

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

UNCTAD



# First National Stakeholder Workshop: Oceans based sectors selection and assessment

28–29 November 2018

Belize City, Belize



The Commonwealth



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# Setting the course

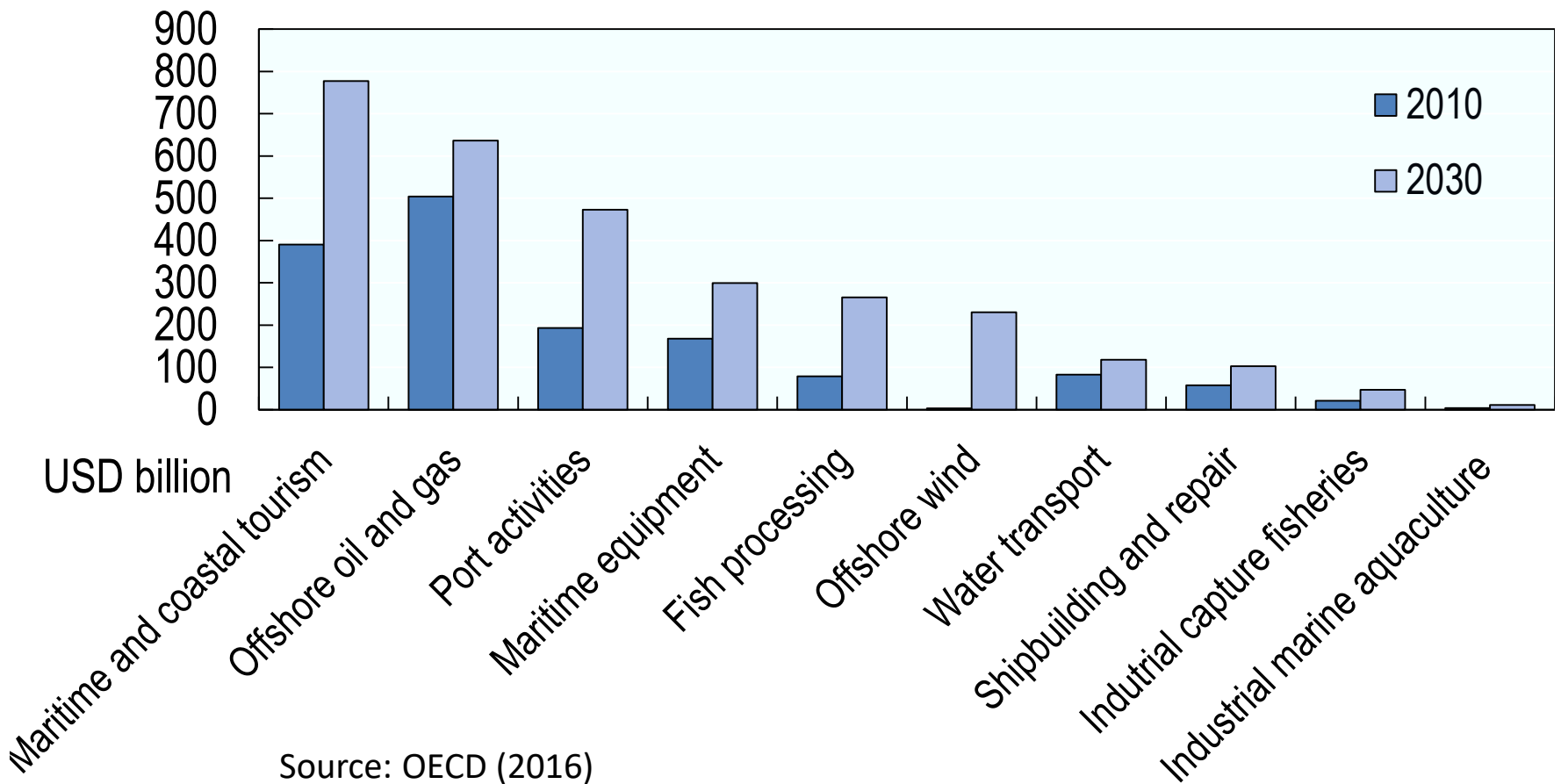
1. OETS project:
  1. Trends in the Ocean Economy
  2. Objectives
  3. Approach
  4. Timeline
2. Objectives of workshop
  1. Outline
  2. Tools
3. Applicable Trade Law
  1. GATT
  2. GATS

# 1. Trends in Ocean Economy : Stylized facts

**Fact 1:** Total value of the Oceans Economy: about 3 trillion

**Fact 2:** Oceans economy will double in size by 2030

**Industry-specific value-added in 2010 and 2030**



Source: OECD (2016)

## 2. OETS project: objectives



**Objective:** support developing countries in realizing economic benefits from promising products and/or services in key ocean economy-based sectors within the UNCLOS framework (SDG 14 targets 4, 6, 7, b & c)

### **Outcomes:**

1. Improved national capacity to **evaluate promising products and/or services** in ocean economy-based sectors
2. Improved national capacity to **define policy options and implementing priority actions** to support sustainable trade in products and services in ocean economy-based sectors
3. **Increased understanding** at the regional level on how to design and implement OETS as tool to promote sustainable trade in ocean economy-based sectors

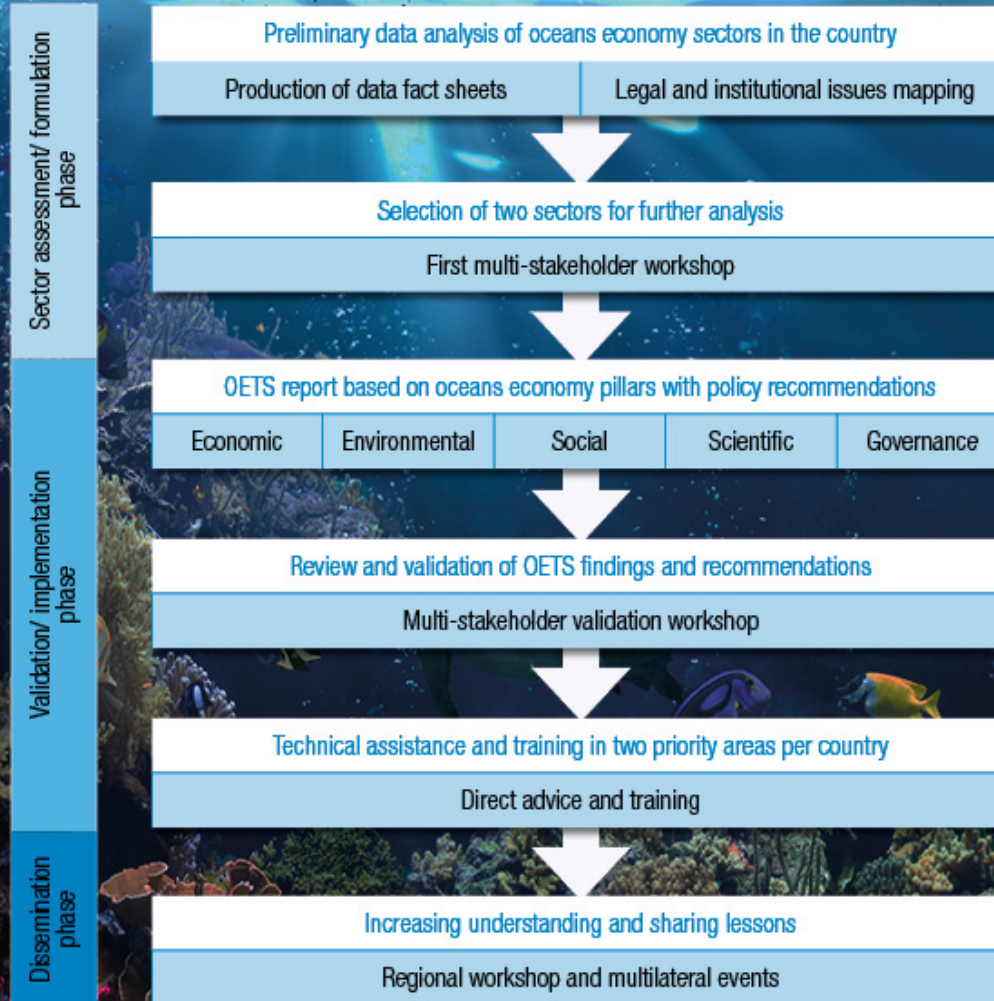
### **Beneficiary countries:**

- 3 developing countries : Belize, Barbados and Costa Rica





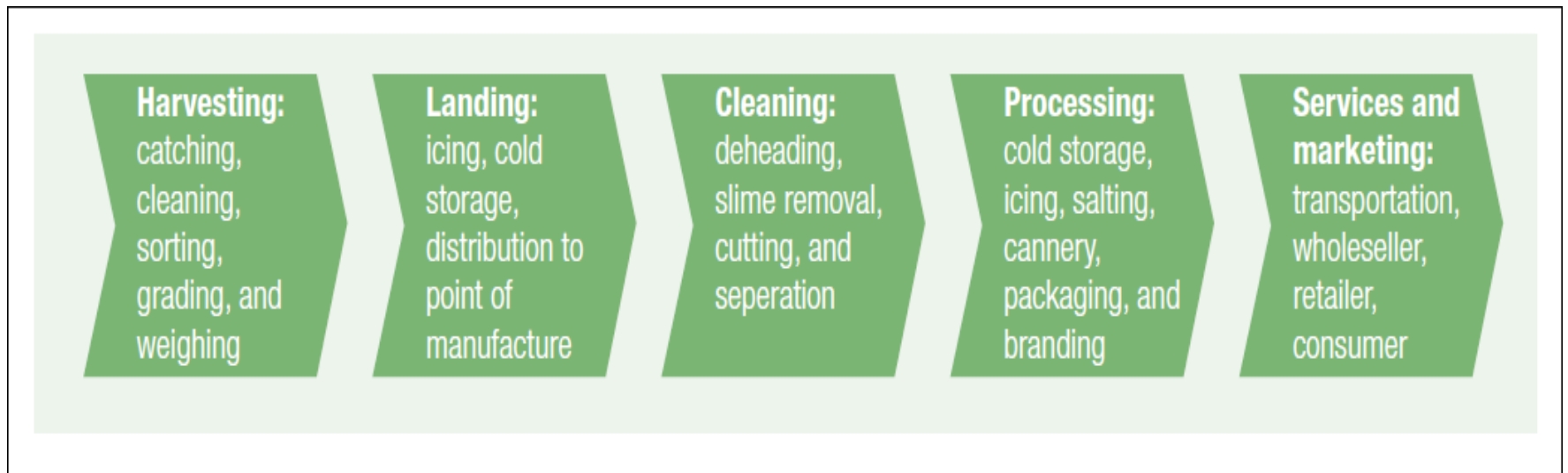
# Oceans Economy and Trade Strategies



## 2. Objectives of workshop

1. To present, review and validate the findings of the four sectoral fact sheet
  1. Marine fisheries
  2. Aquaculture
  3. Seafood processing
  4. Coastal and Marine Tourism
2. To present review and validate the findings of the **legal study** within the UNCLOS framework in the pre-selected sectors
3. Select **2 from those 4 sectors**: these 2 selected sectors will be taken as a priority for the development of the OETS
4. To assess the status and potential of the 2 pre-selected sectors by jointly:
  - Mapping the relevant value chain in each sector
  - Conducting a SWOT analysis in each sector
  - Defining basic strategic activities

# A simplified model of the fisheries value chain



# Example of a SWOT analysis

## How to Conduct a SWOT Analysis for Your Small Business





# Defining strategic objectives

OBJETIVOS	EJES ESTRATEGICOS	
Creación y fortalecimiento de una base dinámica de productos sostenibles del cacao y la pesca	1. Fortalecimiento del marco normativo e institucional	I N T E R N O
	2. Innovación y productividad	
	3. Asociatividad empresarial y encadenamientos productivos	
	4. Incentivos financieros y no financieros	
Mejoramiento de condiciones de acceso a mercados internacionales	5. Promoción comercial internacional especializada	E X T E R N O
	6. Reducción de barreras comerciales	

• UNCTAD (2014). Ecuador NGER.

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Key Issues

Documents

Programme

Presentations

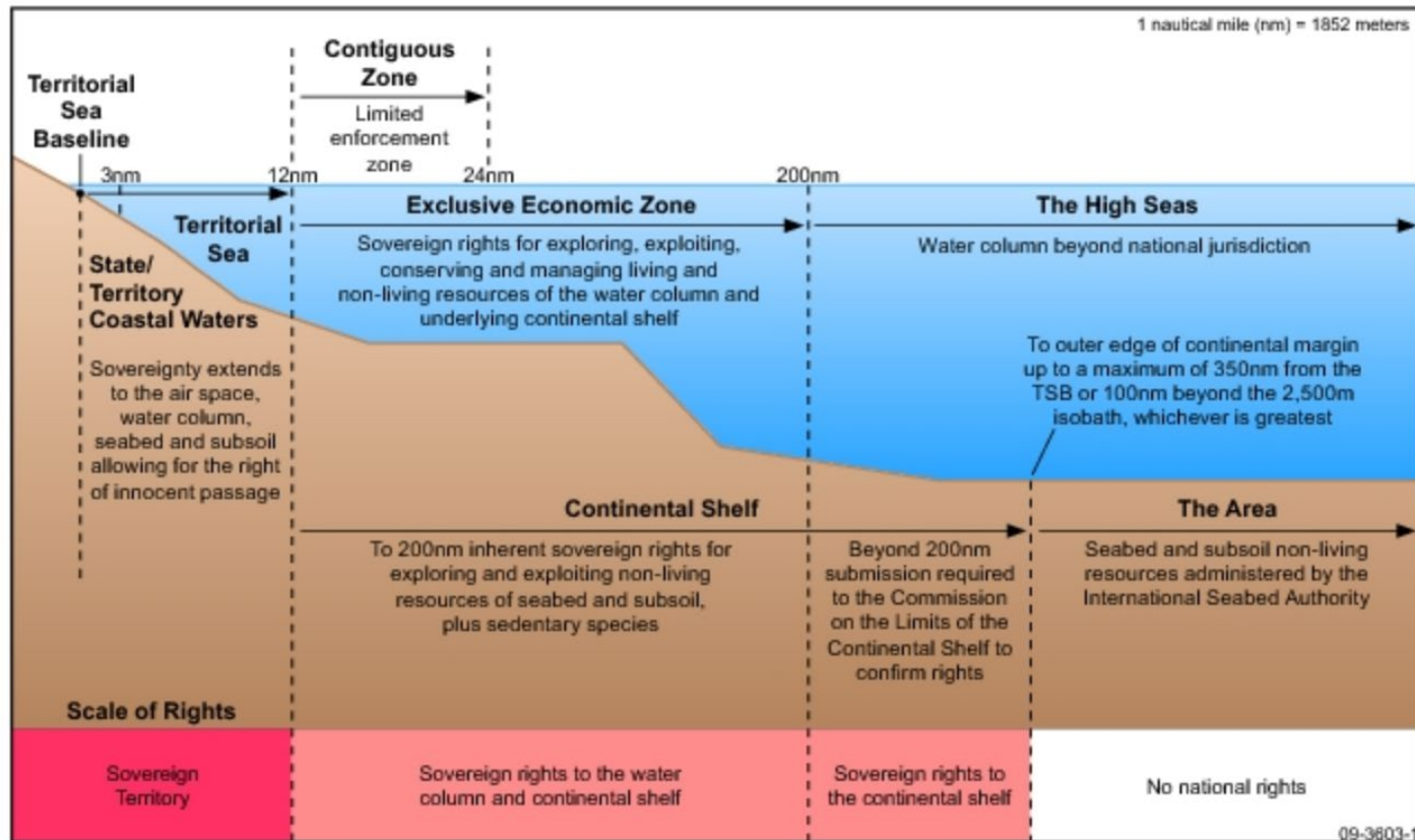
Contributions



All workshop documents can be found at:

- <https://unctad.org/en/pages/MeetingDetails.aspx?meetingid=1949>

# 4. Applicable trade, fiscal and sanitary laws in maritime zones



National trade, fiscal and sanitary laws

Prevention of infringement of national customs, fiscal or sanitary laws

Sovereign rights over living & non-living natural resources subject to conservation & management obligations

Sovereign rights to the continental shelf

- Freedoms of the high seas (e.g. Fishing, transport) subject to conservation & management obligations
- Flag State responsibilities
- Legal sourcing issues

## 3. Applicable Trade Law: sources of law

# WTO: Uruguay Round Results (1994)

- WTO Agreement (Marrakesh Agreement Establishing the WTO)
- Annex 1A: **Multilateral Agreements on Trade in Goods**
  - **GATT, Agriculture, TBT, SPS, TRIMS**, Commercial defense (Safeguards, **subsidies & dumping**), import licenses, rules of origin, etc.
- Annex 1B: **General Agreement on Trade in Services and Annexes**
- Annex 1C: Agreement on Trade Related Aspects of Intellectual Property Rights
- Annex 2: Understanding on Rules and Procedures Governing the Settlement of Disputes
- Annex 3: Trade Policy Review Mechanism
- Annex 4: Plurilateral Trade Agreements

GATT Basic principles:

**Trade in goods without  
discrimination and market access**

### 3. Applicable Trade Law: scope

- WTO law regulates natural resources **only if traded** and not before or during extraction
  - If natural resource is listed in HS classification, it is subject to WTO law
  - **Exception:** If national policy leads to discrimination or unfair competition of natural resource in extraction phase, resource can be subject to WTO law
    - WTO cases: US - Soft lumber IV subsidies case or China export restrictions on rare earths
    - WTO Fish subsidies negotiations based on "stocks conservation" considerations and not only level of "trade distortedness"
- Measures mean any measure by a Member, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form:
  - **Border measures:** e.g. tariffs, quotas
  - **Internal measures:** e.g. VAT, licenses, commercialisation permit
  - **Unfair competition actions:** e.g. dumping, subsidies



### 3. Applicable Trade Law: principles of non-discrimination

#### 1. Most-Favoured-Nation treatment: Art. I GATT

Members are bound to grant to the products of other Members treatment not less favourable than that accorded to the products of any other country (among foreign suppliers)

- **Exceptions to MFN:**

- **Regional Trade Agreements:** reciprocal among Parties; provide that substantially all trade is liberalized between Parties
- **Preferential agreements:** non-reciprocal with waivers
  - General System of Trade Preferences among developing countries (GTSP) and unilateral systems of preferences (GSP)
  - Belize has not acceded to or ratified the GSTP

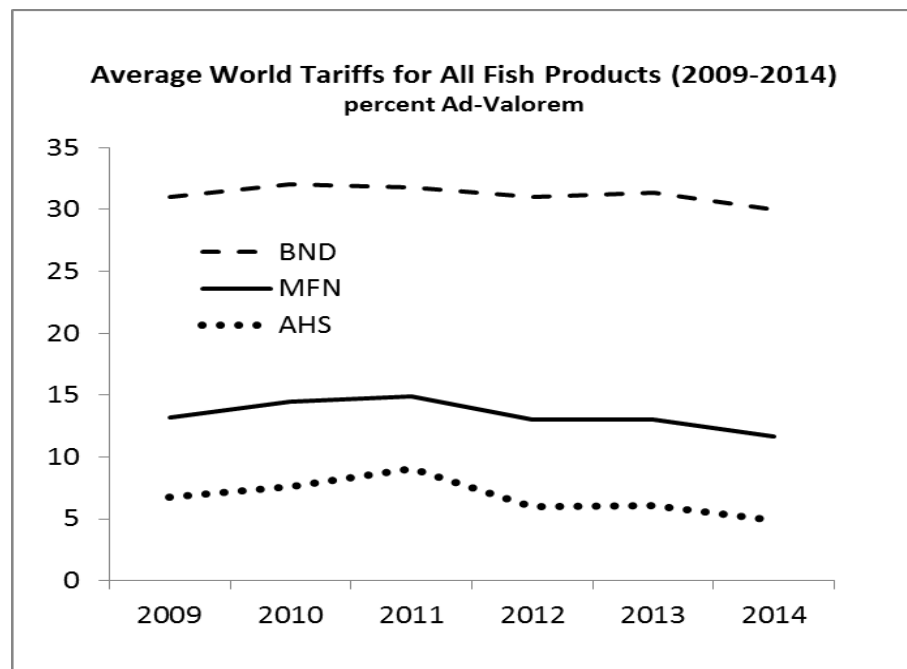
#### 2. National treatment: Art. III GATT

Once goods have cleared customs, imported goods must be treated no less favorably than the equivalent domestically-produced goods (between domestic and foreign suppliers)

### 3. Applicable Trade Law: market access - tariffs

- **Tariffs = customs duties on merchandise imports**
  - Applicable to goods listed under the Harmonized System (HS)
  - **Fish HS codes are part of manufacture products** and not agricultural ones
- **Trade is regulated under maximum tariff levels, which are referred to as “bound tariffs”**
  - Subject to principles of non-discrimination, with notable exception:
    - Special lower tariffs for developing countries (GSP)
    - Special lower tariffs for partner of free trade agreements (FTA)
  - Thanks to preferential market access, most developing countries have bound the rates somewhat higher than the actual rates (AHS) charged → Bound rates serve as ceilings

### 3. Applicable Trade Law: market access - tariffs



Source: UNCTAD (2016)

- Belize has **unbound tariffs** for almost the entire chapter HS 03 (fresh and frozen fish) and HS 1604 (preserved fish) 03 in its WTO GATT Schedule
- For HS 0305 and 0306 (Crustaceans and mollusks) and HS 1605 (prepared Crustaceans and mollusks) tariffs **are bound at 110% and MFN applied at 14%**

### 3. Applicable Trade Law: market access – quantitative restrictions

- Article XI GATT provides for the **general elimination of quantitative restrictions**
  - Quantitative restrictions = quotas, import or export licenses, prohibitions
  - Quantitative restrictions are thus concerned with tradeable goods, not extraction/production licenses
  - Fish harvesting quotas allocation are thus not in principle subject to WTO, but there has been cases where the issue has been raised

### 3. Applicable Trade Law: exceptions to WTO rules

#### Article XX GATT allows countries to adopt measures:

- (b) **necessary to protect human, animal or plant life or health**
- (g) **relating to the conservation of "exhaustible" natural resources**, provided they are taking in conjunction with measures on domestic production and consumption (e.g. restrictions on trade of hazardous wastes)
- (j) measures that are essential to acquisition or distribution of **products in short supply**

#### Relevant examples in living marine products:

- **Technical measures** (PPMs, certification, natural resources, denominations, codex Alimentarius): tuna, sardines, scallops, seals, turtles and shrimp (7 cases)
- **Antidumping**: salmon and shrimp (8 cases)
- **Sanitary measures**: Salmon (2 cases)
- **Subsidies**: salmon (2 cases)
- **Safeguards**: salmon (2 cases)

## GATS Basic principles:

**Trade in services without  
discrimination and equal  
opportunities for services providers**



- **Services sectors**

1. **Business services**
2. **Communication services**
3. **Construction & related engineering**
4. **Distribution services**
5. **Education services**
6. **Environmental services**

7. **Financial services**
8. **Health-related and social services**
9. **Tourism and travel-related**
10. **Recreational, cultural and sporting**
11. **Transport services**
12. **Other**

- **Tourism services sectors**

- 9. **TOURISM AND TRAVEL RELATED SERVICES** **CPC**
- A. Hotels and restaurants (incl. catering)  
641-643
- B. Travel agencies and tour operators services 7471
- C. Tourist guides services 7472
- D. Other

- Scope and Definition

## GATS Art. 1

- **Scope:** All services, & all measures affecting trade in services
- **Exception** (i.e., excluded from the GATS):
  - ✓ “services supplied in the exercise of governmental authority”, e.g., social security schemes, health or education, law enforcement that is provided at non-market conditions
  - ✓ Air traffic rights (Annex on Air Transport Services)

- **Modes of delivery**

- **Mode 1: Cross-border Trade**

Example: tel. call from Geneva to NY;

- **Mode 2: Consumption Abroad**

Example: Swiss tourists go to Tunisia for holidays

- **Mode 3: Commercial Presence**

Example: Building an hotel in the Caribbean

- **Mode 4: Presence of Natural Persons**

Example: Zimbabwe workers working in a construction site in South Africa

## MFN treatment (GATS Art. II)

### MFN exemptions (Annex)

- ✓ One-off right subject to review each 5 years
- ✓ General exceptions (GATS Art. XVI): public morals, public order, **health, safety**, prevention of fraud, **security**
- ✓ Very important: the GATS has no exceptions related to conservation, environment or natural resources.

### Economic integration (Art. V)

- Substantial sectoral coverage, elimination of substantially all discrimination and do not raise the overall level of barriers for WTO members outside the agreement

- **Domestic regulation (Article VI)**
  - Qualification requirements, procedures, technical standards, and licensing requirements need to be:
    - Objective and transparent criteria, such as competence and the ability to supply the service
    - Not more burdensome than necessary to ensure the quality of the service
  - Right to regulate to meet national policy objectives in individual member countries but provided it comply with GATS
- **No rules on subsidies, safeguards or government procurement on services so far** (except for WTO GPA Members)



- **Specific commitments (to be found in Members' schedule)**
  - **Market access (Article XVI)**
    - Number of **service suppliers**
    - **Value** of transactions or assets
    - Number of **operations** or quantity of output
    - Total number of **natural persons**
    - Type of **legal entity** or joint venture
    - **Foreign capital participation**
  - **National treatment (Article XVII)**
    - **No discrimination or equal opportunities**
  - **Additional commitments (XVIII)**

- **Example of a hypothetical GATS schedule**

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
A. Tourism services			
<b>A. Hotels and restaurants (incl. catering)</b>	(1) None (2) None (3) Foreign equity limited to 51% (4) Unbound, except as indicated in the horizontal section	(1) None (2) None (3) Incentives for nationally owned hotels with less than 50 rooms (4) Unbound, except as indicated in the horizontal section	

However, Belize has not deposited any commitment on tourism services under its WTO GATS schedule