

Internal taxation

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Not every tax paid at the border is a tariff!

- **Ordinary import duties are not:**

- an internal tax (GATT Art. III:2)
- an antidumping duty (GATT Art. VI)
- a countervailing duty (GATT Art. VI)
- a “safeguard” duty (GATT Art. XIX)
- a “fee” or a “charge” connected with the import (GATT Art. VIII)
- “other duties and charges” (GATT, Art. II:1(b))



Which taxes are included in a WTO Schedule?



Included

1. Bound tariffs
2. Other duties and charges (ODCs)

(Art. II:1(b))



Not included

1. Internal taxes (*Art. III:2*)
2. Anti-dumping and countervailing duties
3. Fees and charges for services (*Art. VIII and TFA*)

Accessions?

Member: China

- Application of Internal Taxes on Imports

107. The representative of China confirmed that from the date of accession, China would ensure that its **laws, regulations and other measures relating to internal taxes and charges levied on imports would be in full conformity with its WTO obligations and that it would implement such laws, regulations and other measures in full conformity with those obligations.** The Working Party took note of this commitment.



Accessions?

Member: Cabo Verde

108. The representative of Cape Verde confirmed that by June 2008 Cape Verde's **laws, regulations and other measures relating to internal taxes and charges levied on imports would be in full conformity with its WTO obligations, including Article III of GATT 1994**, and that it would implement such laws, regulations and other measures in full conformity with those obligations. The Working Party took note of these commitments.



Accessions?

Member: Lao People's Democratic Republic

072. The representative of Lao PDR confirmed that, from the date of accession, **all laws, regulations and other measures relating to internal taxes and charges levied on imports would be in full conformity with its WTO obligations, including Articles I and III of the GATT 1994**. The Working Party took note of this commitment



Accessions?

Member: Russian Federation

0424. The representative of the Russian Federation confirmed that from the date of accession, the Russian Federation **would apply its internal taxes and exemptions thereof, including VAT, excise taxes, and other taxes in a non-discriminatory manner in compliance with Articles I and III of the GATT 1994**. In particular, the representative of the Russian Federation confirmed that from the date of accession the Russian Federation would apply VAT for space equipment on an MFN basis. The Working Party took note of this commitment.



Accessions?

Member: Liberia

125. The representative of Liberia confirmed that from the date of Liberia's **accession all laws, regulations and other measures relating to internal taxes and charges levied on imports, including the excise taxes listed in Annex 16 to this Report,** **would be in full conformity with its WTO obligations, including Article III of the General Agreement on Tariffs and Trade 1994, and that it would implement such laws, regulations and other measures in full conformity with those obligations,** with the exception of the excise tax on Mineral and aerated water (HS Section 2201) which would be brought into compliance with Liberia's WTO obligations, including Article III of the General Agreement on Tariffs and Trade 1994, by 1 August 2017. The Working Party took note of these commitments.



Non-discrimination: National Treatment

General idea: Once they pass the border, imported products should face the same conditions of competition as domestic products.

Article III:1 of GATT 1994	Sets the general principles; it's about the conditions of competition.
Article III:2 of GATT 1994	Regulates “ internal taxes or other internal charges of any kind”: <ul style="list-style-type: none">- “<u>like domestic products</u>”: must be subject to the same tax- “<u>directly competitive or substitutable products</u>”: should be “similarly taxed” (see interpretative note to Art. III:2)
Article III:4 of GATT 1994	“Treatment no less favourable” in respect of “all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use ”.

“Like products”?

- Products that are not “like” *can* be treated differently.
- **General idea:** products that share a number of identical or similar characteristics.
- “produit similaires” / “productos similares”



vs.



But what is likeness?

Three general issues:

1. Which characteristics or qualities are important in determining likeness?
2. To what degree or extent must products share qualities or characteristics in order to be “like products”?
3. From whose perspective should “likeness” be judged?



Determination of “like products”

- **Determination needs to be made on a case-by-case basis. Need to consider:**

Spain – Unroasted Coffee

1. The characteristics of the products, its nature and quality
2. The end-use of the products.
3. Tariff classification of other Members
4. Tastes and preferences of consumers (which change from country to country...)
-> **Cross elasticity of demand.**



Many other references to “like”

- Other references to “like products” include GATT Articles II:2(a), **III:2, III:4**, VI:1(a), IX:1, XI:2(c), XIII:1, XVI:4 and XIX:1.
- “Like products” has a different meaning in the different contexts in which it is used.



Thank you!