Some key concepts

- Border measures tariffs and quantitative restrictions
- Tariffs income vs. payment for services
- Customs duties
 Countervailing duties
 Antidumping duties
 Safeguards duties
 Safeguards duties
 Cooperation
 Free trade area
 Customs union
 Regional economic
 - integration organization



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A brief look at the rules

- Duties on imports vs. on exports
- Ad valorem vs. specific

 ¬ Why could specific tariffs be needed?
- MFN (art. I) vs. preferential (art. XXIV)
- Tariffs and fees
 - Art. II:1(b) and Understanding: «other duties or charges» -> Schedule of concessions
 - ⁊ Art. II:2
 - a) Border tax adjustment
 - b) CVD / anti-dumping duties
 - c) Payment for services (art. VIII)

Historical development

- The importance of tariffs for government revenue, foreign exchange and infant industries
 Developed countries vs. developing countries
- Starting point and rounds of negotiations
 - Transforming quantitative restrictions to tariffs
 - Transforming specific duties to ad valorem duties
 - reduction of tariffs
 - Sensitive sectors» agriculture, textiles, airplanes reflecting developed countries priorities
- The Doha Round
 - ↗ From the Millennium Round to the Doha Round
- Is there an emerging issue of export tariffs?

The legal framework

- Classification of products
 - ↗ The Harmonised System (HS) Convention
 - ↗ The role of the UN
- Recent members accession protocols
- The duty to negotiate GATT art XXVIII bis and XXXVII:1
 - → Bound tariffs vs. applied tariffs
 - Note: mentions also exports
 - Establishment of negotiation mandates productby-product vs. multilateral procedures (formula, sectorwise)

The Doha Round

Declaration, para. 16: We agree to negotiations which shall aim, by **modalities** to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. **Product coverage** shall be comprehensive and without a priori exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction **commitments**, in accordance with the relevant provisions of Article XXVIII bis of GATT 1994 ...

Tariff negotiations

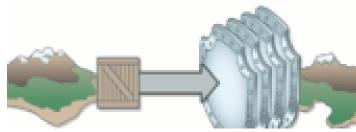
- Bilateralism vs. multilateralism
- Product-by-product vs. general
- Tariff concessions vs. applied tariffs
- Reciprocity vs. MFN
 - Exemption from reciprocity in favour of developing countries (art. XXXVI:8 and XVIII section A)
 - Exemption from both: Enabling Clause and General System of Preferences (GSP, see GATT 1994 para. 1(b)(iv))



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Legal nature of negotiation result

- Article II
- Must keep within obligations under WTO
- Interpretation of schedules
 - ↗ Burden of proof
 - ↗ «legitimate expectations»
 - → HS Convention
 - → State practice



"non-violation nullification or impairment"
 ¬ GATT art. XXIII:1(b) and (c), and DSU art. 26

Implementation

- Valuation of goods for customs purposes
 GATT art. VII and Agreement
 - "actual value" market value,
 - ↗ starting point "transaction value"
- Determining the origin
 - → Agreement: work in progress! <u>Agreement on</u> preferential treatment of LDCs
 - ↗ Value added
 - ↗ Change i tariff classification
- Control
- New circumstances
 - ↗ Renegotiations: art. XXVIII

Emerging export tariffs?

- Corresponding to «tariff escalation»
- Purpose: build domestic industry
- Not covered by schedules
- Art. VIII fees and formalities connected with exportation
- The role of accession protocols
 - ¬ The case of China and export of "rare earth", see cases <u>394</u> and <u>431</u>