



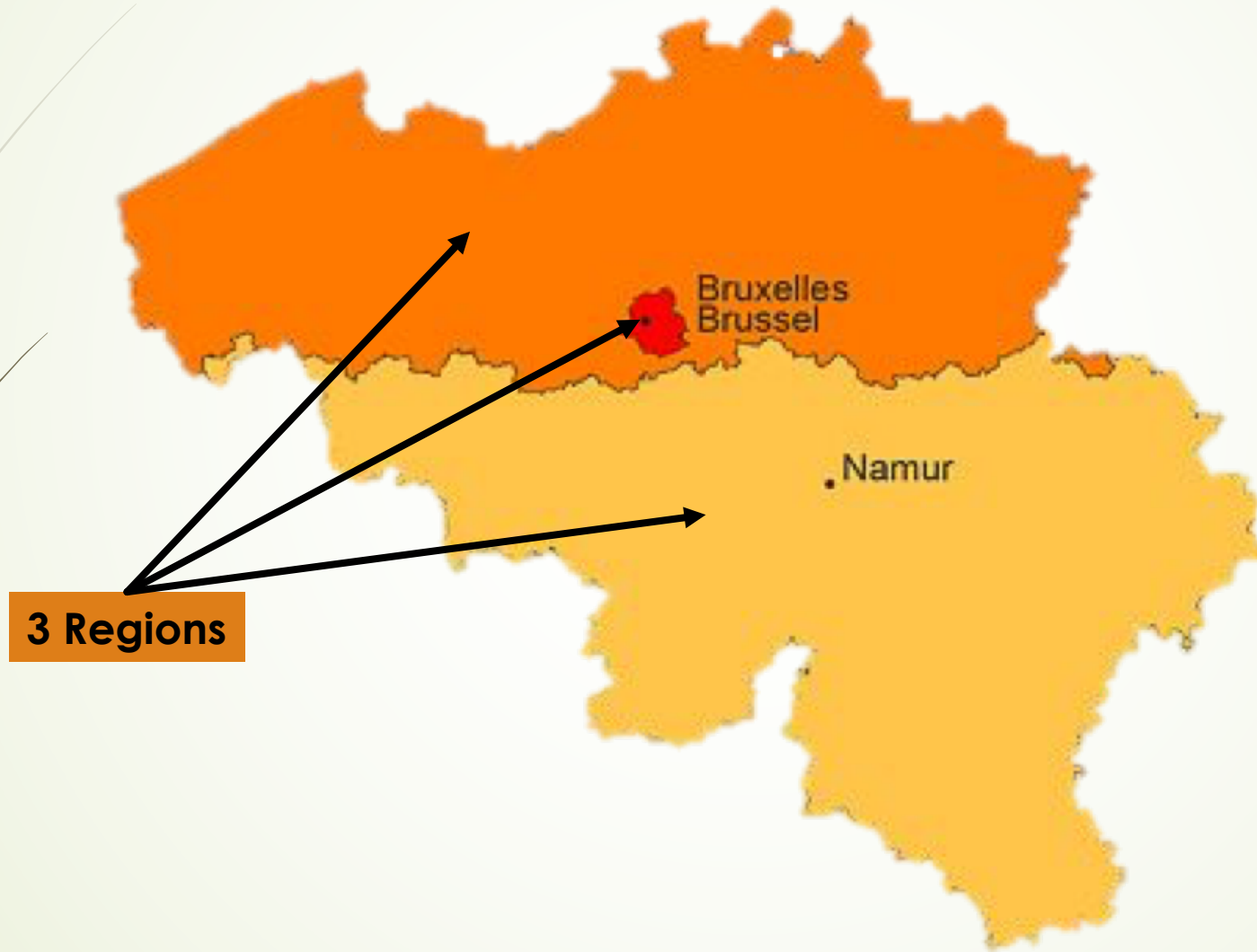
Treaty making power in Belgian constitutional law: the case of CETA

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Brussels, Mission of Switzerland to the EU

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The federal system in Belgium

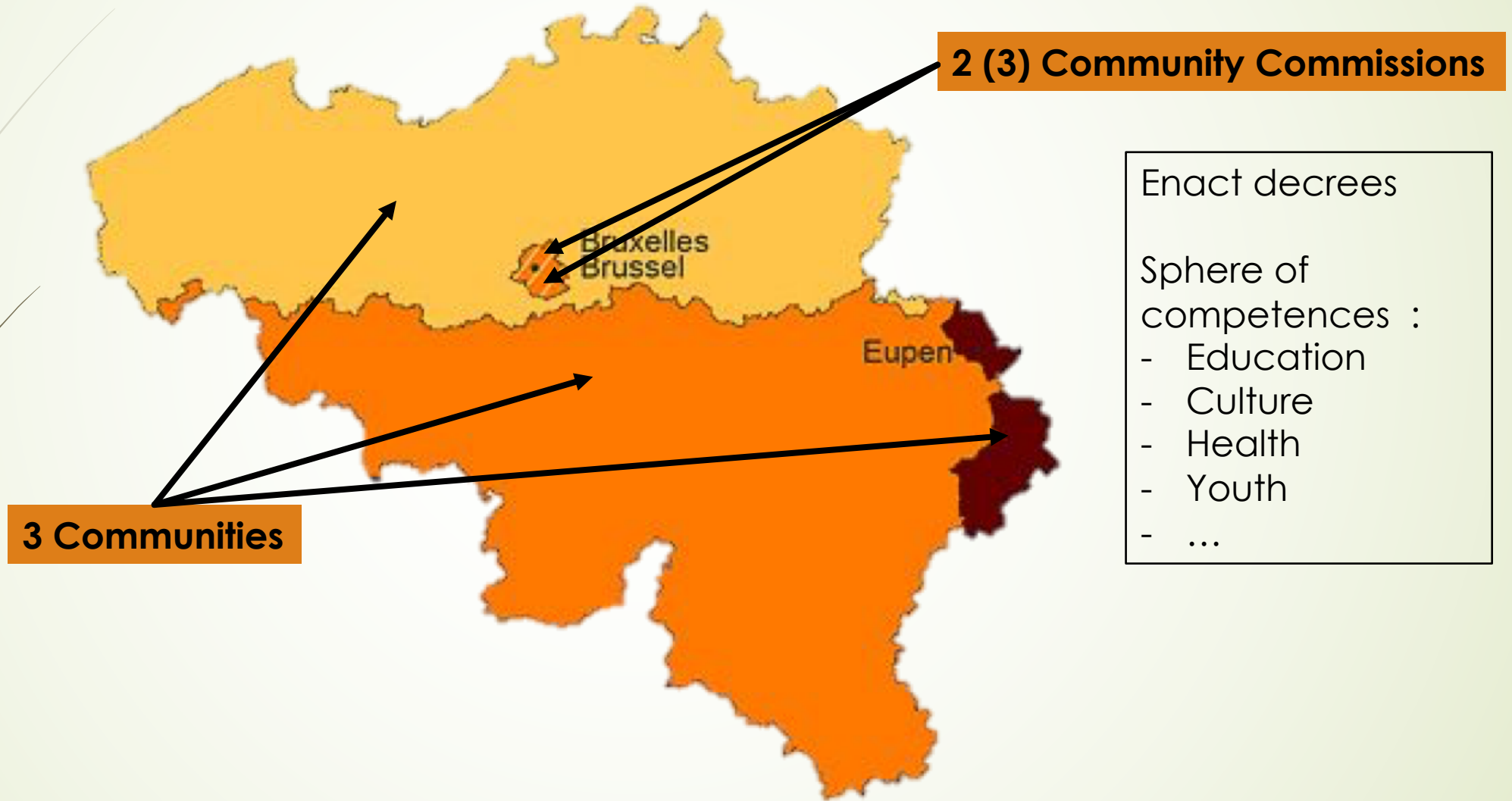


Enact decrees
OR ordinances
(Brussels)

Sphere of
competences :

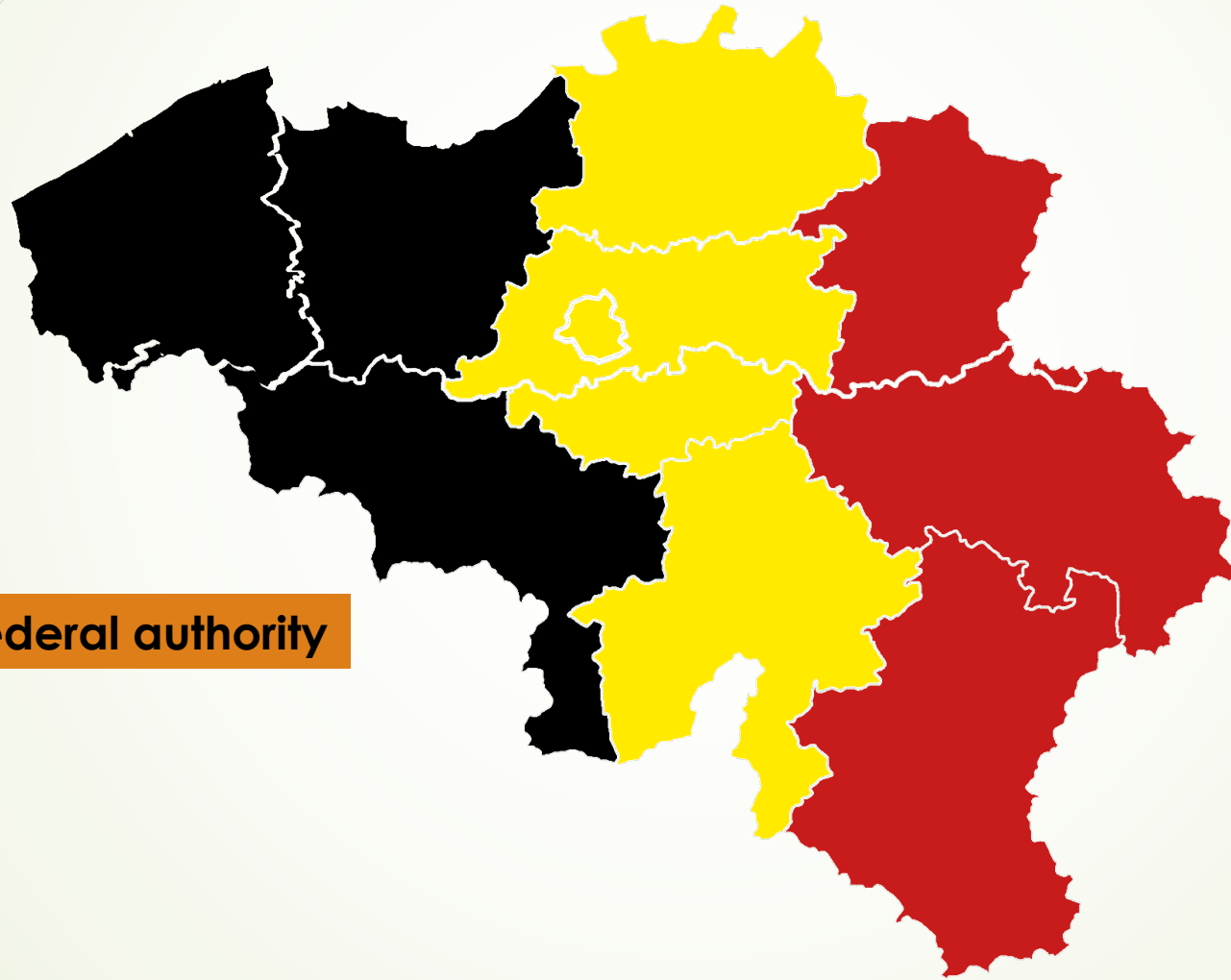
- Energy
- Roads
- Tourism
- Economy
- ...

The federal system in Belgium



The federal system in Belgium

1 federal authority



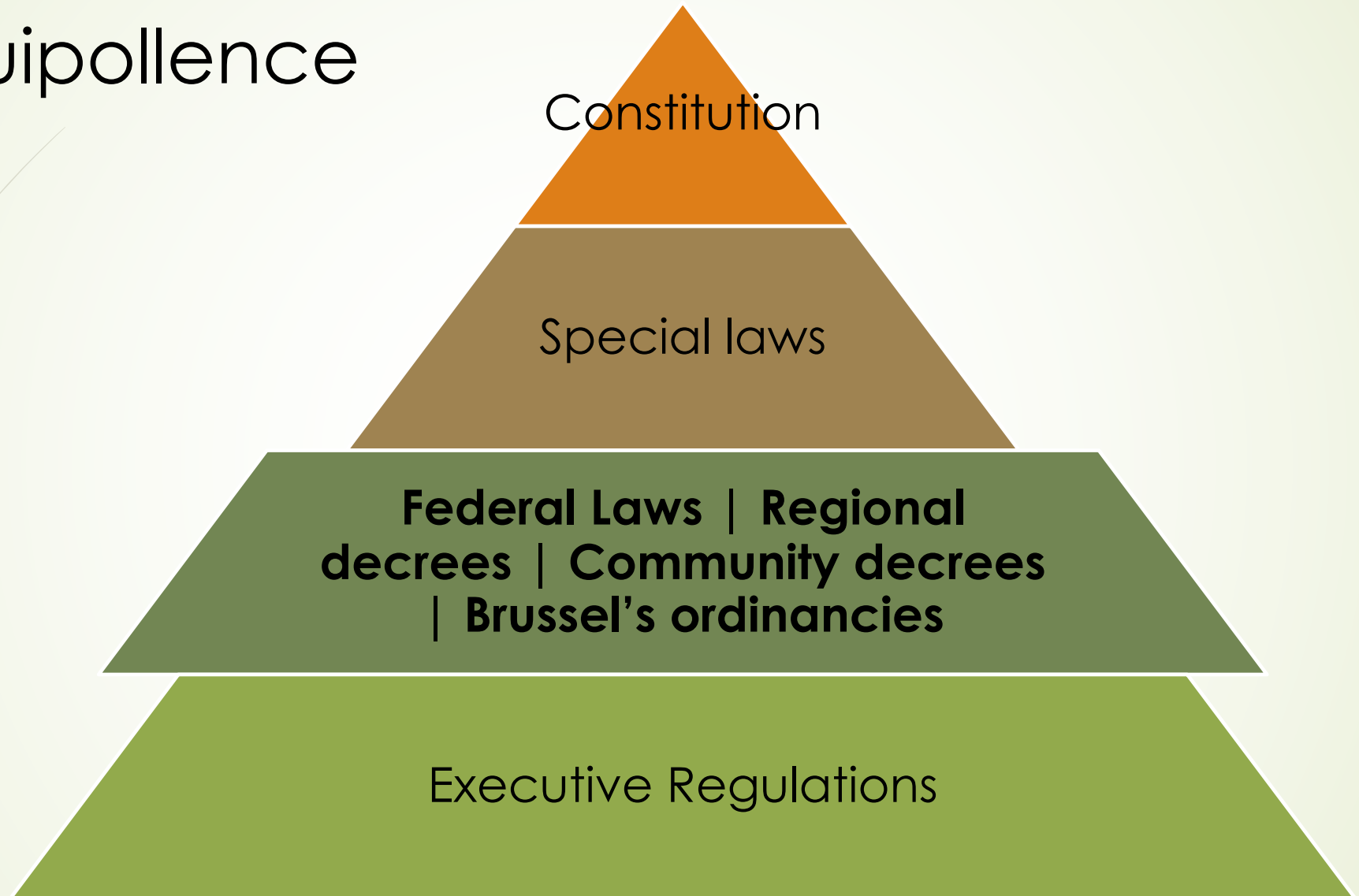
Enacts laws (+
special laws)
Revises the
Constitution

Sphere of
competences :

- Defense
- Security
- Justice
- Foreign Affairs
- ...



Equipollence





Article 167 of the Constitution

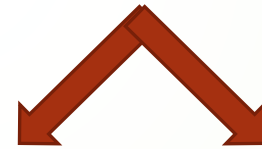
§ 1. The King shall direct international relations, without prejudice to the competence of the communities and regions to regulate international cooperation, including the conclusion of treaties, in matters within their competence by or under the Constitution.

Distribution of competences

RULE N°1 : Exclusivity of the exercise of competences



RULE N°2 : *In foro interno, in foro externo*



Exclusive treaties

Mixed treaties



Signature, ratification,
assent (no rule)



Signature, **assent**,
ratification (**C.Agr. 1994**)

Nuances

- First exception to the equipollence: federal suspension (**art. 81 special law of 1980**)

1. Obligation of information
2. Discussion in Interministerial Conference on Foreign Policy
3. The King can « confirm the suspension » **IF**
 - a. Belgium does not maintain diplomatic relations
 - b. The proposed treaty violates the international law

- Second exception to the equipollence: federal substitution (**art. 169, Const.**)

1. Proper warning
2. Only **IF** Belgium has been held responsible on the international level (*ie* ECJ)
3. Discussion in the Concertation Committee (environmental field)

Process (Belgian law)

CETA

Mixed treaties
Work Group

MTWG

- Assess the type of treaty (exclusive or mixed)
- Ask the entities to grant full signature power

ICFP

- Interministerial Conference of Foreign Policy
- Association to the negotiation

Parl.

- Assent

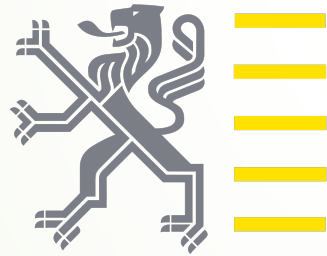
King

- Ratifies alone

CETA



FÉDÉRATION
WALLONIE-BRUXELLES

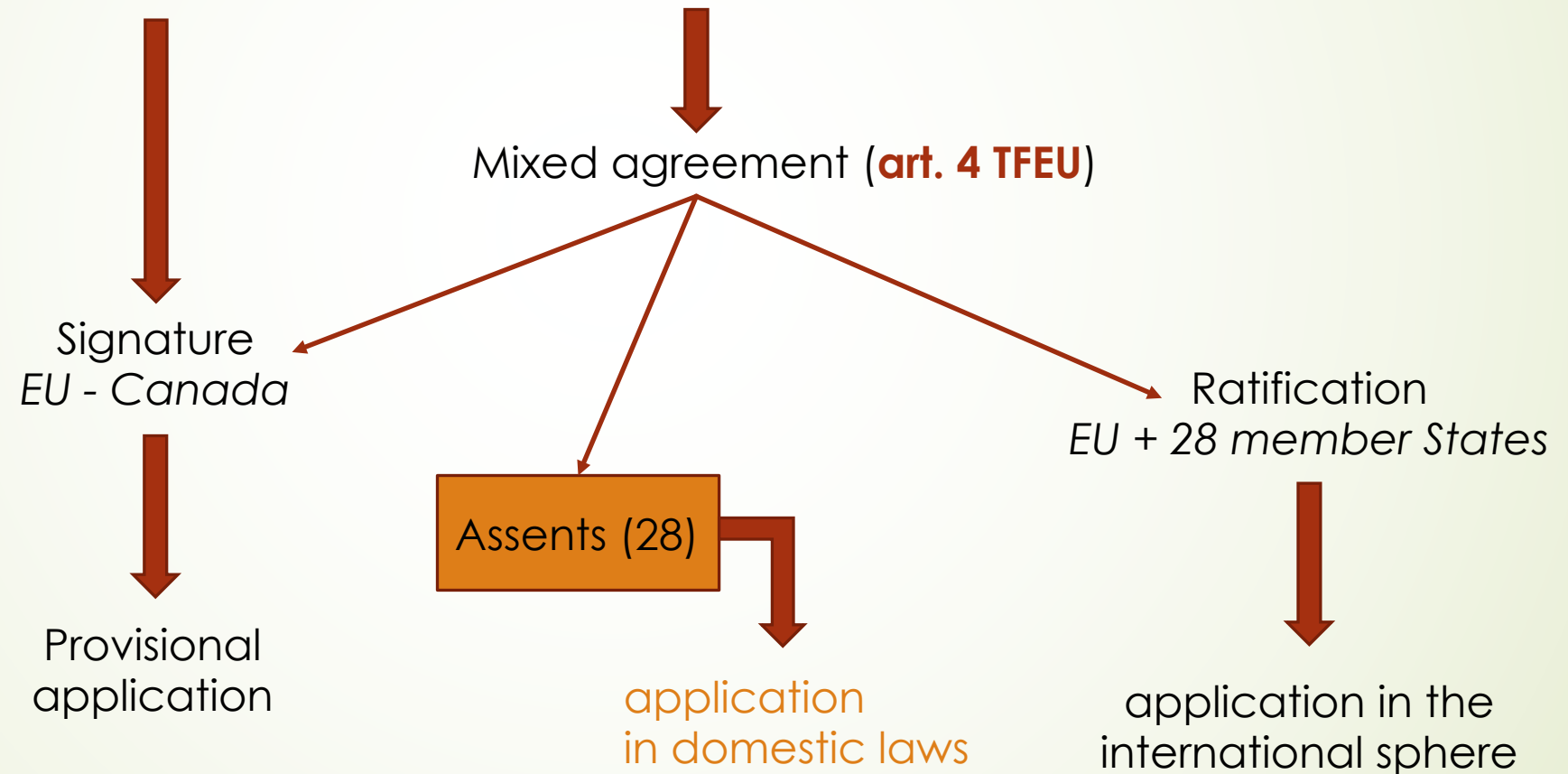


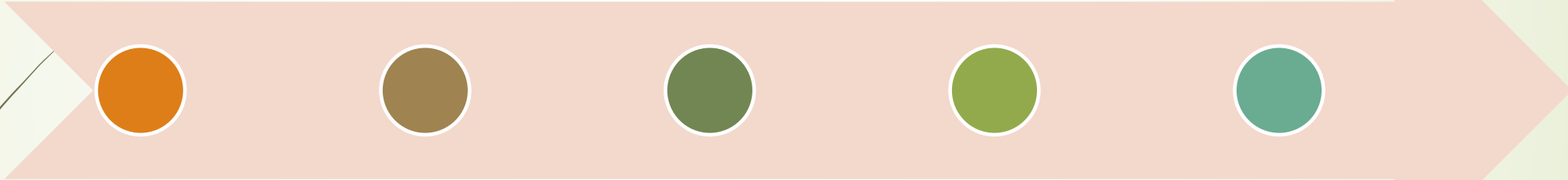
Wallonie



Process for CETA (EU law)

Negotiations by the EU Commission





**Oct. 14,
2016**
The PS
announces
it will
oppose
CETA

**Oct. 29,
2016**
Belgium
signs the
CETA

Jun. 2017
Preliminary
draft law
concerning
the assent
to the CETA

**Oct. 27,
2016**
Internal
agreement
between
the 8
authorities

**Oct. 30,
2016**
EU and
Canada
sign the
treaty



Thank you for your attention

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