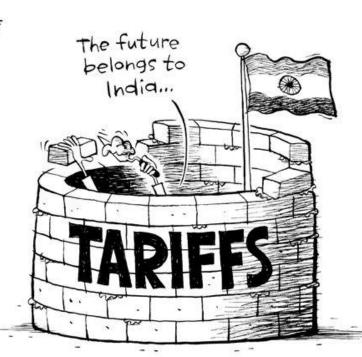
Some key concepts

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



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)
 - → Art. VII and the related Agreement the problem of «ad valorem» duties



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
 - 7 Transforming specific duties to ad valorem duties
 - Gradual reduction of tariffs
- 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 (<u>formula</u>, 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
 - Modalities» the use of coefficients
- Product-by-product vs. general
- Tariff concessions vs. applied tariffs
- Reciprocity vs. MFN

 - Zeroption From Both: Enabling Clause and General System of Preferences (GSP, see GATT 1994 para.
 - 1(b)(iv)
 - Role of IMF and World Bank «structural adjustment»

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
- Determining the origin
 - Agreement: work in progress! Agreement on preferential treatment of LDCs
 - → Value added
 - → Change i tariff classification
- Control
- New circumstances
 - ¬ Renegotiations: art. XXVIII



Emerging export tariffs?

- (Cor)responding 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 394 and 431