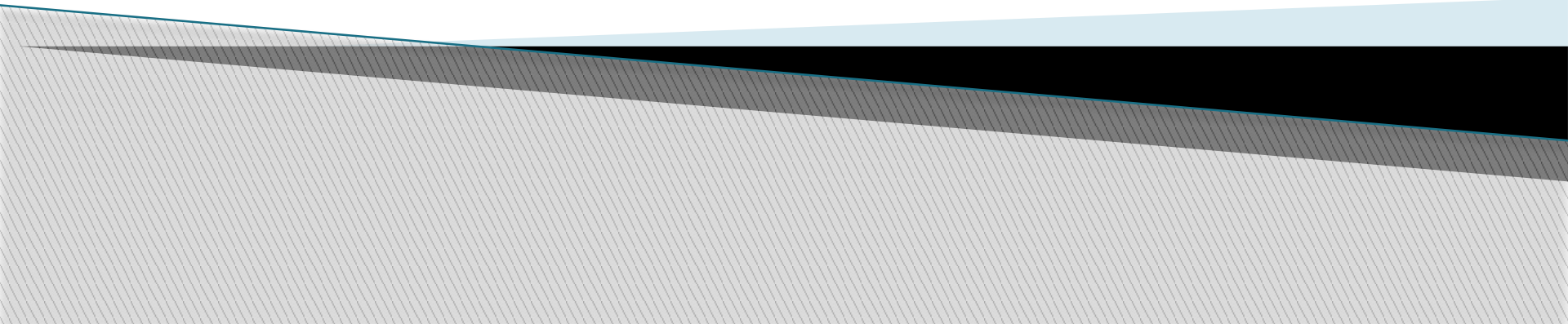


CHAPTER TWO

BASIC PRINCIPLES OF WTO-CORE OBLIGATIONS



- At the heart of all WTO agreements there are a number of basic principles which constitutes the foundation of the multilateral trading system.

1. Principle of Non-discrimination.

Non-discrimination is a fundamental principle of the WTO. It has two components:

- ❖ MFN
- ❖ NT

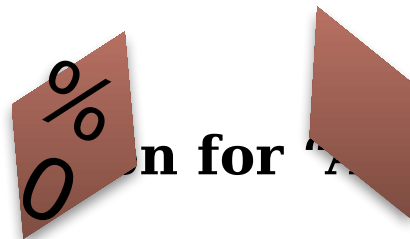
Art.I of GATT, Art. II of GATS and Art. 4 of TRIPS.

Most-favoured nation(MFN) pple.

- ▶ It ensures non-discrimination between trading partners.
- ▶ If a WTO member grants to a country an advantage, it has to give such advantage to all WTO members.

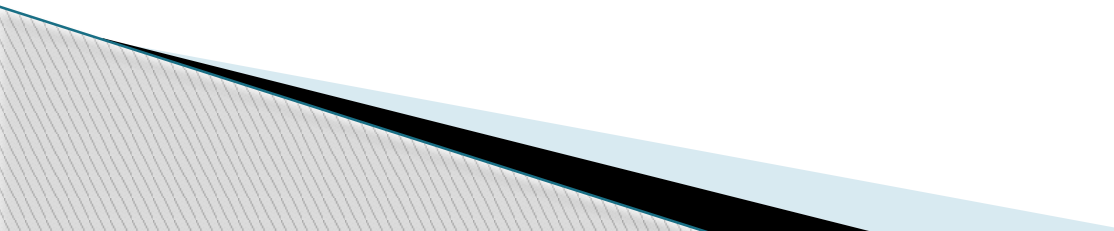
Country C
(PC Importer)

**Any advantage (0% tariff)
Must extend to “B”.**



Country A
(PC Exporter)

Country B
(PC Exporter)

- ▶ One of the fundamental rules of the club is that each member will grant all other members the best possible treatment it grants to any trading partner.
- 

Case

Vanin and **Medetia** are WTO members and **Zerat** is not. Let assume that **Vanin** applies 20% tariff on import of Tomato coming from all WTO members. **Medetia** is a big exporter of tomatoes and interested to increase the export of tomato to **Vanin**. During WTO negotiating round **Medetia** seeks to negotiate customs duty rate on tomatoes with **Vanin**. After long and very difficult bilateral meeting **Vanin** agrees to give **Medetia** a 0% tariff.

Consider the ff Questions

1. Does **Vanin** have to extend that 0% tariff on tomato to all WTO members?
2. Could **Vanin** apply a 10% tariff on imports of tomato from Zerat (i.e. a non WTO member) while applying 0% of tariff to WTO members?
3. Could Vanin apply a 10% tariff on imports of tomato from WTO members while providing a duty free access (i.e.0%) for

- ▶ Art. 1(1) of GATT says;

“any advantage, favor, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties”

Elements of the above provisions are:

- ▶ ***“any advantage, favor, privilege or immunity granted to any country”***
 - it covers any types of favors.
 - otherwise it may be considered as discrimination.
- ***“shall be accorded Immediately and unconditionally”***

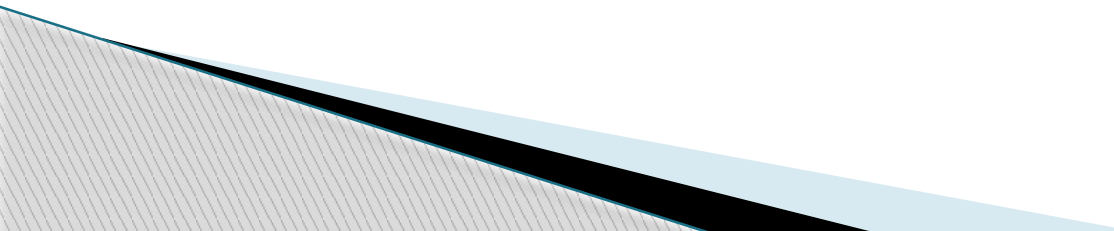
This means that, once the WTO member has granted an advantage to imports from any country, it must “immediately and unconditionally” grants that advantage to imports of like products from all WTO

➤ *To “like products” of all other members.*

According to MFN principle, *like products* should be treated equally. In other words, products which are not like products may be treated differently.

- The term like product is not defined under both GATT and WTO.

How can we know whether two products are “like products or not”?



WTO case law (dispute settlement)

- ❑ The physical characteristics of the products (nature, properties and quality)
- ❑ The products' end uses. Is the products are substitutive products in the market?
- ❑ Consumers' tastes and habits
- ❑ The customs (tariff) classification of the products.

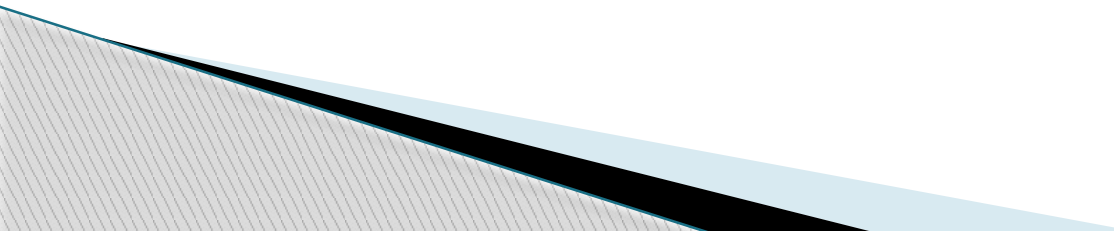
Uniform tariff classification is essential to value whether the products are like or not.

WTO Case

Canada- Auto Case

B/n Japan, EC and Canada

**Motor vehicle imports and
imported motor vehicle parts and
materials.**



Benefits of the MFN principle

- a. Ensures equal access to international trade.
- b. Maximizes efficiency. (without MFN, the importing country may impose high amount of tariff to attack efficient supplier for the purpose of protecting domestic industries.)
- c. Reduces the cost of administration of trade rules.
- d. Minimizes cost of trade negotiations.

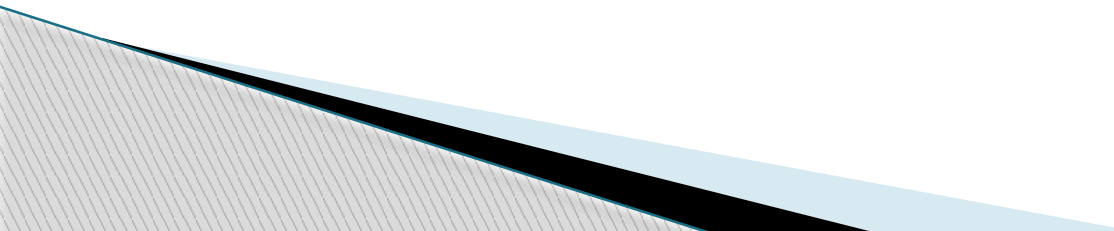
National Treatment (NT)

- ▶ It is the second component of non-discrimination pple.
- ▶ It ensures non-discrimination between domestic and foreign products, services or nationals.
- ▶ It prohibits a member from favoring its domestic products or producers over the imported like products of other members once imported products have entered the domestic market. (No less favorable condition for imported products).

What is the objective of this principle?

To hold a fair competition b/n competing partners.

The legal basis of NT

- Article III** of the GATT embodies the national treatment principle for trade in Goods.
 - Article XVII** of the GATS provides the national treatment for trade in services. ***But its applicable on sectors which are listed under the schedules of specific commitment.***
 - Article 3** of TRIPS provides NT pple.
- 

WTO Case

Case b/n USA and India on the Solar Cell Panel case

*Jawaharlal Nehru National Solar
Mission (JNNSM)*

Japan Taxes on Alcoholic Beverage Case

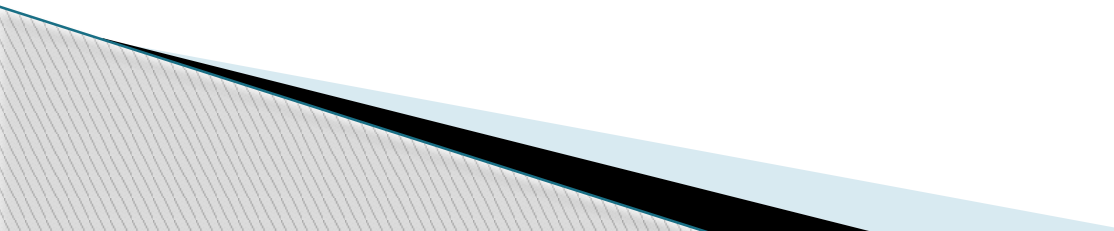
QUESTION

***WHAT ARE THE
DIFFERENCES BETWEEN
MFN & NT?***

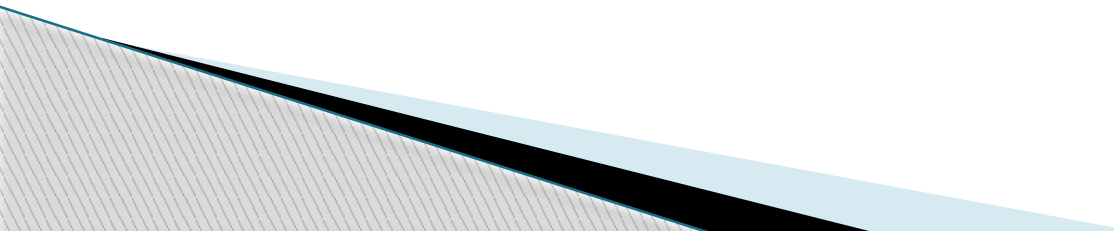
ANSWER

- ▶ MFN deals with non-discriminatory treatment b/n products of WTO members.
- ▶ NT deals with non-discriminatory treatment between imported and domestic products.
- ▶ MFN principle is the border measure (tariff).
- ▶ NT principle only applies to internal measures such as internal laws, regulations and requirements affecting the internal sale, transportation, distribution or use of products.

2. PRINCIPLE OF RECIPROCITY

- ▶ Reciprocity is a fundamental element of the negotiating process.
 - ▶ It is the situation of give and take.
 - ▶ All countries are required to be beneficial from the international trade.
 - ▶ No free-riding scenario.
- 

3. BINDING AND ENFORCEABLE COMMITMENT

- ▶ Liberalization commitments and agreements have no value without enforcement.
 - ▶ **Tariff commitments** are binding up on WTO member once its entered.
 - ▶ There are two types of tariff binding.
 1. Bound tariff; is a tariff which a WTO member accepts a legal commitment not to raise it above a certain level.
 2. Applied tariff; is a tariff that is imposed below maximum level.
- 

Can members modify their tariff bindings?

- ▶ As principle, once the country entered into commitment by fixing the maximum limit of tariff, modification is not possible.
- ▶ But tariff concessions can be **modified or withdrawn** through **renegotiations**, subject to certain rules and procedures.
- ▶ The possibility of allowing for such modifications stems from the consideration that a negotiated tariff binding **may become too cumbersome** to maintain at times due to changing circumstances.

SEE ART. XXVIII of GATT.

4. TRANSPARENCY PPLE.

- ▶ Transparency is important that **trade policies** and **regulations** are made accessible to **governments** and, in particular, **traders**, as to allow them to know what are the trade rules around the world.

Art. X of the GATT.

Art. III of the GATS.

Art. 63 of TRIPS.

- ▶ Transparency may be of domestic and in multilateral trade negotiation. i.e. **internal transparency and External transparency** (to the public about the activities of WTO)

5. Safety valves

- ▶ In specific circumstances, governments should be able to restrict trade. This is done for the safety purposes.
- ▶ These measures may be of;
 - a. restriction to attain non-economic objectives.
 - b. restriction to ensure fair competition.
 - c. restrictions for economic reasons.
- ▶ WTO rules allow the restriction on trade because of the above grounds even though its contrary with liberalization of trade.

6. Special and Differential treatment for Developing and LDC Members

- ▶ The WTO Agreements recognize the particular situation of developing and LDC country by providing them with special treatment.
- ▶ The WTO Agreements contain special provisions for developing countries and LDC's including:

- Longer periods to implement their obligations.

Art. 66 of TRIPS gives 10 years for LDC's to implement the provisions of TRIPS

- Measures to increase their trading opportunities.

- Organizes hundreds of technical assistance activities to help them to better understand and implement WTO rules.

7. 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.