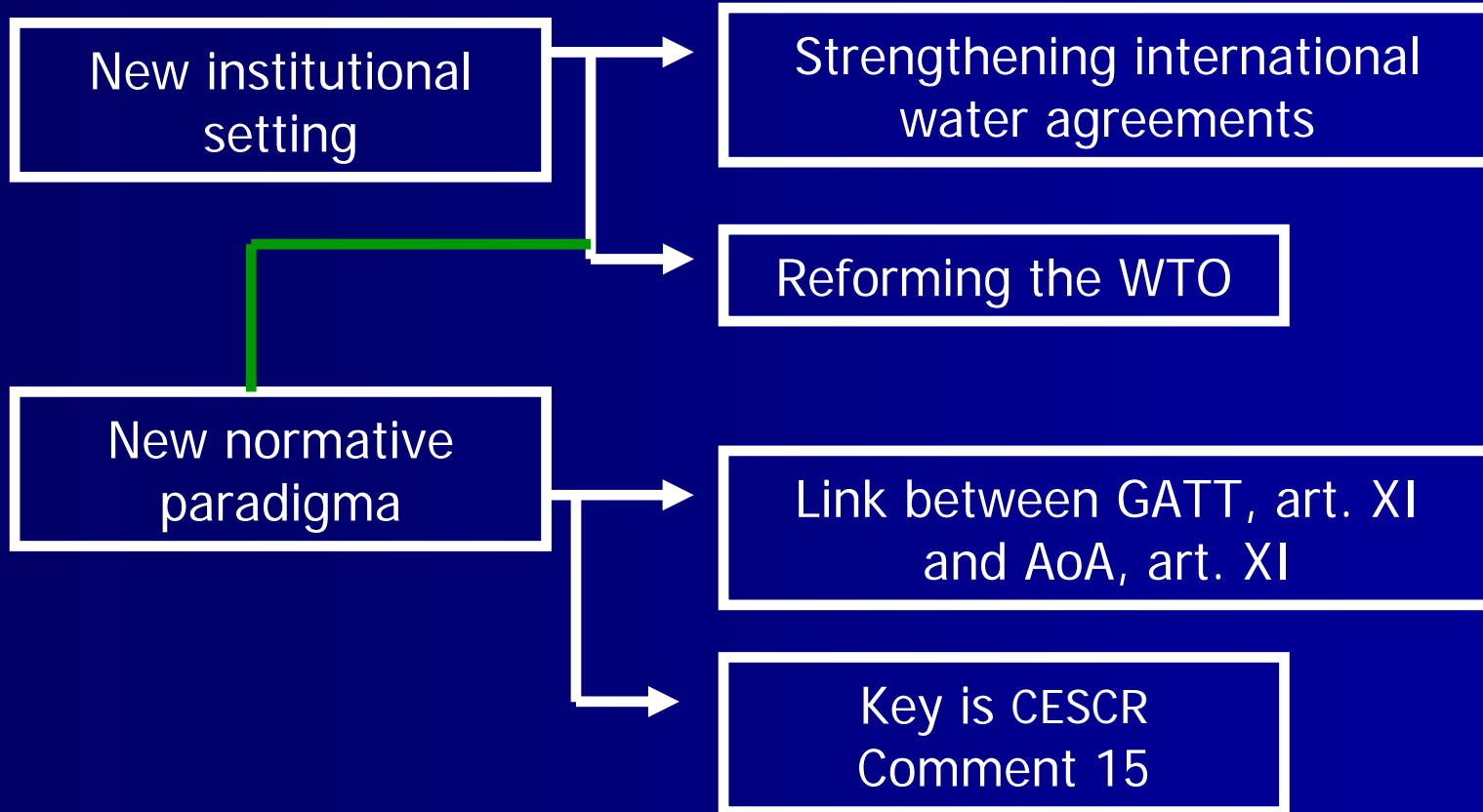
Strengthening international water agreements

Reforming the WTO

New normative paradigm

Link between GATT, art. XI and AoA, art. XI

Key is CESC
Comment 15



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International Investment Law & Access to Privatized Water Services

Overarching objective of the system: protecting foreign investments


Key factors affecting the balance:

Investor-State Arbitration

Uncertain definition of substantive standards

Regulatory Expropriation vs Legitimate Regulation

How to draw a line? Effect-based approach + police power exception



But: no consideration of State's intent and lack of a definition of police power



Toward more flexible approaches: the ECHR proportionality test ?

Concluding Remarks

Increasing role of IEL in global water governance to fight water scarcity and to improve access to water



Increasing impact of IEL on the fight against water scarcity and on access to water services

Need for greater flexibility: water is not just a commodity