

# International Trade Law

Module three (Institutional structure of World Trade Organization)

Unit two (Operating of World Trade Organization)

Maciej Nyka

Department of Law and Administration  
University of Gdansk

# The development of GATT law and WTO law

- How negotiations take place
  - On Rules:
    - Groups of countries draft changes, then persuade others
    - Large countries dominate
  - On Tariffs:
    - Tariff cuts are negotiated between “principal supplier” country and “principal demander” country
      - Cuts are extended to all other members
      - Large countries dominate
      - In recent rounds, negotiations start with a tariff cuts, then negotiate exceptions

# Harmonized Tariff Schedule of the United States (2013) (Rev. 1)

Annotated for Statistical Reporting Purposes

IX  
61-42

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
6109		T-shirts, singlets, tank tops and similar garments, knitted or crocheted:				
6109.10.00		Of cotton. ....		16.5%	Free (BH,CA, CL,CO,IL,JO, MA,MX,OM,P, PA,PE,SG) 8% (AU) 13.2% (KR)	90%

# Exchange of trade policy commitments



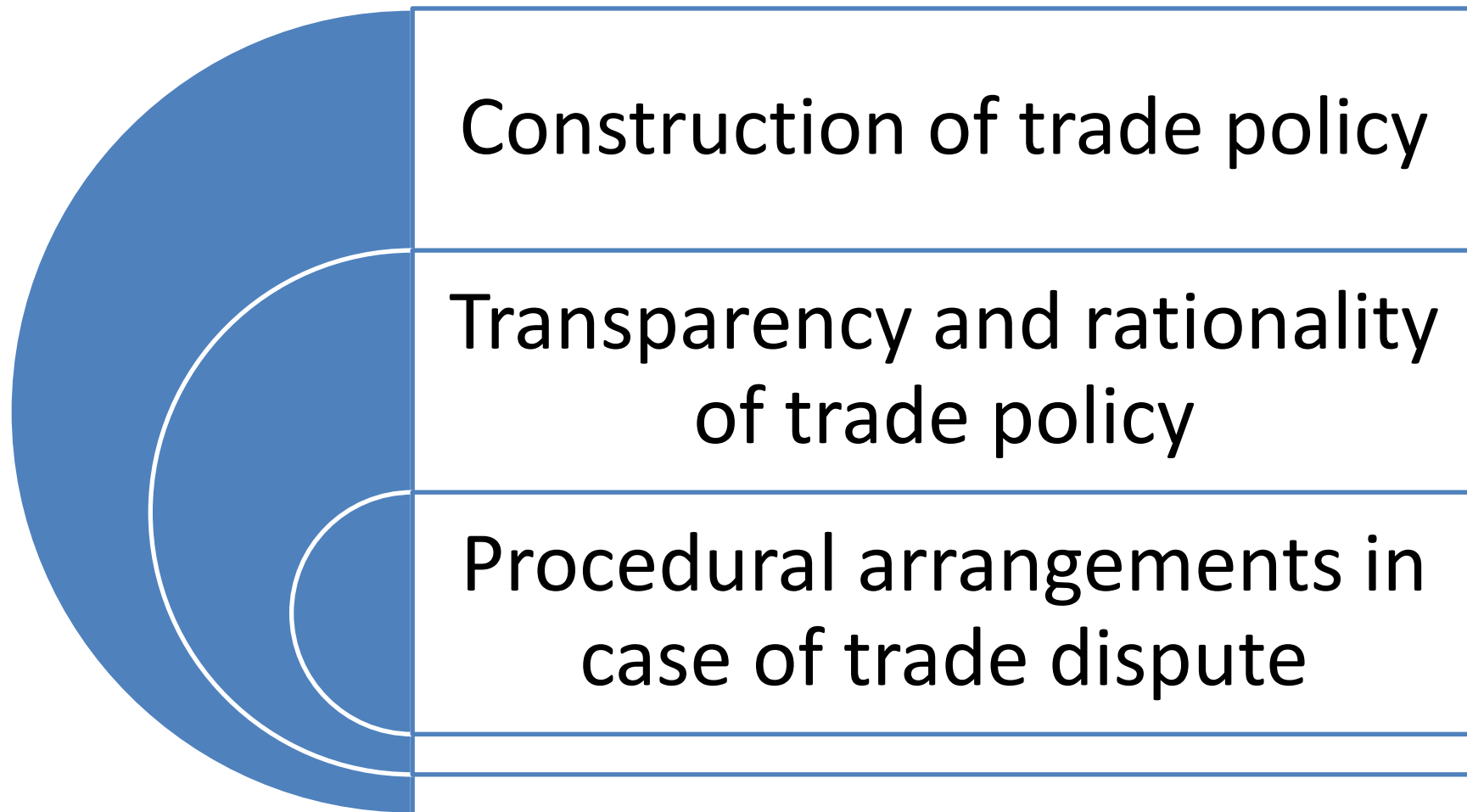
Tariff reduction negotiations as a bargaining
GATT/WTO as a forum for negotiations
Theory of comparative advantage vs. exchange of trade policy commitments

Tariff reduction negotiations as a bargaining

GATT/WTO as a forum for negotiations

Theory of comparative advantage vs. exchange of trade policy commitments

# The Trading System as a Code of Conduct



# WTO Membership

- Membership obligations (XVI:4 WTO)
  - Waivers (IX:3-4 WTO)
  - Non-application (XIII WTO): when joining
- Accession
  - Original membership (XI WTO) until 1997
  - Accession (XII WTO)
- Withdrawal and expulsion (XV WTO)

# WTO Membership

Quasi-universal: April 2015 161 members

States and autonomous customs territories (Hong Kong)

European Union IX, XI, XIV WTO

Groupings and alliances

Observers

# WTO Accession

## Art. XII WTO

- Accept WTO Agreements and multilateral agreements
- Negotiating market access commitment and concessions
- Ministerial Conference or General Council decides by consensus/two-thirds majority of WTO members
  - Bilateral negotiations
  - Draft membership terms (protocol of accession and lists)



# Steps to accede the WTO 1/2

Request from the Applicant

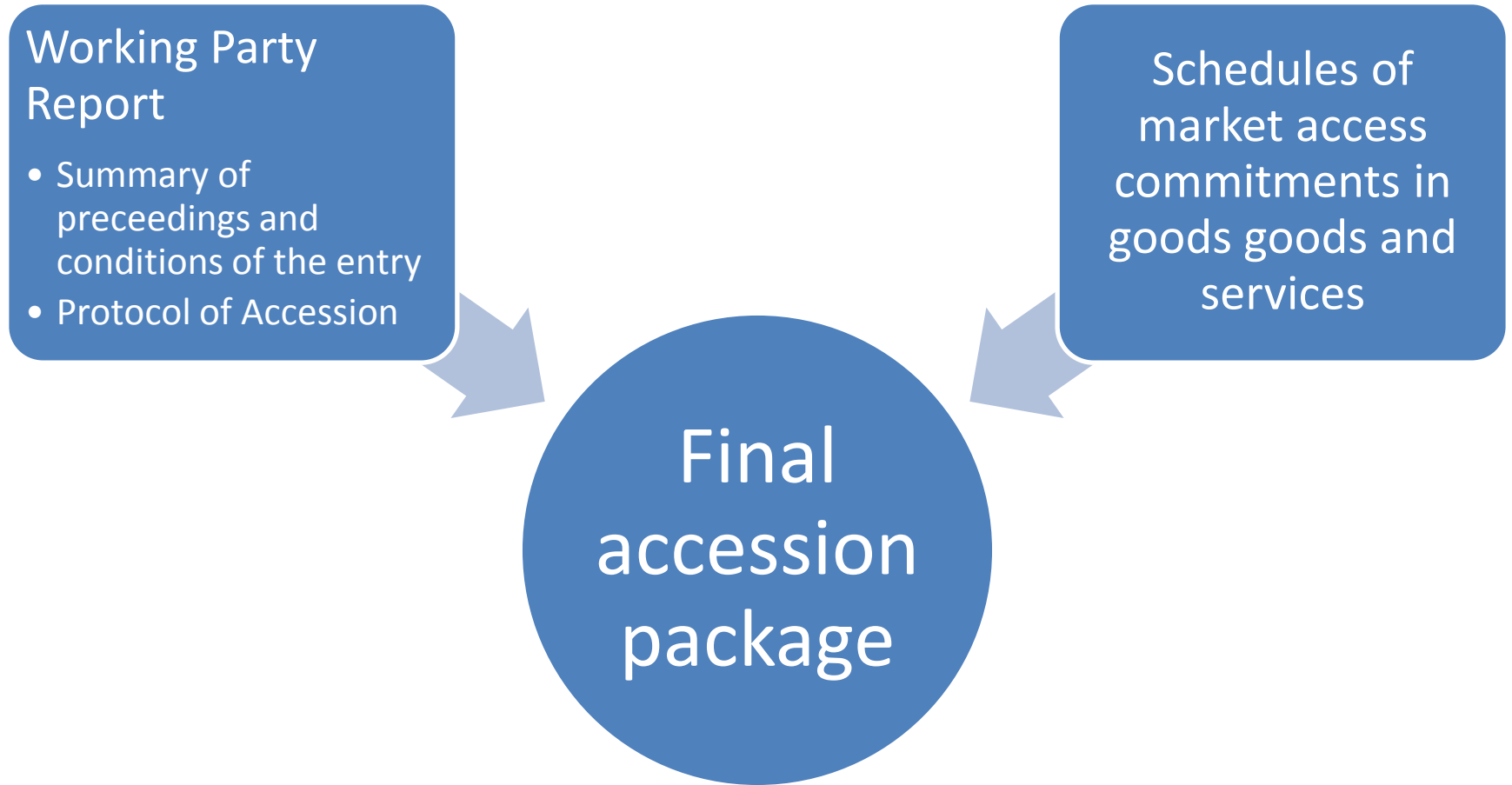
Establishment of Working Party

Memorandum submission by Applicant

Working Party examines the memorandum – hears the Applicant and asks him questions

Multilateral negotiations with Working Party and individual negotiations with members (on Applicants concessions and commitments on market access)

# Final accession package



# Steps to accede the WTO 1/2

Request from the Applicant

Establishment of Working Party

Memorandum submission by Applicant

Working Party examines the memorandum – hears the Applicant and asks him questions

Multilateral negotiations with Working Party and individual negotiations with members (on Applicants concessions and commitments on market access)

# Steps to accede the WTO 2/2



```
graph TD; A[Preparation of final accession package] --> B[Working Party adopts the accession package]; B --> C[Approval by the General Council/Ministerial Conference]; C --> D[Applicants sign the Protocol of Accession]; D --> E[Applicant becomes the member state];
```

Preparation of final accession package

Working Party adopts the accession package

Approval by the General Council/Ministerial Conference

Applicants sign the Protocol of Accession

Applicant becomes the member state

# Voting power

## *Article IX*

### *Decision-Making*

1. The WTO shall continue the practice of decision-making by consensus followed under GATT 1947.<sup>1</sup> Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. At meetings of the Ministerial Conference and the General Council, each Member of the WTO shall have one vote. Where the European Communities exercise their right to vote, they shall have a number of votes equal to the number of their member States<sup>2</sup> which are Members of the WTO. Decisions of the Ministerial Conference and the General Council shall be taken by a majority of the votes cast, unless otherwise provided in this Agreement or in the relevant Multilateral Trade Agreement.<sup>3</sup>

# Decision-making

- Majority of  $\frac{3}{4}$  (Ministerial Conference) - adoption of interpretation of any of multilateral trade agreements in the WTO system. (IX:2 WTO)
- Majority of  $\frac{3}{4}$  (Ministerial Conference) – waive an obligation imposed on a particular member by a multilateral trade agreement in the WTO system. (IX:3 WTO)
- Majority of  $\frac{2}{3}$  (Ministerial Conference) - amendment decisions of multilateral agreements (X:1 WTO) such amendments only take effect for those WTO members which accept them – with exceptions (X:2 WTO) when amendments have to be made by consensus of all members
- Majority of  $\frac{2}{3}$  (Ministerial Conference) – admission of a new member (XII WTO)
- Majority of  $\frac{2}{3}$  (General Council) – adoption of budget and financial regulations (VII:3 WTO)

**THANK YOU FOR YOUR ATTENTION**