



Organisation  
Mondiale  
de la Santé  
Animale

World  
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for Animal  
Health

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Mundial  
de Sanidad  
Animal

# Introduction to Veterinary Legislation : General Principles

**Gaborone 1 November 2011**

**Dr M PETITCLERC**



# Conventions

- Generalization of the term legislation
  - Legislation = legislative power
  - Regulation = executive power
  - Used here in a loose way it covers all texts at all levels
- Legal norm:
  - All the binding rules decreed by public authorities or case law

# Rule of law

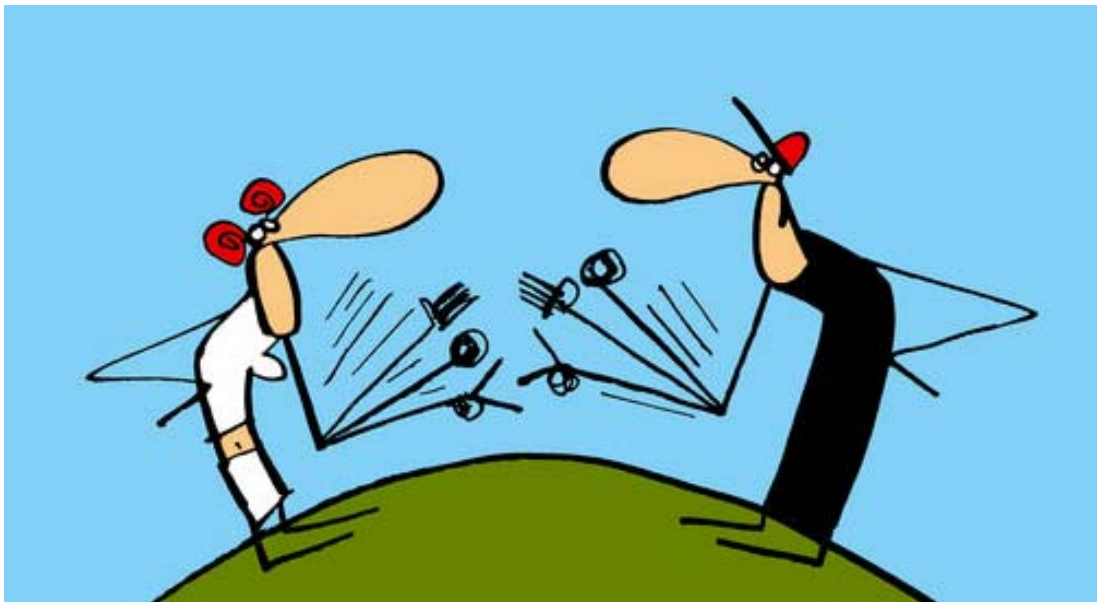
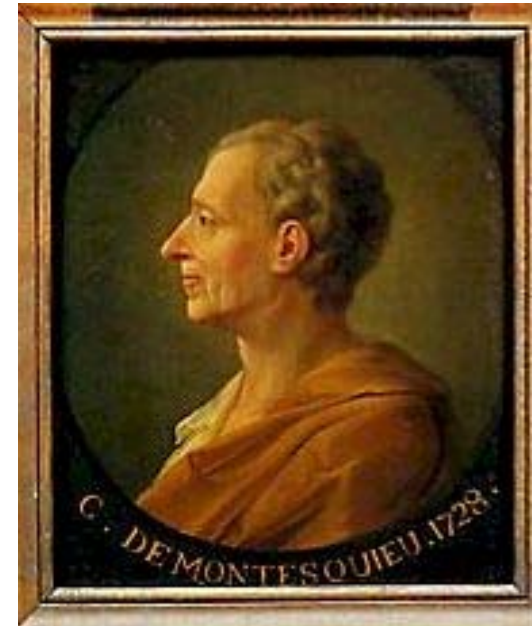


State in which legal norms are organized in such a way as to limit its power.

(Hans Kelsen 1881-1973)

# Separation of Powers

Charles-Louis de Secondat, baron de la Brède et de Montesquieu, author of *l'Esprit des Lois* and theoretician of the separation of the three powers (legislative, executive, judiciary).

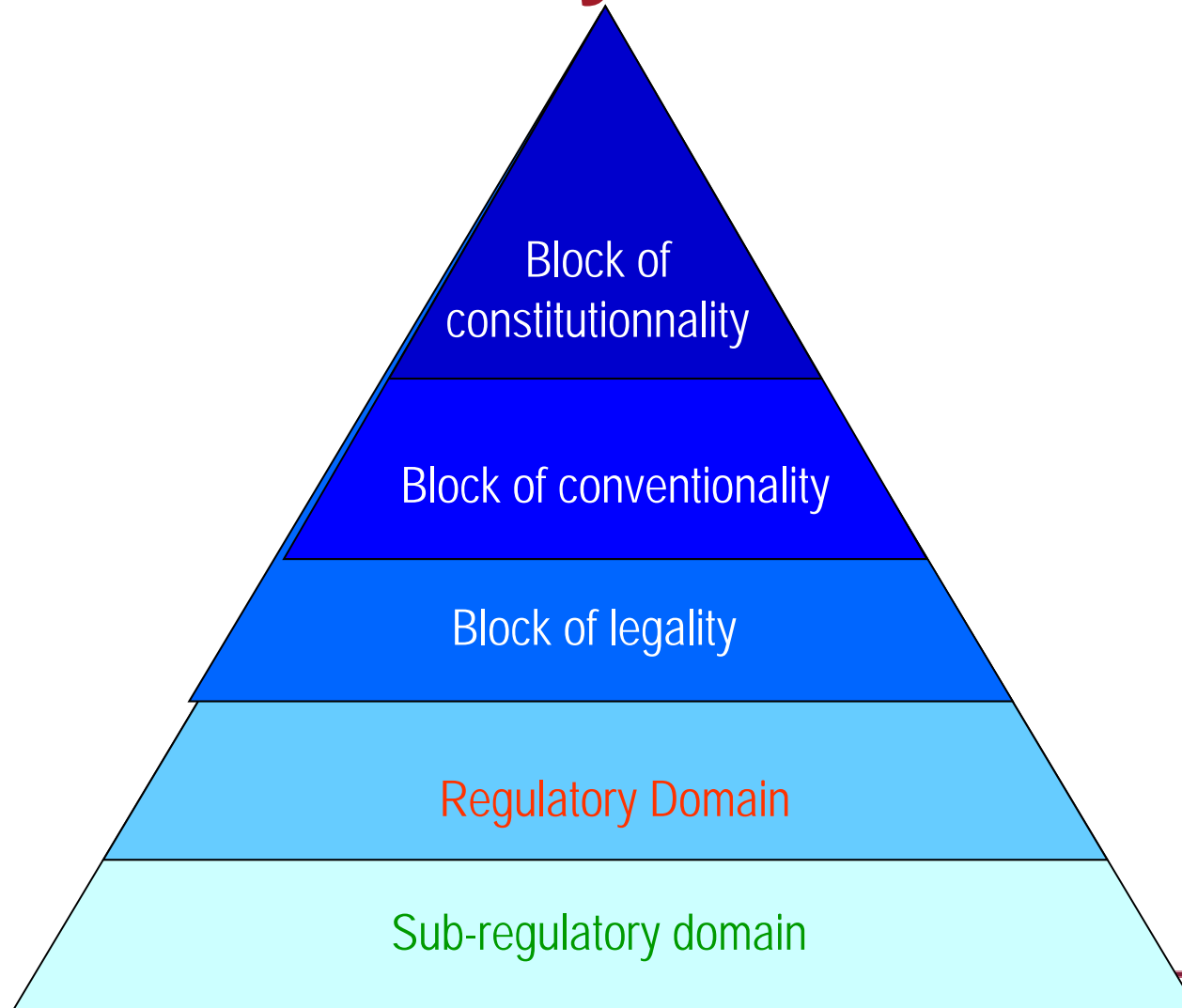


Scissors

Stone

Leaf

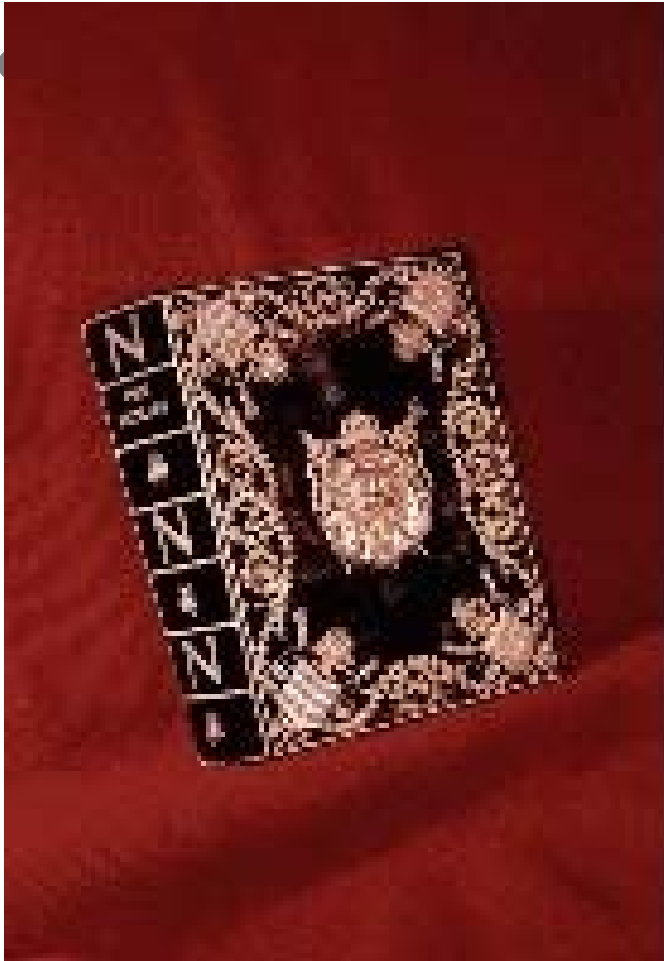
# Hierarchy of norms





All legal entities, individuals, companies and public authority, are subject to the law

# Roman Germanic Law



- Legacy of Roman law and Germanic customs
- Priority of written law and codification of rules
- Proceeds from “general to specialized”

# Common law

- Based on case law
- Developed by the judge
- There are however many written texts even codes (eg. California)





# Customary Law



- Very seldom pure (Anglo-Norman Islands and Andorra)
- Nevertheless frequent in variable proportion in the three other types

# Religious Law



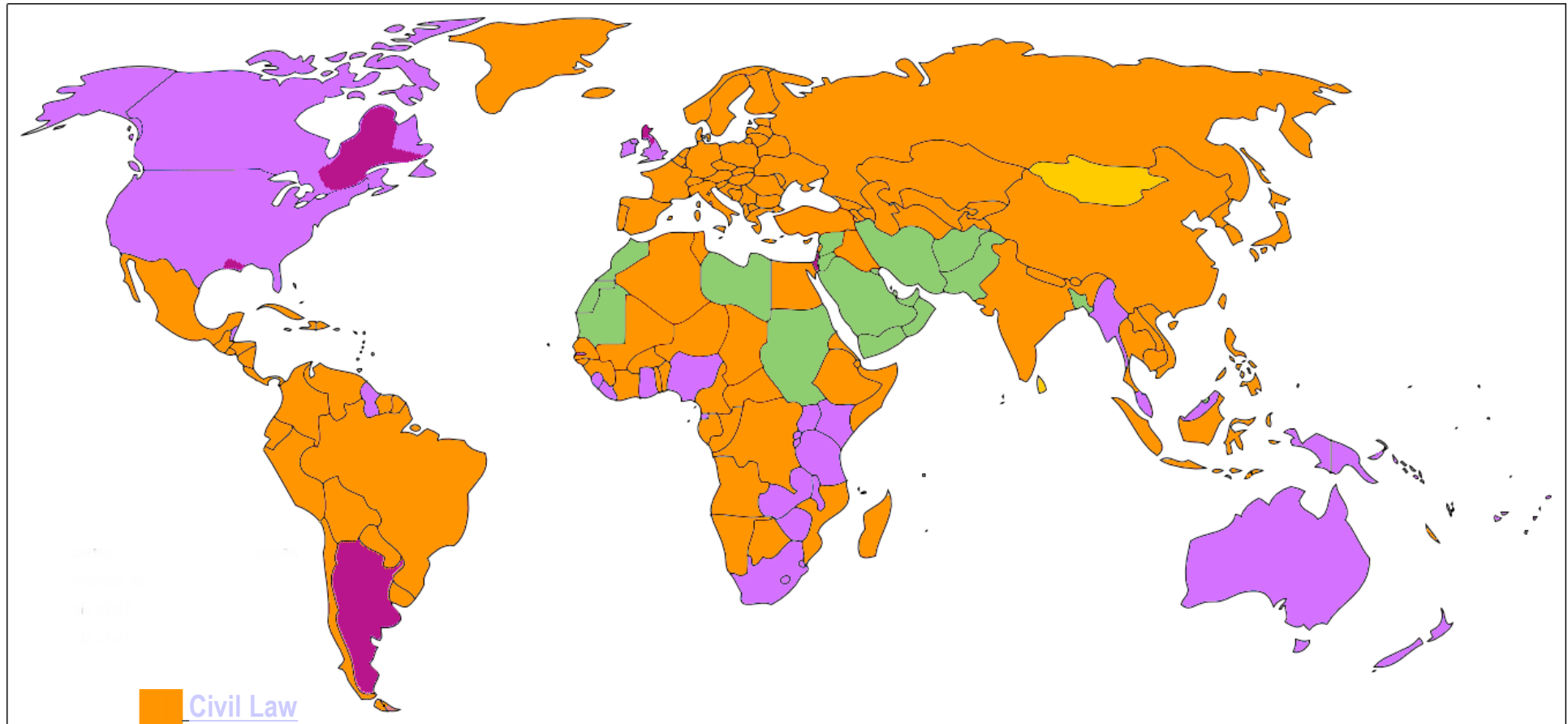
- Islamic based on the Coran
- Talmudic



# Legal System and States

Legal Systems	Jurisdictions	%
Civil Law	89	25,9
Mixed Civil Law Systems	65	18,9
	<b>154</b>	<b>44,8</b>
Common Law	42	12,2
Mixed Common Law Systems	54	15,7
	<b>96</b>	<b>27,9</b>
Customary Law	3	0,9
Mixed Customary Law Systems	55	16,0
	<b>58</b>	<b>16,9</b>
Islamic Law	2	0,6
Mixed Islamic Law Systems	33	9,6
	<b>35</b>	<b>10,2</b>
Talmudic Law	1	0,3

# Legal Systems in the world



 Civil Law

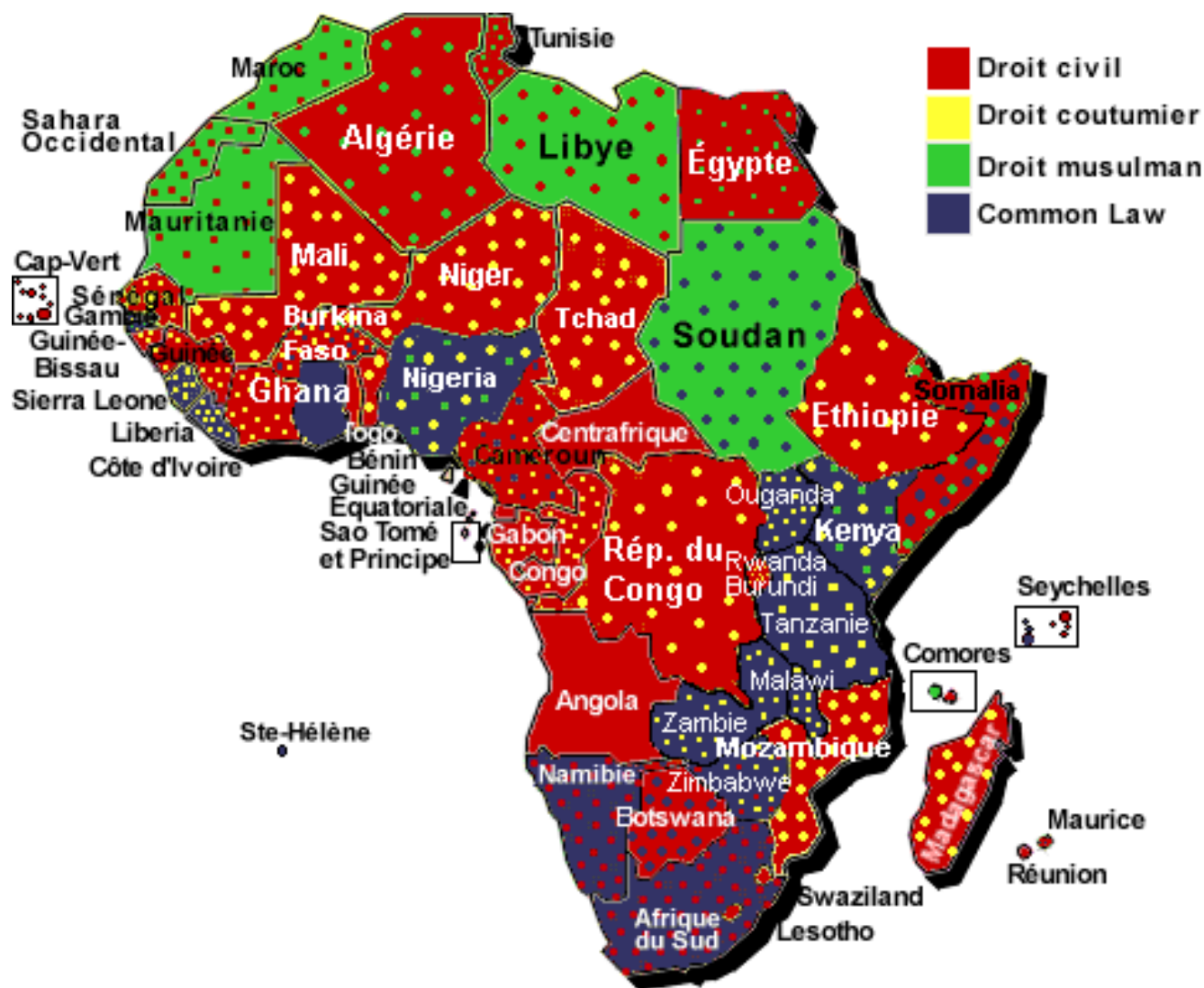
 Common law

 Droit coutumier

 Droit musulman

 Common law et droit civil

# Legal Systems in Africa



# Role of the rule

- **Question evaded in many instances**
  - The norm is "the expression of a will" (Kelsen)
  - The aim of the Law is to limit individual freedom for the benefit of a general interest deemed more favourable.
- **This requires bearing in mind and taking into account so as not to produce texts without precise objectives and without being aware of all the consequences**



# Consequences...

- The law is meant to set out rules and then it must have a normative significance.
- A legal text must distinguish "*intention from action, possible from desirable, superficial from essential, licit from illicit*", that is, it must have a normative content, clearly set out, in answer to the questions posed.
- It must avoid declarations or proclamations which have no legal significance,
- Ambiguous or vague formulations breed legal uncertainty.

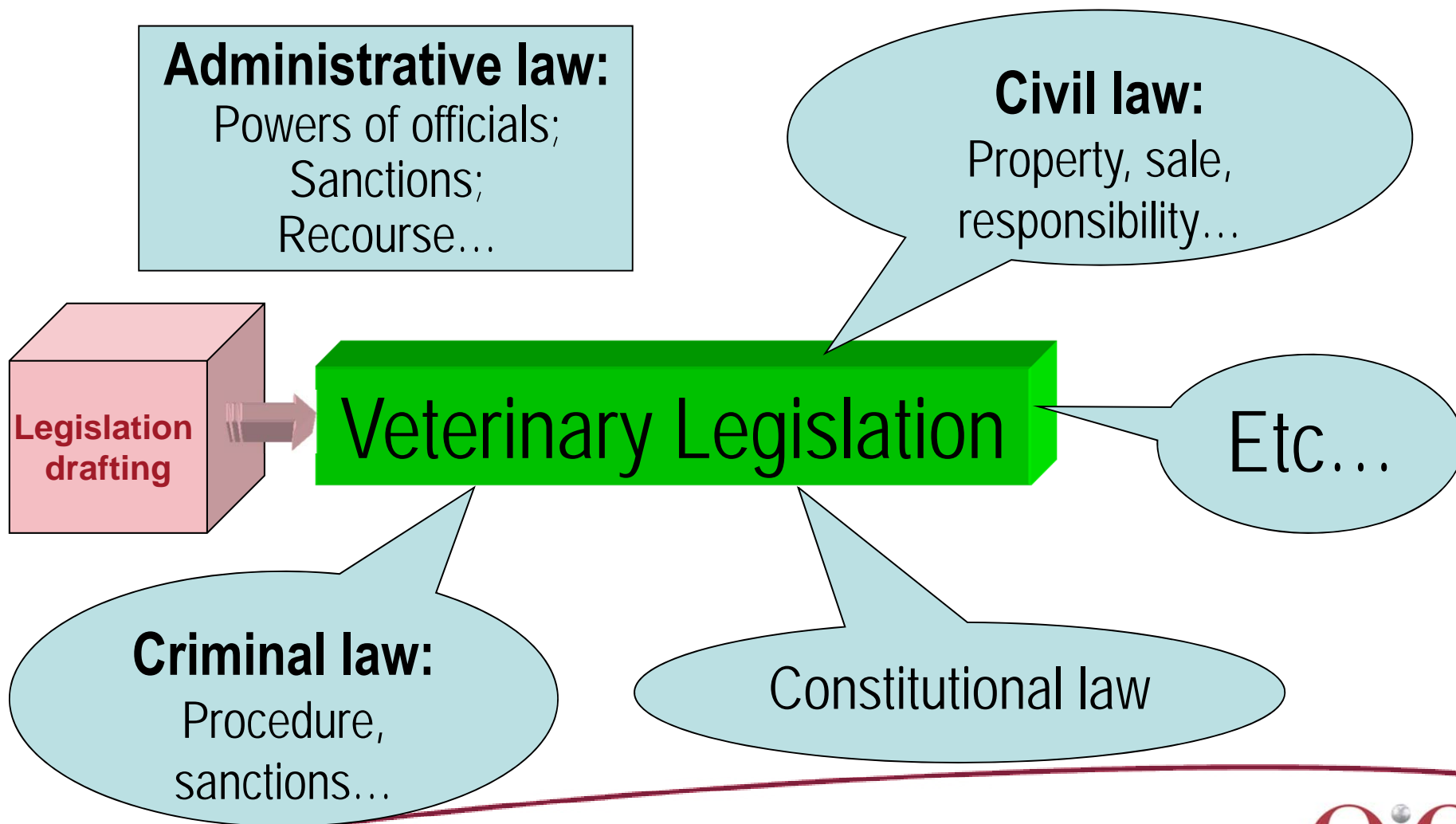
# Veterinary Legislation

- Not an isolated question
- Depends on the political, social and economic context
- Must fit into the legal system
  - A set of vague technical texts must not be mistaken for legislation





# Respect of context

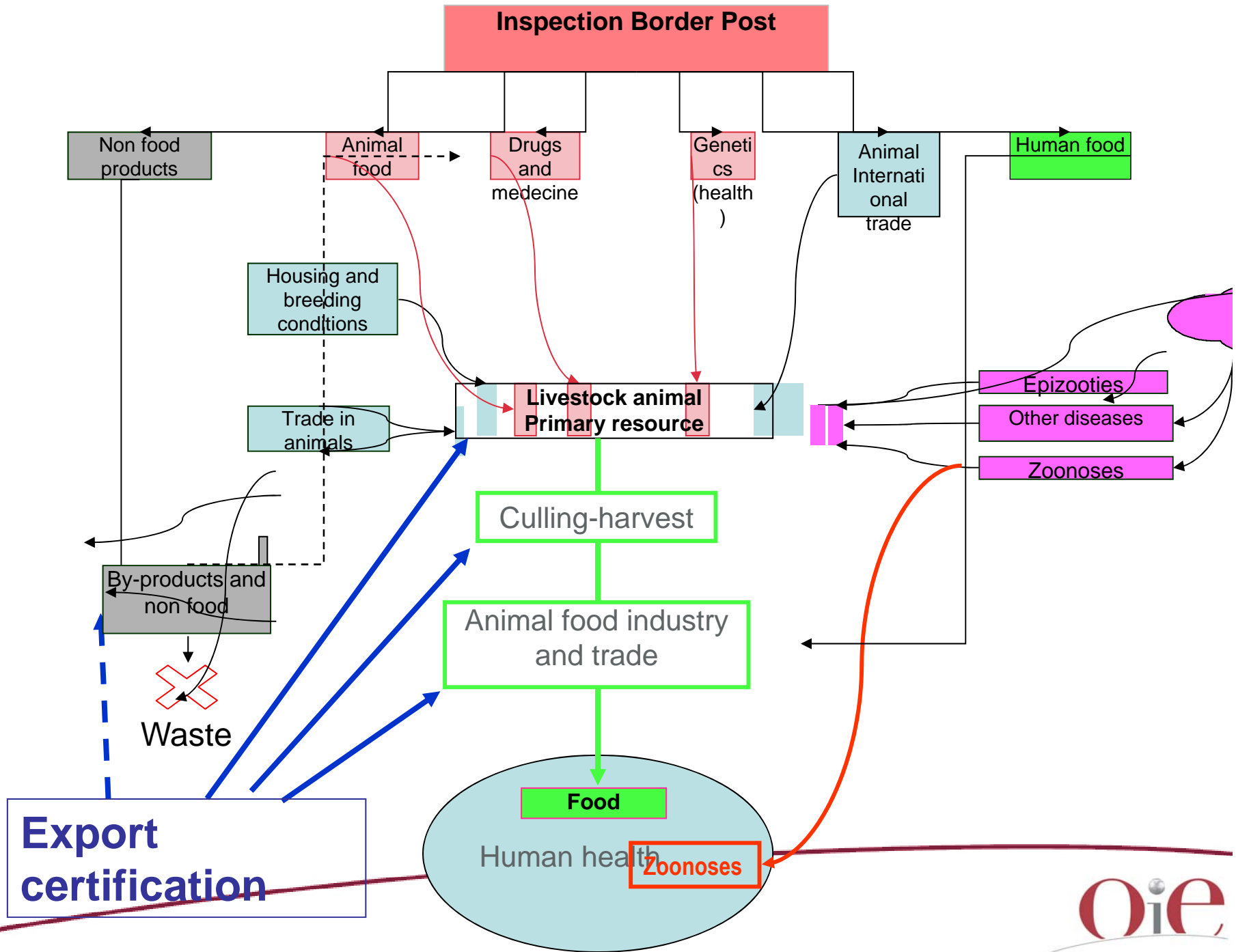


# **Veterinary legislation defined in relation to its field**

Defined in relation to the veterinary field and not in relation to the administrations responsible for overseeing its application or to the professions.



Fonctions transverses : Laboratoires, formation ...

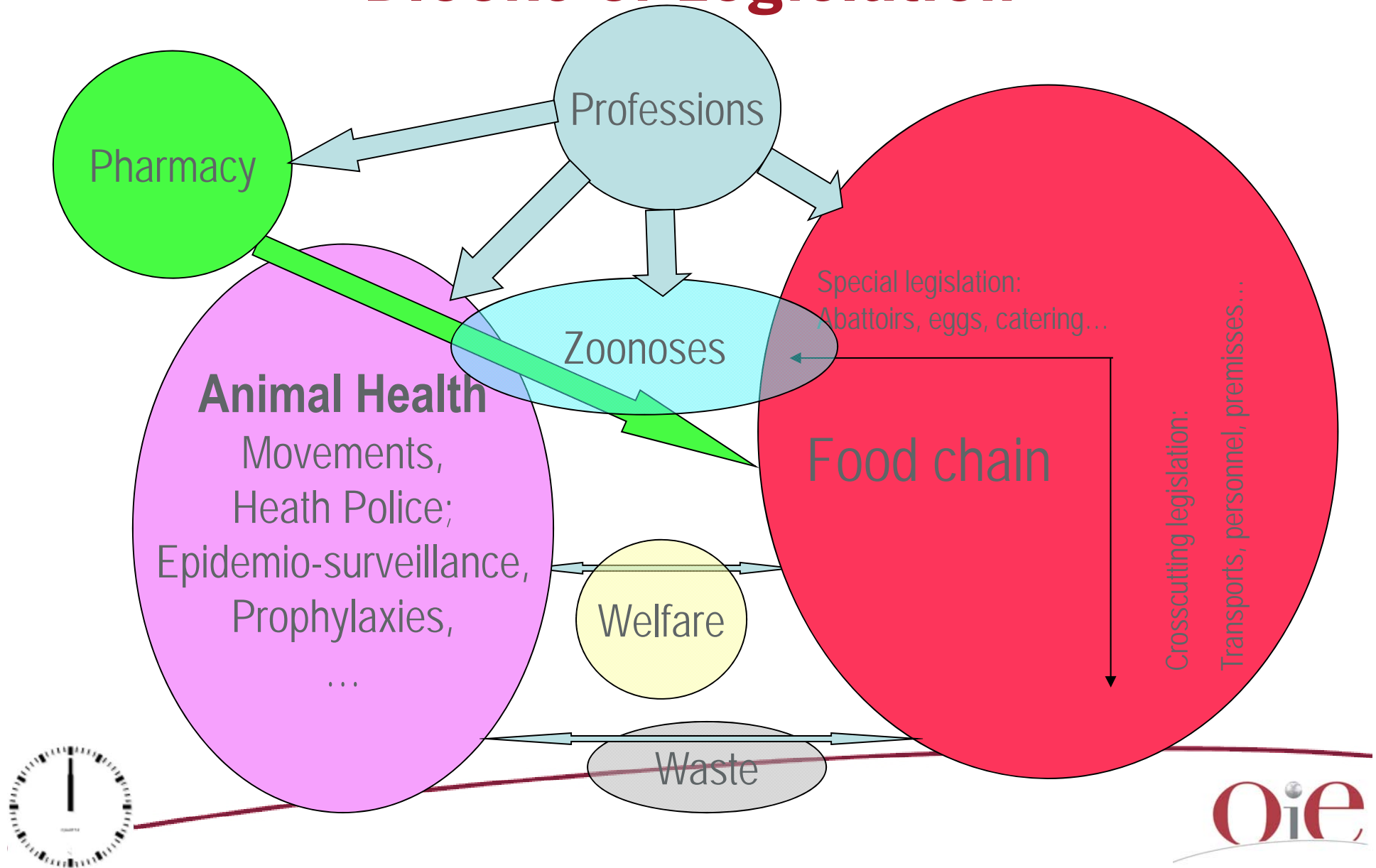


# Veterinary Legislation

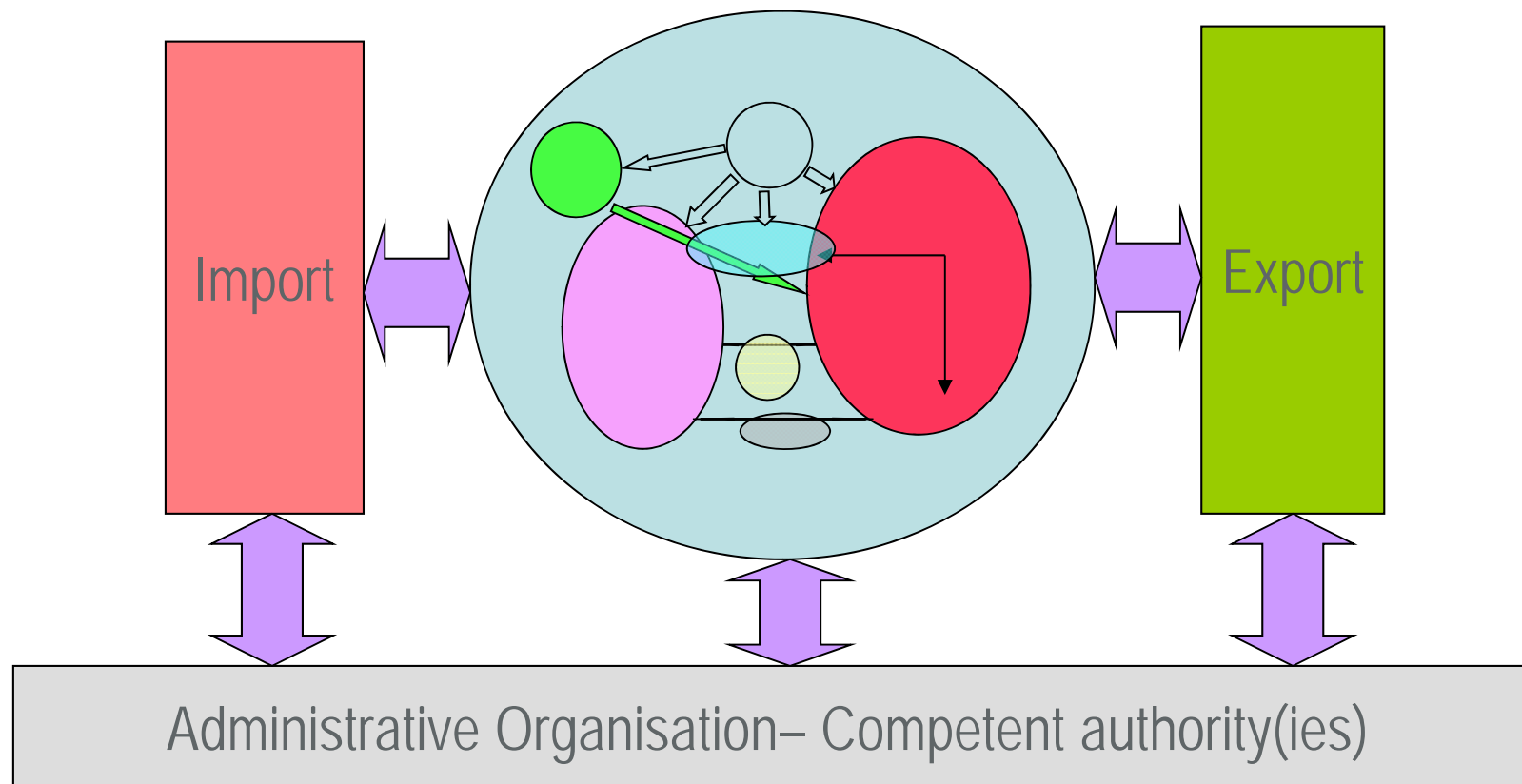
- “The set of specific legal norms required for good governance of the veterinary domain”.
- Veterinary Services also use non-specific elements:
  - Criminal procedure
  - Administrative law...
- No one owns the legislation



# Blocks of Legislation



# Environment of the “blocks”



# Strategic Dimension

Veterinary legislation requires an important commitment from the State regarding:

- Food safety
- Health safety (food and zoonoses)
- Animal production / GDP and international trade

## Two objectives

- **To cover the veterinary field**  
Guidelines
- **Quality Legislation:**  
Opportunity study and impact  
assessment





# Covering the veterinary domain

- State of the law (inventory)
- Guidelines
- Tables of correspondence
- Arbitrations (strategy and action plan)



# Guidelines

- Compilation of provisions
- Cover the whole field
- Simple objectives
- Detailed in the VLSP



# State of the law

- Comprehensive inventory (case law)
- Legal Database
- Significance of codification



# Codification

Codification consists of regrouping normative texts of different kinds in volumes on a given topic.

Ancient technique (Theodosian Code in 438)

Answers the need for clarification and easy access to law



# Different forms

**Official codification** or codification proper, in which the authority (and notably the legislative power) publishes a text to which it gives the name “code”.

**Private codification** or non official grouping of texts from a field, carried out by lawyers and / or publishers to facilitate the work of legal professionals and litigants.



# Different kinds

## Collection-codification (or compilation)

Groups texts on a single topic in a volume or in an accessible format.

## Codification of established law

It constitutes a break in the texts, but positive law remains intact

## Codification in its full sense

Tends to break non only with the texts, but with the substance.



# Tables of correspondence

The table of correspondence is a tool to:

- Verify the effective presence of the provisions searched;
- Check its conformity;
- Identify the provisions going beyond the text of reference.
- Facilitate the management of the quality of the legislation



# Cut and paste

R201-7

The communication of the results of the examination provided for in the first paragraph of article L. 201-2 concerns food products possibly harmful to health according to article 14 of Regulation 178/2002/CE of the European Parliament and Council of 28 January 2002 and animal food possibly harmful according to article 15 of same regulation and must be carried out without delay by the owners or holders of animal food or animal feed with the designated administrative authority in accordance with article L. 221-1-3 of the Consumer code. [...]

The communication [...] concerns food products possibly ...

[...] animal feed [...]

[...] must be carried out without delay [...]

[...] by the owners or holders of animal food products

[...] animal feed

[...] must be carried out [...] with the designated administrative authority

Etc...





# Correspondences

Search for all the corresponding provisions

Reference Text				Correspondence Analysis				
Ref. (1)	Heading (2)	Comments or detail	Relevance (4)	Ref. (5)	Heading (6)	Gaps (7)	Impact (8)	Level (9)
xyz			Yes	Law	.....			
				Dec.	.....			



# Gaps

Search for the gaps...

Reference Text				Correspondence Analysis				
Ref. (1)	Heading (2)	Comments or detail	Relevance (4)	Ref. (5)	Heading (6)	Gaps (7)	Impact (8)	Level (9)
xyz			Yes	Law	.....			
				Dec.	.....			



# Proposals

Drafting project

Corrective measures (reference to established law)

Impact assessment

Reference Text				Correspondence Analysis				
Ref. (1)	Heading (2)	Comments or detail	Relevance (4)	Ref. (5)	Heading (6)	Gaps (7)	Impact (8)	Level (9)
xyz			Yes	Law	.....			
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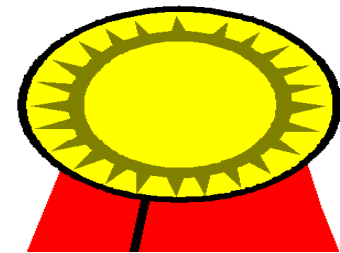
# Quality Legislation

- Define quality
- Implement the tools





QUALITY is all the  
properties and  
characteristics of a product  
or service which grant it  
the capacity to answer  
expressed or implicit.  
needs



# Intrinsic Quality

- **Drafting must ensure the respect of:**
  - The normative function of texts
  - All the rules and draft conventions (legislation drafting)
  - Intelligibility
  - The text hierarchy and the division of powers;

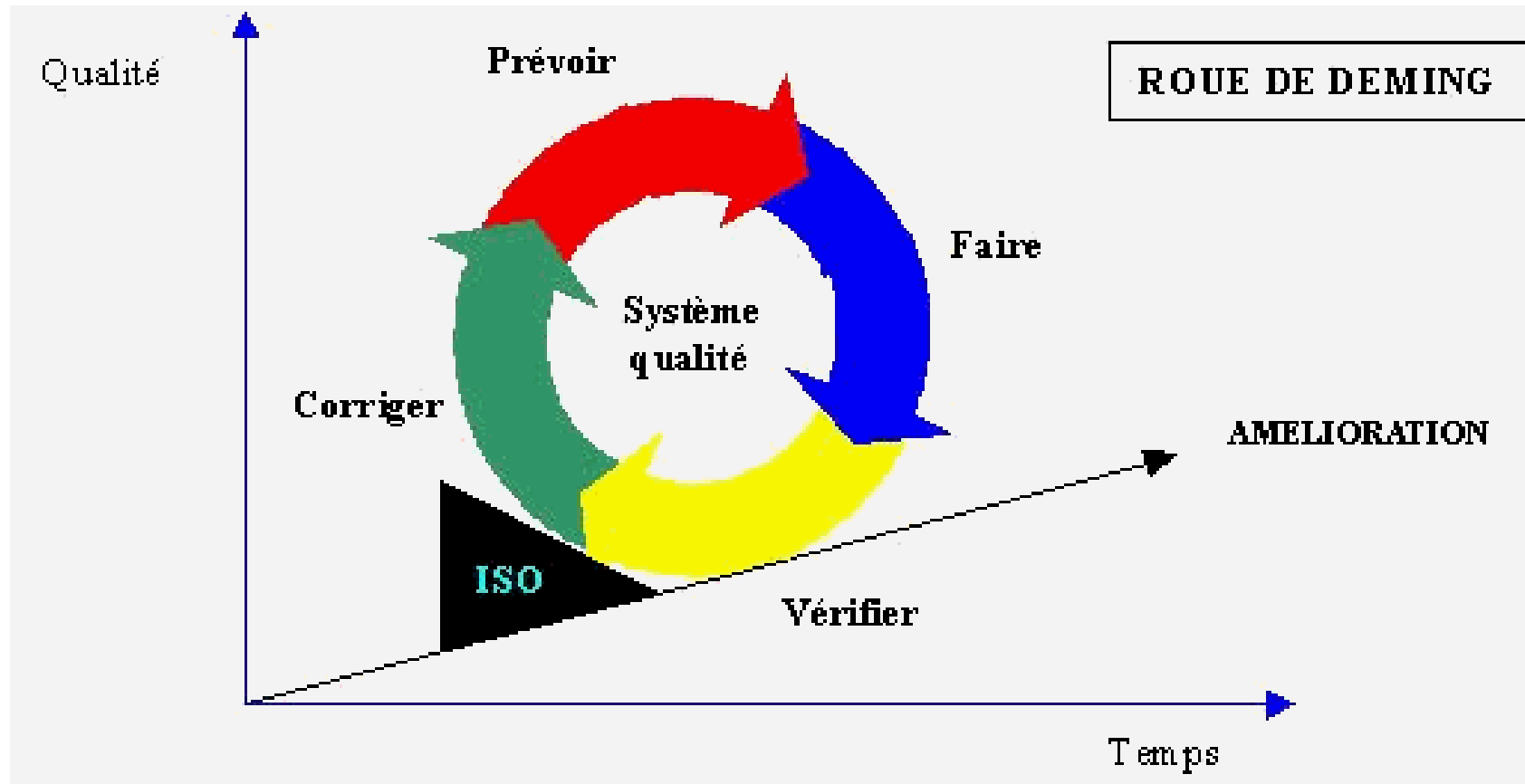


# Extrinsic Quality

- Amounts to legislation which is:
  - Relevant,
  - Acceptable,
  - Applicable,
  - Affordable
- Then effectively applied
- Rests on an impact assessment evaluating
  - the positive and negative effects of public action
  - the different costs, their sharing and their coverage;
  - the affected organizations



# Quality Cycle





# Quality Legislation

- Objectives and strategy
- Action plan: services organization
- Evaluation: need of indicators
- Correction



# Next

- Dr Guegan
- External quality

**Thank you for your attention**

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