Dictionary of Trade Policy Terms

Sixth Edition

Walter Goode

Cambridge

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This is an accessible guide to the vocabulary used in trade negotiations. It explains some 3,000 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), Asia-Pacific Economic Cooperation (APEC) and the OECD. The last decade has seen considerable attention devoted to trade and investment facilitation, sustainability and the formation of free-trade areas in all parts of the world. This dictionary allocates generous space to the vocabulary associated with such developments. It offers clear explanations, for example, of the concepts used in the administration of preferential rules of origin. More recently, trade facilitation has received considerable attention. Additional areas covered include emerging trade issues and issues based particularly on developing-country concerns.

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WORLD TRADE ORGANIZATION

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For Elizabeth

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DISCLAIMER

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. They do not necessarily represent the views of WTO Members, the WTO Secretariat or the Appellate Body. As such, the definitions in this dictionary do not constitute authoritative interpretations of the legal texts of the WTO. They are presented for illustrative purposes only.

PREFACE

This *Dictionary of Trade Policy Terms* is now in its sixth edition. It has again grown larger. It now contains well over 3,000 entries and cross-references. Many of these entries are new. In other cases the changes occurring since the preparation of the last edition have required a complete rewriting of the entry. A great many have needed updating to a greater or lesser extent. I have made an attempt at being reasonably comprehensive, but no doubt there is always more that could be included.

The nature of the book has changed over the years. On many occasions it has gone past simply explaining what this or that term might mean. For example, in recent years several comprehensive free-trade agreements have been concluded, such as the African Continental Free Trade Area, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership and the United States–Mexico–Canada Agreement. The ambit of these and similar agreements goes well beyond what used to be considered the proper content of trade negotiations. I therefore have included summaries of several of these agreements to give the reader an indication of what is involved.

I should stress that this dictionary concerns itself with words and topics likely to occur in trade negotiations. It is definitely 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 in the conduct of negotiations. The economic aspects of an issue of course shape the expectations of the negotiating partners, and they tend to be analysed, often in great detail, before any negotiations start.

International economic analysis 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.

A large number of entries are based on the work of the World Trade Organization (WTO) and its members. It is the pre-eminent forum for the pursuit of multilateral trade policy. I should emphasize that many words and concepts used within the WTO have a precise meaning to participants in proceedings under its auspices. Rendering these exact meanings would sometimes require rather long explanations. This might not always be helpful. I have therefore attempted to convey a picture of such meanings. Accordingly, all interpretations are my own. They have no legal standing within the organization.

I have also drawn on the trade-related work of other international organizations. Chief among these are the United Nations Conference on Trade and Development (UNCTAD), the Organisation for Economic Co-operation and Development (OECD) and Asia-Pacific Economic Cooperation (APEC). The work programmes of these organizations have yielded many items of relevance to a dictionary of this kind, but a comprehensive coverage of their activities would have been beyond the scope of this book.

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, attempts to deal satisfactorily with agriculture and agricultural products, or major events like the Kennedy, Tokyo and Uruguay Rounds. The aim of these longer items is to offer a broader perspective of the basic issues and concepts inherent in them as well as their achievements.

Other items might be considered obsolete. At first glance the New International Economic Order might fall into this category. I have included it because some of its elements remain of interest to developing countries, though they might be expressed in different language today. Some entries are idiosyncratic, or at least the reader may think, with a deal of justification no doubt, that they are. That, I am afraid, is in the nature of books.

Some 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 lasting solutions for them.

The main focus of trade policy formulation tends to change over the years. This is of course reflected in this dictionary. For example, a major recent achievement in the multilateral trade negotiations has been the conclusion of the WTO Agreement on Trade Facilitation. It will have a positive impact on the global trading environment. Its negotiation has drawn attention to the efforts of many organizations, many of them non-governmental, that have defined and promoted the issues involved, sometimes for many years. The work of the United Nations Economic Commission for Europe (UN-ECE) should be mentioned in particular. I hope that the new entries on this topic reflect some of the diversity of these organizations. In the meantime, some of the focus has shifted to investment facilitation, but it is far too early to predict how the international community will approach this topic.

I have retained the few brief descriptions of pre-WTO trade disputes. As I said in the preface to the fifth edition, no dictionary covering trade policy could be complete without a mention of *Hatters' fur* or *Belgian family allowances*. Those interested in the full picture of GATT dispute settlement from its beginning to the establishment of the WTO now have access to *GATT Disputes: 1948–1995*, a two-volume compilation of all cases (316 of them at the time of writing) and associated

procedures, published by the WTO. I have included a few references to disputes brought before the WTO since 1995. These are included in their entirety in *Dispute Settlement Reports*, published annually by the WTO and Cambridge University Press.

A word about entries concerning the European Union. It appears in GATT and WTO documents as the European Economic Community, European Community, European Communities and, since 2009, definitively as the European Union. In this edition I use European Union wherever possible, except when this clearly would be an anachronistic usage. The differences between the various names matter to international trade lawyers (who know them anyway), but they might make things needlessly complicated for the purpose of this book.

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 offering additional or related material. 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.

I would like to thank Finola O'Sullivan of Cambridge University Press who encouraged me to consider preparing a new edition, and to Marianne Nield who helped me along in many ways. At the WTO I would like to thank Keith Rockwell and Anthony Martin for their continuing support for this book. My special thanks go to Heather Sapey-Pertin for the many suggestions for improvements. Finally I also offer my gratitude to Professor Kenneth Armstrong of Cambridge University who was kind enough to offer some clarifications concerning European Union law.

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

A

2030 Agenda for Sustainable Development: *see* ***Sustainable Development Goals***.

Abnormal international market conditions: described formally by the ***Agricultural Market Information System*** as "typically characterized by significant price movements in several commodity markets leading to serious negative impacts". It notes that instances of abnormally low prices could also fall into this category. [www.amis-outlook.org]

Absolute advantage: the ability of an individual firm or country to produce a good or service at a lower unit cost than a similar entity that produces the good or service elsewhere. It originates with Adam Smith who argued that international trade allows a greater specialization than would be possible in an autarkic system, thereby permitting resources to be used more efficiently. *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. 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. They will be deemed to be ***originating materials***. *See also* ***substantial transformation***.

Abuja Treaty establishing the African Economic Community: *see* ***African Economic Community***. Also ***African Continental Free Trade Area*** and ***African regional economic integration***.

Accelerated tariff liberalization: ATL. The final 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 were 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. ATL then was deemed

to have been subsumed in 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 usually limited to ensuring that the acceding country or customs territory 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 or customs territory 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* ***Group of Article XII***, ***schedules of specific commitments on services*** and ***schedule 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 licensing*** 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 aimed 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 was subject to the condition that the system would only be used in case of a national emergency or in cases of public

non-commercial use. *See also* ***Paragraph 6 System*** which resolved the matter permanently.

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 to 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 Sugar Protocol: first concluded in 1975 as Protocol 3 to the ***Lomé Convention***, but the concept has a longer history. It later became part of the ACP-EC Partnership Agreement, now the ***ACP-EU Partnership Agreement***. The Protocol gave selected ***ACP states*** guaranteed sugar access quotas to the European Community. It expired in 2009, partly as result of a successful challenge to its legality under the ***WTO*** rules, and also partly in response to changes in the global sugar market. ACP countries as well as the countries benefiting from the European Union's ***Everything But Arms*** initiative now have duty-free and quota-free access to the European Union sugar market.

ACP-EU Partnership Agreement: signed in Cotonou on 23 June 2000 as the successor to the ***Lomé Convention***. The agreement was concluded for twenty years and expired in February 2020. The fundamental principles following its review in 2010 were: (a) equality of the partners and ownership of the development strategies, (b) central governments are the main partners, but the partnership is open also to ACP parliaments, local authorities in ACP states and different kinds of other actors, (c) a pivotal role of dialogue and the fulfilment of mutual obligations and accountability, and (d) differentiation and regionalization so that cooperation arrangements and priorities vary according to the partner's level of development. Negotiations are under way for a new agreement which is expected to build, *inter alia*, on the ***United Nations 2030 Agenda for Sustainable Development***.

ACP states: The African, Caribbean and Pacific states associated with the ***European Community*** through the ***ACP-EU Partnership Agreement***. 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 main objectives of the group of ACP states are: (a) sustainable development of the member states and their gradual integration into the global economy, (b) activities coordination in the framework of ACP-EU partnership agreements, (c) consolidation of unity and solidarity, and (d) establishment of peace and stability in a free and democratic society. 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, Eswatini, Ethiopia, Fiji, Gabon, The Gambia, Ghana, Grenada, Equatorial Guinea, Guinea, Guinea-Bissau, 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, Tanzania, Togo, Tonga, Trinidad and Tobago, Tuvalu, Uganda, Vanuatu, Zambia and Zimbabwe. Cuba is not a party to the ACP-EU Partnership Agreement.

Acquis communautaire*:** all legislation adopted under the treaties establishing the ***European Union, including ***regulations***, ***directives***, ***decisions***, ***recommendations*** and ***opinions***, as well as the judgments handed down by the ***Court of Justice of the European Union*** and international agreements concluded by the European Union from 1959 to the present. 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. European Union law prevails over national law. No member state may derogate permanently from the *acquis*. *See also* ***enlargement***, ***European Union legislation*** and ***European Union treaties***.

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* ***non-actionable subsidies***, ***prohibited subsidies*** and ***subsidies***.

Action plan: a list of actions to be carried out individually or collectively. Sometimes it is no more than a device to keep a process going when it has run into difficulties. Too often the plan is far too ambitious to stand any chance of being carried out. At other times it represents a genuine attempt to develop an agenda capable of leading to the solution of a raft of problems.

Action Plan for Boosting Intra-African Trade: issued in 2012 by the ***African Union*** and the United Nations ***Economic Commission for Africa***. One of the stepping stones to the realization of the ***African Continental Free Trade Area***. The Action Plan contains several priority programme clusters: (I) Trade Policy: fast-tracking intra-African trade development, (II) Trade Facilitation: reducing the time it takes to move goods from point A to point B, (III) Productive Capacity: creating regional and continental value chains or complementarity, (IV) Trade-Related Infrastructure: development of innovative legal, financial and other mechanisms for multi-country infrastructural development projects, (V) Trade Finance: develop and strengthen African financial institutions and

mechanisms to promote intra-African trade and investment, (VI) Trade Information: bridging the information gap, and (VII) Factor Market Integration: increase regional mobility of labour. *See also* ***African regional economic integration***.

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 versions of 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 specific commitments on services***.

Additive manufacturing: AM. The technology to build three-dimensional (3D) objects by adding layer upon layer of material in a process analogue to printing, usually called 3D-printing.

Additive regionalism: describes the concurrent membership of several ***free-trade agreements*** by one country. *See also* ***multilateralization of free-trade agreements*** and ***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 mechanism 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 an item worth ten dollars would give an *ad valorem* equivalent of 10 per cent. On an item worth twenty dollars, a tariff of one dollar would amount to 5 per cent. *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. *See also* ***trade facilitation***.

Advisory Centre on WTO Law: established on 17 July 2001 in Geneva as an independent ***intergovernmental organization***. 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.

Advisory opinion: a non-binding opinion by a judicial authority on the interpretation of a law or a constitutional provision. Sometimes these opinions are given upon request, and at other times a court or judicial panel offers its view anyway. Advisory opinions have become an issue in ***WTO*** dispute settlement proceedings because some panels and the ***Appellate Body*** have resorted to them in some cases. Opponents of this practice note that the ***Dispute Settlement Understanding*** makes no mention of this possibility. *See also* ***judicial activism***.

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

African Common Market: *see* ***African Continental Free Trade Area*** and ***African regional economic integration***.

African Continental Free Trade Area: AfCFTA. A continent-wide ***free-trade area*** for Africa negotiated under the auspices of the ***African Union***. Forty-four of its members signed the Agreement on 21 March 2018. It gives impetus to the aims of the Abuja Treaty establishing the ***African Economic Community***. Consists of a framework agreement and three protocols (trade in goods, services, dispute settlement). It is open to all members of the African Union. The Agreement entered into force on 30 May 2019. Fifty-four of the fifty-five African Union members have signed the Agreement, and twenty-eight members have ratified it. The aims of the Agreement will be realized in stages. Phase I was the negotiation of this Agreement and its three protocols. Negotiations for Phase II (intellectual property rights, investment and competition policy) have been launched. The objectives of the Agreement are (a) to create a single continental market for goods and services facilitated by the movement of persons, (b) create a liberalized market for goods and services through successive rounds of negotiation, (c) contribute to the movement of capital and natural persons and facilitate investments building on the initiatives and developments in the parties and the ***Regional Economic Communities***, lay the foundation for the establishment of a Continental Customs Union, (e) promote and attain sustainable and inclusive socio-economic development, gender equality and structural transformation, (f) enhance the competitiveness of member economies within the continent and the global market, (g) promote industrial development through diversification and regional value chain development and food security, and (h) resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes. The Agreement, when completed, will cover trade in goods, services, investment,

intellectual property rights and competition policy. It requires the parties to observe transparency and notify each other of laws, regulations, procedures and administrative rules of general application. It also requires the parties to accord each other, on a reciprocal basis, preferences no less favourable than those given to third parties, and it establishes a dispute settlement mechanism. No reservations may be made on any part of the Agreement. The Agreement will be reviewed every five years to ensure its effectiveness. The *Protocol on Trade in Goods* envisages the progressive elimination of tariffs and non-tariff barriers, enhanced efficiency of customs procedures, trade facilitation and transit, enhanced cooperation in the areas of technical barriers to trade and sanitary and phytosanitary measures, and the development and promotion of regional and continental value chains. It also affords the parties most-favoured nation treatment and national treatment. Quantitative restrictions are only allowed to the extent that that the WTO rules allow them. ***Rules of origin*** are yet to be developed. Anti-dumping and countervailing measures as well as global safeguards may be applied. The *Protocol on Services* (which appears to have taken the ***General Agreement on Trade in Services*** as a broad model) requires the parties to undertake successive rounds of negotiations based on the principle of progressive liberalization. If a party enters into a new preferential agreement with a third party, preferential treatment given to the third country must be extended to all the parties to the Agreement. The parties are to develop schedules of specific commitments. The *Protocol on Rules and Procedures on the Settlement of Disputes* establishes a Dispute Settlement Body, procedures for the work of panels, and it establishes an Appellate Body. Again, the WTO ***Dispute Settlement Understanding*** appears to have informed the provisions of this Protocol. *See also* ***African regional economic integration***.

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 is open to all members of the Organization of African Unity, now the ***African Union***. Its secretariat is located in Addis Ababa. Projected milestones are establishment of a continent-wide ***customs union*** in 2019, a continent-wide ***African Common Market*** in 2023 and establishment of a continent-wide economic and monetary union as well as a parliament in 2028. Current plans call for the completion of these tasks by 2034. *See also* ***African Continental Free Trade Area*** and ***African regional economic integration***.

African Group: a group of forty-three countries active in the WTO. Its members are Angola, Benin, Botswana, Burkina Faso, Burundi, Cabo Verde, Cameroon, Central African Republic, Chad, Congo, Democratic Republic of Congo, Côte d'Ivoire, Djibouti, Egypt, Eswatini, Gabon, The Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

African Growth and Opportunity Act: AGOA. A United States Act adopted on 18 May 2000 with an original validity to 30 September 2008. It has since been renewed to 2025. The Act provides significant market access for most products to countries in ***sub-Saharan Africa***, but provision for textiles may be more restrictive in some cases. Only sub-Saharan countries are eligible for benefits under this Act. 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 ***worker 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***.

African regional economic integration: achieving regional economic integration in Africa is a challenge of a high order because of the diversity of the fifty-five countries making up the African continent, as the last fifty years have shown. For example, the Lagos Plan of Action, adopted by the ***Organization of African Unity***, called for the creation of five Regional Economic Communities: North Africa, West Africa, Central Africa, Eastern Africa and Southern Africa. This plan was realized in part. The Treaty of Abuja of 1994 established an ***African Economic Community*** with the goal of free-trade areas, customs unions, a single market, a central bank and a common currency. Some progress towards these aims has been made, but the regional achievements remain uneven. The path forward is now becoming clearer through the efforts of the ***African Union*** (AU) and some of the African regional organizations. The task will require years of patient work. The step-by-step implementation of the AU's ***Agenda 2063***, which has many important aims outside the trade and economic area, should greatly assist the task. The work of the NEPAD Agency in implementing the ***New Partnership for Africa's Development*** should also make a tangible contribution to African regional development. A major step towards continent-wide integration was the signing of an agreement in 2018 establishing the ***African Continental Free Trade Area*** which entered into force on 30 May 2019. A range of regional integration initiatives also exists, most of them with a considerable history behind them. The following is an outline of the principal ones. *A. North Africa.* The ***Arab Maghreb Union*** consisting of Algeria, Libya, Mauritania, Morocco and Tunisia appears to be largely inactive, though member countries are pursuing their own economic initiatives. The ***Community of Sahel-Saharan States***, established in 1998, seeks to establish a comprehensive economic union. *B. East Africa.* The ***East African Community*** established a ***customs union*** in 2004. A ***common market*** followed in 2010, and a monetary union is to be created by 2023. *C. South-East*

Africa. The ***Common Market for Eastern and Southern Africa*** (COMESA) was established in 2000. It is to be transformed into a monetary union by 2025. Its members are Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia and Zimbabwe. The proposal for a ***Tripartite Free Trade Area*** to consist of COMESA, SADC and the East African Community is also relevant in this context. The ***Intergovernmental Authority on Development*** (IGAD) is not a trade arrangement, but among its objectives is the promotion of COMESA and the African Economic Community. *D. Southern Africa.* The ***Southern African Development Community*** (SADC) established a free-trade area in 2008. This was to be followed by a customs union by 2013 and a common market by 2015. SADC consists of Angola, Botswana, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia and Zimbabwe. The ***Southern African Customs Union*** (Botswana, Eswatini, Lesotho, Namibia and South Africa) was established in 2002 in its current form. *E. West Africa.* The ***Economic Community of West African States*** (ECOWAS) was originally established in 1975 and relaunched in 1993. ECOWAS is establishing a customs union and working towards the implementation of ECOWAS 2020 which envisages, by 2020, a single unified market. Its members are Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. The ***West African Economic and Monetary Union*** (WAEMU) or Union Économique et Monétaire Ouest Africaine (UEMOA) was established in 1994. It has a programme of deep integration based on a common market with the free movement of persons, goods, services and capital. Its members are Benin, Burkina Faso, Côte d'Ivoire, Guinea Bissau, Mali, Niger, Senegal and Togo. *F. Central Africa.* The ***Economic Community of Central African States*** was established in 1983, but it remained inactive from 1992 to 1998. Its aim is to promote cooperation and self-supporting development in a wide range of fields. A longer-term aim is to create by 2025 a zone of free movement of people, goods and services. Its members are Angola, Burundi, Cameroon, Central African Republic, Chad, Congo, Democratic Republic of Congo, Equatorial Guinea, Gabon, and Sao Tome and Principe. The United Nations ***Economic Commission for Africa*** has an overall mandate for promoting economic progress in Africa, but it is not party to any regional arrangement.

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***. It consists of all fifty-five countries making up the African continent. The ***African Continental Free Trade Area*** of 2018 was negotiated under its auspices. The AU's long-term vision is contained in ***Agenda 2063*** adopted in 2013. It is a strategic framework for the socio-economic transformation of Africa over the

next fifty years. The secretariat of the AU is in Addis Ababa, Ethiopia. *See also* ***African regional economic integration***.

African Union Convention on Preventing and Combating Corruption: entered into force on 5 August 2006. It requires each party to the Convention to adopt legislative measures to promote and strengthen mechanisms required to prevent, detect, punish and eradicate corruption and related offences in the public and private sectors. As of late 2019 forty-three members of the ***African Union*** had ratified the Convention. *See also* ***corruption***.

AFTA: ASEAN Free Trade Area. Established on 1 January 1993. Intra-ASEAN trade is now largely free of duty, but Cambodia, Laos, Myanmar and Viet Nam, all of whom joined ASEAN later, have further to go. The main mechanism for tariff reductions under AFTA was ***CEPT*** (Common External Preferential Tariff). AFTA was superseded in 2010 by the ***ASEAN Trade in Goods Agreement***.

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. The agreement entered into force in 2007.

Agency for International Trade Information and Cooperation: *see* ***AITIC***.

Agenda 21: The Agenda for the Twenty-First Century. This is a programme 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. Programme 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. Programme 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***, ***trade and environment*** and ***World Summit on Sustainable Development***.

Agenda 2000: the ***European Community*** financial reform plan for 2000–2006 aimed at strengthening the union among European countries to get ready for the new members. The strategy identified 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***, ***European Union treaties*** and ***Treaty of Nice***.

Agenda 2030 for Sustainable Development: *see* ***Sustainable Development Goals***.

Agenda 2063: a framework for inclusive growth and sustainable development for Africa to be realized over the next fifty years. It was adopted by the ***African Union*** in 2013. The first ten-year implementation plan is now under way. Agenda 2063 covers many aspects of African development. One of these was the signing of the ***African Continental Free Trade Area*** in March 2018 with the aim of doubling intra-African trade by 2022.

Aggregate measurement of support: a term used in the ***Agreement on Agriculture***. It measures the annual level of support expressed in monetary terms provided in favour of agricultural producers other than support provided under Annex 2 (i.e. ***green box***). It includes product-specific support and support given to agricultural producers in general. *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.***

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 specifically aimed at 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 and export-related policies that are less trade-distorting and reduction in protection. It also allows actions aimed at easing domestic adjustment burdens. Some of the measures required by the Agreement were (a) a reduction by developed countries in export subsidy expenditures by 36 per cent over six years in equal instalments, and a 24 per cent reduction over ten years for developing countries; (b) a cut by developed countries in the volume of subsidized exports by 21 per cent over six years, 14 per cent for developing countries over ten years; (c) a cut by 20 per cent over six years in trade distorting domestic support as measured by the aggregate measure of support during the base period 1986–88, and by 13 per cent over ten years by developing country members; 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 per cent with a minimal cut of 15 per cent over six years in equal tranches, again with 1986–88 as the base period. For developing countries the cut is 24 per cent with a minimum cut of 10 per cent over ten years. The Agreement entails minimum access commitments where markets were virtually closed before, as well as the commitment to maintain the then existing current access opportunities, 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 became part of the negotiations under the ***Doha Development Agenda***. *See also* ***agricultural export subsidies***, ***agriculture and the multilateral trading system***, ***amber box***, ***blue box***, ***continuation clause***, ***green box*** 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 sixty-nine 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 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: the ***WTO plurilateral trade agreement*** containing rules for the purchase by governments of goods and services

for their own use which entered into force on 1 January 1996. Its successor is the ***Revised Agreement on Government Procurement***. *See also* ***APEC Non-Binding Principles on Government Procurement***, ***second-level obligations*** and ***Working Group on Transparency in Government Procurement***.

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 ***preshipment 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 entity*** 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.

Agreement on Rules of Origin: an agreement administered by the WTO. It sets out a programme 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 classification***, ***preferential rules of origin*** and ***wholly obtained goods***.

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) it is clear that imports from certain countries have increased disproportionately in the period under consideration, (ii) all the other conditions for taking safeguards 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 safeguard 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. The administration of this Agreement is assisted by the WTO Technical Barriers to Trade Information Management System. This is a comprehensive database listing all TBT notifications and specific trade concerns raised in the Committee on Technical Barriers to Trade. *See also* ***conformity assessment***, ***ePing SPS and TBT notification alert system***, ***International Electrotechnical Commission*** and ***International Organization for Standardization***.

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***, ***ePing SPS and TBT notification alert system***, ***equivalence***, ***International Plant Protection Convention***, and ***World Organisation for Animal Health***.

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 Facilitation: a comprehensive WTO framework for further improvements in the area of ***trade facilitation***. It entered into force on 22 February 2017, but it only applies to members that have accepted it. As of late 2019, 147 WTO members had ratified the Agreement. Section I, i.e. Articles 1 to 12, covers the topics usually understood to make up the trade facilitation agenda. Article 1 requires the prompt publication of all rules, procedures, etc., of interest to traders and governments. Information must be made available, as much as possible, on the Internet. Members must establish ***enquiry points***. Article 2 requires that traders and other interested parties be given an opportunity to comment on the proposed introduction of laws and regulations of general application related to importing and exporting. Article 3 covers ***advance rulings***. Article 4 deals with procedures for appeal or review of administrative decisions. Article 5 specifies the conditions applicable in cases where members maintain a system of controls or inspections at the border in respect of food, beverages or foodstuffs. Notifications for enhanced controls or inspections may be issued based on risk. Importers must be notified promptly of detentions of goods. A second test may be granted where the first test led to an adverse finding. Article 6 covers disciplines on fees and charges imposed in connection with import or export, as well as penalties. Such information must be published. Article 7 deals with the release and clearance of goods. It encourages pre-arrival processing to enable advance lodging of documents in electronic form. It also encourages maintaining a risk management system for customs control.

Publication of ***average release times*** is also encouraged. Article 8 requires border control agencies to cooperate with one another and coordinate their activities to facilitate trade. Cooperation may include (a) alignment of working days and hours, (b) alignment of procedures and formalities, (c) development and sharing of common facilities, (d) joint controls, and (e) establishment of ***one-stop border post*** control. Article 9 allows goods imports to be moved from the control of one customs office to another. Article 10 requires members to ensure that, as far as possible, formalities and documentation requirements connected with import, export and transit are aimed at rapid release. A ***Single Window*** is to be established to enable traders to submit documentation through a single entry point. Article 11 deals with ***freedom of transit***. Article 12 promotes customs cooperation. Section II of the Agreement outlines ***special and differential treatment*** provisions for developing country members and ***least-developed country*** members. It establishes three categories of provisions. Category A includes provisions to be implemented on entry into force by developing country members and within a year of entry into force by least-developed country members. Category B includes provisions to be implemented after a transitional period. Category C includes provisions to be implemented after a transitional period and supplemented by the provision of technical assistance. Procedures for the handling of the three categories are outlined in some detail. Section III covers institutional arrangements. Article 24 states that the provisions of the ***Dispute Settlement Understanding*** apply to disputes under this Agreement. It establishes a ***Committee on Trade Facilitation*** to supervise the administration of the Agreement. This part also requires each member to establish a ***National Committee on Trade Facilitation*** to facilitate domestic implementation. The implementation of the Agreement is supported by the WTO ***Trade Facilitation Agreement Database***. The *World Trade Report 2015* provides a detailed analysis of all aspects of the Agreement.

Agreement on Trade in Civil Aircraft: one of the ***WTO plurilateral trade 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 fifty 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 twenty 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. In January 2017 a new ***Article 31bis*** was added which enables improved access by least-developed countries to generic medicines in circumstances where they do not have suitable production facilities themselves. 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***, ***intellectual property*** and ***Paragraph 6 system***.

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***, ***investment facilitation***, ***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 subsidy contingent on export performance provided by governments to producers or exporters of agricultural commodities to ensure that their surpluses, usually produced at costs above world market prices, find a market somewhere. At the ***WTO Ministerial Conference*** in Nairobi in 2015 member countries committed to abolish export subsidies for farm exports. Developed countries agreed to do so immediately, developing countries by 2018 with a few exceptions entailing longer phasing out periods. *See also* ***agricultural subsidies***, ***agriculture and the multilateral trading system*** and ***subsidies***.

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. Updates are done once a year. [www.amad.org]

Agricultural Market Information System: AMIS. Established in 2011 by Ministers of Agriculture of the ***G20*** members. AMIS participants are the G20 members plus Egypt, Kazakhstan, Nigeria, Philippines, Spain, Thailand, Ukraine and Viet Nam. The group concerns itself with wheat, maize, rice and soybeans. Its aims are (a) to improve agricultural market information, analyses and forecasts at national and international levels, (b) to report on abnormal international market conditions and strengthen global early warning capacity, (c) to collect and analyse policy information, promote dialogue and responses, and international policy coordination, and (d) to build data collection capacity in participating countries. The AMIS secretariat is located in the ***Food and Agriculture Organization*** in Rome. *See also* ***Global Food Market Information Group***.

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 Commodity Description and Coding System***. The group includes both raw

products and products processed to various degrees, but it excludes forestry and fishery products. *See also* ***common agricultural policy***, ***Food and Agriculture Organization***, ***intermediate agricultural products***, ***International Agreement on Olive Oil and Table Olives***, ***International Cocoa Agreement***, ***International Coffee Agreement***, ***International Cotton Advisory Committee***, ***International Fund for Agricultural Development***, ***International Grains Agreement***, ***International Organisation of Vine and Wine***, ***International Sugar Agreement***, ***International Treaty on Plant Genetic Resources for Food and Agriculture*** and ***market access for agriculture***.

Agricultural subsidies: assistance given to farmers by governments, often through monetary payments, but sometimes in kind. 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 a certain level of standard of living of farmers, and (c) payments to ensure that the farming produce finds a market, either at home or abroad. All of them are funded through national treasuries or directly by the taxpayer. Subsidies related to production are often accompanied by ***import restrictions***, such as high tariffs generally and ***seasonal tariffs***. ***Decoupling*** can be important to reduce trade distortive effects. The farmer still receives a subsidy, but the amount is no longer linked to production quantities, acreages, specific products, or prices. The WTO **Agreement on Agriculture** rules on Domestic Support defined categories of support according to their purpose and impact and constrains the use of trade-distorting support. *See also* ***agricultural export subsidies***, ***box*** and ***domestic support***.

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 programmes. 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*** (now the ***European Union***) 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*** (1973–79) 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 overproduction, ***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 per cent 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 programme 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 were then incorporated in the ***Doha Development Agenda***. Achievements in the negotiations so far include decisions at the Bali ***WTO Ministerial Conference*** in 2013 to enlarge the list of ***general services in agriculture*** and an ***Understanding on tariff rate quota administration provisions of agricultural products***. At the 2015 Ministerial Conference in Nairobi WTO members made a commitment to abolish ***agricultural export subsidies*** immediately by developed countries and by 2018 by developing countries. Members also agreed that developing countries will have the right to have recourse to a special safeguard mechanism, to be negotiated in dedicated sessions of the Committee on Agriculture in Special Session. They also agreed to make concerted efforts to agree and adopt a permanent solution on the issue of ***public stockholding for food security***. Separately, the CAP has undergone several revisions by the European Union, *See also* ***Baumgartner proposals***, ***Mansholt proposals*** and ***Ploughshares War***. [Croome 1995, Hudec, Kennedy and Sgarbossa 1993, Ingco, Nash and Cleaver 2004, Josling, Tangermann and Warley 1996, Preeg 1970]

Agriculture Information Management System: Ag-IMS. Provides access to documents and records relevant to the WTO ***Agreement on Agriculture***. It allows users to search and analyse agriculture-related information notified by WTO members as well as questions and responses provided in the ***Committee on Agriculture***. [www.amis-outlook.org]

Aid for Trade: assistance to developing countries, and particularly least-developed countries, to enable them to participate more fully in international trade. It gives effect to the ***Aid for Trade Initiative*** led by the WTO. This work is supported by the Aid for Trade Global Review which takes place every two years, prepared jointly by the OECD and the WTO. Assistance in this area is included in ***official development assistance*** programmes. [www.wto.org, www.oecd.org]

Aid for Trade Facilitation Interactive Database: an OECD database created to provide transparency about the support of donors for trade facilitation activities and to enable the matching of supply and demand for support. It is meant to assist developing countries in the implementation of their obligations under the ***Agreement on Trade Facilitation***. [www.oecd.org]

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*** and ***Enhanced Integrated Framework***.

Aid for Trade Monitoring Framework: a framework established jointly by the OECD and the WTO to track progress in the implementation of the ***Aid for Trade Initiative*** and to enhance its credibility. The objective of the monitoring framework is to promote dialogue and encourage all key actors to honour commitments, improve effectiveness and reinforce mutual accountability and to improve the coherence of aid for trade with overall donor strategies.

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]

Aircraft: *see* ***Agreement on Trade in Civil Aircraft*** and ***Large Aircraft Sector Understanding***.

AITIC: Agency for International Trade Information and Cooperation. An agency formed in 2002 and funded by Switzerland and others to assist less-developed countries in playing a more active role in the work of the WTO and other trade-related organizations. Dissatisfaction with its operations led to its closure in 2011.

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 Community of Nations***.

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 was known as the G-33, but it had more than forty members. The Alliance had 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***.

Almaty Programme of Action: a list of priority actions to advance the interests of landlocked developing countries adopted in Almaty in 2003. The five priorities are (a) policy improvements – reducing customs bureaucracy and fees and designed to cut costs and travel days for exports of landlocked developing countries, (b) improved rail, road, air and pipeline infrastructure, (c) international trade measures – preferential treatment for goods from landlocked countries, (d) technical and financial international assistance, and (e) monitoring and follow-up on agreements. *See also* ***Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014–2024***. [www.unohrlls.org]

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***, ***mediation***, etc., outside the formal framework of court proceedings. The parties to the dispute usually appoint a disinterested person who attempts to bring about 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 Union*** 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. *See also* ***blue box***, ***green box*** and ***Total Aggregate Measurement of Support***.

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*** (TRIPS Agreement). 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 additional Article *31bis* to the TRIPS Agreement was the first change to an agreement administered by the WTO. 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 Union*** is entitled to a number of votes equalling the number of its member states. Amendments to the ***WTO plurilateral trade 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 do not always welcome being helped in this way.

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 Association). 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. *See also* ***Latin American regional integration arrangements***.

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***. It expired on 31 July 2013.

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 had to be met to qualify for the latter. It expired on 31 July 2013.

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 at one time by the ***European Union*** 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 in 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 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, Estonia, European Union, 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.

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

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.

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 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 at one time 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 laws***, ***cartel***, ***competition law***, ***conduct*** and ***trade and competition***.

Anti-corruption: the seemingly never-ending fight to stop corruption, though not for want of international efforts. *See*, for example, ***African Union Convention on Preventing and Combating Corruption***, ***Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*** and ***United Nations Convention Against Corruption***.

Anti-Counterfeiting Trade Agreement: ACTA. Concluded in November 2010, but not yet in force. The Agreement aims to provide an international framework for improving the enforcement of ***intellectual property rights*** laws. It does not create new intellectual property rights. Parties must ensure that enforcement procedures are available to permit effective action against any infringement of intellectual property rights covered by the Agreement. Basic means are civil enforcement, border measures and criminal enforcement. Parties also agree to cooperate internationally to bring about the aims of the Agreement. The Agreement ran into a great deal of opposition from non-governmental organizations, based partly on what they knew of the content of the Agreement or what they guessed it might contain, and based partly on the perceived secrecy of the negotiations. Some developing countries also objected to the apparent exclusion of developing countries from the negotiations. The prospects for the entry

into force of this Agreement are not clear. One indicator may be that in 2012 the European Parliament declined to consent, i.e. to support it.

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: formally the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*. GATT Article VI and the Anti-Dumping Agreement together form the set of rules governing the imposition of ***anti-dumping measures***. In other words, the two have to be read together. Article VI states that "dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens to cause ***material injury*** to an established industry in the territory of a contracting party or retards the establishment of a domestic industry". Although ***dumping*** has been clearly understood as a trade policy issue for a long time, the assessment of whether dumping causing ***injury*** has occurred remains a cause of friction. At issue are the evidence for the occurrence of dumping, whether it has caused or threatened injury and if so, what remedies should be used. The *Anti-Dumping Agreement* is meant to clarify the provisions of GATT Article VI in this regard. Article 2 details the way a determination of dumping must be made. Several methods are available. The first is where prices for the ***like product*** (a crucial concept in anti-dumping procedures) in the exporting and importing country can be compared directly. This is the simplest case. The second is a situation where the product is not sold within the exporting country or only in low volumes and a proper comparison is not possible. The third is where there is no export price or where it may be that the export price is unreliable because of an association between the exporter and the importer or a third party, i.e. there may not be ***arm's-length pricing***. Relevant in this case also is an ***ad note*** to GATT Article VI which states that "in the case of imports from a country which has a complete or substantially complete monopoly of its trade and where all domestic prices are fixed by the State, special difficulties may exist in determining

price comparability . . . and in such cases importing contracting parties may find it necessary to take into account the possibility that strict comparison with domestic prices in such a country may not always be appropriate". Article 3 deals with the determination of ***injury***. This has to be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the products and (b) the consequent impact of these imports on domestic producers of such products. Article 4 defines domestic industry. Broadly, this means the domestic producers as a whole of the like products or those for which the collective output of the product constitutes a major proportion of the total domestic production of those products. Articles 5 and 6, respectively, cover the investigation to determine the existence, degree and effect of the alleged dumping and the evidence for it. An application for an investigation must be supported by more than 50 per cent of the local industry producing the like product and may not proceed if less than 25 per cent support it. If the margin of dumping is *de minimis* (i.e. less than 2 per cent), the investigation must be terminated. Evidence may be collected from a wide variety of sources. Article 7 permits provisional measures where the authorities judge that they may be necessary to prevent injury being caused during the investigation. Article 8 states that proceedings may be suspended or terminated if the exporter provides a voluntary undertaking to revise its prices or to cease exports to the area in question at dumped prices, but only where this is practicable. Article 9 covers the imposition and collection of anti-dumping duties. The anti-dumping duty must not exceed the margin of dumping. Article 10 permits some retroactivity in specified situations. Article 11 states that an "anti-dumping duty shall remain force only as long as and to the extent necessary to counteract dumping which is causing injury". Reviews are to be conducted as required, and an anti-dumping duty terminated no later than five years from its imposition. Article 12 requires public notice of an investigation and an explanation of determinations. WTO members with legislation on anti-dumping must maintain judicial, arbitral or administrative tribunals or procedures for the review of decisions.

Anti-dumping duties: GATT Article VI allows anti-dumping duties to be imposed on goods that are deemed to be dumped and causing ***injury*** to competing products in the importing country. These duties are equal to the difference between the export price of the goods and their ***normal value***, if dumping caused injury. *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 is 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 per cent 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 per cent. Anti-dumping actions remain 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 2001, Finger 1993, Hoekman 1995, 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 liberalization***. Many adherents of anti-globalist views seem to be convinced that, but for the efforts of the WTO, the ***IMF***, the ***World Bank***, the ***G7***, ***G8*** and other economic groupings, their aims, however defined, would be realized speedily. Anti-globalists also tend to overstate, intentionally or otherwise, the ability of ***transnational corporations*** to influence public opinion. Some of these corporations, of course, are quite adept at influencing political power. *See also* ***globalization*** and ***hyperglobalization***. [Deardorff 2003, Stiglitz 2002, Wolf 2004]

Antitrust guidelines for international enforcement and cooperation: last reissued by the United States Department of Justice and the ***Federal Trade Commission*** in January 2017. They provide guidance to businesses engaged in international activities on questions concerning the enforcement policy of the Justice Department and the Federal Trade Commission as well as their investigative tools and cooperation with foreign authorities. The guidelines cover relevant United States antitrust and related statutes, such as the ***Sherman Act***, Federal Trade Commission Act, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, the ***Webb-Pomerene Act***, the ***Wilson Tariff Act***, ***Section 301*** and the Tariff Act of 1930 (the ***Smoot-Hawley Tariff Act***) among others. The remainder of the guidelines covers ***conduct*** involving foreign commerce, ***comity***, foreign government involvement and international cooperation. *See also* ***effects doctrine***, ***extraterritoriality***, ***negative comity*** and ***positive comity***. [justice.gov]

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* ***antitrust guidelines for international enforcement and cooperation***, ***cartel***, ***Clayton Act***, ***essential facilities doctrine***, ***extraterritoriality***, ***Webb-Pomerene Act*** and ***Wilson Tariff Act***. [Dabbah 2003]

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 listings***.

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 programme 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, Hong Kong (China), Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Philippines, Russia, Singapore, Chinese Taipei, Thailand, the United States and Viet Nam. 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 Action Agenda for the Digital Economy: a plan adopted in 2018 to help the further implementation of the ***APEC Internet and Digital Economy Roadmap*** (the Roadmap). Its work programme is to prepare by the end of 2019 (a) a comprehensive work programme on the future implementation of the Roadmap which will examine the broad potential opportunities and challenges presented by digital technologies, and (b) develop a programme for future data and analytical support for this work, including the preparation of the 2019 APEC Economic Policy Report on the topic of Structural Reform and the Digital Economy. [www.apec.org]

APEC Alliance for Supply Chain Conductivity: adopted in 2014 with the aims of (a) developing a capacity-building plan, (b) identifying readily available tools and methodologies for implementation, (c) contributing to APEC's work on choke points, (d) identifying expertise to deliver technical assistance, and (e) identifying resources for the effective implementation of projects. This initiative will be reviewed in 2020 for its effectiveness.

APEC Blueprint for Action on Electronic Commerce: adopted in 1999. It established a detailed work programme 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***. *See also* ***electronic commerce***.

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 Comparative Tool Database on RTAs/FTAs: a searchable database listing ***free-trade agreements*** in the APEC region by economy, agreement and chapter. [fta.apec.org]

APEC Cooperation Network on Green Supply Chain: also APEC Green Supply Chain Network. Established in 2011 with the objectives (a) of raising awareness and understanding on trade and investment-related policies that support the development of green supply chains, and (b) to share information, experiences and successful practices as they relate to the cross-border movement of goods and services. [apecgsc.org]

APEC Cross-Cutting Principles on Non-Tariff Measures: adopted in 2018 as a reference guide for ***APEC*** economies. The principles are (a) the processes to develop ***non-tariff measures*** should be transparent, consultative and timely, resulting in predictable, coherent and non-discriminatory application; and the information about non-tariff measures should be publicly available, (b) non-tariff measures should be consistent with member economies' commitments to obligations as members of the WTO, (c) non-tariff measures should be no more trade-restrictive than necessary to meet a legitimate objective, and where appropriate, should focus on outcomes, rather than mandating prescriptive approaches, (d) non-tariff measures should be based on relevant international standards, where appropriate, and should be developed in accordance with the WTO ***Agreement on the Application of Sanitary and Phytosanitary Standards*** and the WTO ***Agreement on Technical Barriers to Trade***, (e) non-tariff measures should not arbitrarily or unjustifiably discriminate against imported products, (f) they should not pose unwarranted barriers to the development of new technologies that drive innovation, and (g) a regulatory impact analysis could be considered as a possible tool to assess consistency with these principles. [www.apec.org]

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* ***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), Hanoi (2006), Sydney (2007), Lima (2008), Singapore (2009), Yokohama (2010), Honolulu (2011), Vladivostok (2012), Bali (2013), Beijing (2014),

Manila (2015), Lima (2016), Da Nang (2017) and Port Moresby (2018). Chile was due to host APEC in 2019, but internal developments prevented this. Malaysia will host APEC in 2020, New Zealand in 2021 and Thailand in 2022. *See also* ***Bogor Declaration*** and ***Osaka Action Agenda***.

APEC Environmental Services Action Plan: adopted in 2015. An umbrella framework to coordinate and promote services work in APEC's trade and investment liberalization and facilitation 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.apec.org]

APEC Internet and Digital Economy Roadmap: adopted by ***APEC*** economies in 2017. Its signposts are (1) development of digital infrastructure, (2) promotion of interoperability, (3) achievement of universal broadband success, (4) development of holistic government policy frameworks for the Internet and the Digital Economy, (5) promoting coherence and cooperation of regulatory approaches affecting the Internet and Digital Economy, (6) promoting innovation and adoption of enabling technologies and services, (7) enhancing trust and security in the use of ICTs (information and communication technology), (8) facilitating the free flow of information and data for the development of the Internet and Digital Economy, while respecting applicable domestic laws and regulations, (9) improvement of baseline Internet and Digital Economy measurements, (10) enhancing inclusiveness of Internet and Digital Economy, and (11) facilitation of e-commerce and advancing cooperation on digital trade.

The ***APEC Action Agenda for the Digital Economy*** is intended to help implementation of the Roadmap. [www.apec.org]

APEC Investment Facilitation Action Plan: IFAP. Adopted in 2008. Its principles, not exhaustive, are (a) promote accessibility and transparency in the formulation and administration of investment-related policies, (b) enhance stability of investment environments, security of property and protection of investments, (c) improve the efficiency and effectiveness of investment procedures, (d) build constructive stakeholder relationships, (e) use new technology to improve investment environments, (f) establish monitoring and review mechanisms for investment policies, and (g) enhance international cooperation. These principles are supported by an extensive menu of actions, in some cases with timetables. *See also* ***investment facilitation***.

APEC List of Environmental Goods: adopted in 2012. It contains fifty-four environmentally friendly goods on which members undertook to reduce applied tariffs by 5 per cent by 2015. The goods are listed at the six-digit level of the ***Harmonized Commodity Description and Coding System***.

APEC ministerial meetings: the annual meetings of trade and foreign ministers of APEC economies just preceding the ***APEC Economic Leaders' Meeting***. *See also* ***APEC sectoral ministerial meetings*** and ***Meeting of APEC Ministers Related to Trade***.

APEC Model Chapter on Transparency for RTAs/FTAs: adopted in 2012. Seen as an APEC contribution to the promotion of high-quality and comprehensive free-trade agreements (FTAs) and regional trade agreements (RTAs). It is based on existing provisions in free-trade agreements, Article X of the ***GATT*** (Publication and Administration of Trade Regulations) and Article III of the ***General Agreement on Trade in Services*** (Transparency). *See also* ***model measures for RTAs/FTAs***.

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 New Strategy for Structural Reform: ANSSR. A work programme adopted in 2010 with a target year of 2015 to promote (a) more open, well-functioning, transparent and competitive markets, (b) better functioning and effectively regulated financial markets, (c) labour market opportunities, training and education, (d) sustained SME development and enhanced opportunities for women and for vulnerable populations, and (e) effective and fiscally sustainable social safety net programmes. *See also* ***Leaders' Agenda to Implement Structural Reform*** and ***Renewed APEC Agenda for Structural Reform***. [www.apec.org]

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* ***investment***, ***investment facilitation*** and ***World Bank Guidelines on the Treatment of Foreign Direct Investment***.

APEC Non-Binding Principles for Domestic Regulation of the Services Sector: adopted in November 2018 from the perspective of the WTO negotiations on ***domestic regulation***. The principles are listed in seven sections. *A.* General Principles. The principles apply to licensing requirements and procedures, qualification requirements and technical standards. Persons granted permission to supply a service must demonstrate compliance with these requirements. Measures must be administered in a reasonable, objective and impartial manner. *B.* Administration of Measures. APEC economies should, to the extent practicable, avoid requiring an applicant to approach more than one competent authority for each application or authorization. Applications should be permitted at any time throughout the year. Applications in electronic form should be accepted where an authorization is required to supply a service. Applications should be processed without undue delay and applicants advised of any reason for rejection. Authorization fees should be reasonable and transparent. *C.* Independence. Competent authorities should reach and administer their decisions in an independent manner. *D.* Transparency. Each APEC economy should ensure that its laws, regulations, procedures and ***administrative rulings of general application*** are promptly published to enable interested persons to have access to them. An enquiry point should be maintained or established. To the extent possible, each economy should give interested persons a reasonable opportunity to comment on proposed measures. *E.* Technical Standards. Economies should adopt technical standards developed through open and transparent processes. *F.* Development of Measures. If an economy adopts or maintains measures relating to the authorization for the supply of a service, they should be based on objective and transparent criteria, consistent with Article VI of the ***General Agreement on Trade in Services***, impartial and without unjustifiable impediments. *G.* Other Areas. Economies should consider supporting dialogues related to the recognition of qualifications. Service providers from other economies should be permitted to use the business names under which they ordinarily trade, and the use of business names should not be arbitrarily restricted.

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* ***Revised 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. *See also* ***electronic commerce***.

APEC Pathfinders: adopted in 2001 as one of the ways in which APEC could move towards achieving the ***Bogor Goals***. The idea is that smaller groups of economies would develop cooperative arrangements with obligations they are ready to take on, and other economies would join the initiative as they felt ready for it. Though eight pathfinder initiatives are now in force, they have not on the whole met expectations of the initiators. Some pathfinders have not been able to add to the original proponents. Current guidelines require first the creation of an interim pathfinder having at least three members, and participation by at least 25 per cent of APEC economies before it can become a full pathfinder. It is possible for pathfinders to be terminated if they prove incapable of attracting new members.

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 programmes, 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.apec.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.apec.org]

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 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 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 Regulatory Cooperation Advancement Mechanism on Trade-Related Standards and Technical Regulations: ARCAM. A process adopted in 2010 under which trade officials and regulators would conduct work on one emerging regulatory issue per year having relevance to APEC's agenda to strengthen regional economic integration. Criteria to identify an "emerging regulatory issue" would include (a) its relevance to a significant number of APEC economies, (b) strong correlation between the issue and priority trade and investment issues, and (c) relevance of the issue from a trade and investment perspective.

APEC Second Trade Facilitation Action Plan: adopted in 2007. It superseded the ***APEC Trade Facilitation Action Plan*** and called for a further reduction of trade transaction costs by 5 per cent in the period 2007 to 2010. It stressed customs procedures, business mobility, standards and conformance, and electronic commerce. *See also* ***trade facilitation***.

APEC sectoral ministerial meetings: meetings of ministers other than those responsible for foreign affairs or trade at irregular intervals under APEC auspices. Examples are mining or education. *See also* ***APEC ministerial meetings*** and ***Meeting of APEC Ministers Related to Trade***.

APEC Services Competitiveness Roadmap: adopted in November 2016 in Lima. The Roadmap gives effect to the ***APEC Services Cooperation Framework*** adopted in 2015. It consists of a wide-ranging list of actions APEC economies can undertake to improve their competitiveness in the services sector. A mid-term review will be held in 2021, and the objectives of the Roadmap are to be completed by 2025.

APEC Services Cooperation Framework: ASCF. A programme adopted in 2015 to advance work on services among APEC economies. Desired outcomes of the ASCF include an increased services value-adding capacity of APEC

economies, expansion of trade and investment in services through improvements in physical, institutional and people-to-people connectivity, and wider access to more efficient and greater variety of services for APEC and its people. *See also* ***APEC Services Competitiveness Roadmap***.

APEC Single Window Strategic Plan: adopted in 2007 to provide the framework for the development of a ***Single Window*** in each APEC economy. Stage 2 envisaged establishment of links between them to allow data sharing.

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.apec.org]

APEC Strategic Blueprint for Promoting Global Value Chains Development and Cooperation: in 2014 APEC economies agreed on the objectives of this blueprint: (1) addressing trade and investment issues that impact on ***global value chains*** (GVCs), (2) cooperate on improving statistics related to GVCs, (3) realize the critical role of services within GVCs, (4) enable developing countries to better participate in GVCs, (5) assist SMEs to benefit from GVCs, (6) improve the investment climate for GVCs development, (7) adopt effective ***trade facilitation*** measures, (8) enhanced resilience of GVCs, (9) enhance public–private partnerships for GVCs, and (10) strengthen collaboration with other stakeholders in GVCs.

APEC Trade Facilitation Action Plan: a framework adopted in 2002 to reduce the cost of ***trade facilitation*** by 5 per cent 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. *See also* ***APEC Second Trade Facilitation Action Plan***.

APEC Trade Repository: APECTR. An online source of ***APEC*** members' trade and tariff information launched in 2015. It includes the following categories: MFN tariff rates, preferential tariff rates, rules of origin for existing regional trade agreements and free-trade agreements, best practices in trade facilitation, domestic trade and customs laws and regulations, procedures and documentary

requirements for imports and exports, a list of authorized economic operators and information on mutual recognition arrangements. *See also* ***ASEAN Trade Repository***. [tr.apec.org]

Appellate Body: an independent standing body of seven persons established under the WTO ***Dispute Settlement Understanding*** (DSU) to hear appeals arising from ***panel*** decisions. The grounds for such appeals are confined to points of WTO law. Appellate Body members are persons of recognized authority with demonstrated expertise in law, international trade and relevant WTO agreements who are not affiliated with any government. At least three persons are needed to hear an appeal. When it was established, many trade law experts thought appeals would be brought only occasionally. But over time it became clear that on many cases, particularly those that were politically sensitive, WTO members seek to pursue all means of legal recourse provided in the system. In fact, most WTO members appealed adverse panel decisions. The workload facing the Appellate Body has been huge, and for various reasons it has taken several years for complex cases to be concluded, even though the DSU sets a deadline of a maximum of 90 days for each appeal. For many years, the United States has raised concerns about the operations of the Appellate Body. The US concerns are broad and centre on several elements of AB work. One pertains to the four-year terms renewable once, that are assigned to AB members. Over time, the Appellate Body adopted a procedural rule enabling its members to continue working on unfinished appeals even if their term had expired. Washington has objected to this practice stating that only WTO members can extend the term of an outgoing AB member. Another, broader, issue may have more substantial ramifications. It is that of perceived ***judicial activism*** and what may lead to the creation of new obligations. WTO members are intensely jealous of the system of rules they have created, and they have established a solid tradition of having the rules interpreted by the membership. How these matters will be resolved is not clear. The impasse points, however, to the difficulty of managing an effective dispute settlement system in a large organization. A lack of consensus among WTO members on the appointment of new Appellate Body members to fill current vacancies brought the work of the Appellate Body to a halt effectively in December 2019. *See also* ***dispute settlement*** and ***Dispute Settlement Body***.

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 emphasizes 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. The 2015 ***Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications*** now allows the registration of geographical indications under the Lisbon Agreement also. 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* ***protected geographical indications*** and ***designation of origin***.

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 tariff rate***.

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* ***binding*** and ***nominal tariff***.

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 Common Market: A project launched in 2015 for completion by 2020. Negotiations for its establishment are under way. An earlier Arab Common Market, established in 1964, is no longer operational. *See also* ***Greater Arab Free Trade Area***.

Arab Customs Union: announced in 2009 for realization by 2015. Work on full implementation is under way. *See also* ***Arab Common Market***.

Arab League: *see* ***League of Arab States***.

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 region***.

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 a case of arbitrary or unjustifiable discrimination.

Arbitration: a way of settling disputes. It is more formal than ***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. *See also* ***regionalization***.

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) short-run 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 be 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***.

Arrangement on Officially Supported Export Credits: *see* ***OECD Arrangement on Officially Supported Export Credits***.