

# Greening Regional Trade Agreements (RTAs)

Realising the potential beyond Environment Chapters

*The complementary role that RTAs can play in multilateral responses to meeting the Paris Agreement and global climate challenge*

An aerial photograph of Singapore, showing the Marina Bay Sands hotel on the left, the Singapore skyline with various skyscrapers in the center, and the Marina Bay Sands swimming pool area in the foreground. The water of Marina Bay is visible in the middle ground.

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# Overview

1

Five statements of facts on Environment and RTAs

2

Paris Agreement on Climate Change and its implications on Trade agreements

3

Areas that RTAs can complement the objectives of Paris Agreement

# Setting the Context: Five Statements of fact on RTAs and Environment

1

Sustainable development is an objective of trade agreements. Gives “colour, texture, and shading to the rights and obligations of Members under the WTO Agreement”

2

Scope and depth of environmental provisions in RTAs vary

4

Line of equilibrium between environmental protection and trade liberalisation is not fixed. The line moves as the kind and shape of the measures at stake vary and as the facts making up the specific cases differ .

3

Trade liberalization and environmental protection equally important for sustainable development

5

Consensus that it is : (i) inappropriate to encourage trade or investment by weakening domestic environmental laws ; (ii) environmental standards should not be used for protectionist trade purposes.

5

# The Paris Agreement and Trade Policy- Messages from Paris

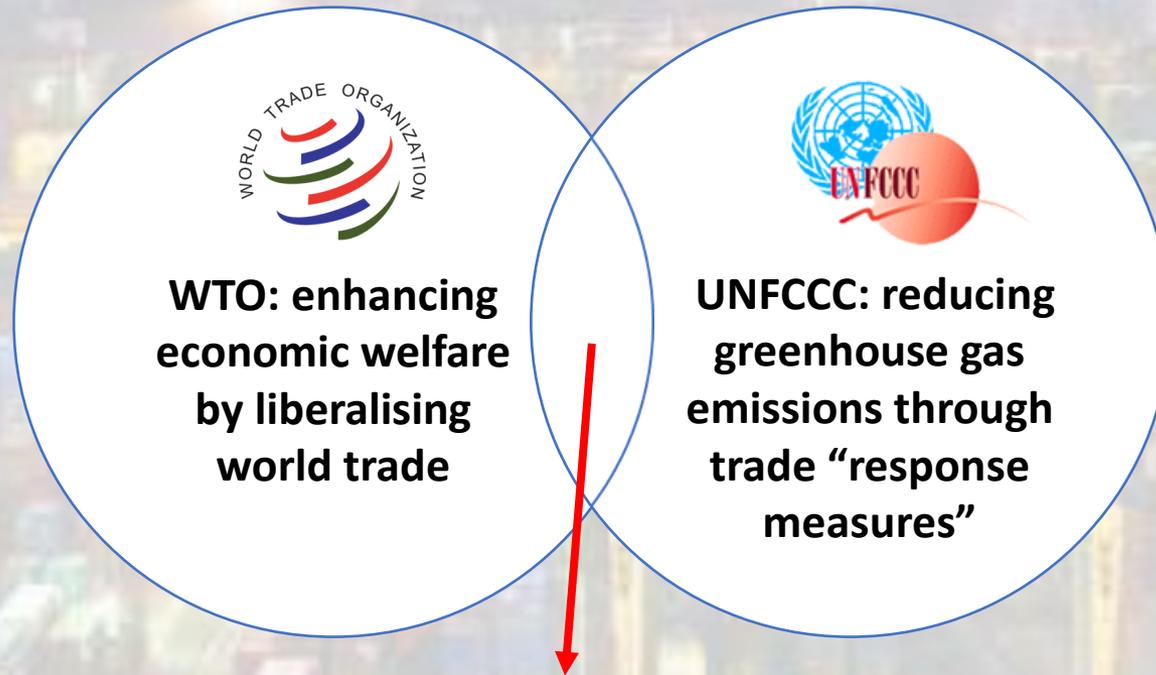
**Multilateral Environmental Agreement based on international consensus, founded on National Circumstances is the best way to tackle climate change**

**Paris Agreement strengthens the rules-based multilateral system to address climate change**

**Economic development and open international economic system are essential for climate protection**



# Trade Agreements and Paris Agreement

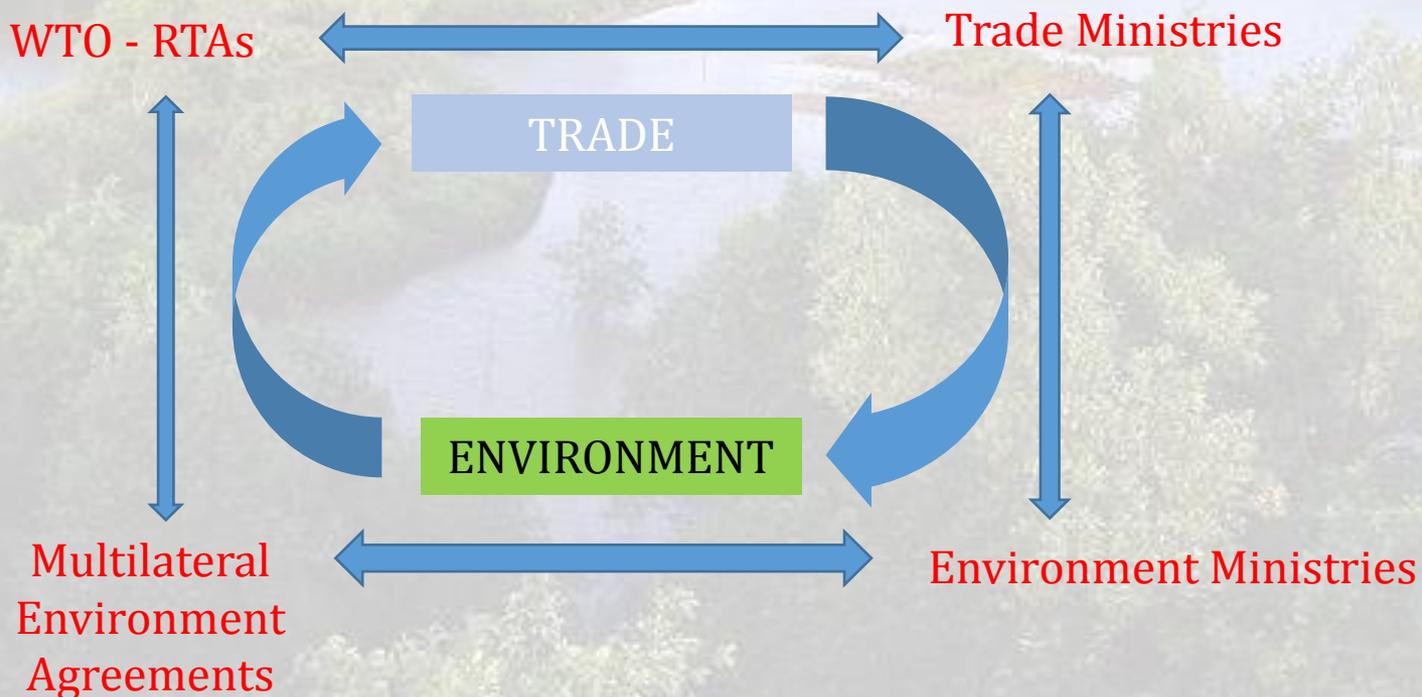


***Intersection of these two efforts  
lies potential for conflict***

# Ensuring coherence between Climate Objectives and Trade Agreements

Policy coordination:

- i) Multilaterally at the WTO-CTE
- ii) Nationally among agencies



# RTAs complementing Paris Objectives

## 1. Non Tariff Measures: role for Good Regulatory Principles (GRP)

Policy objective/s of the NTM must be clearly identified

Merits of the NTM have to be weighed against price-based instruments and voluntary labelling

### Examples of GRP

The design of the NTM: non-discriminatory; based on relevant international standards; performance rather based than design/descriptive characteristics; regularly reviewed to ascertain their effectiveness and usefulness; the use of mandatory measures should be minimised

Transparency is a fundamental aspect of GRP. To promote greater understanding and confidence in the purpose, effects and justifications for NTMs. Information on the NTMs should be published promptly through printed or electronic means

# RTAs complementing Paris Objectives

## 2. The Role of Services: Market Access

Energy Services

Environmental Services and Energy Services are predominantly supplied through Mode 3.

Environmental Services

The availability of varied sources of energy at competitive prices contributes to a nation's ability to compete in the world marketplace. There is a high correlation between more efficient energy usage and economic growth, and higher standards of living. Energy services provide the means to develop energy resources in an environmentally sound manner and efficient development and use of energy resources.

WTO Members to undertake ambitious Mode 3 commitments by removing barriers to commercial presence such as

- i) Foreign equity limitations
- ii) Joint ventures and joint operations requirements for foreign service suppliers
- iii) Economic needs tests
- iv) Discriminatory licensing procedures

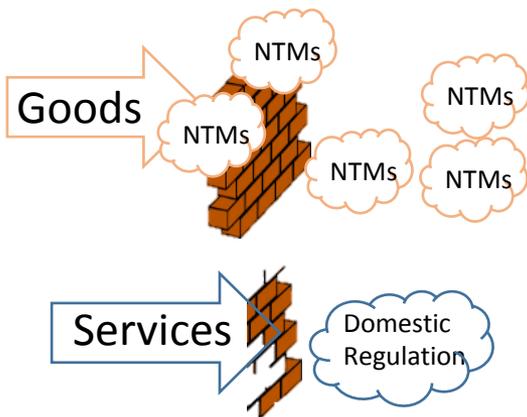
Minimally, Members should phase out barriers to commercial presence. These liberalisation elements should be objectives of RTAs and the WTO post-Nairobi process

Liberalized environmental services market benefits both exporters and importers of these services as well as environment and development.

# RTAs complementing Paris Objectives

## 2. The Role of Services: Regulation of services in international agreements

Services is intrinsically regulation intensive



GATS does not require the elimination of regulation

### GATS:

“Recognizing the right of Members to regulate, and to introduce new regulations... in order to meet **national policy objectives ...**”

To prevent abuse of regulation for protectionism, Art VI:4 mandate to develop disciplines

Sleeping beauty?



Or sleeping beast?

Art VI: 4  
Addressing unnecessary barriers to trade in services

But... what is “necessary”; who determines what is “necessary”?

# RTAs complementing Paris Objectives

## 2. The Role of Services: Domestic Regulation

A sample of provisions from the 2009 draft DR text illustrates the balancing exercise

### Facilitating Trade in Services

Regulations should be pre-established

Based on objective and transparent criteria

Based on the competency of the service supplier.

Based on the ability of the service supplier

Relevant to the supply of the service

Regulations must not be disguised restrictions to the trade in services

Licensing and qualification procedures to be as “simple as possible” and “not in themselves constitute a restriction on the supply of services”

### Respecting Members’ Right to Regulate

The text does not seek to discipline the substance of the regulations

The purpose of the disciplines is to reduce and eliminate the trade restrictiveness of domestic regulations

Like the GATS, the text emphasizes the respect for Members’ right to regulate and to introduce new regulations, in order to meet national policy objectives and ensure the provision of universal service

It states that the disciplines should not be construed to prescribe or impose particular regulatory approaches or particular regulatory provisions in domestic regulations

The text applies only in sectors where specific commitments have been undertaken

# RTAs complementing Paris Objectives

## 2. The Role of Services: Regulatory considerations in Energy and Environmental Services

Liberalization will not impair the ability of governments to

- impose performance and quality controls on environmental services
- ensure that service suppliers are fully qualified and carry out their tasks in an environmentally sound manner.

Members can establish, maintain, and enforce its own levels of protection for consumers, health, safety, and the environment

Water for human use (i.e. the collection, purification and distribution of natural water) is excluded

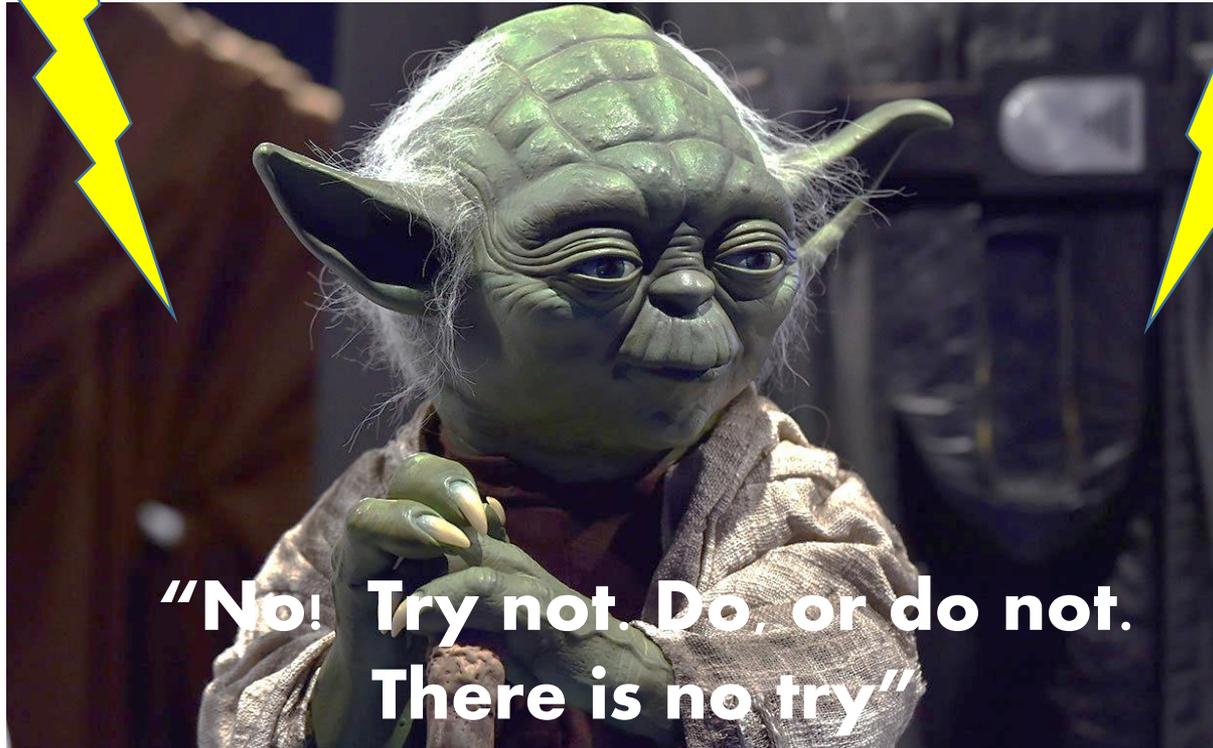
Liberalization does not extend to the ownership of energy resources, which remains under the full sovereignty and sovereign rights of each Member, and is outside of the scope of GATS negotiations

balancing the **FORCES** of

**Liberalisation**

**Regulation**

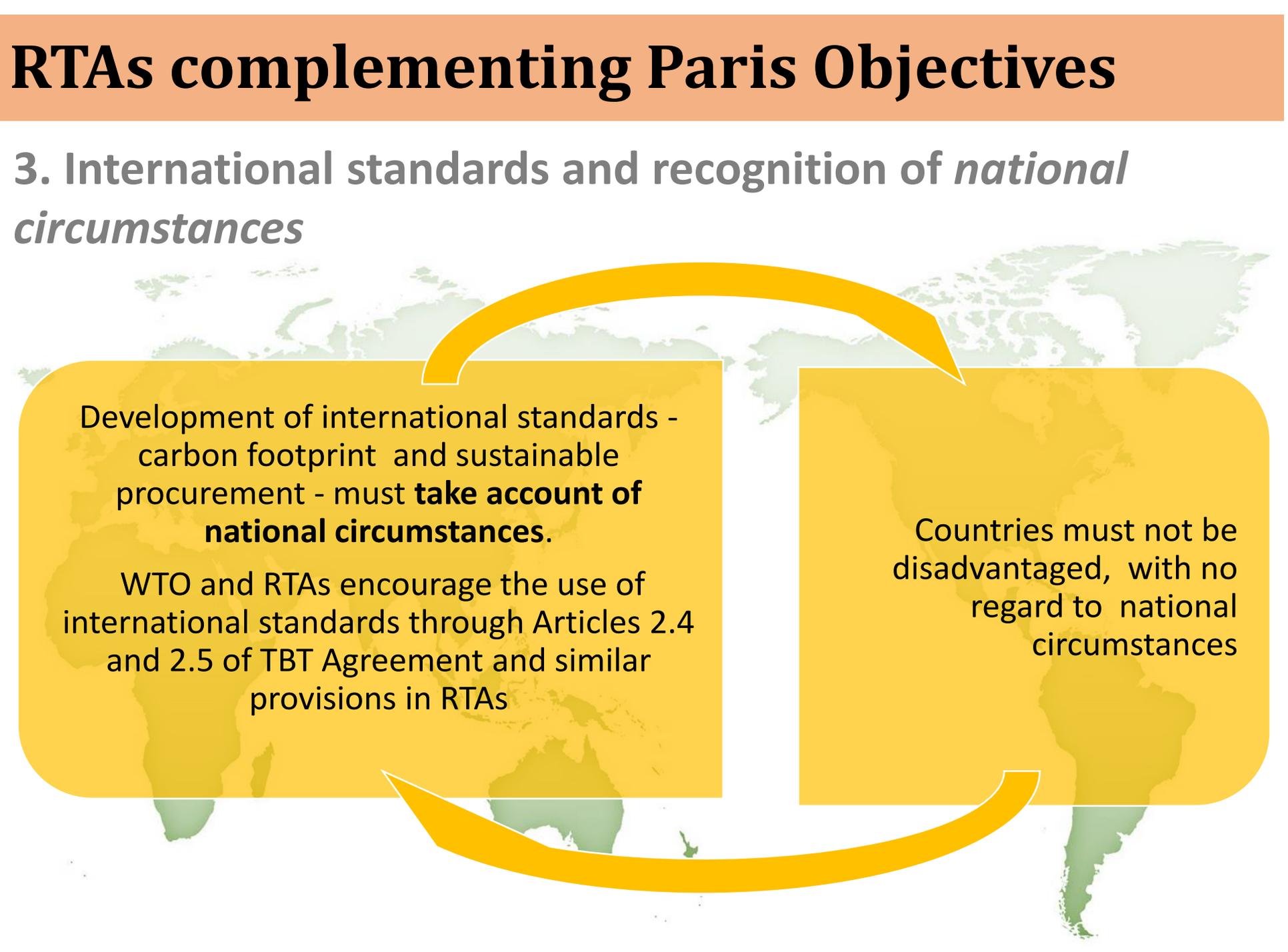
**this do, we must**



**"No! Try not. Do, or do not.  
There is no try"**

# RTAs complementing Paris Objectives

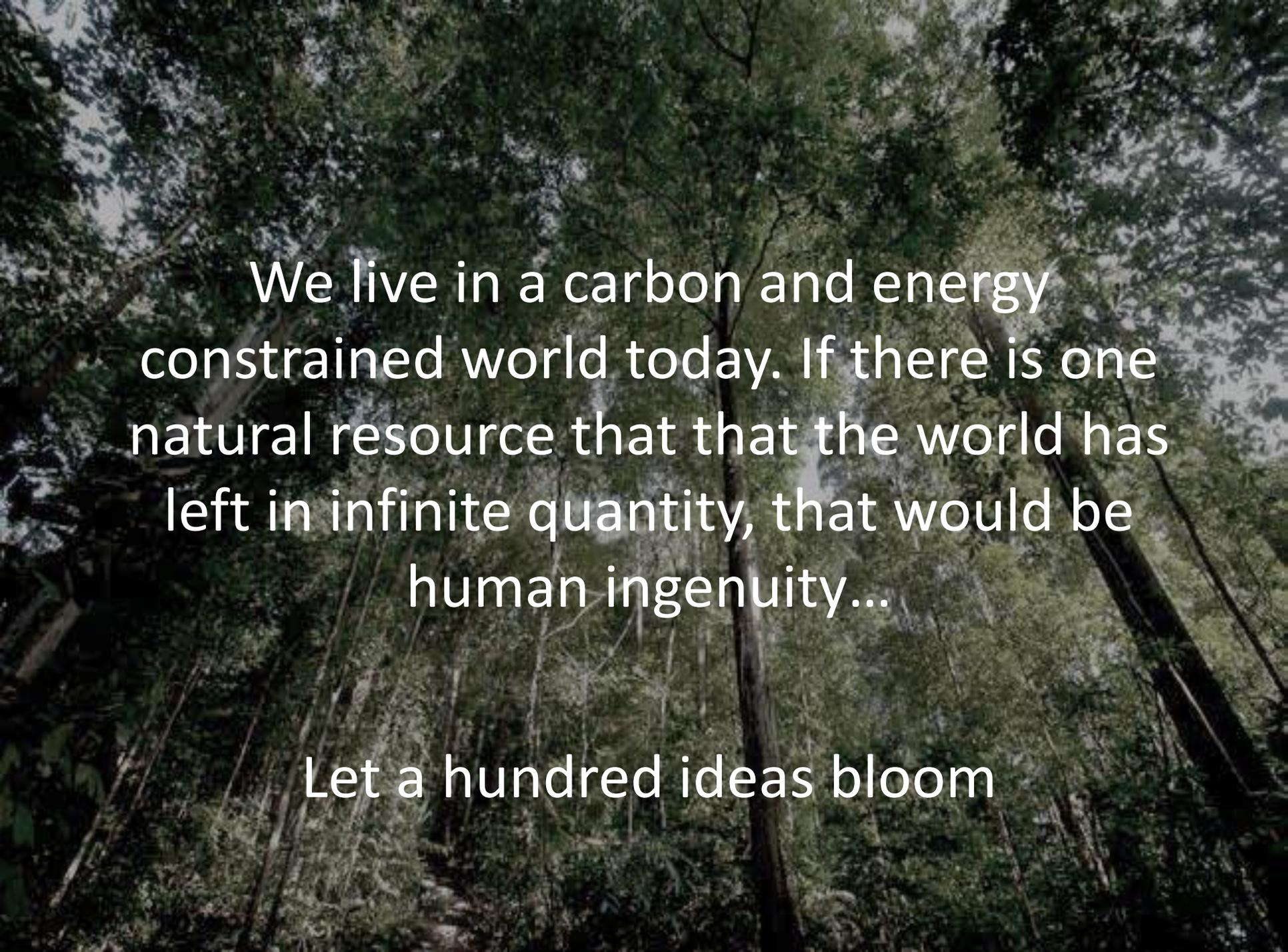
## 3. International standards and recognition of *national circumstances*



Development of international standards - carbon footprint and sustainable procurement - must **take account of national circumstances**.

WTO and RTAs encourage the use of international standards through Articles 2.4 and 2.5 of TBT Agreement and similar provisions in RTAs

Countries must not be disadvantaged, with no regard to national circumstances

A low-angle photograph of a dense forest. The camera is positioned near the ground, looking up at the tall, slender tree trunks that rise vertically towards a thick canopy of green leaves. Sunlight filters through the foliage, creating a dappled light effect on the forest floor and the trunks. The overall atmosphere is serene and natural.

We live in a carbon and energy  
constrained world today. If there is one  
natural resource that that the world has  
left in infinite quantity, that would be  
human ingenuity...

Let a hundred ideas bloom