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

<table>
<thead>
<tr>
<th>Year /Place /Name /Issues/No. of Countries</th>
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</thead>
<tbody>
<tr>
<td>1947 –Geneva, Tariffs (23)</td>
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<td>1949 –Annecy, Tariffs (13)</td>
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<td>1951 –Torquay, Tariffs (38)</td>
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<td>1956 -Geneva, Tariffs (26)</td>
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<td>1986-1994 –Geneva, Uruguay Round, Tariffs, non-tariff measures, rules, services, intellectual property, dispute settlement, textiles, agriculture, creation of WTO, etc. (123)</td>
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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
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- 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: Passeger 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
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• 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)
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• 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)
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- Infant Industry Protection – Art XVIII – allows use of tariffs and QRs to DCs to promote 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)
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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)
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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
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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