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# The HS and Negotiations at the WTO

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This presentation is the responsibility of the author and is without prejudice to the positions of WTO Members and to their rights and obligations under the WTO.



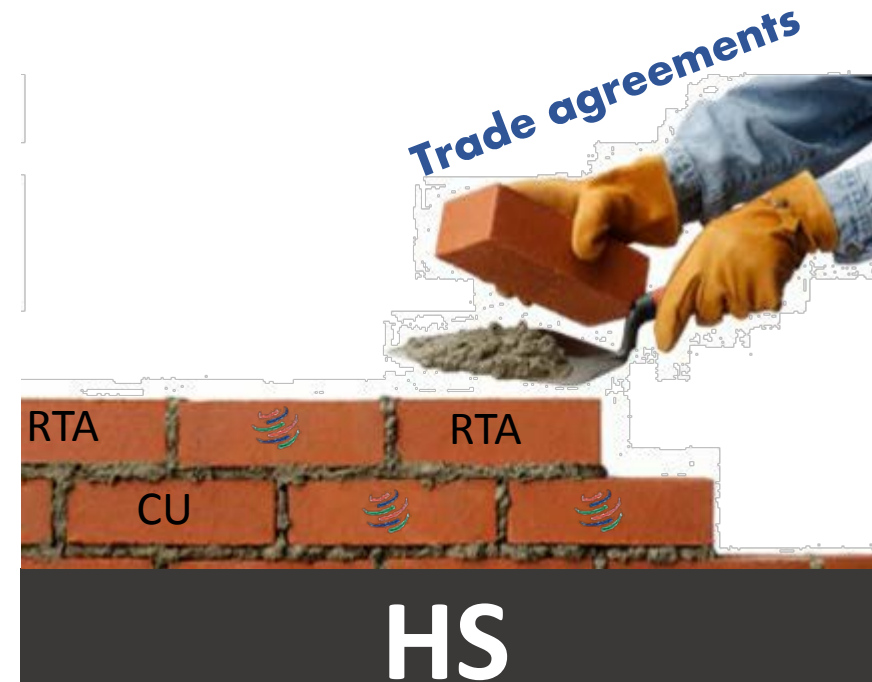
# Contents of this presentation:

1. When has the HS been used in the WTO?
2. Discussions *during* tariff negotiations
3. What happens *after* those negotiations?



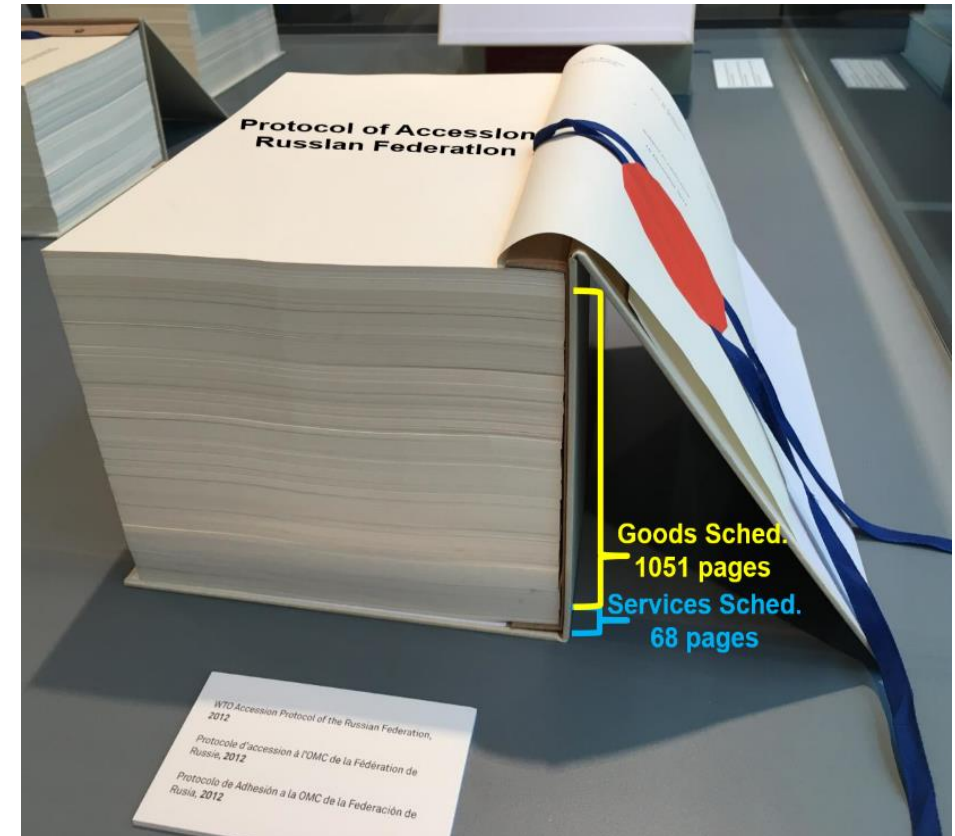
# 1. When has the HS been used at the WTO?

- The HS has been a **solid foundation** on which trade agreements can be built (*universal; objective; predictable*)
- Some agreements have used it to define covered products (e.g. Agriculture, Textiles and Clothing)
- Other agreements refer to it (e.g. Rules of Origin, Trade Facilitation, Subsidies and Countervailing Measures)
- Trade Statistics (based on the HS) are used to calculate conditions (e.g. “critical mass” and volume of trade covered by exceptions)
- Basis for the **Schedules of concessions**, which reflect the result of tariff negotiations



# WTO Schedules of concessions?

- Legal instruments that describe the treatment a WTO Member must provide to the trade of other Members
- Embody the results of multilateral (*all* Members) and plurilateral (*some* Members) negotiations
- They include "bound duties", i.e. maximum tariffs that can be applied by a member for a particular product, as well as other non-tariff concessions.
- More information clicking [here](#)



**Schedule V - CANADA**

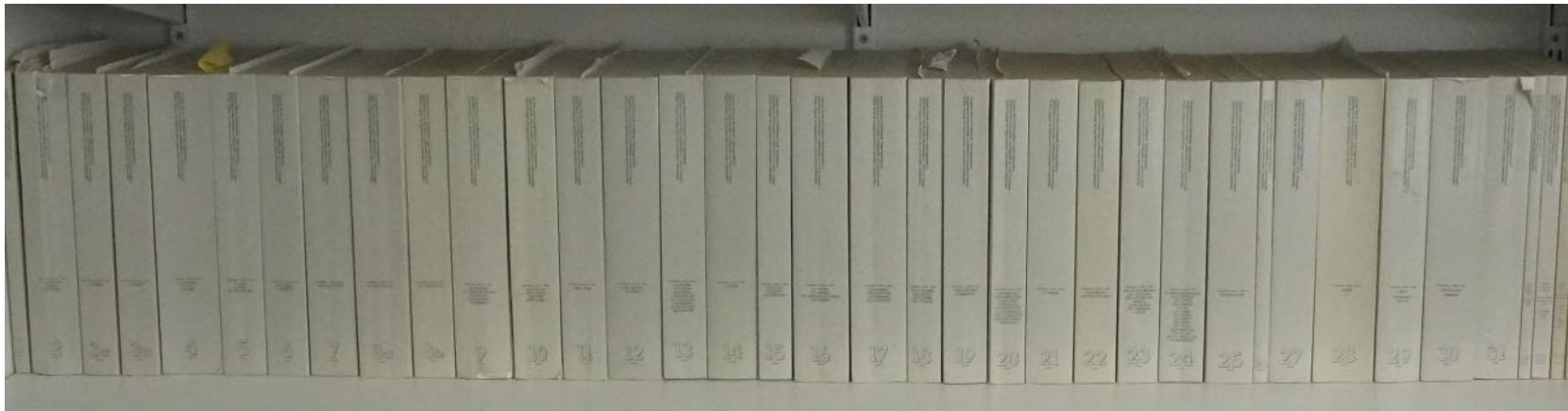
*PART I - MOST-FAVOURED-NATION TARIFF*

*SECTION II - Other Products*

Schedules typically replicate the national tariff structure, which is based on the HS

Tariff item number	Description of products	Base rate of duty			Bound rate of duty	
		Ad valorem (%)	Other	U/B	Ad valorem (%)	Other
1	2	3			4	
	SECTION 1: LIVE ANIMALS; ANIMAL PRODUCTS					
	Chapter 3: FISH AND CRUSTACEANS, MOLLUSCS AND OTHER AQUATIC INVERTEBRATES					
0301	Live fish					
0301.10.00	Ornamental fish	0.0		B	0.0	
	Other live fish:					
0301.91.00	Trout ( <i>Salmo trutta</i> , <i>Salmo gairdneri</i> , <i>Salmo clarki</i> , <i>Salmo aguabonita</i> , <i>Salmo gilae</i> )	0.0		B	0.0	
0301.92.00	Eels ( <i>Anguilla</i> spp.)	0.0		B	0.0	
0301.93.00	Carp	0.0		B	0.0	
0301.99.00	Other	0.0		B	0.0	

# 1994 Uruguay Round Schedules:



+25.000  
pages  
initially, but  
many more  
since then!



## 2. Discussions *during* tariff negotiations



**TCA**  
(1994)

**HS:**

26  
Subheadings



**Pharma**  
(1994)

**HS:**

1 Chapter; 4  
headings



**DDA**

**HS:**

All products,  
HS based



**ITA**  
(1996)

**HS:**

10 headings  
98 subheadings  
95 ex-outs



**ITA Exp**  
(2015)

**HS:**

142 subheadings  
44 ex-outs

But Members decided to *complement* the HS with alternative approaches in *some* of them

## Example: ITA (1996)

In 1996, ITA participants could not agree on the HS classification of a number of 55 products

Some of the reasons included *inter alia*:

- Multiple use
- Technological convergence and the fact that some “consumer products” were not covered by the agreement

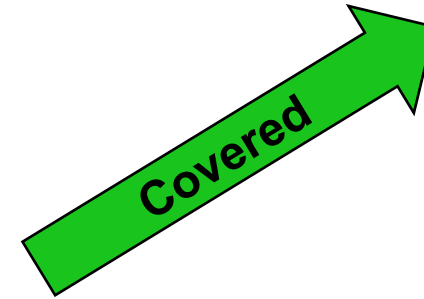
ITA participants agreed to liberalize them “**wherever they are classified in the HS**” -> **Attachment B**





# The multiple use problem

“Optical disc storage units, **for automatic data-processing machines** (including CD drives and DVD-drives), whether or not having the capability of writing/recording as well as reading, whether or not in their own housings.”



# ITA (1996): Attachment B section



## Agreement on Information Technology (ITA)

### Attachment B

With respect to any product described in or for Attachment B to the Annex to the Ministerial Declaration on Trade in Information Technology Products (WT/MIN(96)/16), to the extent not specifically provided for in this Schedule, the customs duties on such product, as well any other duties and charges of any kind (within the meaning of Article II:1(b) of the General Agreement on Tariffs and Trade 1994), shall be bound and eliminated, as set forth in paragraph 2(a) of the Annex to the Declaration, **wherever the product is classified.**

“Headnote”

### Description

### HS 1996

Quartz reactor tubes and holders designed for insertion into diffusion and oxidation furnaces for production of semiconductor wafers

7020.00ex

Chemical vapor deposition apparatus for semiconductor production

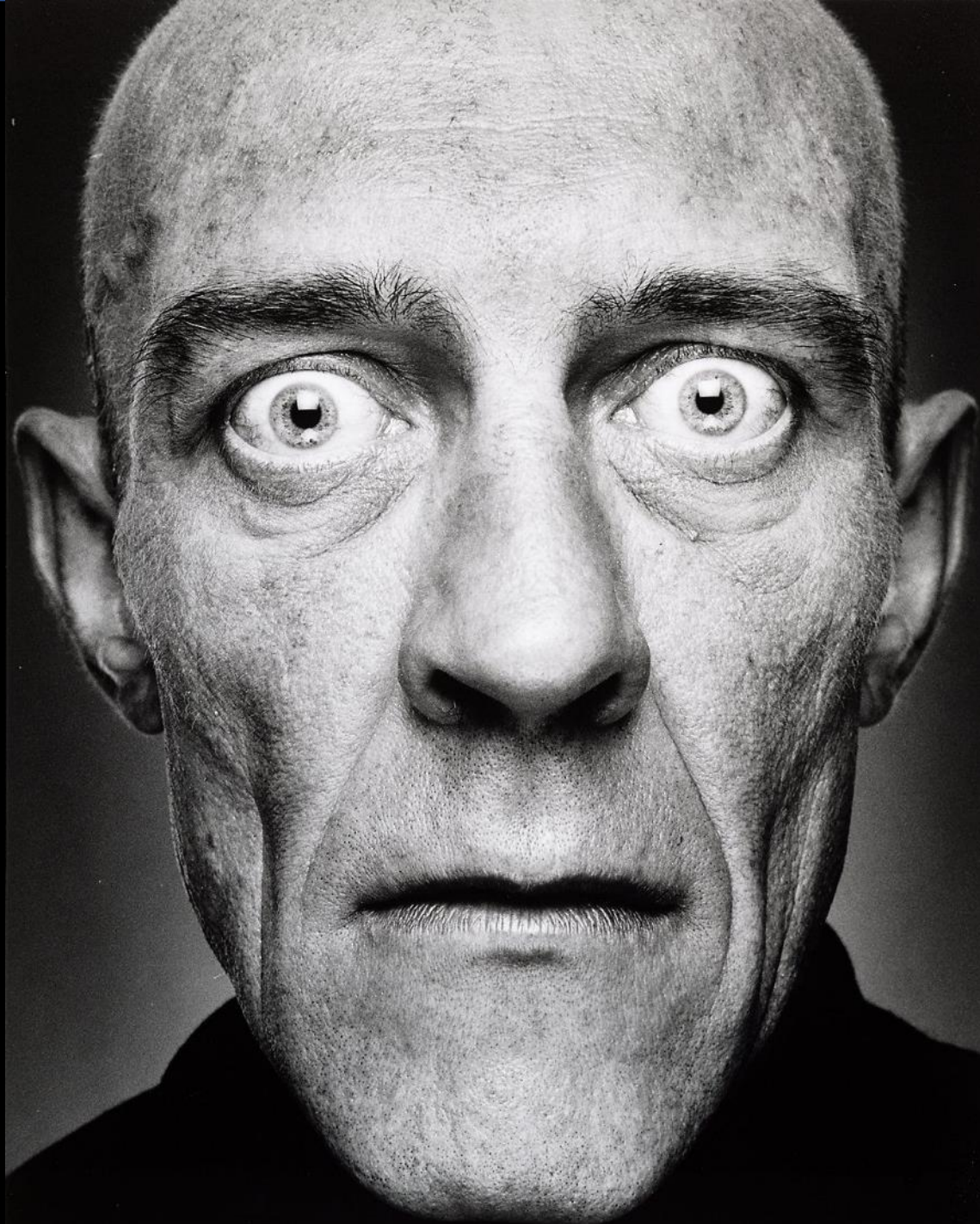
8419.89ex,

Optical disc storage units, for automatic data-processing machines (including CD drives and DVD-drives), whether or not having the capability of writing/recording as well as reading, whether or not in their own housings

8471.70ex

(...)

55 Products



**BUT THE END OF A  
NEGOTIATION  
IS NOT THE END...**

### 3. What happens *after* the negotiations?



WORLD CUSTOMS ORGANIZATION

HSC can work to clarify/improve the HS classification of some of the negotiated products (e.g. ITA)



WTO OMC

Schedules of concessions are updated to take account of changes, e.g. those resulting from HS amendments.

# Transposition work at the WTO



- Procedure that seeks to “translate” Members’ obligations into a new HS version
- Essential to be able to compare their obligations with the trade regimes that are applied in practice
- Transpositions are approved by consensus



# Example of HS2007 84.43 - Multifunctional printers?

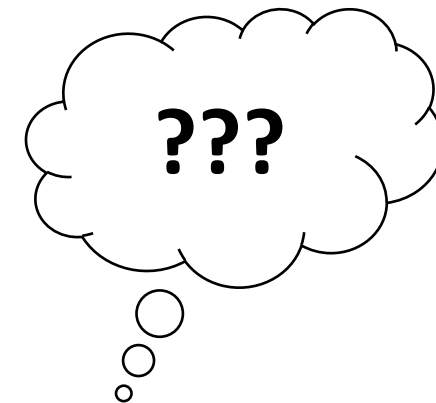
WCO Correlation Table

HS2007	HS2007	HS2002
8443.31	-- Machines which perform two or more of the functions of printing, copying or facsimile transmission, capable of connecting to an automatic ..	ex8443.51* ex8471.60 ex8517.21 ex9009.11* ex9009.12*

ITA Attachment A Section 1

HS96	Description
8471.60	Input or output units ...
8517.21	Facsimile machines
9009.11	Electrostatic photocopying apparatus ...

**Note: \* No consensus for these correlations**



Member A's Schedule in HS 2002

HS2002	National Code	Duty	ITA
8443.51*	8443.5100	20%	No
	...	...	
8471.60	8471.6000	0	Yes
	...	...	
8517.21	8517.2100	0	Yes
	...	...	
9009.11*	9009.1100	0	Yes
	...	...	
9009.12*	9009.1200	30%	No

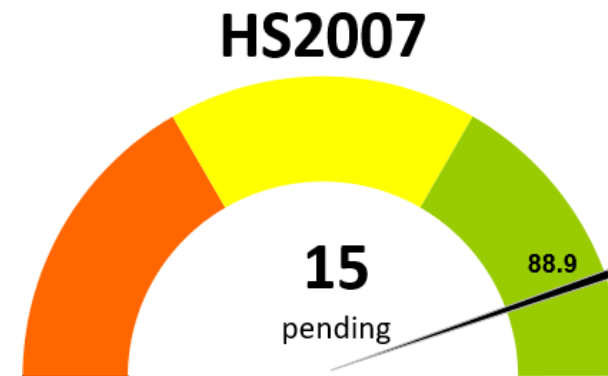
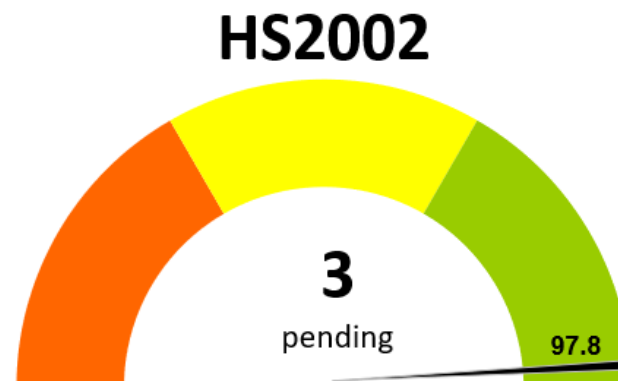
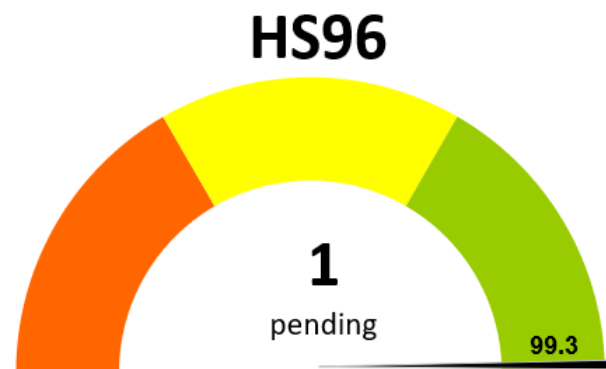


Member A's Schedule in HS 2007

HS2007	Duty	ITA	Product Description
8443.31.10	20%	No	Ink-jet printers other than PC printer (HS02 ex8443.51)
8443.31.20	30%	No	photocopying machines [indirect process] (HS02 ex9009.12)
8443.31.90	0	Yes	Other



# Current status of transposition of Schedules



The “Notes on methodology” for HS2017 were agreed by the Committee on Market Access on 10 April 2019 (G/MA/366)

# Conclusions

1. The HS has played a key role in several WTO negotiations
2. It has been *occasionally* necessary to complement the HS with other approaches/tools
3. The WCO' HS Committee has helped to *clarify* some outstanding issues
4. WTO Members have been *slow* in updating their Schedules of concessions to reflect the latest HS amendments
5. Detailed and agreed correlation tables are *essential* to correctly transpose/enforce legal obligations



Thank you!