The Institutional Framework &
Basic Principles of the WTO

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Institutional Framework
Havana Conference (ITO) – 1st Round

The GATT enters into force

2nd Round: Annecy

3rd Round: Torquay

4th Round: Geneva

5th Round: “Dillon Round”

6th Round: “Kennedy Round”

7th Round: “Tokyo Round”

8th Round: “Uruguay Round”

Marrakesh Conference

WTO enters into force

The GATT (1947) no longer in force

1947
1948
1949
1950
1956
60-61
64-67
73-79
86-93
1994
Jan 1, 95
Jan 1, 96
OBJECTIVES

Raising Standards of living

Ensuring full employment

Ensuring large and steadily growing volume of real income and effective demand

Expanding the production of and trade in goods and services, while allowing for the optimal use of the world’s resources (sustainable development)

... seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their (the Parties to the Agreement) respective needs and concerns at different levels of economic development.
FUNCTIONS (1)

Framework to facilitate the implementation, administration and operation of WTO Agreements

Framework to further the objectives of the WTO Agreements

Forum for negotiations in matters dealt with under the WTO Agreements
FUNCTIONS (2)

Forum for further negotiations (new rules and disciplines)

Framework to facilitate the implementation, administration and operation of new agreements
Marrakesh Agreement establishing the WTO

FUNCTIONS (3)

Framework to administer the Understanding on Rules and Procedures Governing the Settlement of Dispute (DSU)

Framework to administer the Trade Policy Review Mechanism (TPRM)
MEMBERS OBSERVERS SECRETARIAT

HORIZONTAL ISSUES

GOODS

SERVICES

INTELLECTUAL PROPERTY

PLURILATERAL AGREEMENTS

MINISTERIAL CONFERENCE GENERAL COUNCIL
MINISTERIAL CONFERENCE

The highest authority in the WTO

Meets at least once every two years:

1996: Singapore
1998: Geneva
1999: Seattle
2001: Doha
2003: Cancun
2005: Hong Kong, China
GENERAL COUNCIL

Conducts the functions of the MINISTERIAL CONFERENCE when the Conference is not in session.
COUNCIL FOR TRADE IN GOODS (CTG)

Oversees the functioning of Annex 1A

PLURILATERAL COMMITTEE

• Information Technology Agreement (ITA)

COUNCIL FOR TRADE IN GOODS

COMMITTEES

• Market Access
• Agriculture
• Sanitary and Phytosanitary measures (SPS)
• Technical Barriers to trade (TBT)
• Subsidies and countervailing measures (SMC)
• Antidumping (ADP)
• Safeguards (SG)
• Customs valuation (VAL)
• Rules of origin (RO)
• Import Licensing procedures (LIC)
• Trade-related investment measures (TRIMs)
[Textile Monitoring Body]

WORKING PARTY

on State Trading Enterprises
COUNCIL FOR TRADE IN SERVICES

Oversees the functioning of Annex 1B

COMMITTEES
- Trade in Financial services
- Specific commitments

WORKING GROUPS
- Domestic Regulation
- GATS Rules
COUNCIL FOR TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS)

Oversees the functioning of Annex 1C
COMMITTEES AND WORKING GROUPS REPORTING DIRECTLY TO THE GENERAL COUNCIL

COMMITTEES
- Trade and environment
- Trade and development
  - Sub-committee on Least-developed countries
- Regional Trade Agreements
- Balance-of-payment (BOP) restrictions
- Budget, finance and administration (BFA)

WORKING GROUPS (PARTIES)
- Accessions

WORKING GROUPS
- Trade and investment
- Trade and competition policy
- Transparency in Government Procurement
- Trade, Debt and Finance
- Trade and Transfer of Technology
PLURILATERAL COMMITTEES

Monitoring of the Plurilateral Agreements (initially negotiated during the Tokyo Round)

PLURILATERAL COMMITTEES

- Trade in civil aircrafts
- Government Procurement (GPA)
Doha Development Agenda: Work Programme

Implementation (§12)
Agriculture (§13-14)
Services (§15)

NAMA Market Access for Non-Agricultural Products (§16)

TRIPS (§17-19)

Trade and Investment (§20-22)
Trade and Competition Policy (§23-25)

Transparency in Government Procurement (§26)

Trade Facilitation (§27)
Rules (§28-29)

Dispute Settlement Review (§30)
Trade and Environment (§31-32)

Electronic Commerce (§34)
Small Economies (§35)

Trade, Debt and Finance (§36)
Trade and Transfer of Technology (§37)

Technical Cooperation and Capacity Building (§38-41)
Least-Developed Countries (§42-43)

Special and Differential Treatment (§44)
Marrakesh Agreement Establishing the WTO

- Annex 1
  - 1A: Agreements on Trade in Goods (GATT 1994 (GATT 1947 + Uruguay Round Agreements and Decisions + ...))
  - 1B: GATS (Trade in Services)
  - 1C: TRIPS (Intellectual Property Rights)

- Annex 2: Dispute Settlement Understanding
- Annex 4: Plurilateral Agreements
- Other Ministerial Decisions and Declarations
Decision-Making Process

- General Rule - *Consensus*
- Provisions on *voting* should consensus prove to be elusive. However, Members have not voted on any issue thus far.
- Informal processes – Role in forging consensus
- Transparency and inclusiveness
- Should the decision-making process be reformed? – Cf. the Sutherland Report
Basic Principles
Basic Principles

Non-Discrimination Principle
- MFN treatment
- National Treatment

Security and predictability of market access

Increasing the participation of developing countries in the multilateral trading system

Fair trade – possibility to respond to unfair trading practices such as dumping and subsidization

Transparency
MFN Treatment

No discrimination between like products / services originating in or destined for other WTO Members. Each trading partner gets immediately and unconditionally the best treatment given to any trading partner even if not a WTO Member.
MFN Treatment – a three-tier test

- Whether the governmental measure at issue confers a trade advantage of the kind covered by Article I:1 of the GATT 1994
- Whether the products concerned are “like products”
- Whether the advantage at issue is granted immediately and unconditionally to all like products originating in other WTO Members
MFN Treatment – Trade Advantage

Panels and the Appellate Body have interpreted the term “advantage” broadly to encompass not only tax/customs advantages, but also laws, regulations and requirements that affect importation and exportation and alter the scales of competition
MFN Treatment – “Like Products”

- Not defined in the GATT, but guidance provided by case law
- In *Japan-Alcoholic Beverages*, the Appellate Body likened the concept of “likeness” to an accordion, as it “stretches and squeezes in different places”
- Among the factors which have been taken into account by panels are the following:
  - the properties, nature and quality of the products
  - the end-uses of the products
  - consumers' tastes and habits
  - the (international) tariff classification of the products
MFN Treatment – “Immediately and Unconditionally”

The words “immediately” and “unconditionally” have been interpreted broadly to mean that a Member cannot demand reciprocal treatment as a condition for extending MFN treatment.

Likewise, extension of MFN treatment cannot be made conditional on a Member having or passing a specific legislation or undertaking a certain action.
MFN Treatment-Exceptions

- GATT Art. I:2-4 (Historical Preferences)
- GATT Art. IV(c) (Cinematographic Films)
- GATT Art. XX (General Exception)
- GATT Art. XXIV:3 (Frontier Traffic)
- GATT Art. XXIV:5 (Free-Trade Area and Customs Unions)
- GATT Art. XXI (Security Exception)
- “Enabling Clause” (1979 Decision)
- Marrakesh Agreement Art. IX:3 (Waiver)
Art II:1 of the GATS

For any measure covered by the GATS, each Member shall accord immediately and unconditionally to services and service suppliers of any other Member treatment no less favourable than that it accords to like services and service suppliers of any other country.

The Appellate Body held in EC – Bananas III that the obligation imposed by Article II is unqualified, and does not exclude de facto discrimination.
MFN Treatment – Exceptions under GATS

- GATS Art. II:2 (Specific List of MFN Exemptions)
- GATS Art. II:3 (Advantages to Adjacent Countries)
- GATS Art. V (Economic Integration)
- GATS Art. V bis (Labour Market Integration)
- GATS Art. XIV (General Exception)
- GATS Art. XIV bis (Security Exception)
- Marrakesh Agreement Art. IX:3 (Waiver)
MFN Treatment - TRIPS

- Art 4 of the TRIPS Agreement

- With regard to the protection of intellectual property, any advantage, favour, privilege or immunity granted by a member to the nationals of any other country shall be accorded immediately and unconditionally to the national of all other Members.

- Exceptions: Art. 4(a)-(d) of the TRIPS Agreement; TRIPS Art. 73 (Security Exception) and Marrakesh Agreement Art. IX:3 (Waiver)
National Treatment

- As a general rule, imported products must not be discriminated against vis-à-vis domestic products.
- Members cannot impose higher internal taxes or more burdensome obligations on imported “like” products.
- Determinants of likeness - the properties, nature and quality of the products; the end-uses of the products; consumers' tastes and habits and the tariff classification of the products.
- None of these elements is dispositive.
MFN Treatment v. National Treatment

**Non-Discrimination at the Border:**

Equal Treatment between WTO Members’ Products

- Article I GATT
  - (Article II GATS
    - Article IV TRIPS)

**Non-Discrimination Inside Border:**

Equal Treatment between Imported and Domestic Goods

- Article III GATT
  - (Article XVII GATS
    - Article III TRIPS)
Internal v. Border Measure

Difficult at times to distinguish between the two: would an import ban enforced at the border be subject to Article III or XI of the GATT 1994?

Basic rule

- Applied at the border: Article XI GATT
- Applied inside the border: Article III GATT

or

Article III GATT
Article III:2 of the GATT 1994 – First Sentence – tax discrimination of like products

The products of the territory of any Member imported into the territory of any other Member shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products.

In Canada – Periodicals, it was held that the following conditions have to be satisfied: (i) whether the imported and domestic products are like products; and (ii) whether the imported products are taxed in excess of the domestic products.
Article III:2 of the GATT 1994 – Second Sentence – directly competitive or substitutable products

Article III:2: Moreover, no Member shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1.

Ad Art. III:2: A tax conforming to the requirements of the first sentence of para. 2 would be considered to be inconsistent with the provision of the second sentence only in cases where competition was involved between, on the one hand, the taxed product and, on the other hand, a directly competitive or substitutable product which was not similarly taxed.
Article III:2 of the GATT 1994 – Second Sentence – directly competitive or substitutable products

Held in the *Japan-Alcoholic Beverages II* case that the following elements have to be satisfied:

- Whether the imported and domestic products are directly competitive or substitutable
- Whether these products are not similarly taxed
- Whether dissimilar taxation is applied so as to afford protection to domestic producers
Article III:4 of the GATT 1994 – Discriminatory domestic rules/regulations

“The products of the territory of any contracting party imported the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use…”.
Article III:4 of the GATT 1994 – Discriminatory domestic rules/regulations

Held in the *Korea - Beef* that the following elements have to be satisfied:

- Whether the measure at issue is a law, regulation or requirement covered by Article III:4 GATT
- Whether the imported and domestic products are ‘like products’
- Whether the imported products are accorded less favourable treatment
Exceptions to the National Treatment Principle under GATT

- GATT Art. III:3 ("Grandfathering")
- GATT Art. III:8(a) (Government Procurement)
- GATT Art. III:8(b) (Production Subsidies)
- GATT Art. III:9 (Prejudicial effect of internal price control measures)
- GATT Art. III:10 and Art. IV (Cinematographic films)
- GATT Art. XX (General Exception)
- GATT Art. XXI (Security Exception)
- Marrakesh Agreement Art. IX:3 (Waiver)
National Treatment Principle under the GATS and TRIPS

As a general rule, foreign goods, services and service providers, as well as IPR holders must not be discriminated against vis-à-vis domestic goods, services, and services providers, as well as IPR holders.

Unlike the GATT, NT principle flexible under GATS.

Article XVII:1 of the GATS: In the sectors inscribed in its Schedule, and subject to any conditions and qualifications set out therein, each Member shall accord to services and service suppliers of any other Member, in respect of all measures affecting the supply of services, treatment no less favourable than that it accord to its own like services and service suppliers.
National Treatment Principle under the GATS

- **Art XVII:2:** A Member may meet the requirement of para. 1 by according to services and service suppliers of any other Member, either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

- **Article XVII:3 of the GATS:** Formally identical or formally different treatment shall be considered to be less favourable if its modified the conditions of competition in favour of services or service suppliers of the Member compared to like services of service suppliers of any other Member.
Exceptions to the National Treatment Principle under the GATS

- GATS Art. XIV (General Exception)
- GATS Art. XIV bis (Security Exception)
- GATS Art. XXI (Modifications of Commitments)
- Marrakesh Agreement Art. IX:3 (Waiver)
Binding of Commitments / Concession

Members commit themselves not to raise duties or make concessions more restrictive than indicated in their schedules of commitments / concessions.

*Art. II: 1(a) of the GATT*: Each contracting party shall accord to the commerce of the other contracting parties treatment no less favourable than that provided for in the appropriate Part of the appropriate Schedule annexed to this Agreement.

Exceptions to the “binding” principle are the following:

- GATT Art. II:1(b) (Other Duties and Charges - ODCs)
- GATT Art. II:2 (Internal Tax, Anti-Dumping or Countervailing Duty, Customs Fees)
- GATT Art. XXVIII (Modifications of Concessions)
- Marrakesh Agreement Art. IX:3 (Waiver)
Binding of Commitments / Concession

- **Art XX:1 of the GATS**: Each Member shall set out in a Schedule the specific commitments it undertakes under Part III of this Agreement (GATS). With respect to sectors where such commitments are undertaken, each Schedule shall specify terms, limitations and conditions on market access …

- **Art XX:3**: Schedules of specific commitments shall be annexed to this Agreement and shall form an integral part thereof.

**Exceptions**

- GATS Art. XIV (General Exception)
- GATS Art. XIV bis (Security Exception)
- GATS Art. XXI (Modifications of Commitments)
- Marrakesh Agreement Art. IX:3 (Waiver)
Prohibition of Quantitative Restrictions

- **Art. XI:1 of the GATT**: No prohibitions or restrictions other than duties, taxes or other charges (regardless of form – quotas, import/export licenses, other measures) shall be instituted or maintained on imports/exports.

- **Art. XIII:1**: Limited exceptions permitted but Members must respect the non-discrimination principle in their imposition of QRs. They must be similarly applied to all third countries.

- **Art. XIII:2**: Allocation of QRs or TRQ’s as close as possible to expected shares that would have been obtained in absence of restrictions.
Prohibition of Quantitative Restrictions - Exceptions

- GATT Art. XIX (Safeguards)
- GATT Art. XI:2(a) (Critical Shortage of Foodstuffs or Other Essential Products)
- GATT Art. XI:2(b) (Removal of a Temporary Surplus of a Like Domestic Product for which the Imported Product can be Directly Substituted)
- GATT Art. XI:2(c) (Agricultural Products and Fish)
  -- Agreement on Agriculture (Tariffication)
- GATT Art. XX (General Exception)
- GATT Art. XXIV:5 (Free-Trade Area and Customs Unions)
- GATT Art. XXI (Security Exception)
- Marrakesh Agreement Art. IX:3 (Waiver)
- Agreement on Textiles and Clothing (Progressive Integration)
Prohibition of Quantitative Restrictions under the GATS

The use of QRs (Quantitative Restrictions) is prohibited only for Sectors and Modes of supply covered in the Schedule of Specific Commitments.

Art XVI:1: With respect to market access through the modes of supply identified in Article I (of GATS), each Member shall accord services and service suppliers of any other Member treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule.
Prohibition of Quantitative Restrictions under the GATS-Exceptions

- GATS Art. XIV (General Exception)
- GATS Art. XIV bis (Security Exception)
- GATS Art. XVI:2 (QRs Allowed if Scheduled)
  - number of service suppliers
  - total value of service transactions or assets
  - total number of service operations or total quantity of service input
  - total number of natural persons necessary for the supply of a service
  - specific type of legal entity
  - foreign capital participation
- Marrakesh Agreement Art. IX:3 (Waiver)
Exceptions to GATT/GATS obligations

**Safeguards:** GATT Art. XIX and Agreement on Safeguards

- “If, as a result of unforeseen developments and of the effect of the obligations incurred by a Member under this Agreement (GATT), including tariff concessions, any product is being imported into the territory of that Member in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the Member shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession”

- Compensation – only after 3 yrs if absolute increase
Exceptions to GATT/GATS obligations

- **Safeguards**: GATT Art. XII and Article XVIII:B – Measures to safeguard balance of payments
  - **Art. XII**: Notwithstanding the provisions of para. 1 of Article XI (Prohibition of QRs), any Member, in order to safeguard its external financial position and its balance of payments, may restrict the quantity or value of merchandise permitted to be imported, subject to the provisions of the following para of this Art (GATT XII)
  - **Art. XVIII:B**: In order to safeguard its external financial position and to ensure a level of reserves adequate for the implementation of its programme of economic development, a Member coming within the scope of para. 4 (a) of this Art. (XVIII) [developing countries] may, subject to the provisions of para. 10 to 13, control the general level of its imports by restricting the quantity or value of merchandise permitted to be imported; provided that the import restrictions instituted, maintained or intensified shall not exceed those necessary..

- Article XVIII:C – infant industry clause available to developing countries in the low stages of development
Exceptions to GATS obligations

- **Safeguards: GATS Art. X**
  - There shall be *multilateral negotiations* on the question of emergency safeguard measures based on the principle of non-discrimination. The results of such negotiations shall enter into effect on a date not later than three years from the date of entry into force of the WTO Agreement (--> 1.1.1998)
  - *Deadline not met.*
Exceptions to GATT obligations

- Special Safeguard Measures: Agreement on Agriculture Article 5: Notwithstanding the provisions of para. 1(b) of Art. II of GATT (Binding), any Member may take recourse to the provisions of para 4 and 5 below in connection with the importation of an agricultural product, in respect of which measures referred to in para 2 of Art. 4 of this Agreement have been converted into an ordinary customs duty (tariffication) and which is designated in its Schedule with the symbol “SSG” as being the subject of a concession in respect of which the provisions of this Art.

- May be invoked by Members which had undergone the tariffication exercise: volume and price triggers

- Possibility to impose a special safeguard measure existed under the now defunct Agreement on Textiles and Clothing (Art 6 of ATC). Cf. Chinese protocol of accession
Exceptions to GATT obligations

- **Imposition of antidumping duties irrespective of Article II of the GATT 1994 to offset unfair advantage**

  **Art. VI:1 of the GATT 1994:** Members recognise that *dumping* by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens material injury to an established industry in the territory of a member or materially retards the establishment of a domestic industry. ...

- **Art. VI:2:** In order to offset or prevent dumping, a Member impose an *anti-dumping duty* not greater in amount than the margin of dumping in respect of such product. ...

- Detailed provisions in the Agreement on Antidumping
Exceptions to GATT obligations

- Imposition of *countervailing* duties irrespective of Article II of the GATT 1994 to offset unfair advantage

- **Art. VI:3 of the GATT 1994:** Subsidy defined in the SCM Agreement as a financial contribution by a government or a public body to an industry or group of industries which confers a benefit

- Members able to offset the benefit on the recipient through the imposition of a countervailing duty after conducting thorough investigations. Need to establish subsidization, material injury or threat thereof to a domestic industry (**Art. VI:6**)

- Elaborate rules on agricultural subsidies in the Agreement on Agriculture. Other subsidies regulated under the SCM Agreement. In the event of conflict, the AoA prevails

- Under the SCM Agreement, subsidies distinguished on the basis of their effects: prohibited and actionable subsidies
Exceptions to GATT obligations- Art XX

Chapeau: “Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any Member of measures”

List of ten exceptions (a) necessary to protect public morals; (b) necessary to protect human, animal or plant life or health; (c) relating to the importation or exportations of gold or Silver; (d) necessary to secure compliance with laws not inconsistent with GATT provisions; (e) relating to products of prison labour; (f) imposed for the protection of national treasures (artistic, historic or archaeological); (g) relating to conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption; (h) undertaken in pursuance of an intergovernmental commodity agreement; (i) materials necessary to ensure essential quantities to a domestic processing industry …; (j) essential to the acquisition or distribution of products in general or local short supply.
Exceptions to GATT obligations- Art XX – A two-pronged test

In *US-Gasoline* and *US-Shrimp*, the AB held that the following elements should be satisfied:

- Does the challenged measure fall within one of the exceptions listed in Article XX (a)-(j)?; and
- If yes, does it satisfy the requirements of ‘Article XX-chapeau’?

As regards the **first test**, the cases below dealt with the following exceptions:

- (b) “measures necessary to protect human, animal, or plant life”: *EC-Asbestos*
- (d) “measures necessary to secure compliance with”: *Korea-Various Measures on Beef*
- (g) “relating to the conservation of exhaustible natural resources”: *US-Gasoline* and *US-Shrimp*
As regards the second test, the relevant questions to be answered are:

- Does the challenged measure arbitrarily or unjustifiably discriminate between countries where same conditions prevail?
- Does it constitute a “disguised restriction on trade”?

In the *Shrimp-Turtle case*, it was held that whereas the US measure qualified for provisional justification under Article XX(g), it did not comply with the chapeau.
Exceptions to GATS obligations- Art XIV

Chapeau: Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade in services, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any Member of measures:

- **List of exceptions** (a) necessary to protect public morals or maintain public order; (b) necessary to protect human, animal or plant life or health protection; (c) necessary to comply with Laws or regulations not inconsistent with GATS provisions; (d) inconsistent with Article XVII (National treatment) - if aimed at equitable taxation; and (e) inconsistent with Article II (MFN) - to avoid double taxation.

*US – Gambling*: Invocation of Art XIV (a) by the US
Exceptions to GATT/GATS/TRIPS obligations

- Security Exception: Art. XXI of GATT; Art. XIV bis of GATS and Art. 73 of TRIPS)
  - No Member required to furnish information contrary to security interests
  - Member cannot be prevented from taking action considered necessary to protect essential security interests ... relating to fissionable materials, traffic in arms, ammunition, etc or taken in time of war or other emergency or to pursue obligations under United Nations Charter to maintain international peace and security

- Notification to the Council
Increasing Participation of Developing Countries

- **Part IV of the GATT; Non-reciprocity principle**

- **The Enabling Clause** – Provides legal cover for preferences granted to developing countries by developed-country Members

- In the *EC-GSP* case, it was held by the Appellate Body that the Enabling Clause did not require preference-giving countries to extend the same benefits to all developing countries and that it was permissible to distinguish among developing countries on the basis of objective criteria.

- Under para 2(c) of the Enabling Clause, developed countries can grant extensive and deeper preferences to LDCs – EC’s “Everything but Arms” initiative.

- Paragraph 44 of the Doha Ministerial Declaration: Concern that SDT provisions are hortatory and not legally enforceable. Work proceeding in the CTD Special Session and other WTO bodies.
Increasing Participation of Developing Countries

- **Doha Development Agenda** – Concerns of developing countries placed at the heart of the negotiations
- LDCs exempted from undertaking obligations – exemption from tariff and subsidy reduction commitments. Not obliged to table offers in the services negotiations
- Less than full reciprocity in the NAMA negotiations
- Paragraph 6 countries – do not have to apply the formula but expected to increase the level of their bindings and also bind tariffs at an average rate of 28.5 per cent
- SDT provisions for SVEs, RAMS
Transparency

- GATT Article X and GATS Article III
- Publication of trade regulations
  (laws, regulations, judicial decisions and administrative rulings of general application)
- Uniform, impartial and reasonable administration of rules / regulations
- Independent legal review
- Enquiry points under GATS, SPS and TBT Agreements
Other principles

Regional Trade Agreements

GATT Art. XXIV: Free-Trade Areas and Customs Unions

- “substantially all trade” among Members; “not on the whole more trade-restrictive” measures against third countries; limited transition period – normally not to exceed 10 years

GATS Art. V: Economic Integration Agreements

- “substantial sectoral coverage; absence or elimination of substantially all discrimination

Enabling Clause: Regional/Global Trading Arrangements

- “purpose should be to create trade among participating countries and not raise barriers to the trade of third countries
Other principles

- **State Trading Enterprises and Monopolies**
  - **GATT Art. XVII: STEs**
    - Allowed to have STEs but they must respect the non-discrimination principles and operate in accordance with commercial considerations
  - **GATS Art. V: Monopolies**
    - Allowed but should not operate to undermine a Member’s specific commitments