

Regulation of International Trade

A Brief History of the GATT and its
Basic Concepts

Regulation of International Trade

Brief History of GATT:

- League of Nations – the forerunner of the UN created in 1918 – influenced largely by Smuts
- 1941 – Atlantic Charter began negotiations
- 1946 – UNECOSOC – begins negotiations for ITO that negotiates Havana Charter
- 1947 – creation of GATT – to liberalize trade
- 1950 – ITO is rejected by Congress – GATT continues..

Regulation of International Trade

History of Trade Rounds

Year /Place /Name /Issues/No. of Countries

- 1947 –Geneva, Tariffs (23)
- 1949 –Annecy, Tariffs (13)
- 1951 –Torquay, Tariffs (38)
- 1956 -Geneva, Tariffs (26)
- 1960-1961 –Geneva, Dillon Round, Tariffs (26)
- 1964-1967 –Geneva, Kennedy Round, Tariffs and anti-dumping measures (62)
- 1973-1979 –Geneva, Tokyo Round, Tariffs, non-tariff measures, “framework” agreements (102)
- 1986-1994 –Geneva, Uruguay Round, Tariffs, non-tariff measures, rules, services, intellectual property, dispute settlement, textiles, agriculture, creation of WTO, etc. (123)

Regulation of International Trade

- Early GATT – focused on tariff negotiations
- GATT banned QRs (except in Agric) and focused on customs tariff reductions in early rounds
- Kennedy round and Tokyo round shifted to create disciplines in domestic regulations viz,
- Anti-Dumping; Countervailing and Safeguards Non-Tariff barriers (economic issues):
- Technical Barriers to Trade (Tokyo) and Phytosanitary (SPS) issues (UR) (health and safety issues)
- Tokyo Round codes created Plurilateral Agreements
- (AD, Subsidies, TBT, Gov. Proc, Civil Aircraft, Import Licensing)
- Uruguay Round – incl. Services and Intellectual Property Rights (TRIPS) and created the WTO

Regulation of International Trade

- Goods Schedules are part of the GATT Agreement – record legally binding agreement
- MFN – Art 1 – non-discrimination – ext. adv. to all WTO members
- National Treatment – Art 3 – not discriminate between foreign and domestic “like” products in domestic market (“concession erosion”)
- Binding of customs duties – bound rates can be different from applied rates – “water in tariff”
- HS Codes – Harmonized Commodity Description, eg, 2 Digit: Motor Vehicle; 8 digit: Passenger car<2tons

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GATT disciplines on NTBs

- TBT Agreement– a member enacting technical regulation or standard must respect the National Treatment Obligation – is “necessary” to meet regulatory objective
- SPS Agreement – obliges members to base interventions on scientific evidence – process of risk assessment

International Regulation

- Member can Deviate/Exceptions from GATT commitments by invoking Contingencies, Infant Ind. & Re-neg.
- To assist industry – AD, CVD, Safeguards
- To support economy – BoP (Art XII and Art XVIII); Public Policy (Art XX)
- To support trading system – Art XXIV (RTAs); S&D (Enabling Clause); Waivers
- Infant Industry (Art XVIII)
- Re-Negotiation of bound rates (Art XXVIII)

International Regulation

- Dumping – selling a product in export market at a price that is less than the domestic or home market
- AD Agreement allows – duties to be imposed if procedures are followed: investigation-dumping-material injury to domestic producer – duties must not surpass dumping margin
- Objective to combat predatory pricing
- Impose over 5 years (sunset) but can extend..

International Regulation

- Countervailing Duties (SCM) – investigation-
subsidies granted-material injury to domestic
producers
- Subsidy must be a cost to govt.-beneficial to
specific entity-
- Prohibited: Export Subsidies, local content
- Member can impose CVD or retaliate
- Can impose over 5 years (sunset) can extend..

International Regulation

- SAFEGUARDS – increased imports – serious injury to producer – can raise duties + QRs
- Safeguards provides insurance that countries can impose protection temporarily – if difficulty to adjust to increased imports
- Can impose over 4 years and extend once only
- Safeguard is imposed over all imports and not only one specific importer
- VERs – in 1980s – created country spec. limit of export of part. products

International Regulation

- Deviation and Exceptions to support Economy:
- BoP (Art XII and Art XVIII) permits use of trade restrictions to safeguard ext. financial position of member
- Public policy (Art XX) – allows measures – not disguised restriction on int. trade to protect public morals; human, animal and plant life; health; etc
- National Security – trade restrictions allowed

International Regulation

- Deviations/Exceptions to protect trading system:
- Regional Integration (Art. XXIV) – FTAs, Customs Unions – transition period - +/-10 yrs
- Special and Differential Treatment (S&D) – preferences for developing countries: Enabling Clause of 1979 provided legal cover (GSP)
- Waivers – legitimizes temporary deviations by member (eg, ACP preferences, AGOA)

International Regulation

- Infant Industry Protection – Art XVIII – allows use of tariffs and QRs to DCs to prom. Industry – but requires Compensation to affected exporters
- Re-Neg. of Tariffs – Can re-neg. by reducing other tariffs and compensating countries affected (INRs or Principal Supplying Interest)

International Regulation

GATS

- GATT only covered Goods – GATS extended to Services in Uruguay Round
- Services were previously considered domestic activities, govt. ownership and responsibility
- GATS – provided for “progressive liberalization, transparency and predictability but recognized the right of govt. to regulate
- MFN and National Treatment principles incorp.
- Different from GATT as covers cross border trade + 3 other modes of supply

International Regulation

GATS

- GATS Covers
- a) mode 1 – cross border – one territory to another
- b) mode 2 – consumption abroad – from territory of one consumer abroad (tourists, students, patients)
- c) mode 3 – service supplier – commercial presence (banks, companies, etc)
- d) mode 4 – service supplier of one member through presence of natural person in other (consultancy, health, etc)

International Regulation

GATS

- Scope – 12 core services sectors (160 sub-sectors)
- 1. business services (incl. professional and computer)
- 2. Communication services
- 3. Construction and related engineering services
- 4. Distribution services
- 5. Educational services
- 6. Environment services
- 7. financial services
- 8. health related and social services
- 9. tourism and travel related services
- 10. recreational, cultural and sporting services
- 11. transport services
- 12. other services not incl. elsewhere

International Regulation

GATS

- MFN – best access granted to one must be extended to all
- National Treatment (absence of discr. Measures) BUT limitations could provide cover for inconsistent measures (eg, residency requirements and tax measures, etc)
- MFN Exemptions provided for
- Positive List rather than Negative list
- Domestic Regulation (WPDR) – to develop disciplines “not more burdensome than necessary” to ensure the quality of the services

International Regulation

New Issues

- Doha Round extended WTO's ambit to include: "new issues"
- Trade Facilitation (Competition, Investment, Government Procurement)
- Working Group on Trade, Debt and Finance (Exchange rates)
- Working Group on Technology (tech transfer)
- Aid for Trade
- Other issues: trade and labour stds, trade and environment