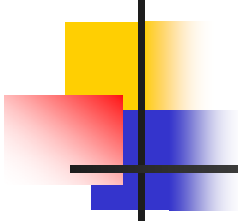


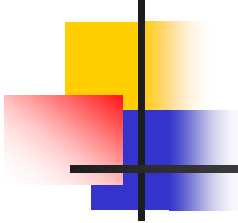
Electricity trade & WTO rules

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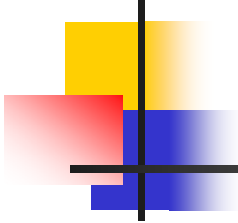
The World Trade Organization

- Established on 1st January 1995, with headquarters in Geneva, Switzerland
- 150 Members
- Main functions:
 - Administering WTO trade agreements
 - Forum for trade negotiations
 - Handling trade disputes
 - Technical cooperation



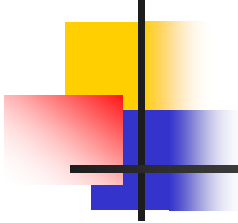
Trade in goods and services

- WTO agreements most relevant for electricity trade and energy in general:
 - Trade in goods: General Agreement on Tariffs and Trade (**GATT**)
 - Incorporated in the ECT
 - Trade in Services: General Agreement on Trade in Services (**GATS**)
 - Not incorporated in the ECT



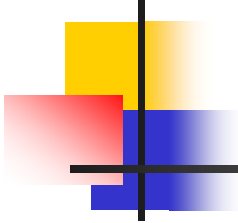
Key question

- Is electricity a good or a service?
 - Most Members consider that electricity is a good. But no unanimity.
 - Depending on whether electricity is a good or a service, it would be subject to different rules.
 - I.e. with respect to investments in generation facilities



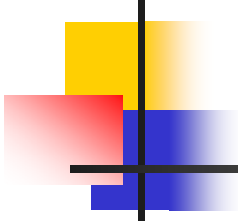
GATT : main obligations

- Most-favoured-nation treatment (art. II)
 - Applies to both imports and exports
- National treatment (art. III)
 - Can imported electricity be discriminated on the basis of the method of “production”?
- Freedom of transit (art. V)
 - GATT Art. V and ECT Art. 7
- No quantitative restrictions (art. XI)
 - All quantitative restrictions on imports and exports are prohibited



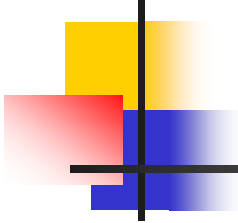
GATT: exceptions

- General exceptions (art. XX)
 - To take measures, *inter alia*: (i) necessary to protect human, animal or plant health or life; or (ii) related to the conservation of exhaustible natural resources
 - These measures must not be applied in an arbitrary manner and must not be a disguised restriction to trade
- Security exceptions (art. XXI)
 - Protection of “essential security interests”, including measures relating to fissionable materials.



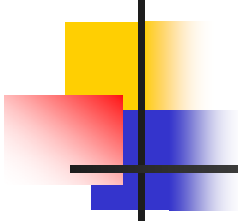
GATS applies to all services

- Four **modes of supply**:
 - Cross-border trade
 - Consumption abroad
 - Commercial presence
 - Movement of natural persons
- Main general obligation: **MFN**
- **Market access** and **national treatment** obligations are incurred only in sectors where Members have undertaken **specific commitments**.



GATS and energy services

- Energy services were not identified as a separate sector during the Uruguay Round.
 - Predominant role of vertically-integrated government-owned utilities reduced the scope for private sector activities
- Trends towards increasing liberalization of the energy sector
 - Renewed interest for energy in the WTO services negotiations which started in 2000



Commitments on electricity-related services

- Currently, very few Members have undertaken commitments on “services incidental to energy distribution”
- Moreover, these commitments may be restricted (e.g. limited to consultancy activities).

What is at stake?

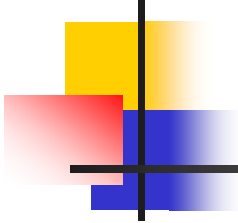
Classification and definitions

- Definition of relevant activities for the purpose of undertaking commitments:
 - Lack of adequate classification and definitions for electricity-related activities
 - Ex.: What does “services incidental to energy distribution” (CPC prov. 887) cover? Where should “wholesale trade services of electricity” be classified?

What is at stake?

Additional disciplines

- Should pro-competitive disciplines be negotiated under the GATS for energy services, modelled on the Telecom “Reference Paper”?
 - This could include regulatory transparency, third-party access, the requirement of an independent regulator, prevention of anti-competitive practices, etc.



Electricity services in the current negotiations

- Classification and definitions are still open
- Limited offers on electricity-related services
 - 4 offers on “services incidental to energy distribution”, for instance
- No further discussions on additional disciplines on energy
- Sector considered to be “sensitive”
- Focus on oil and gas