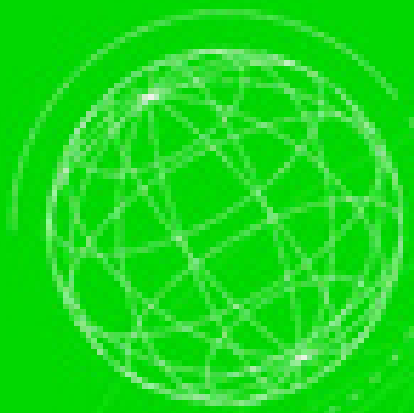
WORLD TRADE ORGANIZATION

Dictionary of Trade Policy Terms

Fifth Edition

Walter Goode



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Dictionary of Trade Policy Terms
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This is an accessible guide to the vocabulary used in trade negotiations. It explains about 2,500 terms and concepts in simple language. Its main emphasis is on the multilateral trading system represented by the agreements under the World Trade Organization (WTO). In addition it covers many of the trade-related activities, outcomes and terms used in other international organizations, such as the United Nations Conference on Trade and Development (UNCTAD), the World Intellectual Property Organization (WIPO), the Food and Agriculture Organization (FAO) and the OECD. The last five years have seen a rapid spread in the formation of free-trade areas in all parts of the world. This dictionary allocates generous space to the vocabulary associated with such agreements. It offers clear explanations, for example, of the concepts used in the administration of preferential rules of origin. Additional areas covered include emerging trade issues and issues based particularly on developing-country concerns.

WALTER GOODE has worked on international economic relations since the late 1970s. He has wide experience in bilateral and multilateral trade negotiations, and has represented Australia in negotiations and meetings in the GATT, WTO, UNCTAD and OECD. His publications include *Australian Traded Services* (1987), *Uruguay Round Outcomes: Services* (1994) and *Negotiating Free-trade Agreements: A Guide.*

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Dedicated to
Elizabeth and Siegfried

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DISCLAIMER

Dr Walter Goode is an officer of the Australian Department of Foreign Affairs and Trade (DFAT). The explanations, definitions and comments expressed in this volume do not reflect the views of DFAT or those of the Australian Government. These may be found in departmental and Australian Government statements and publications.

Any views given in this dictionary on WTO agreements, provisions, panel and Appellate Body reports, or any other information provided by the WTO, are the sole responsibility of the author, and do not necessarily represent the views of WTO Members, the WTO Secretariat, or the Appellate Body Secretariat. As such, the definitions in this dictionary do not constitute authoritative interpretations of the legal texts of the WTO and are presented for illustrative purposes only.

PREFACE

This *Dictionary of Trade Policy Terms* is now in its fifth edition. It contains about 600 new entries, and it is substantially different from the previous edition. I also have rewritten, either completely or substantively, about 120 entries. For various reasons many other entries have had to be updated. New expressions are being formed all the time, and at times it has been difficult to decide whether a term should have its own entry. On these occasions I have sought to form a judgement whether the term is likely to endure, at least for some years. No doubt I have committed errors both in including and omitting entries.

The WTO Doha Development Agenda (DDA) negotiations have produced new words and concepts. Progress in these negotiations has been accompanied by a rapid spread of free-trade agreement negotiations. This edition reflects this development. One example is that the dictionary now offers a fairly complete coverage of terms arising from the use of preferential rules of origin. As in past editions, I have sought to explain these terms in a form accessible to people who are not in the thick of negotiations. This means that I sometimes have had to neglect some details and nuances the negotiator cannot live without, but I hope that the result is still satisfactory for the reader.

I should stress that this dictionary concerns itself with words and topics routinely used with by trade officials in trade negotiations. It is not a dictionary of international economic relations. The areas of the two disciplines overlap in some cases, but the distinction between them is clear. Trade policy consists of a mixture of economics, law and politics, with the latter two often the dominating influence. International economics in comparison is much more rigorous. Even a brief look at textbooks of international economics suggests that economists are not always convinced of the validity of concepts used by trade negotiators or, indeed, their achievements. Obviously I have benefited from the work being done by the WTO, but the contents of this dictionary are naturally independent of it.

This dictionary has now been translated into the Chinese, Korean, Romanian, Vietnamese and Serbian languages. This is a pleasing development which, I hope, underlines its usefulness. I therefore take satisfaction from having been able to contribute to making the world of trade policy more accessible to a broad public.

Entries are in alphabetical order, usually in their most common form. Examples are *Kyoto Convention* for the *International Convention on the Simplification and Harmonization of Customs Procedures*, *UNCTAD* for the *United Nations Conference on Trade and Development* and *CITES* for the *Convention on International*

Trade in Endangered Species of Wild Fauna and Flora. In each case I have also included the formal version of the entry, with a referral to the main entry.

Entries are mostly self-contained, but in a few cases I thought it useful to duplicate partly an explanation under a different entry. Many entries contain referrals in ***italic bold*** to other entries. Readers should use these referrals as they like. Occasionally they may find something in this way that they had forgotten or didn't know. References to the WTO are so frequent that there seemed little need to provide a cross-reference when they occur.

Some entries are longer than is customary in dictionaries. Some are unquestionably longer than they should be. Still, I think that the reader should be offered, for example, a small historical survey of important concepts like the most-favoured-nation principle, the place of developing countries in the multilateral trading system or major events like the Kennedy or the Tokyo Rounds. Some entries are idiosyncratic, or at least the reader will think, with a deal of justification no doubt, that they are. That, I am afraid, is in the nature of books.

Other entries are of historical significance only. Among these are the Atlantic Charter, the Havana Charter, the Global Negotiations, the Marshall Plan, the Haberler Report and the United Nations Conference on Trade and Employment. One thing these entries do, however, is to show how persistent some of the problems of international trade policy are, and how hard it can be to find solutions for them.

This dictionary contains a few greatly abbreviated accounts of disputes brought before the GATT. No dictionary of trade policy could be complete without a mention of *hatters' fur* or *Belgian family allowances*. Those seeking further details on these and other disputes should consult the GATT and WTO *Basic Instruments and Selected Documents* (the BISD). I have not included any abstracts of disputes brought before the WTO. These are available in full in the *Dispute Settlement Reports* published by Cambridge University Press or the relevant WTO documents on www.wto.org. The reader seeking brief summaries of WTO disputes may also wish to turn to the one-page summaries now available from the WTO Secretariat.

One change from the last edition is that I have cited references for some of the entries. Some of them guide the reader to the source material I have used. In other cases they point to interesting material that could not possibly have been reflected here. I have also given a few Internet addresses, but some of these are likely to change over the years. The bibliography gives more information on the books and articles I have consulted.

I am again indebted to many people, and I cannot mention them all here. Among them are the participants in the trade policy workshops I have conducted in the past three years in Bandar Seri Begawan, Beijing, Jakarta, Kuala Lumpur and Manila. I relied heavily on Peter Gallagher of Inquit Communications in Melbourne and Andy Stoler of the Institute of International Trade at Adelaide University as presenters in these workshops.

I would like to thank Dr Felix Addor from the Swiss Intellectual Property Office for his kind help particularly in matters concerning of geographical indications. His

assistance has allowed me to produce what I believe is a balanced treatment of this still controversial area.

My thanks are also due to Dr Geoffrey Bannister of the World Bank who generously gave me his advice on the item covering trade and poverty, a subject drawing increasing attention. I was able to benefit both from his published material and his personal advice on my proposed entry.

I am especially obliged to Finola O'Sullivan of Cambridge University Press who has once more given me much good advice and who has managed this project with great efficiency. Wendy Gater and Richard Woodham have also made sure that this dictionary would be published on time and to their standards.

Jean-Guy Carrier of the World Trade Organization has once more done everything to ensure speedy publication. I would like to thank him for that.

Professor Kym Anderson of the Centre for International Economics at the University of Adelaide has continued to support my work on this dictionary.

I again would like to acknowledge the support I have had from my colleagues. Justin Brown, Chris DeCure, Michael Mugliston, Milton Churche, Ric Wells and John Larkin, all from the Department of Foreign Affairs and Trade, in particular have helped me, sometimes inadvertently, to clarify my thinking on certain issues through debate and discussion. Roy Nixon from the Australian Treasury has clarified my thinking on several aspects of investment. I am grateful for their interest in this book.

It is obvious that I have benefited from the efforts of many, but the responsibility for any errors of fact, inadequate interpretation or infelicitous expressions is, as authors are wont to say, entirely mine.

WG
April 2007

A

Absolute advantage: an idea described by Adam Smith in his *Inquiry into the Nature and Causes of the Wealth of Nations*, and developed further by others, that countries engage in international trade to obtain goods more cheaply from abroad than they could make them themselves at home. Smith argued that international trade allows a greater specialization than would be possible in an autarkic system, thereby permitting resources to be used more efficiently. Writing about the reasons why families buy things rather than making them themselves, he said: "[w]hat is prudence in the conduct of every private family can scarce be folly in that of a great kingdom. If a foreign country can supply us with a commodity cheaper than we ourselves can make it, better buy it with some part of the produce of our own industry employed in a way in which we have some advantage." See also ***autarky***, ***comparative advantage***, ***gains-from-trade theory***, ***Heckscher-Ohlin theorem***, ***self-reliance*** and ***self-sufficiency***. [Smith 1991 (1776)]

Absolute standard: see ***minimum standard of treatment***.

Absorption: countering the higher tariffs resulting from ***anti-dumping measures*** through lowering the price of the good. In other words, the producer or exporter of the good absorbs the additional cost caused by higher tariffs to preserve his place in the market. See also ***anti-absorption*** and ***circumvention***.

Absorption principle: also known as "roll-up" principle, used in the administration of ***preferential rules of origin*** under ***free-trade agreements***. It means that in defined cases, usually after they have undergone specific processing requirements in the territory of a free-trade partner, the ***non-originating materials*** forming part of a good to be imported will not be included in the calculation of the ***regional value content*** of that good. In other words, although the materials are in strict terms non-originating and thus not eligible for preferential treatment, they are in fact deemed to be ***originating materials***. See also ***substantial transformation***.

Accelerated tariff liberalization: ATL. A later stage of the ***APEC*** initiative for ***early voluntary sectoral liberalization***. APEC ministers decided in Kuala Lumpur in November 1998 to transfer the tariff elements of the first nine sectors of this initiative to the WTO. The nine sectors are forest products, fish and fish products, toys, gems and jewellery, chemicals, medical equipment and instruments, environmental goods and services, energy, and a telecommunications mutual recognition agreement. In the ***Auckland Challenge*** APEC members agreed to pursue the initiative until the end of 2000. ATL then became part of the negotiations under the ***Doha Development Agenda***.

Acceptable level of risk: defined in the WTO ***Agreement on the Application of Sanitary and Phytosanitary Measures*** as "the level of protection deemed appropriate by the Member establishing a sanitary or phytosanitary measure to protect human, animal or plant life or health within its territory". The level varies according to country, but it is meant to be based on scientific principles. The ***precautionary principle*** may also apply. This concept is also known as the "appropriate level of sanitary or phytosanitary protection". See also ***sanitary and phytosanitary measures***.

Accession: the act of becoming a member of the WTO (World Trade Organization), or another international organization or agreement. Negotiations are limited to ensuring that the acceding country can meet its membership obligations. Accession to the WTO thus requires negotiations between the applicant and the existing members to ensure that the applicant's trade regime will be in harmony with WTO rules, and that the applicant is able to observe these rules. On accession, the schedules of tariffs and services commitments the new member offers should be broadly comparable to those of existing members which have participated in successive rounds of ***multilateral trade negotiations*** and reduced their trade barriers over the years. In other words, a country has to be prepared to offer roughly the same as it will enjoy from membership. Accession to the ***OECD*** requires new members to show that their economic regime is broadly in tune with those of existing members. Membership of ***UNCTAD*** or other United Nations bodies does not entail this sort of obligation. Accession to the ***European Union*** is known as ***enlargement***. See also ***schedules of commitments on services*** and ***schedules of concessions***.

Access to Medicines: an aspect of the work on ***intellectual property rights*** in the WTO. It deals with the balance between obligations under the ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** (TRIPS) and the expectations of developing countries for affordable medicines. Developing countries claim that ***compulsory licences*** and ***parallel imports*** are essential for their governments to carry out effective health policies through affordable medicines. In their view, the TRIPS agreement is biased in favour of pharmaceutical companies residing in developed countries. The differing views on access to medicines show the inherent tension between intellectual property rights (a form of monopoly rights) and public expectations of vigorous competition between companies. The ***Doha Declaration on the TRIPS Agreement and Public Health*** was aimed at reducing this tension. It aims to make it easier for some developing countries seeking the required authorization to grant a compulsory licence for the purpose of making a pharmaceutical product and exporting it to ***least developed countries*** and other developing countries which are also members of the WTO. This is subject to the condition that the system will only be used in case of a national emergency or in cases of public non-commercial use.

Accordion of likeness: an expression used by the ***Appellate Body*** in *Japan – Taxes on Alcoholic Beverages*. It holds that the meaning of the term ***"like product"*** has to be interpreted more or less generously according the nature of the product

itself. It says that there can be no precise and absolute definition of what is "like". In its words, "[t]he accordion of 'likeness' stretches and squeezes in different places as the provisions of the ***WTO Agreement*** are applied". [WT/DS8/AB/R]

Accounting rate: the charge made by one country's telephone network operator for transporting calls originating in another network to their final destinations within the second network. See also ***telecommunications termination services***.

ACP–EC Partnership Agreement: a framework for trade and economic cooperation between the ***ACP states*** (except Cuba) and the ***European Community***, signed on 23 June 2000 as the successor to the ***Lomé Convention***. On 1 April 2003 it entered into force for twenty years. It has five pillars: (a) a comprehensive political dimension, (b) participatory approaches to ensure the involvement of civil society in beneficiary countries, (c) a strengthened focus on poverty reduction, (d) a framework for economic and trade cooperation and (e) reform of financial cooperation. The Agreement has several review mechanisms. Its trade aspects will be renegotiated after eight years to make them fully compatible with WTO obligations. During this time (called the preparatory period) the European Community will give non-reciprocal preferential access free of duty and charges to products from ACP states. Special provisions apply to some agricultural products, especially sugar. Support for national budgets in countries highly dependent on agriculture and/or mineral exports is available to ACP states if losses from export earnings jeopardize overall macroeconomic stability. The Agreement entails wide-ranging cooperation in trade-related areas including, among others, ***trade in services***, ***competition policy***, ***trade and environment*** and ***trade and labour standards***. The parties have also undertaken to use the preparatory period to remove progressively barriers to trade between them and to pursue cooperation in all areas relevant to trade. See also ***ACP–EC Protocol on Sugar*** and ***Special Preferential Sugar Agreements***.

ACP–EC Sugar Protocol: first concluded in 1975 as Protocol 3 to the ***Lomé Convention***. It is an instrument of indefinite duration. The Protocol is now part of the ***ACP–EC Partnership Agreement***. Through this Protocol the ***European Community*** undertakes to purchase, at guaranteed prices, specific quantities of cane sugar, raw or white, originating in ***ACP states***. The following annual quantities apply: Barbados (49,300 tonnes), Fiji (163,000 tonnes), Guyana (157,000 tonnes), Jamaica (118,300 tonnes), Kenya (5,000 tonnes), Madagascar (10,000 tonnes), Malawi (20,000 tonnes), Mauritius (487,200 tonnes), Swaziland (116,400 tonnes) and Tanzania (10,000 tonnes). See also ***Special Preferential Sugar Agreement***.

ACP states: The African, Caribbean and Pacific states associated with the ***European Community*** through the ***ACP–EC Partnership Agreement*** which gives them ***preferential market access*** to the European Community and other benefits. The group of ACP states was established on 6 June 1975 through the ***Georgetown Agreement***. It now operates under a revised agreement adopted in November 1992. Its General Secretariat is located in Brussels. The members of the group are Angola, Antigua and Barbuda, Bahamas, Barbados,

Belize, Benin, Botswana, Burkina Faso, Burundi, Cabo Verde, Cameroon, Central African Republic, Chad, Comoros, Republic of Congo, Democratic Republic of Congo, Cook Islands, Côte d'Ivoire, Cuba, Djibouti, Dominica, Dominican Republic, Eritrea, Ethiopia, Fiji, Gabon, The Gambia, Ghana, Grenada, Equatorial Guinea, Guinea-Bissau, Guinea, Guyana, Haiti, Jamaica, Kenya, Kiribati, Lesotho, Liberia, Madagascar, Malawi, Mali, Marshall Islands, Mauritania, Mauritius, Federated States of Micronesia, Mozambique, Namibia, Nauru, Niger, Nigeria, Niue, Palau, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Solomon Islands, Somalia, South Africa, Sudan, Suriname, Swaziland, Tanzania, Togo, Tonga, Trinidad and Tobago, Tuvalu, Uganda, Vanuatu, Zambia and Zimbabwe. Cuba is not a party to the ACP–EC Partnership Agreement.

Acquis communautaire*:** all legislation adopted under the treaties establishing the ***European Community, including ***regulations***, ***directives***, ***decisions***, ***recommendations*** and ***opinions***, as well as the judgments handed down by the ***European Court of Justice*** and international agreements concluded by the European Community. It consists of about 80,000 pages and is ever-changing. Before a country accedes to the ***European Union***, its national legislation needs to be harmonized with the *acquis communautaire*. This can mean revising hundreds of parliamentary acts. No member state may derogate permanently from the *acquis*. *See* also ***enlargement*** and ***European Community legislation***.

Action plan: often the outcome of last resort. It once really had the meaning of planning something and then doing it, and it sometimes even does so today. More often, however, an action plan is no more than a catalogue of things that could be done if anyone was interested.

Actionable subsidies: a category of subsidies described in the WTO ***Agreement on Subsidies and Countervailing Measures***. Subsidies may be actionable, and therefore illegal, if they cause ***injury*** to the domestic industry of another member, negate other commitments made under the GATT, or cause ***serious prejudice*** to the interests of another member. If such adverse effects exist, the country maintaining the subsidy must withdraw it or remove its adverse effects. See also ***countervailing duties***, ***non-actionable subsidies***, ***prohibited subsidies*** and ***subsidies***.

Act of state doctrine: the principle, as expressed in a United States Supreme Court judgment of 1897, that "every sovereign State is bound to respect the independence of every other sovereign State, and the courts of one country will not sit in judgment on the acts of the government of another, done within its own territory". Other jurisdictions of course also use this doctrine.

Adding-up problem: see ***fallacy of composition***.

Additional commitments: the ***General Agreement on Trade in Services*** permits WTO members to make ***commitments*** on trade in services that are additional to those made under ***market access*** and ***national treatment***. Qualifications, standards and licensing matters are mentioned specifically, but additional

commitments need not be confined to these areas. See also ***schedules of commitments on services***.

Additive regionalism: describes the concurrent membership of several ***free-trade agreements*** by one country. See also ***spaghetti-bowl effect***. [Schiff and Winters 2003]

Adjusted value: see ***build-down method*** and ***build-up method***.

Adjustment costs: the economic and social costs arising from ***structural adjustment***.

Administered protection: see ***contingent protection*** and ***non-tariff measures***.

Administered trade: see ***managed trade***.

Administrative guidance: the practice of influencing the activities of an industry by government ministries through formal or informal measures. Guidance may simply consist of advice on how to interpret a government act or decision. It may also be a method of enforcing, for example, ***voluntary export restraints*** through the publication of indicative production and export forecasts. Industries are then supposed to work out among themselves how to divide the export cake. Administrative guidance of the second kind probably works best in countries where the enforcement of ***competition policy*** is weak.

Administrative international commodity agreements: these are ***international commodity agreements*** that do not operate a ***buffer stock***, ***export quotas*** or other mechanisms designed to influence the price of a commodity through manipulating the amount coming on the market. This type of agreement is concerned with matters such as ***market transparency***, more efficient production, processing and distribution, consumer information, and the collection and dissemination of statistical information. See also ***economic international commodity agreements***.

Administrative protection: see ***contingent protection*** and ***non-tariff measures***.

Administrative regulation: see ***regulation***.

Administrative ruling of general application: defined in the ***APEC principles on transparency standards*** and some ***free-trade agreements***, such as ***NAFTA***, as "an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct, but does not include: (a) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good or service of another economy in a specific case, or (b) a ruling that adjudicates with respect to a particular act or practice". In other words, an administrative ruling of general application establishes a norm of conduct applying to all persons, goods, services and practices, as the case may be, in a given economy.

***Ad* notes:** the notes and explanatory provisions contained in Annex I to the **GATT**. They amplify and interpret some of the GATT articles proper. They always have to be read together with the relevant article.

Ad referendum* agreement:** provisional acceptance of the outcome of a set of negotiations. Definitive acceptance may depend on the results of related negotiations, approval by the government or the fulfilment of some other condition. See also ***bracketed language and ***without prejudice***.

Ad valorem*:** a proportion of the value of a good or a transaction. See ***ad valorem tariff.

Ad valorem* equivalent:** a calculation of the level of a ***specific tariff, which converts a rate expressed as a fixed monetary value per product into a value expressed as a percentage of the value of the product. This gives the ***ad valorem tariff*** rate. For example, a specific tariff of one dollar levied on a compact disc worth ten dollars would give an *ad valorem* equivalent of 10%. On a disc worth twenty dollars, a tariff of one dollar would amount to 5%. See also ***compound tariff***.

Ad valorem* tariff:** a ***tariff rate expressed as a percentage of the value of the goods to be imported or exported. Most tariffs are now expressed in this form. See also ***customs valuation*** and ***specific tariff***.

Advance deposit: the requirement to lodge all or part of the cost of the imported good with a government authority, usually at the time it is ordered. See also ***non-tariff measures***.

Advance informed consent: an obligation embodied in the ***Cartagena Protocol on Biosafety***. It establishes the need for an exporter to seek consent from an importing country before the first shipment of a ***living modified organism*** intended for intentional release into the environment. See also ***prior informed consent***.

Advance rulings: an aspect of customs procedures. Many customs authorities provide advice on request, normally in writing, on how they will treat a good to be imported. Such advice may include the tariff classification, the applicable tariff rate and whether a good qualifies for ***preferential market access***. Such advice is not always legally binding, but customs authorities usually honour it unless it was based on false information or an error of law. Advance rulings therefore are an important way to bring predictability into the trading system. Importers and exporters alike may apply for them.

Advisory Centre on WTO Law: established on 17 July 2001 in Geneva as an independent ***intergovernmental organization*** with funding from nine developed countries and more than 25 developing countries and economies in transition. The Centre provides legal services and training to developing countries and economies in transition that have contributed to its endowment fund. ***Least developed countries*** can use the Centre's services without contributing funds.

***A fortiori*:** Lat. with stronger reason; much more so.

African Economic Community: AEC. An organization aiming to promote the economic, social and cultural development of Africa. It was established on 12 May 1994 through the Treaty of Abuja. Membership, which now exceeds fifty, is open to all members of the Organization of African Unity, now the ***African Union***. The AEC will aim in the long term to form an African Common Market. In the medium term it will concentrate on trade cooperation and ***trade facilitation***. Its secretariat is located in Addis Ababa.

African Group: a group of 41 countries active in the WTO. Its members are Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Congo, Democratic Republic of Congo, Côte d'Ivoire, Djibouti,

Egypt, Gabon, The Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

African Growth and Opportunity Act: AGOA. Part of the United States *Trade and Development Act of 2000*, valid until 30 September 2008. The Act is based on a congressional finding that it is in the mutual interest of the United States and the countries of ***sub-Saharan Africa*** to promote stable and sustainable economic growth and development in sub-Saharan Africa. It gives eligible sub-Saharan countries duty-free access to the United States for most products. Provisions for textile products are more restrictive. AGOA also promotes the negotiation of ***free-trade agreements*** between the United States and sub-Saharan countries. Countries must meet certain eligibility requirements to benefit from this Act. Among these are that the country (a) has established, or is making progress towards, a market-based economy, (b) enjoys the rule of law and political pluralism, (c) is eliminating barriers to United States trade and investment, (d) has economic policies to reduce poverty, (e) has a system to combat corruption and bribery and (f) protects internationally recognized ***workers rights***. Activities undermining United States national security or foreign policy interests and engaging in gross human rights violations or international terrorism make a country ineligible for the benefits of this Act. Countries must also have implemented commitments to eliminate the ***worst forms of child labour***. ***AGOA II***, passed in 2002, extended the benefits of the Act, especially for some textile imports from certain African countries into the United States.

African regional integration arrangements: this entry summarizes the main ***regional integration arrangements*** concluded by African countries since the 1950s. It only lists ***free-trade areas***, ***customs unions***, ***common markets*** and ***economic unions*** having at least three members. *A. West Africa*. Benin, Côte d'Ivoire, Niger, Togo and Upper Volta (now Burkina Faso) formed in 1959 the ***Council of the Entente*** to promote regional economic development and integration. The West African Customs Union (Union Douanière de l'Afrique Occidentale or UDAO) was also formed in 1959 by Dahomey (now Benin), Côte d'Ivoire, Mauretania, Niger, Senegal, Soudan (now Mali) and Upper Volta. It was succeeded in 1966 by the ***West African Economic Community*** which had the same membership. The ***Mano River Union*** was established in 1973 by Liberia and Sierra Leone. Guinea joined it in 1980. The West African Economic Community and the Mano River Union, together with Cape Verde, The Gambia, Ghana, Guinea-Bissau, Nigeria and Togo now form ***ECOWAS*** (Economic Community of West African States) which was established in 1975 and relaunched in 1993. *B. Central Africa*. The Equatorial Customs Union (Union Douanière Equatoriale or UDE) was formed in 1960. Its members were Chad, Central African Republic, Congo and Gabon. UDE was succeeded in 1964 by the ***Central African Customs and Economic Union*** (Union Douanière et Economique de l'Afrique Centrale or UDEAC). Its members were Cameroon, Central African

Republic, Chad, Congo, Equatorial Guinea and Gabon. UDEAC was succeeded in 1999 by the ***Communauté Economique et Monétaire de l'Afrique Centrale*** (CEMAC). The ***Communauté Economique des Pays des Grands Lacs*** (CEPGL or Economic Community of the Great Lakes) was founded in 1976. Its members are Burundi, Rwanda and Congo. The Economic Community of Central African States (Communauté Economique des Etats de l'Afrique Centrale or CEEAC) was established by the members of UDEAC and those of CEPGL in 1983. It became inactive in 1992. *C. Eastern and Southern Africa*. Kenya, Tanganyika and Uganda formed an ***East African Community*** (EAC) and an East African Common Market in 1967, but it collapsed in 1977. The EAC was was re-established in 2000. The Preferential Trade Area for Eastern and Southern African States (PTA) was formed in 1981 and superseded by the ***Common Market for Eastern and Southern Africa*** (COMESA) in 1993. Its members are Angola, Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe. *D. Southern Africa*. The South African Customs Union (SACU) was established in 1969 as the successor to the Southern African Customs Union of 1910. SACU's members are Botswana, Lesotho, Namibia (since 1990), South Africa and Swaziland. The Southern African Development Coordination Conference (SADCC) was formed in 1980 by Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe. In 1992, it became the ***Southern African Decelopment Community*** (SADC). South Africa joined in 1994. *E. Africa-wide integration arrangements*. The Lagos Plan of Action, adopted by the ***Organization of African Unity*** in 1980, called for the creation of five Regional Economic Communities (RECS): North Africa, West Africa, Central Africa, Eastern Africa and southern Africa. The following are in existence: ***Arab Maghreb Union*** (AMU), Economic Community of Central African States (ECCAS, now inactive), Southern African Development Community (SADC) and the Economic Community of West African States (ECOWAS). A continent-wide arrangement, the ***African Economic Community***, was established in 1994. It now has more than 50 members. Any member of the ***African Union*** can join it. [Bhalla and Bhalla 1997, Crawford and Fiorentino 2003, De la Torre and Kelly 1992, Ndlela 1992, Okigbo 1967, Robson 1968]

African Union: established in July 2001 at a meeting in Lusaka of African heads of government as the successor to the ***Organization of African Unity***.

African Union Convention on Preventing and Combating Corruption: see ***corruption***.

AFTA: *ASEAN Free Trade Area*. Established through the *Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area* on 1 January 1993. The main mechanism for the tariff reductions under AFTA is ***CEPT*** (Common External Preferential Tariff). Goods traded preferentially are covered by the ***Inclusion List***. The ASEAN-6 (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand) will eliminate their tariffs by

2010 and the newer ASEAN members (Cambodia, Laos, Myanmar and Vietnam) in the main by 2015. Vietnam took on the full obligations in 2006. Sensitive products (all of these are agricultural) will have final rates of 0–5%. Final rates for highly sensitive products (various types of rice) for Indonesia and Malaysia will be 20%. The ASEAN-6 extend tariff preferences to Cambodia, Laos, Myanmar and Vietnam through the ***ASEAN Integration System of Preferences***. AFTA has a work program for eliminating ***non-tariff measures***. See also ***ASEAN Economic Community***, ***ASEAN Framework Agreement on Services***, ***ASEAN Investment Area*** and ***Initiative for ASEAN Integration***.

Agadir Agreement: the ***free-trade agreement*** between Egypt, Jordan, Morocco and Tunisia signed on 11 January 2003 in Amman. It derives its name from the launch of the project in Agadir, Morocco, in 2001.

Agency for international trade information and cooperation: see ***AITIC***.

Agenda 2000: the ***European Community*** financial reform plan for 2000–06 aimed at strengthening the union among European countries to get ready for the new members. The strategy identifies three main challenges: (a) how to strengthen and reform the ***European Union***'s policies so that they can deal with ***enlargement*** and deliver sustainable growth, higher employment and improved living conditions for Europe's citizens, (b) how to negotiate enlargement while at the same time vigorously preparing all applicant countries for the moment of accession, and (c) how to finance enlargement, the advance preparations and the development of the Union's internal policies. Major changes to the ***Common Agricultural Policy*** have been made as result. See also ***Europe Agreements*** and ***Treaty of Nice***.

Agenda 21: The Agenda for the twenty-first Century. This is a program of principles and actions relevant to ***trade and environment*** adopted on 14 June 1992 by ***UNCED*** (United Nations Conference on Environment and Development) in Rio de Janeiro. Program area A seeks to promote ***sustainable development*** through trade. Its objectives are (a) to promote an open, non-discriminatory and equitable trading system that will enable all countries to improve their economic structures and improve the standards of living of their populations through sustained economic development, (b) to improve access to markets for exports of developing countries, (c) to improve the functioning of commodity markets and achieve sound, compatible and consistent commodity policies at national and international levels with a view to optimizing the contribution of the commodity sector to ***sustainable development***, taking into account environmental considerations, and (d) to promote and support domestic and international policies that make economic growth and environmental protection mutually supportive. Program area B aims (a) at making trade and environment mutually supportive in favour of sustainable development, (b) to clarify the role of ***GATT***, ***UNCTAD*** and other international organizations in dealing with trade and environment-related issues, including, where relevant, conciliation procedure and ***dispute settlement***, and (c) to encourage international productivity and competitiveness and encourage a constructive role on the part of industry in dealing with environment and

development issues. See also ***commodity policy***, ***Rio Declaration on Environment and Development*** and ***World Summit on Sustainable Development***.

Aggregate measurement of support: a term used in agricultural negotiations. It is the annual level of support expressed in monetary terms for all domestic support measures where government funds are used to subsidize farm production and incomes. It includes product-specific support and support given to agricultural producers in general. The annual level of support has to be reduced as a result of the ***Uruguay Round*** negotiations. Domestic support measures with minimal impact on trade do not have to be reduced. See also ***Agreement on Agriculture***, ***amber box***, ***blue box***, ***equivalent measure of support***, ***green box***, ***subsidies*** and ***total aggregate measurement of support***.

Aggressive multilateralism: usually describes the option available to the United States of using the WTO dispute settlement mechanism vigorously, backed up by ***Section 301*** to the extent that that would be legal and desirable.

Aggressive reciprocity: the unilateral action of an economy which seeks to force a trading partner to change its **trade policy**. Measures used include ***retaliation*** in response to perceived unfair actions, the use of domestic trade legislation, etc. Aggressive reciprocity is capable of solving some trade issues, but often at the expense of considerable political ill-will. It has also been described as the "crow-bar theory of trade policy". See also ***bilateralism***, ***passive reciprocity***, ***Section 301***, ***Special 301***, ***unfair trading practices*** and ***unilateralism***.

Aggressive unilateralism: see ***unilateralism***.

AGOA: see ***African Growth and Opportunity Act.***

AGOA II: improvements made to the ***African Growth and Opportunity Act*** as part of the United States Trade Act of 2002. Most of the improvements relate to preferential treatment of textile imports.

Agreement Concerning the International Registration of Marks: see ***Madrid Agreement Concerning the International Registration of Marks***.

Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character: see ***Beirut Agreement***.

Agreement for the Protection of Appellations of Origin and their International Registration: see ***Lisbon Agreement***.

Agreement for the Repression of False or Deceptive Indications of Source on Goods: see ***Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods***.

Agreement on Agriculture: one of the outcomes of the ***Uruguay Round***. It is administered by the WTO. The Agreement provides the first effective multilateral framework for the long-term reform and liberalization of agricultural trade. The Agreement establishes new rules and commitments in ***market access***, ***domestic support*** and ***export competition*** (i.e. the handling of ***subsidies***). It encourages the adoption of domestic support policies that are less trade-distorting, and it allows actions aimed at easing domestic adjustment burdens. Some of the

measures required by the Agreement are (a) a reduction by developed countries in export subsidy expenditures by 36% over six years in equal instalments, and a 24% reduction over ten years for developing countries; (b) a cut by developed countries in the volume of subsidized exports by 21% over six years, 14% for developing countries over ten years; domestic subsidies, as calculated through the ***aggregate measure of support***, have to be cut by 20% over six years, calculated from 1986–88 as the ***base period***; and (d) all ***existing non-tariff measures*** have to be converted into tariffs and bound, followed by a reduction by an unweighted average of 36% over six years in equal tranches, again with 1986–88 as the base period. For developing countries the cut is 24% over ten years. The Agreement entails ***minimum access commitments*** where markets were closed before, and ***special safeguards*** under strictly defined conditions to deal with import surges after ***tariffication***. Negotiations aimed at further liberalization of agricultural trade resumed in 2000. They are now part of the negotiations under the ***Doha Development Agenda***. See also ***agriculture and the multilateral trading system***, ***amber box***, ***blue box***, ***green box***, ***continuation clause*** and ***peace clause***.

Agreement on Basic Telecommunications Services: WTO agreement first envisaged in the ***Uruguay Round*** outcome on ***trade in services*** and concluded on 15 February 1997. It contains ***market access*** commitments made by 69 members covering cross-border trade and supply through a ***commercial presence***. The Agreement entered into force on 1 January 1998 through the ***Fourth Protocol to the General Agreement on Trade in Services***. See also ***cross-border trade in services***, ***International Telecommunication Union*** and ***reference paper on telecommunications services***.

Agreement on counterfeiting and piracy: see ***counterfeiting and piracy agreement***.

Agreement on Customs Valuation: formally the WTO ***Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994***. It sets out a system of non-discriminatory rules to be followed by customs authorities when they assess the value of imports for the levying of ***customs duties***. See ***customs valuation*** and ***customs valuation agreement***.

Agreement on Government Procurement: one of the WTO ***plurilateral agreements***. It contains rules for the purchase by governments of goods and services for their own use. Such purchases are not covered either by the rules of the ***General Agreement on Trade in Services*** or the ***GATT***. The agreement covers government purchasing contracts for goods, services and construction at the level of central government, state or provincial governments and utilities above a certain size. The agreement aims to ensure that, subject to legitimate border measures (e.g. health and safety standards, ***intellectual property protection***, etc.), foreign suppliers receive no less favourable treatment than domestic suppliers for relevant government purchasing contracts, i.e. they give each other ***national treatment***. It also stipulates that the parties accord each other ***most-favoured-nation treatment*** regarding government procurement covered by the

Agreement, but there is an element of direct reciprocity in the extent to which members allow firms from other members to compete in their government procurement. This applies particularly to purchases at the sub-federal or sub-central levels. The agreement also seeks transparent government purchasing procedures and practices. In late 2006 the parties to the agreement agreed provisionally on a revised version which reflects current procurement practices and is easier to read. See also ***APEC Non-Binding Principles on Government Procurement***, ***second-level obligations*** and ***Working Party on Transparency in Government Procurement***. [Arrowsmith 2003]

Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994: the WTO ***Anti-Dumping Agreement***. See also ***anti-dumping measures*** and ***dumping***.

Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994: the ***customs valuation agreement***. It sets out the principles and procedures to be followed by WTO members in their assessment of the value of imported goods for the purpose of levying the appropriate amount of ***customs duties***. The primary base for assessing the customs value is the ***transaction value***. Broadly, this is the price actually paid or payable for the goods for export under conditions of competition. See also ***customs valuation***, ***identical goods*** and ***similar goods***.

Agreement on Import Licensing Procedures: the agreement setting out the procedures to be followed by WTO members in their administration of ***import licensing*** regimes. It defines import licensing as "administrative procedures used for the operation of import licensing régimes requiring the submission of an application or other documentation (other than that required for customs purposes) to the relevant administrative body as a prior condition for importation into the customs territory of the importing Member". The Agreement has provisions on automatic import licensing (i.e. approval of the application is always granted) and non-automatic import licensing (i.e. all cases where licensing is not automatic). The Agreement also establishes a system for notifying import licensing procedures to the WTO.

Agreement on Mutual Acceptance of Oenological Practices: see ***World Wine Trade Group***.

Agreement on Preshipment Inspection: a WTO agreement setting out the conditions and procedures under which members may carry out ***pre-shipment inspections*** to ensure that the cost of goods shipped corresponds to the invoiced cost. Such inspections are used mainly by developing countries to prevent capital flight, commercial fraud, evasion of ***customs duties*** and other similar practices. The Agreement requires user members to apply ***GATT*** principles and obligations to the conduct of inspections. These include ***non-discrimination***, ***transparency***, protection of confidential business information, avoidance of unreasonable delay, the use of specific guidelines for conducting price verification and the avoidance of conflicts of interest by preshipment inspection agencies. Exporting members must apply their laws and regulations concerning preshipment

activities in a non-discriminatory way. They must publish promptly all applicable laws and regulations and, if requested, they must afford user members technical assistance. In the case of disputes, the parties have access to independent review procedures mandated by the Agreement. These procedures should be administered by an independent body made up of an organization representing preshipment inspection agencies and an organization representing exporters. The decision of the three-member review panel is binding on all parties to the dispute. [Rome 1998]

Agreement on Rules of Origin: an agreement administered by the WTO. It sets out a program of work by the Committee on Rules of Origin for the long-term harmonization of ***rules of origin***. Rules of origin are defined as laws, regulations and administrative determinations applied by members to determine the country of origin of goods admitted under ***most-favoured-nation*** conditions. The country of origin of the goods is either the country where the good has been wholly obtained or, if more than one country is involved, the country where the last ***substantial transformation*** was carried out. The Agreement stipulates that rules of origin should be administered in a consistent, uniform, impartial and reasonable manner. They should not themselves create restrictive, distorting or disruptive effects on international trade. Rules of origin must state what does confer origin rather than what does not. The Agreement contains an annex in the form of a declaration dealing with the administration of rules of origin admitted under preferential conditions. See also ***change in tariff heading*** and ***preferential rules of origin***.

Agreement on Safeguards: a WTO agreement setting out and clarifying when and how members may resort to action under ***GATT*** Article XIX, also called ***escape clause***. This Article deals with the possibility of emergency action to protect domestic industry from an unforeseen increase in imports which is causing, or likely to cause, serious ***injury*** to the industry. "Serious injury" is defined as a significant overall impairment in the position of a domestic industry, and "threat of serious injury" means that such injury is clearly imminent. The Agreement notes that a finding of a threat of serious injury must be based on facts, not merely an allegation, conjecture or remote possibility. The Agreement sets out criteria for safeguards investigation which include public notice for hearings and other appropriate means for ***interested parties*** to present evidence. The criteria may include whether a safeguard measure would be in the public interest. If a delay in taking safeguard action would cause damage difficult to repair, ***provisional safeguard measures*** not exceeding 200 days may be taken. Safeguards action must be non-discriminatory. It must be imposed against the product and not against the source of the product. In other words, even though products from country X might be perceived to be the main problem, country X may not be singled out for import reductions. ***Selectivity*** is possible only if (i) if it is clear that imports from certain countries have increased disproportionately in the period under consideration, (ii) all the other conditions for taking safeguard action have been satisfied, and (iii) if this would be equitable to other suppliers.

Generally, the duration of a safeguards measure should not exceed four years, though this may in some circumstances be extended to a maximum of eight years. Any measure imposed for more than one year must be accompanied by ***structural adjustment*** aimed at liberalizing access. Members taking safeguards action may have to offer ***compensation***. The Agreement prohibits so-called ***grey-area measures***, including ***voluntary restraint arrangements***. All safeguards measures in force on 1 January 1995 had to be phased out within five years. See also ***de minimis safeguards rule***, ***Transitional Product-Specific Safeguard Mechanism*** and ***transitional safeguards mechanism***.

Agreement on Subsidies and Countervailing Measures: a WTO agreement which establishes three categories of subsidies and the procedures to be followed in dealing with them. The categories are ***prohibited subsidies*** (subsidies contingent on export performance or the use of domestic rather than imported goods), ***actionable subsidies*** (subsidies which may only be maintained if they do not injure the domestic industry of another member, do not cause ***nullification or impairment*** of benefits, or do not cause ***serious prejudice*** to the interests of another member) and ***non-actionable subsidies*** (subsidies which may be maintained by members). The Agreement details an accelerated timetable for ***dispute settlement*** cases arising from the application of the Agreement. It also sets out the conditions under which ***countervailing duties*** may be imposed. It does not apply to ***agricultural subsidies***. See also ***Agreement on Agriculture***, ***amber box***, ***blue box***, ***green box***, ***Permanent Group of Experts*** and ***provisional countervailing duties***.

Agreement on Technical Barriers to Trade: the TBT agreement. A WTO agreement aimed at ensuring that technical regulations and standards, including packaging, marking and labelling requirements, and procedures for assessment of conformity with technical regulations and standards do not create unnecessary obstacles to international trade. It is the successor to the ***Tokyo Round*** Standards Code. The Agreement encourages members to use appropriate international standards, but it does not require them to change levels of protection because of standardization. It covers not only the standards applicable to a product itself, but also related ***processes and production methods***. Prescribed ***notification*** procedures apply. An annex to the Agreement contains a ***Code of Good Practice for the Preparation, Adoption and Application of Standards***. Central government standardizing bodies have to comply with it. Local government and non-government bodies may choose to do so. See also ***conformity assessment***, ***International Electrotechnical Commission*** and ***International Organization for Standardization***. [Marceau and Trachtman 2002]

Agreement on Textiles and Clothing: a WTO agreement succeeding the ***Multi-Fibre Arrangement*** (MFA). It differed from the MFA in that it brought international trade in textiles and clothing again under the normal liberalizing and non-discriminatory WTO trade rules by 1 January 2005. This is also the date when the Agreement itself expired. The Agreement was supervised by the ***Textiles Monitoring Body***.

Agreement on the Application of Sanitary and Phytosanitary Measures: the SPS Agreement. A WTO agreement aiming to ensure that food safety and animal and plant health regulations are not used as disguised barriers to international trade. The Agreement preserves the right of governments to take ***sanitary and phytosanitary measures***, but they must not be used to discriminate arbitrarily or unjustifiably between WTO members that apply identical or similar measures. It encourages members to base their domestic measures on international standards, guidelines and recommendations where these exist. Members may introduce or maintain higher standards if there is scientific justification, or if a ***risk assessment*** has shown that this is appropriate. An importing country must consider the standards applied by an exporting country as equivalent to its own standards if the exporting country can demonstrate that this is the case. The Agreement sets out detailed procedures governing the ***transparency*** of regulations, ***notifications*** and the establishment of national ***enquiry points***. See also ***acceptable level of risk***, ***appropriate level of sanitary or phytosanitary protection***, ***equivalence***, ***International Office of Epizootics*** and ***International Plant Protection Convention***. [Anderson, McRae and Wilson 2001, Marceau and Trachtman 2002, Peel 2004]

Agreement on the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area: see **AFTA**.

Agreement on the Importation of Educational, Scientific and Cultural Agreements: see ***Florence Agreement***.

Agreement on Trade in Civil Aircraft: one of the ***WTO plurilateral agreements***, originally concluded as part of the ***Tokyo Round***. Members of the Agreement undertake to eliminate all customs duties and other charges on (a) civil aircraft, (b) civil aircraft engines, parts and components, (c) other parts, components and sub-assemblies of civil aircraft and (d) ground flight simulators. The Agreement requires that purchasers should be free to select suppliers on the basis of commercial and technological factors, and without ***quantitative restrictions***. WTO rules on ***subsidies*** apply. See also ***EU–US aircraft agreement*** and ***Large Aircraft Sector Understanding***.

Agreement on Trade in Large Aircraft: see ***EU–US aircraft agreement***.

Agreement on Trade-Related Aspects of Intellectual Property Rights: TRIPS. A WTO agreement concluded during the ***Uruguay Round***. It was negotiated to deal with a growing tension in international trade arising from widely varying standards in the protection and enforcement of ***intellectual property rights*** and the lack of multilateral rules on international trade in counterfeit goods. Part I of the Agreement deals with general provisions and basic principles. It states that the Agreement applies to ***copyright*** and related rights, ***trademarks***, ***geographical indications***, ***industrial designs***, ***patents***, ***layout-design of integrated circuits*** and protection of ***trade secrets***. Standards of protection to be applied are those of the ***Paris Convention*** (1967 revision), the ***Berne Convention*** (1971 revision), the ***Rome Convention*** and the ***Treaty on Intellectual Property in Respect of Integrated Circuits***, but there is no need to accede to these instruments

to satisfy the Agreement. Members are free to determine the appropriate method to implement the provisions of the Agreement within their own legal system and practice. Part II covers the standards to be applied to the availability, scope and use of intellectual property rights. Among these are that copyright protection must be for at least 50 years. Initial registration of trademarks must be for at least seven years, followed by an indefinite number of renewals also of at least seven years. Members have to protect geographical indications, and additional protection is available for geographical indications for wines and spirits. Protection must be given for independently created industrial designs that are new and original. Patents must be "available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step, and are capable of industrial application". The term of protection for patents is at least 20 years from the date of filing. The term of protection for lay-out designs (topographies) of integrated circuits is ten years from the date of filing or the date of the first commercial application. Undisclosed information must be protected against unfair competition as provided in the Paris Convention. Special mention is made of undisclosed test or other data submitted as a condition of approving the marketing of pharmaceutical or agricultural chemical products which utilize new chemical entities. The Agreement recognizes that "some licensing practices or conditions pertaining to intellectual property rights which restrain competition may have adverse effects on trade and may impede the transfer and dissemination of technology", and it seeks to minimize such problems through a right to consultations. The means of enforcement of intellectual property rights outlined in Part III of the Agreement include administrative, civil and criminal remedies. Detailed provisions apply to preventing trade in counterfeit or pirated goods. The normal WTO procedures apply to the settlement of disputes. ***Least developed countries*** had until the end of 2005 to meet the obligations of the Agreement. Finally, the Agreement establishes the ***Council for TRIPS***. See also ***access to medicines***, ***industrial property*** and ***intellectual property***. [Gervais 2003, World Trade Organization 1999a]

Agreement on Trade-Related Investment Measures: TRIMS. A WTO agreement concluded during the ***Uruguay Round***. It aims to eliminate conditions attaching to permission to invest that may distort or restrict trade in goods. The annex to the Agreement contains an illustrative list of TRIMS deemed inconsistent with Article III (National Treatment) and Article XI (General Elimination of Quantitative Restrictions) of the ***GATT***. These are (a) requirements that an enterprise must use a defined amount of products of domestic origin, (b) permission to import related to export performance, and (c) any requirements related to ***quantitative restrictions*** of imports. The Agreement also raises in Article 9 the possibility that at a later stage it might include provisions on ***investment*** and ***competition policy***. See also ***foreign direct investment***, ***local content requirements***, ***Singapore issues*** and ***trade-balancing requirement***.

Agreement Regarding International Trade in Textiles: see ***Multi-Fibre Arrangement***.

Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry: see ***OECD shipbuilding agreement***.

Agricultural export subsidies: a benefit paid by governments to producers or exporter of agricultural commodities to ensure that their surpluses, usually produced at costs above world market prices, find a market somewhere. This happens, for example, under the ***Common Agricultural Policy***. Agreement was reached in 2006 in the ***Doha Development Agenda*** negotiations to eliminate agricultural export subsidies by 2013, but the temprorary suspension of the negotiations led to some uncertainty about this commitment. See also ***agricultural subsidies***, ***agriculture and the multilateral trading system*** and ***subsidy***.

Agricultural Market Access Database: AMAD. Contains information on ***tariff*** and ***non-tariff measures*** for more than fifty countries. The database is hosted by the ***OECD***. It uses material supplied by Agriculture and AgriFood Canada, the Directorate-General of Agriculture in the ***European Commission***, the ***Food and Agriculture Organization***, the ***OECD***, the ***World Bank***, ***UNCTAD*** and the Economic Research Service of the United States Department of Agriculture. [www.amad.org]

Agricultural products: these are defined in Annex 1 to the WTO ***Agreement on Agriculture*** as mainly the products listed in chapters 1 to 24 of the ***Harmonized System***. The group includes both raw and processed products, but it excludes forestry and fishery products.

Agricultural subsidies: assistance given to farmers governments, mostly through monetary payments, but sometimes in kind, such as favourable freight rates. Agricultural subsidies typically include (a) incentives to keep growing a product, grow more of it or switch to producing another, (b) income support to ensure that the standard of living of farmers is comparable to that of city dwellers, and (c) payments to ensure that the farming produce finds a market, either at home or abroad. Thus the main forms of agricultural subsidies are production subsidies, income-support payments and marketing and/or export subsidies. All of them are funded through national treasuries and therefore the tax payer. Income equalization sometimes also is a disguised subsidy. As the incomes of farmers can vary greatly from year to year, income tax payable may be low in some years, but high in others. Income equalization schemes allow farmers to even out their incomes over several years and in this way minimize their taxes. Agricultural subsidies are necessary where the farming sector cannot compete against the imported product. Reasons for this may be inefficiency, an inability to compete with subsidized imports or consumer preferences for an imported product. Hence subsidies related to production are often accompanied by ***import restrictions***, such as ***quotas***, ***tariff rate quotas***, high tariffs generally and ***seasonal tariffs***. Some say that ***sanitary and phytosanitary measures*** are being used for this purpose also. Agricultural subsidies tend to be expensive. This is the main reason why some countries have started to reform their support regimes. ***Decoupling*** can be an important step. The farmer still receives a subsidy, but the amount is no longer linked to production quantities or acreages. The WTO ***Agreement on***

Agriculture seeks to deal with agricultural subsidies through classifying them into "boxes" according to their purpose and impact. Those falling into the ***green box*** are permitted without limit. Subsidies belonging to the ***blue box*** are considered minimally trade-distorting because they are related to the imposition of production limits. ***Amber box*** subsidies must be reduced in accordance with commitments made during the ***Uruguay Round***.

Agriculture and the multilateral trading system: the rules of the GATT do not distinguish between agricultural and other products except in minor ways. Article XI requires the general elimination of all ***quantitative restrictions***, but Article XI:2 permits some import and export restrictions on agricultural products under closely defined conditions. Article XVI (Subsidies) enjoins parties to avoid the use of subsidies on the export of ***primary products***, and Article XX (General Exceptions) allows members to suspend some of their obligations to comply with measures they have accepted as part of their membership of ***international commodity agreements***. Trade under these agreements was effectively not subject to GATT rules. For the first few years of the GATT's existence agricultural production and trade in agricultural products did not cause any real difficulties. Western Europe was still recovering from the effects of the late war, and there were as yet few hints of the persistent surpluses that were to be a feature of world agricultural trade a decade later. In particular, there seemed to be markets for United States domestic surpluses, except for dairy products. By the time of the 1955 ***GATT review session***, there was a feeling among members that the time had come also to bring commodity arrangements under the supervision of the GATT. The United States, however, had run into a problem. Domestic production ran persistently ahead of consumption, and its import market was attractive to foreign suppliers. The 1951 Trade Act specifically held that new trade agreements could not be made in contravention of existing United States agricultural programs. The ***import restrictions*** permitted under GATT Article XI:2 appeared insufficient to deal with this problem. In 1951 the United States had been granted a ***waiver*** from the GATT rules to impose import restrictions on dairy products. This was superseded by a request in 1954, and granted in 1955, for a waiver without a time-limit until it would be able to bring the provisions of the *Agricultural Adjustment Act* into line with GATT obligations. This was the ***Section 22 waiver***. The United States was now permitted to impose import restrictions on agricultural products as it deemed necessary. This action created a precedent for the treatment of agriculture under GATT rules. For example, when Switzerland acceded provisionally to the GATT in 1958, it obtained a ***carve-out*** for its entire agricultural sector. Nevertheless, the remainder of the GATT membership continued its search for an international regime for trade in commodities. A proposal had emerged in early 1955 for a ***Special Agreement on Commodity Arrangements*** (SACA). It contained a mechanism for dealing with disequilibria between production and consumption of primary commodities, including the possibility of commodity arrangements. Whether this arrangement would have existed side by side with the GATT, or whether

it would have been subordinate to it, was never made clear. In any case, whatever the merits of the proposal, this did not matter, since it did not enter into force. There were those who considered that they would fare better under the existing GATT provisions. Others saw no point in proceeding once the United States made it clear that it was not interested in becoming a member of SACA. Attempts over the next three decades to impose GATT disciplines on agricultural trade fell well short of this proposal. An initiative later in 1955 to deal with the problem of surplus disposal, particularly under United States acts such as ***PL 480***, petered out after several years of discussion. The next attempt to deal with the problem of agricultural trade came with the commissioning of the ***Haberler Report*** in 1957. It was aimed particularly at analysing the failure of the trade of developing countries to develop as rapidly as that of industrialized countries, excessive short-term fluctuations in the price of primary products and widespread resort to agricultural protection. The panel report, titled *Trends in International Trade*, was issued in October 1958. It argued, among other things, for a moderation of agricultural protectionism in North America and Western Europe, and its overall tenor was in favour of ***trade liberalization***. Though the Report was universally welcomed, its influence turned out to be quite small. A committee was indeed established to consider the Report's recommendations in detail, and this led some to believe that a solution was nearer. Analysis and discussion there were, but the most that can be said about the longer-term effect of the Haberler Report is that it can be regarded as the first step towards the launch of the ***Dillon Round*** in 1960. In any case, by that time Western Europe's complete recovery from the effects of the war and the establishment of the ***European Economic Community*** had led to a new situation in global agricultural trade. The introduction of the ***Common Agricultural Policy*** with its ***variable levies*** and domestic support measures meant that the Community joined the United States in contributing to global trade distortions. Next, the ***Kennedy Round***, launched in 1963, appeared to offer another opportunity to sort out agriculture. One of its objectives was the adoption of measures for access to markets for agricultural and primary products. It began badly with the outbreak of the ***Chicken War***, a dispute between the United States and the European Economic Community over the sudden closure of German and other European markets for poultry through the operation of variable levies. The outcome on agriculture of the Kennedy Round was poor. Its main achievement was creating the impetus for the eventual conclusion of a new *International Grains Arrangement*. The mandate for the ***Tokyo Round*** (1973–1979) included negotiations on agriculture, taking into account the special characteristics and problems in this sector. These negotiations again ended in failure. The conclusion of the *Agreement Regarding Bovine Meat* and the *International Dairy Arrangement* introduced a fragile peace into these trades, but they did not deal with the underlying problems of domestic over-production, ***export subsidies***, import restrictions and other measures characterizing agricultural trade. The Tokyo Round ended with agreement that there should be continuing negotiations on the development of a ***Multilateral***

Agricultural Framework aimed at avoiding endemic political and commercial confrontations in this area. Negotiations were rejoined, but not to any effect. As noted by Hudec, Kennedy and Sgarbossa, there had been 100 disputes in the GATT concerning agriculture between 1947 and the early 1980s, accounting for nearly 43% of all reported disputes. The United States and the European Economic Community had been involved either as a complainant or a respondent in 87 of them. A new start to finding a solution to the problems of agricultural trade was clearly necessary. The 1982 GATT Ministerial Meeting agreed on a work program for the examination of all matters affecting trade, market access, competition and supply in agriculture. A working party made recommendations in 1984 concerning better market access, greater export competition, clearer rules on quantitative restrictions and subsidies, and more effective special treatment for developing countries. The report containing these recommendations was adopted in the same year. These recommendations then receded into the background as negotiations began for what became the mandate of the ***Uruguay Round***, but they provided in effect a draft set of negotiating objectives for the Round when it was launched in 1986. Ministers agreed at Punta del Este that negotiations should aim to achieve greater liberalization of trade in agriculture and to bring all measures affecting import access and export competition under strengthened and more operationally effective GATT rules and disciplines. Attention would be given to the reduction of import barriers, a better competitive environment and the effects of ***sanitary and phytosanitary measures***. Another new factor now entered into play. In the Kennedy and Tokyo Rounds the negotiations on agriculture were conducted mainly between the European Economic Community and the United States. Other agricultural traders existed very much at the margin of these negotiations. The formation immediately before the launch of the Uruguay Round of the ***Cairns Group***, a group then consisting of fourteen agricultural producers and exporters, ensured that there would be an influential and moderating third voice. Agriculture was one of the most difficult negotiating subjects during the Uruguay Round. The issues were well understood, but no real progress was made until the European Community had accepted that changes to the Common Agricultural Policy were necessary for internal budgetary reasons alone, and that reductions in price supports were possible without tearing the Community's social fabric apart. Even then, the ***European Commission*** had great difficulty obtaining a negotiating mandate from the member states. Its difficulties in participating meaningfully in the agricultural negotiations led to the collapse of the Brussels Ministerial Meeting in December 1990. Matters were not helped by adherence by the United States to its objective of zero subsidies, something that observers doubted it would be able to deliver even in respect of its own practices. The Round then effectively marked time until the ***Blair House Accord*** in November 1992. Negotiations remained difficult, and some changes in favour of the European Community were made to this accord in December 1993. This allowed concluding the Round within a few days. Trade in all agricultural products is now covered by GATT rules, but extensive further

negotiations will be required to achieve a trade regime resembling that for industrial products. Negotiations on agriculture resumed on 1 January 2000 under ***Article 20*** (the ***continuation clause)*** of the WTO ***Agreement on Agriculture.*** These negotiations are now part of the ***Doha Development Agenda***. See also ***Baumgartner proposals***, ***Mansholt proposals*** and ***Ploughshares War***. [Hudec, Kennedy and Sgarbossa 1993, Ingco, Nash and Cleaver 2004, Josling, Tangermann and Warley 1996, Croome 1995, Melaku Geboye Desta 2002, Preeg 1970, GATT 1959]

Aid for Trade Initiative: an outcome of the WTO ***Hong Kong Ministerial Conference***. Paragraph 57 of the ministerial declaration states that "Aid for Trade should aim to help developing countries, particularly LDCs, to build the supply-side capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO Agreements and more broadly to expand their trade". See also ***developing countries and the multilateral trading system***.

Aim and effect: a test used in some GATT dispute settlement proceedings to ascertain whether there is possible *de facto* ***national treatment*** discrimination. For example, a measure might have the aim of affording protection, but its effect may be to discriminate in favour of the domestic product. [Cossy 2006]

AITIC: Agency for international trade information and cooperation. A Swiss-financed agency based in Geneva which aims to assist ***less-advantaged countries*** to play a more active role in the work of the WTO and other trade-related organizations. AITIC became an ***intergovernmental organization*** in December 2002.

ALADI: Asociación Latinoamericana de Integración. The Latin American Integration Association (LAIA). Formed in 1980 by Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela following the collapse of ***LAFTA*** (Latin-American Free-Trade Association). The objective of ALADI, as set out in the Treaty of Montevideo, is to pursue the gradual and progressive establishment of a Latin-American ***common market***. ***Mercosur*** is seen as a step towards achieving this objective. ALADI's secretariat is located at Montevideo. See also ***South American Free Trade Agreement***.

Alliance for Progress: initially a ten-year development plan for Latin America containing economic and social objectives. It was launched by President Kennedy in 1961. Among other aims, it was to find "a rapid and lasting solution to the grave problem created by excessive price fluctuations in the basic exports of Latin American countries" and to accelerate the economic integration of Latin America. Some progress was made over the years, but when the Alliance for Progress was formally ended in 1980, many thought that its achievements fell short of its aims. See also ***Andean Trade Preference Act***, ***Andean Trade Promotion and Drug Eradication Act***, ***Caribbean Basin Initiative***, ***Enterprise for the Americas Initiative*** and ***FTAA***.

Alliance for Strategic Products and Special Safeguard Mechanism: a group of developing countries formed at the ***Cancún Ministerial Conference***. It is now known as the G-33, but it has more than forty members. The Alliance

has three main aims. First, developing countries should be able to nominate a certain number of agricultural ***tariff lines*** as special products. These would not be subject to tariff reductions. Nor would there be any new commitments to liberalize ***tariff rate quotas*** for these products. Second, ***special agricultural safeguards for developing countries*** should be created to protect their markets against cheap and subsidized agricultural imports. Third, products designated as special products should have access to the special safeguard mechanism. See also ***Doha Development Agenda***.

Alliance of Small Island States: AOSIS. See ***small island developing states***.

ALOP: see ***appropriate level of sanitary and phytosanitary protection***. Also known as ***acceptable level of risk***. See also ***precautionary principle*** and ***sanitary and phytosanitary measures***.

Alternative dispute resolution: a method of settling disputes through ***arbitration***, ***consultation***, ***dispute mediation***, etc., outside the formal framework of court proceedings. The parties to the dispute usually appoint a disinterested person who attempts to bring down an outcome based on fairness and equity. Alternative dispute resolution only works if the parties are genuinely committed to finding a solution and to accept a negotiated outcome since such awards are in most cases not enforceable through courts. One such mechanism is ***SOLVIT*** under which natural and legal persons residing in the ***European Community*** can seek redress against the misapplication of internal market rules by another member state. See also ***dispute settlement*** and ***International Court of Arbitration***.

Alternative specific tariff: a tariff rate set either at an ***ad valorem*** rate, i.e. expressed as a percentage of the value of the product, or at a specific rate, i.e. set as a fixed monetary rate per article. The customs authorities then usually apply the higher of the two. See also ***ad valorem tariff*** and ***specific tariff***.

Amber box: refers to domestic support measures for agriculture that distort production and trade, including price support and subsidies directly related to production quantities. They may have to be reduced through the ***Total Aggregate Measurement of Support***. See also ***blue box*** and ***green box***.

Amendments to WTO agreements: the following WTO provisions may only be amended by agreement of all members: Article IX (Decision-Making) of the ***WTO Agreement***, Articles I (General Most-Favoured-Nation Treatment) and II (Schedules of Concessions) of the ***GATT 1994***, Article II:1 (Most-Favoured-Nation Treatment) of the ***General Agreement on Trade in Services***, and Article 4 (Most-Favoured-Nation Treatment) of the ***Agreement on Trade-Related Aspects of Intellectual Property Rights***. Amendments to other provisions of the WTO multilateral agreements may be made by a two-thirds majority. Each member then has to conclude separate formalities to accept the amendment. The Marrakesh Agreement enables the ***WTO Ministerial Conference*** to decide by a three-fourths majority that any member not accepting an amendment within a certain time may be free to withdraw from the WTO or to remain a member anyway. All WTO members have one vote. The ***European Communities*** are entitled to a number of votes equalling the number of their member states. Amendments

to the ***WTO plurilateral agreements*** are made under the provisions contained in these agreements. See also ***decision-making in the WTO***.

American Selling Price: ASP. Until 1979 a method under the United States Fordney-McCumber Tariff Act of 1922, and carried over into the Tariff Act of 1930, for valuing some goods at the border for the purpose of levying customs duties. Duty assessments were based on the usual wholesale price, including preparation for shipping, at which an article manufactured in the United States was offered on the domestic market. The effect of this system could be a duty rate two to three times higher than if the method of valuation set out in GATT Article VII (Customs Valuation) had been chosen. The ASP was abolished through the *Trade Agreements Act* of 1979 by which the United States accepted the rules set out in the ***Tokyo Round*** *Agreement on Implementation of Article VII [customs valuation]*.

***Amicus* brief:** an opinion offered to the court by a disinterested party (called *amicus curiae* or friend of the court) in the hope that this would assist the judges in arriving at the best possible outcomes. Courts don't always welcome being helped in this way. [Barfield 2001, Mavroidis 2001]

Amicus curiae: see ***amicus brief***.

Analogue country: sometimes also called surrogate country. This describes the country selected by anti-dumping authorities for the purpose of price comparison when they consider that the price information available from the country of origin of the goods would not yield useful results. See ***anti-dumping measures***.

Andean Community: the Cartagena Agreement of 26 May 1969 established the Andean Pact, sometimes known as Andean Group, as a sub-group of ***LAFTA*** (Latin American Free Trade Area). The Agreement aims to coordinate the industry and foreign investment policies of its members. Current members are Bolivia, Columbia, Ecuador, Peru and Venezuela. Chile was a member from 1969 to 1976. An Andean Free Trade Area was established on 1 January 1992, followed by the adoption of a ***common external tariff*** on 1 January 1995. On 1 January 1997 the arrangement evolved into the Andean Community. Its secretariat is located in Lima.

Andean Free Trade Area: see ***Andean Community***.

Andean Integration System: an umbrella body established by the ***Andean Community*** in 1997 which covers all of the Community's institutions and mechanisms. Its aim is to intensify regional integration.

Andean Pact: see ***Andean Community***.

Andean Trade Preference Act: ATPA. A United States act of 1991 which gave trade preferences for ten years to products from Bolivia, Colombia, Ecuador and Peru to encourage the development of licit trade. It was modelled on the ***Caribbean Basin Initiative***. It was renewed and amended in 2002 as the ***Andean Trade Promotion and Drug Eradication Act***.

Andean Trade Promotion and Drug Eradication Act: ATPDEA. Passed by the United States Congress in August 2002 to amend and renew the trade preferences given to Bolivia, Colombia, Ecuador and Peru under the ***Andean Trade***

Preference Act (ATPA) until 31 December 2006. The Act distinguishes between ATPA and ATPDEA status. Separate criteria must be met to qualify for the latter. ATPDEA was extended in December 2006 for six months. A further extension of six months is possible if the United States and the other countries complete the legislative processes towards a ***Trade Promotion Agreement***. This has happened so far in the case of Colombia and Peru.

Andriessen Assurance: an arrangement negotiated in 1985 between the ***European Economic Community*** (EEC) and Australia which keeps certain Asian beef markets free of ***subsidies***. Named after Frans Andriessen who was EEC Commissioner for Agriculture at the time.

Animal welfare: a subject proposed by the ***European Community*** and Switzerland with the support of European ***non-governmental organizations*** for inclusion as a ***non-trade concern*** in the WTO negotiations on agriculture. Supporters of this proposal argue that the absence of a framework in the WTO for discussing farm animal welfare, the domestic animal welfare standards already achieved by them could be undermined by imports from countries where these standards are much lower. One of the solutions offered in response to criticism that such proposals may amount to hidden protectionism is to pay some sort of compensation to producers where these can show additional costs because of the need to maintain higher standards. This could be done through accommodating such payments in the ***green box***.

Annecy Tariff Conference: the second of the nine rounds of ***multilateral trade negotiations***. It was held at Annecy, France, from April to August 1949. It primarily aimed to facilitate accession to the GATT by ten countries (Denmark, Dominican Republic, Finland, Greece, Haiti, Italy, Liberia, Nicaragua, Sweden and Uruguay) which had not participated in the 1947 Geneva tariff negotiations. In the event, Uruguay did not accede until 1953. See also ***Tariff Conference***.

Annex on Telecommunications: an annex to the ***General Agreement on Trade in Services*** which requires WTO members (a) to ensure ***transparency*** in their regulation of telecommunications, (b) give access to other members to public telecommunications transport networks and services on reasonable and non-discriminatory terms and conditions, and (c) to encourage and engage in technical cooperation.

Annexes to the General Agreement on Trade in Services: see ***General Agreement on Trade in Services***.

Annex I countries: so named after their inclusion in Annex I of the ***United Nations Framework Convention on Climate Change***. They are Australia, Austria, Belarus, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, European Union, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and the United States.

Annex II countries: in the ***United Nations Framework Convention on Climate Change*** the ***OECD*** member countries.

Annex VII countries: refers to the countries listed in Annex VII to the WTO ***Agreement on Subsidies and Countervailing Measures***. They are (a) the ***least developed countries*** so designated by the United Nations that are members of the WTO and (b) Bolivia, Cameroon, Congo, Côte d'Ivoire, Dominican Republic, Egypt, Ghana, Guatemala, Guyana, India, Indonesia, Kenya, Morocco, Nicaragua, Nigeria, Pakistan, Philippines, Senegal, Sri Lanka and Zimbabwe. The least developed countries are exempt from the prohibition on export subsidies. The others are exempt until their GNP per capita reaches $1,000 per year.

Anti-absorption: measures taken by the relevant authority to prevent perceived ***absorption*** of ***anti-dumping measures*** by the producers or exporters of the good in question. In other words, if the producer or exporter is thought to carry himself the burden of anti-dumping duties, the authorities may in some cases decide to increase these duties. See also ***anti-circumvention***.

Anti-circumvention: measures by governments to prevent ***circumvention*** of measures they have imposed, such as definitive ***anti-dumping duties***. Sometimes firms seek to avoid such duties through, for example, assembly of parts and components either in the importing country or a third country, or by shifting the source of manufacture and export to a third country. The term as used in the WTO does not refer to cases of fraud. These would be dealt with under normal legal procedures of the countries concerned. The ***Agreement on Agriculture*** contains an anti-circumvention provision. It stipulates that export subsidies not listed in the Agreement must not be used to circumvent export subsidy commitments. Nor must non-commercial transactions be used in this way. See also ***anti-dumping measures***, ***carousel effect***, ***dumping*** and ***screwdriver operations***.

Anti-collusion duties: proposed by some as duties small developing countries could impose on developed-country suppliers found to engage in ***price collusion***. Such duties would apparently be aimed at depriving colluding foreign suppliers of some unearned profits. The idea appears to be flawed. First, the proposed remedy would mainly be at the expense of users in the importing country and quite possibly to the benefit of other suppliers. Second, it is not clear how small developing countries, which often do not have adequate resources to fight collusion among domestic companies, could satisfactorily detect collusion among suppliers abroad. Price collusion is more likely to occur where there are substantial barriers to entry, where industries are protected or where markets are not transparent. Therefore, if collusion is suspected, the first step might usefully be to ascertain how the relevant market might be made more competitive and transparent. See also ***antitrust laws*** and ***competition policy***.

Anti-competitive practices: often called ***restrictive business practices*** or unfair business practices. These are used by firms to limit their exposure to price mechanisms. This is possible when firms, or groups of firms, have ***market dominance*** or ***market power***. In some cases, it may involve collusion among firms.

See also ***antitrust***, ***cartel***, ***competition law***, ***conduct*** and ***trade and competition policy***.

Anti-dilution doctrine: see ***dilution doctrine***.

Anti-Dumping Act of 1916: enacted by the United States Congress under the heading of "Unfair Competition" in Title VIII of the Revenue Act of 1916. The Act makes unlawful the import into the United States of any article at a price substantially less than the actual market price, if this is done with the intent of destroying or injuring an industry, preventing the establishment of an industry or restraining or monopolizing any part of trade and commerce in such articles in the United States. The penalty can be a fine, imprisonment or both. Persons injured by such imports may sue for ***treble damages***. The Act is drafted in the form of an ***antitrust*** law, but its intent is to permit the imposition of ***anti-dumping measures*** against a practice usually considered ***dumping***. This question was considered by the ***panel*** in a dispute about the conformity of this Act with the WTO anti-dumping provisions. The panel found that the transnational price discrimination test met the GATT definition of dumping, but that its remedies violated the WTO rules. [WT/DS136/R, WT/DS136/AB/R, WT/DS136/ARB]

Anti-Dumping Agreement: the WTO *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* which sets out the conditions under which ***anti-dumping measures*** may be imposed. See also ***dumping***.

Anti-dumping duties: the duties imposed on a good following a determination that ***dumping*** has occurred and that this has led to ***injury*** or a threat of injury. Anti-dumping duties may be provisional or definitive. See also ***determination of dumping***.

Anti-dumping measures: laws and regulations designed to counter ***dumping***. In the United States anti-dumping laws originated as part of the early ***antitrust*** laws. One of these is the ***Anti-Dumping Act of 1916***. These laws were aimed at pulling into line foreign firms perceived to be undercutting United States firms through anti-competitive practices described as ***dumping***. Gradually, however, firms began to understand the value of anti-dumping measures in restricting imports, and the two regimes diverged. In other countries the main reason for enacting anti-dumping laws always was an intent to afford protection to domestic firms. Article VI of the GATT 1994 permits the imposition of anti-dumping duties against dumped goods, if dumping causes ***material injury*** to producers of competing products, described as ***like products***, in the importing country. This is known as ***causality***. The WTO ***Anti-Dumping Agreement*** (formally the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*) lays down precise and transparent procedures for the adoption of anti-dumping measures. Some sophisticated methods have been developed to measure alleged differences in prices and to determine injury. Anti-dumping measures may be instituted if the price charged to the importing country by a foreign firm is below ***normal value*** in its home country. Normal value is made up of fixed and variable costs of production, plus a range of other costs normally associated with production and trade. If there are too few domestic sales,

normal value is to be taken to be the highest comparable charge in third markets or the exporting firm's estimated costs of production plus a reasonable amount to cover other expenses, as well as imputed profits. If there is no export price or if trade is between related parties and therefore considered unreliable as a price indicator, the export price may be constructed on the basis of what would have been charged to an independent buyer, or on some other reasonable basis. The scope for disputes about the right level of normal value is readily apparent. The concept of material injury to industries producing like products is equally fruitful of controversies. Neither the GATT nor the Anti-Dumping Agreement define material injury, but the latter contains an illustrative list of factors to be taken into account in an assessment of whether material injury has occurred. The list, which is not considered exhaustive, includes actual and potential decline in sales, profits, output, market share, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; the magnitude of the ***margin of dumping***; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments. Much has been written about the meaning of "like products", and whether it should be interpreted as the same product, a similar product or a different product put to the same use or achieving the same purpose. The Anti-Dumping Agreement now leaves no doubt on this point. The like product must be identical, i.e. alike in all respects. If there no such product, another may be chosen for comparison which, even though not alike in all respects, has characteristics closely resembling the product under consideration. Anti-dumping measures may only be taken to the extent that they cover the margin of dumping, i.e. the difference between normal value and the price at the border in the importing country, adjusted for specified normal costs associated with international trade. If the investigating authority finds that there has been dumping, the resulting protection for domestic industries on the basis of anti-dumping measures can be quite limited. Under the WTO rules, a good case for them has to be made, and there is provision for appeals by the affected parties. The Anti-Dumping Agreement stresses that an application for the imposition of anti-dumping measures must include evidence of dumping, injury and a causal link between the two. A simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet the requirements. An application has to be made by domestic industry. No action may be taken if it is supported by firms representing less than 25% of total production of the like product. Under the rule on ***de minimis dumping margins***, no action may be taken if the margin of dumping is less than 2%. Anti-dumping action remains controversial. Affected firms and their home countries sometimes see them mainly as a means to restrain unwelcome imports. Doubtless, there is some truth in this. Some petitions are frivolous and nothing more than ***trade harassment***. As a form of ***contingent protection***, they enable governments to restrict the flow of imports. This is understood clearly by petitioners. A particularly disliked practice is the ***cumulative assessment of dumping***. This means that the country taking action may under defined conditions investigate alleged

dumping by several countries at the same time. Hoekman, commenting on the detailed procedural requirements set out in the Anti-dumping Agreement, notes that this has become a lucrative area of specialization for the legal profession in territories that actively use anti-dumping measures. Anti-dumping enquiries can serve ***transparency*** by demonstrating to the exporting company suspected of dumping what its real cost structure is. This can lead to alternative approaches to production and trade regimes which might reduce or eliminate the need for anti-dumping measures. Marceau points out that dumping and anti-dumping laws are not just about price discrimination and predation. They are "buffers" between national systems of competition. Other analysts are more severe. J. Michael Finger says that "antidumping is ordinary protection with a grand public relations program", and that "antidumping is a trouble-making diplomacy, stupid economics and unprincipled law". That said, all mechanisms enabling governments to influence the flow of imports create ill-will. In the case of anti-dumping measures, exporters complain of their trade-restrictive impact, but industries in the importing country tend to see them as a cumbersome and onerous means to fix urgent problems. In some cases, a company asking for anti-dumping measures may at the same time be accused of dumping in another market. Consumers seldom call for anti-dumping measures. There will always be some contradictions inherent in the taking of anti-dumping measures. Today, there is a view among some trade policy makers that ***competition policy*** could be a better instrument to deal with dumping issues. This supposes that all WTO members would be willing to pursue effective competition policies, or that they would be willing to enforce each other's competition rulings. Reconciling the different outcomes caused by anti-dumping measures and competition enforcement is an argument for negotiations on ***trade and competition***, but those who are comfortable with their anti-dumping regimes do not find the argument persuasive. In the United States anti-dumping laws and antitrust laws have a common origin. Many argue that until the two are re-united, the anti-dumping rules offer a somewhat transparent, if legalistic and sometimes flawed, mechanism to deal with some of the concerns raised by producers. The anti-dumping rules are to be clarified as part of the multilateral trade negotiations launched at Doha in November 2001. See also ***accordion of likeness***, ***Agreement on Safeguards***, ***analogue country***, ***boomerang clause***, ***competition policy and anti-dumping measures***, ***de minimis dumping margins***, ***lesser duty principle***, ***negligible imports*** and ***predatory pricing***. [Dam 2000, Didier 2001, Finger 1993, Hoekman 1995, Horlick and Sugarman 1999, Jackson and Vermulst 1990, Marceau 1994, Neufeld 2001, Sykes 1998]

Anti-globalization: a complex, often contradictory, view apparently based on the proposition that it is possible, through a combination of international economic cooperation and the pursuit of ***autarky***, to assist the development of ***developing countries*** and to preserve jobs at home. Views abound on how this should be done, and there is no unanimity among its proponents on the best way to achieve this aim. Some see the matter mainly in terms of a ***race to the bottom*** as production of some goods moves to developing countries. In this sense

anti-globalization is a type of ***protectionism***. Others complain that not enough is done to help developing countries to promote their economic development. This view would appear to support ***trade liberalisation***. Many adherents of anti-globalist views seem to be convinced that, but for the efforts of the WTO, the ***IMF***, the ***World Bank***, the ***G-7***, ***G-8*** and other economic groupings, their aims, however defined, would be realized speedily. Anti-globalists also tend to overstate, intentionally or otherwise, the ability of ***transational corporations*** to influence public opinion. Some of these corporations, of course, are quite adept at influencing political power. See also ***globalization***. [Deardorff 2003, Stiglitz 2002, Wolf 2004]

Antitrust Enforcement Guidelines for International Operations: a set of guidelines last reissued in April 1995 by the United States Department of Justice and the Federal Trade Commission. It gives guidance to businesses engaged in international operations on questions relating to the enforcement of ***antitrust laws***. The guidelines cover areas such as jurisdiction over ***conduct*** and entities outside the United States, ***comity***, mutual assistance in international antitrust enforcement and the effect of involvement by foreign governments on the antitrust liability of private entities. See also ***effects doctrine***, ***extraterritoriality***, ***negative comity*** and ***positive comity***.

Antitrust laws: often known as ***competition laws***. These laws are a subset of the rules making up ***competition policy***. They aim to promote a competitive environment for firms through ensuring that they do not abuse ***market power*** in domestic markets. In some countries, especially the United States, antitrust laws have an extraterritorial dimension. The term "antitrust" derives its origin from a perception in the United States in the 1880s and 1890s that some industries, then organized into large-scale trusts with interlocking directorships, were undermining price mechanisms. The ***Sherman Act***, passed in 1890, remains the cornerstone and symbol of United States antitrust laws. A 1994 House of Representative committee report notes that "first and foremost, antitrust is rooted in the distinctive American preference for pluralism, freedom of trade, access to markets, and – perhaps most important of all – freedom of choice". Penalties in proven cases of antitrust law infringement tend to be severe in many countries. In the United States, for example, the courts can impose ***treble damages*** on the offenders. See also ***cartel***, ***Clayton Act***, ***essential services doctrine***, ***extraterritoriality*** and ***Webb-Pomerene Act***. [Dabbah 2003, US House of Representatives 1994]

ANZCERTA: *Australia New Zealand Closer Economic Relations Trade Agreement*, usually referred to as CER. Entered into force on 1 January 1983. Trade in goods between the partners is free of ***tariffs***, and there are no ***quantitative restrictions***. The partners do not use ***anti-dumping measures*** against each other and rely on ***competition laws*** instead to the extent that dumping may be caused by anti-competitive behaviour. ***Countervailing duties*** may still be imposed. The parties accord each other ***national treatment*** in ***government procurement***. Services were brought under the ambit of the free-trade agreement in 1988 through the ***ANZCERTA Protocol on Trade in Services***.

ANZCERTA Protocol on Trade in Services: adopted in 1988 to bring ***trade in services*** within the ***ANZCERTA*** framework. The Protocol covers all services trade between Australia and New Zealand, except for a small number of specified activities listed in the two annexes where restrictions apply. No new activities may be added to the annexes. Periodic bilateral discussions have led to the removal or tightening of the inscriptions. See also ***negative listing***.

APEC: Asia Pacific Economic Cooperation [forum]. Established in 1989. Its members are described as "economies". The objectives of APEC include (a) sustaining growth and development in the region, (b) strengthening an open ***multilateral trading system*** rather than the formation of a regional trading bloc, (c) a focus on economic rather than security issues and (d) to foster constructive interdependence by encouraging the flow of goods, services, capital and technology. APEC objectives are defined further in the ***Seoul Declaration***. Following the terrorist attack on New York in 2001 APEC adopted a small security agenda and established a Counter-Terrorism Task Force. APEC's membership criteria adopted in 1997 are: (a) an applicant economy should be located in the Asia-Pacific region, (b) it should have substantial and broad-based economic linkages with the existing APEC members; in particular, the value of the applicant's trade with APEC members, as a percentage of its international trade, should be relatively high, (c) it should be pursuing externally oriented, market-driven economic policies, and (d) a successful applicant will be required to produce an ***Individual Action Plan*** (IAP) for implementation and to commence participation in the ***Collective Action Plans*** across the APEC work program from the time of its joining APEC. APEC's main agenda is to dismantle trade and investment barriers among all members by 2020. Developed economy members have undertaken to do so by 2010. Several working groups have also been established to advance cooperation across a range of issues, especially in the areas of business facilitation and information exchange. Members of APEC are Australia, Brunei Darussalam, Canada, Chile, China, Chinese Taipei (Taiwan), Hong Kong, Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Philippines, Russia, Singapore, Thailand, Vietnam and the United States. APEC Economic Leaders agreed at their meeting in Vancouver in November 1997 that no new members would be admitted until 2008. APEC is supported by a small secretariat based in Singapore. APEC's main meetings are hosted by one of the member economies for an entire year. This is APEC's main coordination mechanism. See also ***Auckland Challenge***, ***Bogor Declaration***, ***Manila Action Plan for APEC***, ***open regionalism***, ***Osaka Action Agenda***, ***Shanghai Accord*** and other entries beginning with ***APEC***.

APEC Blueprint for Action on Electronic Commerce: adopted in 1999. It established a detailed work program on electronic commerce based on the principle that governments, *inter alia*, would promote the development of electronic commerce by providing a favourable legal and regulatory environment. This environment is assumed to be predictable, transparent and consistent. The blueprint also contains the ***APEC paperless trading initiative***.

APEC Business Advisory Council: ABAC. Established at the November 1995 ***APEC*** Ministerial Meeting in Osaka to ensure the continued cooperation and active involvement of the business and private sectors in all APEC activities. Each economy has three ABAC members.

APEC Business Travel Card: ABTC. A scheme enabling *bona fide* business people from participating ***APEC*** economies to travel to other participating economies without the need to obtain visas. Holders of the card are given preferential immigration clearance in the form of a separate gate.

APEC Economic and Technical Cooperation: ECOTECH. One of the three pillars of the ***APEC*** work agenda. It aims to support the achievement of the APEC goals by developing common policy concepts, implementing joint activities and engaging in policy dialogue. It was established at the November 1995 APEC Ministerial Meeting. Cooperation activities take place in the areas of human resources development, industrial science and technology, small and medium enterprises, economic infrastructure, energy, transportation, tourism, telecommunications and information, trade and investment data, ***trade promotion***, marine resource conservation, fisheries, and agricultural technology. See also ***APEC working groups***, ***Bogor Declaration*** and ***Osaka Action Agenda***.

APEC Economic Leaders' Meetings: informal meetings of APEC leaders enabling them to share their visions for the Asia-Pacific region and provide directions for APEC's long-term development. Leaders' meetings have been held at Seattle (1993), Bogor (1994), Osaka (1995), Manila (1996), Vancouver (1997), Kuala Lumpur (1998), Auckland (1999), Brunei Darussalam (2000), Shanghai (2001), Mexico (2002), Bangkok (2003), Santiago (2004), Busan (2005) and Hanoi (2006). The 2007 meeting will be hosted by Australia, 2008 by Peru, 2009 Singapore and 2010 by Japan. See also ***Bogor Declaration*** and ***Osaka Action Agenda***.

APEC framework for liberalization and facilitation: the APEC process of liberalization and facilitation is to achieve the goals set out in the ***Bogor Declaration***, as described in the ***Osaka Action Agenda***. It comprises (a) actions by individual APEC economies, (b) actions by APEC fora and APEC actions related to multilateral fora. See also ***Manila Action Plan for APEC***.

APEC individual action plans: IAPs. These describe the voluntary actions by which APEC economies expect to reach the targets of the ***Bogor Declaration***. IAPs contain each economy's proposed action and, where appropriate, proposed collective action on trade and investment liberalization and facilitation. They contain steps to be taken in seventeen areas: tariffs, non-tariff measures, services, investment, standards and conformance, customs procedures, intellectual property rights, competition policy, government procurement, deregulation, rules of origin, dispute mediation, mobility of business people, implementation of the ***Uruguay Round*** outcomes, transparency, free-trade agreements and information-gathering and analysis. IAPs contain more detail on near-term actions. They are less specific on policies or directions for the long term. They are updated regularly. See also ***e-IAP*** and ***rolling specificity***.

APEC Information Notes on Good Practice for Technical Regulation: a compendium of resource and reference materials suitable for preparing, adopting or reviewing regimes for the regulation of products according to the ***APEC Principles and Features of Good Practice for Technical Regulation***. It was first issued in September 2000. One of its aims is to help ***APEC*** economies in meeting their obligations under the WTO ***Agreement on Technical Barriers to Trade***. [www.apecsec.org]

APEC model measures for RTAs/FTAs: see **model measures for RTAs/FTAs**.

APEC Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment: a non-binding arrangement which entered into force on 1 July 1999. It aims to streamline conformity assessment procedures for telecommunications and telecommunications-related equipment. It provides for the mutual recognition of conformity assessment bodies by the importing countries and mutual acceptance of testing and equipment certification procedures undertaken. APEC members can make the arrangement binding between themselves through an exchange of letters.

APEC Non-Binding Investment Principles: a voluntary code containing principles to be applied to investment flows, adopted in 1994. It aims to promote a policy environment characterized by increased confidence, reduced uncertainty and the liberalization and simplification of investment rules and policies. The principles include transparency, most-favoured-nation (MFN) treatment, establishment, national treatment, transfers, nationalization and compensation, performance requirements, taxation and investment incentives, dispute resolution, etc. See also ***World Bank Guidelines on the Treatment of Foreign Direct Investment***.

APEC Non-Binding Principles on Government Procurement: adopted in 1999. The set consists of six main principles. 1. *Elements of transparency:* sufficient and relevant information should be made available to all interested parties consistently and in a timely manner through a readily accessible medium at no more than reasonable cost. *2. Elements of value for money:* government procurement practices and procurement should achieve the best available value for money. The basis for comparison of offers should be benefits and costs on a whole-of-life basis, not simply the lowest price. *3. Elements of open and effective competition:* the government procurement regime should be open, and procurement methods should suit market circumstances and facilitate levels of competition commensurate with the benefits received. *4. Elements of fair dealing:* the design of the procurement system and the conduct of buyers should ensure that procurement is conducted in a fair, reasonable and equitable manner and with integrity. *5. Elements of accountability and due process:* procuring (buying) agencies and individual procuring personnel should be accountable to their governments, the end users, the public and suppliers for the efficient, cost-effective and fair conduct of their procurement. Mechanisms for scrutiny of the procurement process and avenues for review of complaints should be available. *6. Elements of non-discrimination:* procurement laws, rules and regulations should not be applied

to favour the suppliers of any particular economy. See also ***Agreement on Government Procurement***.

APEC paperless trading initiative: adopted in 1999 as part of the ***APEC Blueprint for Action on Electronic Commerce***. Members agreed to endeavour to reduce or eliminate the requirement for paper documents needed for customs and other cross-border trade administration by 2005 for developed economies and 2010 for developing economies. This initiative applies to sea, air and land transport.

APEC Principles and Features of Good Practice for Technical Regulation: adopted in September 2000. This document contains two principles held to show good regulatory practice. First, economies should consider alternatives to mandatory requirements. Alternative mechanisms could include reliance on systems of legal recourse, liability laws and liability insurance schemes, taxes, fees and other charges, education programs, co-regulation, voluntary standards, self-regulation and codes of practice. Second, the least interventionist and least trade-restrictive compliance regime necessary should be used to achieve the regulatory objective. Good regulations are described as transparent and non-discriminatory, performance-based, reflecting international standards or internationally aligned standards, reflecting only the standards necessary to achieve the legitimate regulatory objective and being subject to review. [www.apecsec.org]

APEC Principles of Interconnection: adopted on 14 May 1999. This set of eight principles requires major suppliers of ***basic telecommunications services*** (i.e. those able to set prices and control facilities) to establish conditions enabling users of one public telecommunications transport network to communicate effectively with users of another. The first five principles govern the conditions applying to interconnection which is to be provided at any technically feasible point in the network, under non-discriminatory and transparent conditions, to non-affiliated service suppliers at non-discriminatory rates and of a quality no less favourable than that provided to its affiliates, in a timely fashion and negotiations in good faith, and at cost-oriented rates. The remaining principles are that a major supplier may not engage in anti-competitive practices, that all interconnection agreements must be published, and that a service supplier requesting interconnection with a major supplier may resort to applicable dispute settlement mechanisms regarding appropriate terms, conditions and rates for interconnection within a reasonable time. See also ***reference paper on telecommunications services***. [www.apecsec.org]

APEC principles on transparency standards: formal name *Leaders' Statement to Implement APEC Transparency Standards*, adopted on 27 October 2002. The Statement commits APEC economies to the following principles on transparency in trade and investment liberalization and facilitation: (1) each economy will ensure that its laws, regulations, procedures and ***administrative rulings of general application*** will be published promptly either through official journals or the Internet, (2) each economy will publish relevant information in advance and give interested persons a reasonable opportunity to comment on them, (3) economies will endeavour to provide responses promptly to questions on its

laws and regulations, (4) persons of another economy directly affected by administrative proceedings should be notified and given an opportunity to present facts and arguments concerning their positions, (5) each economy to ensure that domestic procedures are in place to enable prompt review and correction of final administrative matters, other than those taken for sensitive prudential reasons, and (6) "administrative rulings of general application" are defined as administrative rulings or interpretations that apply to all persons and situations that fall generally within their ambit and that establish a norm of conduct. Confidential information is exempt from action under the Statement.

APEC Principles on Trade Facilitation: a non-binding set of principles adopted in Shanghai in 2001. The principles are: (a) transparency (information on laws, rules, regulations, etc.), (b) communication and consultations, especially with the business and trading community, (c) simplification, practicability and efficiency by ensuring that rules and procedures are no more burdensome or restrictive than necessary to achieve their objectives, (d) non-discrimination, (e) consistency and predictability to minimize uncertainty to the trade and trade-related parties, (f) harmonization, standardization and recognition on the basis of international standards where possible, (g) modernization and the use of new technology, (h) access to due process to enable seeking redress with respect to the administration of rules, and (i) cooperation among government authorities and business and trading communities. See also ***trade facilitation***.

APEC Principles to Enhance Competition and Regulatory Reform: a non-binding set of five principles adopted in Auckland in 1999. The principles are: *(1) non-discrimination* (competition and regulatory principles not to discriminate between economic entities, whether these are foreign or domestic), *(2) comprehensiveness* (broad application of the principles to goods and services, and private and public business activities), (3) *transparency* in policies and rules, (4) *accountability* (clear responsibility within domestic administrations for the implementation of the competition and efficiency dimension in the development and administration of policies and rules), and *(5) implementation* (take, *inter alia*, practical steps to promote consistent application of policies and rules, eliminate unnecessary rules and regulatory procedures, and improve the transparency of policy objectives). See also ***competition policy***.

APEC Statement on Trade and the Digital Economy: adopted by APEC economic leaders on 27 October 2002. Its general objectives are (a) to have the digital economy continue to flourish in a liberal and open trade environment, (b) market access and national treatment commitments across a broad range of relevant goods and services, (c) transparent, non-discriminatory and least restrictive regulations, (d) a long-term ***moratorium on customs duties on electronic transmissions***, and (e) economies to support demand-driven capacity-building projects to ensure that developing economies benefit fully from the ***new economy***. Specific objectives are for APEC economies to encourage others to pursue the same degree of openness as they are aspiring to through (a) liberalization of

trade in services, (b) enforcing the WTO ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** and joining the ***WIPO Copyright Treaty*** and the ***WIPO Performances and Phonograms Treaty*** as soon as possible, and (c) to join the WTO ***Information Technology Agreement***. [www.apecsec.org]

APEC Trade Facilitation Action Plan: a framework adopted in 2002 to reduce the cost of ***trade facilitation*** by 5% across the ***APEC*** region by the end of 2007. Actions and measures, which are voluntary, are to be taken under one of the following categories: movement of goods (includes customs, port, health and quarantine and similar procedures), standards, business mobility and e-commerce. The plan was extended for another five years in 2006 with a similar cost-cutting target.

APEC working groups: APEC has eleven working groups engaged in practical cooperation activities, such as preparation of technical manuals, information networks, training courses, etc. The eleven groups cover agricultural technical cooperation, energy, fisheries, human resources development, industrial science and technology, marine resource conservation, small and medium enterprises, telecommunications and information, tourism, trade promotion and transportation.

Appellate Body: an independent standing body of seven persons established under the WTO ***Dispute Settlement Understanding*** to hear appeals arising from ***panel*** decisions. The grounds for such appeals are confined to points of WTO law. The Appellate Body's members are persons of recognized authority with demonstrated expertise in law, international trade and relevant WTO agreements who are not affiliated with any government. When the Appellate Body was established, many thought that occasional cases only would be referred to it. That expectation was wrong. Today most WTO members tend to appeal against adverse panel decisions. See also ***dispute settlement*** and ***Dispute Settlement Body***. [Sacerdoti, Yanovich and Bohanes 2006]

Appellation d'origine contrôlée: AOC. Under the French *Code Rural* and the *Code de la Consommation* an ***appellation of origin*** which has been given legal protection following an examination by the *Institut national des appellations d'origine*. "Appellation of origin" is defined as "denomination of a country, a region or a locality which serves to designate a product originating therein, the quality and characteristics of which are due to the geographical environment, including natural and human factors". An *appellation*, once granted, does not attest to the quality of the wine, but it emphasises the strong connection between the product and the locality in which it was grown. Once an AOC has been granted, it can never become generic and fall into the public domain. The labels of products granted this status must conform to prescribed legal requirements. See also ***generic geographical indications*** and ***geographical indications***.

Appellations of origin: a category of ***indications of source*** which enjoys domestic protection under ***intellectual property*** laws. International protection can be achieved through multilateral treaties, such as the ***Paris Convention*** and the

Lisbon Agreement, or bilateral agreements. Protection in other countries is only available if the name is protected at home. Article 1 of the Paris Convention protects, among other types of industrial property, appellations of origin. It does not define the term, but it says that "industrial property shall be understood in the broadest sense . . . and shall apply to agricultural and extraction industries, and to all manufactured or natural products, for example, wines, grain, tobacco leaf, fruit cattle minerals, mineral waters, beer, flowers and flour". Article 2(1) of the Lisbon Agreement defines an appellation of origin as "the geographical name of a country, region, or locality, which serves to designate a product originating therein, the quality and characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors". Article 2(2) defines the country of origin as "the country whose name, or the country in which is situated the region or locality whose name constitutes the appellation of origin which has given the product its reputation". In other words, protection for an appellation of origin is available under the Lisbon Agreement if the product bearing it has characteristics which can be ascribed exclusively or essentially to the place where it comes from. These characteristics may be due to natural and human factors. Article 3 of the Lisbon Agreement requires protection "against any usurpation or imitation, even if the true origin of the product is indicated or if the appellation is used in translated form or accompanied by terms such as 'kind', 'type', 'imitation' or the like". Expressions such as "konjak" or "Bordeaux-type wine" would therefore not be acceptable under this Agreement. Under United States law the appellations of origin available for wine are (a) the United States, (b) a state, (c) two or no more than three adjoining states, (d) a county, (e) two or no more than two or three adjoining counties in the same state, and (f) a wine-growing area which can be distinguished by geographical features and which has recognized and defined boundaries. Ownership of appellations of origin is collective, either through a private or a public body. All farmers belonging to the specified geographical area and respecting the applicable specifications have the right to use the geographical name recognized by the appellation of origin. See also ***designation of origin*** and ***geographical indications***. [OECD COM/AGR/APM/TD/WP(2000)15/FINAL]

Applied tariff rates: the tariff rates imposed by a customs administration when a good crosses the border. These rates are often considerably lower than the bound rates arrived at as a result of trade negotiations or the rates listed in national ***tariff schedules***. See also ***bindings*** and ***nominal tariff rates***.

Applied MFN tariff rate: the tariff rate actually used for imports from countries enjoying ***most-favoured-nation treatment***, often the same as the ***applied tariff rate***. Sometimes it is much lower than the ***bound rate***.

Appropriate level of sanitary or phytosanitary protection: ALOP. Defined in the WTO ***Agreement on the Application of Sanitary and Phytosanitary Measures*** as the "level of protection deemed appropriate by the Member establishing a sanitary or phytosanitary measure to protect human, animal or plant life or health within its territory". Views on what constitutes an appropriate level of

protection vary greatly. This concept is also known as the "acceptable level of risk".

A priori* limitation:** a quantitative ceiling on imports enjoying preferential treatment under a ***GSP scheme.

Arab Maghreb Union: consists of Algeria, Libya, Mauritania, Morocco and Tunisia. It was formed in 1989 with political, economic and social objectives, including the aim of achieving a Common Market. Its secretariat is located at Rabat. See also ***Maghreb states***.

Arbitrary or unjustifiable discrimination: a term used in several of the agreements administered by the WTO where it is, however, not further defined. A hypothetical example of such discrimination would be where a country discriminates perfectly legally between trading partners that meet its ***sanitary and phytosanitary measures*** and those that cannot satisfy them. If it then discriminates further for whatever reason between those that meet the requirements, this could well be case of arbitrary or unjustifiable discrimination.

Arbitration: a way of settling disputes. It is more formal than ***dispute mediation*** which is aimed at bringing the parties together, and less legalistic than formal court proceedings which are adversarial. The parties agreeing to arbitration often bind themselves to well-defined rules of procedure. They also usually agree in advance that the award handed down by the arbitrator is binding on them. Arbitration proceedings are especially helpful when the parties to a dispute seek an equitable and definitive solution to a problem. They may also be cheaper to conduct because appeals to a higher authority are usually not possible. Article 25 of the WTO ***Dispute Settlement Understanding*** enables members to solve disputes by arbitration if that is their preference. They have to notify all other members before the start of the arbitration and also of the outcome. Other members may participate in the arbitration proceedings only with the agreement of the parties seeking arbitration. Many ***free-trade agreements*** contain arbitration rules. ***NAFTA***, for example, contains two arbitration provisions. Article 20 establishes the procedures to be followed in the arbitration of disputes between the parties generally. Article 11 permits investors of a NAFTA party to seek arbitration in disputes with the NAFTA parties, but only concerning alleged breaches of some of the obligations set out in Chapters 11 and 15. See also ***Article 22.6 arbitration***, ***dispute settlement***, ***Inter-American Convention on International Commercial Arbitration***, ***International Court of Arbitration***, ***Model Arbitration Clause***, ***NAFTA Chapter 11***, ***New York Convention*** and ***UNCITRAL Arbitration Rules***.

Area freedom: the concept of pest- or disease-free areas and areas of low pest or disease prevalence outlined in Article 6 of the WTO ***Agreement on the Application of Sanitary and Phytosanitary Measures***. A determination of such areas has to take into account factors such as geography, ecosystems, epidemiological surveillance and the effectiveness of sanitary or phytosanitary controls. Exporting countries claiming that some areas within their territories fall into this category have to be able to provide the necessary evidence to the importing

country. A demonstration of area freedom means that a country can export products from the area concerned even though the same product may be subject to disease in another area of the country.

Areeda-Turner test: a method proposed by Phillip Areeda and Donald Turner in 1975 "to examine the relationship between a firm's prices and its costs in order to define a rational dividing line between legitimately competitive prices and prices that are properly regarded as predatory". Areeda and Turner concluded that unless at or above average cost, a price below reasonably anticipated (1) shortrun marginal costs or (2) average variable costs should be deemed predatory, and the monopolist may not defend it on the grounds that his price was "promotional" or merely met an equally low price of a competitor. They say that although marginal cost data are nearly always unavailable, a price below reasonably anticipated average variable cost should conclusively presumed unlawful. This proposition by Areeda and Turner has spawned a considerable literature questioning and refining its assumptions, but the basic approach is considered to remain valid. See also ***antitrust laws*** and ***predatory pricing***. [Areeda and Turner 1975]

Arguendo: Latin meaning "for the sake of argument", as in "assuming *arguendo* that the drafters of Article 12 intended it to mean . . . ".

Arm's-length pricing: a principle designed to assess whether the market price charged for goods and services traded internationally has been manipulated. The arm's-length price is usually defined as the price that would have been charged between independent firms dealing at arm's length in comparable circumstances. The methods to assess whether this criterion has been satisfied can be complex. See also ***customs valuation*** and ***transfer pricing***.

Arrangements for Consultations on Restrictive Business Practices: a GATT mechanism adopted on 18 November 1960 aimed at ensuring that ***restrictive business practices*** do not frustrate the benefits of tariff reductions and the removal of ***quantitative restrictions***. This mechanism lay dormant until 1996 when the United States invoked it in a dispute with Japan concerning photographic materials, the so-called ***Kodak-Fuji case***.

Arrangement on Guidelines for Officially Supported Export Credits: a non-binding ***OECD*** arrangement concluded in 1978 and updated many times since. The OECD says that this is not an official instrument, but a "Gentlemen's Agreement" receiving administrative support from the OECD secretariat. The Arrangement aims to ensure an orderly ***export credit*** market and to avoid competition between countries for giving more favourable credit terms. It applies to export credits extended and supported directly by governments or on their behalf under a government guarantee. It also covers concessional financing under aid programs if the granting of a loan is tied to purchases from the donor country. See also ***Large Aircraft Sector Understanding***, ***mixed credits*** and ***tied aid***. [www.oecd.org]

Arrangement Regarding Bovine Meat: see ***International Bovine Meat Agreement***.

Article V: the provision in the ***General Agreement on Trade in Services*** which establishes the conditions for ***free-trade agreements*** covering services.

Article XIX: the GATT article permitting the use of ***safeguards*** against import surges, but only if certain conditions have been met. It is better known as the ***escape clause***. See also ***Agreement on Safeguards***.

Article XX: the GATT article listing allowed ***general exceptions*** to the trade rules under defined conditions.

Article XXIV: the GATT describing the basic multilateral requirements for ***customs unions***, ***free-trade areas***, ***free-trade agreements*** and ***regional trade agreements***.

Article 113 Committee: the predecessor of the ***Article 133 Committee***. It took its name from Article 113 of the ***Treaty of Rome***.

Article 133 Committee: often referred to as the 133 Committee. It takes its name from Article 133 of the ***Treaty of Amsterdam***, one of the treaties amending the ***Treaty of Rome***. It is the legal basis for the ***European Community***'s ***Common Commercial Policy***. This Article requires that the "common commercial policy shall be based on uniform principles, particularly in regard to changes in tariff rates, the conclusion of tariff and trade agreements, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies". The ***Treaty of Nice*** made trade in services and the commercial aspects of intellectual property part of the common commercial policy if the action does not exceed the internal powers of the European Community. The ***European Commission***, which speaks and negotiates on behalf of member states in the WTO, must conduct its trade negotiations in consultation with the 133 Committee. See also ***competence*** and ***subsidiarity***.

Article 20 of the WTO ***Agreement on Agriculture*****:** The clause authorizing the resumption of agricultural negotiations by 1 January 2000. See ***continuation clause***.

Article 21.5 panel: a ***panel*** established under this article of the ***Dispute Settlement Understanding*** to rule on disagreements over the implementation of recommendations or rulings of a dispute settlement panel. Where possible, the panel hearing the original complaint will examine the disagreement over its ruling. It normally has 90 days to produce its report.

Article 22.6 arbitration: a procedure available under this article of the ***Dispute Settlement Understanding***. When a WTO member refuses to comply with a ***panel*** ruling, the aggrieved party can ask for a new ***panel*** to rule on whether the original panel ruling has been implemented to satisfy the WTO rules. This is the ***Article 21.5 panel***. If there is a new adverse ruling, the parties are then supposed to enter into discussion concerning mutually acceptable ***compensation***. If this does not lead to any agreement, the complaining party may ask for authorization from the ***Dispute Settlement Body*** to suspend ***concessions*** or other obligations no later than the expiry of the ***reasonable period of time*** (usually a maximum of 15 months from the adoption of the panel or ***Appellate Body*** report). If the member which is the target of these actions complains about their level, the matter may be referred to ***arbitration***. Generally, the original panel will act as arbitrator, but the WTO Director-General may decide to appoint a

different arbitrator. Concessions or obligations may not be suspended during the course of the arbitration. The arbitrator's decision is final. See also ***suspension of concessions or other obligations***.

Article 25 arbitration: see ***arbitration***.

Arusha Declaration: adopted in July 1993 by the Customs Co-operation Council, now the ***World Customs Organization*** (WCO), to promote integrity in the delivery of customs services. The Declaration lists the following as key factors of integrity programs: (1) customs legislation should be clear and precise, (2) customs procedures should be simple, consistent and easily accessible, (3) automation of acts against corruption, (4) customs services should segregate functions, rotate staff and allocate examinations randomly, (5) line managers should have prime responsibility for identifying weaknesses, (6) internal and external auditing are essential, (7) managers should instil pride and loyalty in their officers, (8) recruitment and advancement procedures should be objective and free of interference, (9) customs officers should be given a code of conduct, (10) they should have adequate training, (11) their remuneration should be enough for a decent standard of living, and (12) customs administrations should foster an open and transparent relationship with brokers and the community. In the Maputo Declaration of 22 March 2002 WCO members committed themselves to an action plan to implement the elements of the Arusha Declaration.

ASEAN: Association of South-East Asian Nations. Formed in 1967 to promote economic progress and political stability in the region. It consists of Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand and Vietnam. Its main aims are (a) to accelerate economic growth, social progress and cultural development, (b) to promote regional peace and stability, and (c) to promote collaboration and mutual assistance in the economic, social, cultural, technical, scientific and administrative fields. See also ***AFTA*** and other entries beginning with ASEAN.

ASEAN Economic Community: an ***ASEAN*** organization which is to be established by 2020. Its proposed structure is said to be modelled on the early ***European Economic Community***. See ***Bali Concord II***.

ASEAN Framework Agreement on Intellectual Property Cooperation: concluded on 15 December 1995 in Bangkok. It aims to strengthen cooperation among ***ASEAN*** countries in ***intellectual property*** to promote regional and global trade liberalisation. It envisages the possibility of an ASEAN patent system and an ASEAN Patent Office, an ASEAN trademark system and an ASEAN Trademark Office as well as an ASEAN Intellectual Property Association (formed in 1996). The Agreement also establishes an extensive program of cooperative activities in all main areas of intellectual property.

ASEAN Framework Agreement on Services: adopted by ***ASEAN*** governments on 15 December 1995. The Agreement seeks (a) to enhance cooperation in services among member states to improve the efficiency and competitiveness of ASEAN services providers and to diversify production capacity and supply and distribution of services within and outside ASEAN, and (b) to eliminate

substantially restrictions on trade in services among member states and to liberalize trade in services by expanding the depth and scope of liberalization beyond the commitments made under the ***General Agreement on Trade in Services*** (GATS) with the aim of realizing a ***free-trade area*** in services. Article II seeks cooperation through establishing or improving infrastructural facilities, joint production, marketing and purchasing arrangements, research and development, and exchange of information. Article III requires member states to liberalize trade in services in a substantial number of sectors within a reasonable timeframe through the removal of discriminatory measures and market access limitations and a prohibition of new restrictive measures. Under Article IV, member states are to enter into negotiations on measures affecting specific services sectors. Article V permits the ***mutual recognition*** of qualifications, education, experience and licences, but it does not require any member state to do so. The Agreement stipulates that the provisions of the GATS will apply on matters where it is silent. Three rounds of negotiations under this Agreement have been completed with modest results. A fourth round is to be completed in 2007. The target is a for a free flow of services by 2020. See also ***AFTA*** and ***ASEAN Investment Area***.

ASEAN Free Trade Area: see ***AFTA***.

ASEAN Industrial Cooperation Scheme: AICO. An industrial development program adopted in 1995 by the ***ASEAN*** countries to promote investment in technology-based industries and to enhance value-adding activities in goods and services production. It replaced the ASEAN Industrial Joint Venture Scheme. To be eligible for the benefits under AICO, a cooperative venture must consist of at least two companies located in different ASEAN countries, and the companies must have at least 30% of equity owned by ASEAN nationals. The approved output of AICO entities enjoys the preferential tariff rate for intra-ASEAN trade. All products except those falling under Article 9 (General Exceptions) of the ***CEPT*** arrangement may be produced under AICO.

ASEAN Industrial Joint Venture Scheme: see ***ASEAN Industrial Cooperation Scheme***.

ASEAN Integration System of Preferences: entered into force on 1 January 2002. This scheme enables the six original members of ***AFTA*** (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand) to extend voluntary tariff preferences to the four newer members (Burma, Cambodia, Laos and Vietnam).

ASEAN Investment Area: AIA. Entered into force on 21 June 1999 and amended on 14 September 2001. It aims to establish a liberalized, transparent, competitive and dynamic environment for investment flows among ***ASEAN*** members. The AIA covers all direct investments other than portfolio investments and investment matters already covered by other ASEAN agreements. In principle, members give each other ***national treatment***, except for investment in industries inscribed in the ***temporary exclusion lists***, ***sensitive lists*** and ***general exceptions list***. Services are covered to the extent that they are incidental to manufacturing,